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**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JUNE 21, 2022**

SUBJECT Temporary Use Permit Renewal for Lot 4, Section 47, Otter District, Plan 23769 – 7822 Tugwell Road

ISSUE SUMMARY

A request has been made for a three year renewal of temporary use permit TP000010 to authorize a federally licensed micro-cannabis cultivation facility in the Rural Residential 2 (RR-2) zone.

BACKGROUND

The subject property is currently zoned Rural Residential 2 (RR-2) in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, and is adjacent to other RR-2 zoned properties to the east and west, Tugwell Road to the south, and a Rural A zoned property and DeMamiel Creek to the north (Appendix A). The parcel is designated as Settlement Area One (SA1) and is partly designated as a Steep Slopes and a Riparian Development Permit Area (DPA) in the Official Community Plan (OCP) for Otter Point, Bylaw No. 3819.

The property is approximately 0.8 ha and is serviced by on-site septic and a groundwater well. There is an existing single-family dwelling on the property that was constructed in 1978.

The CRD Board passed a resolution approving the issuance of TP000010 subject to conditions on May 8, 2019. The permit was subsequently issued on July 24, 2019, for a period of three years and will expire on July 24, 2022.

The temporary use permit authorized the operation of a micro-cannabis cultivation facility, including propagation, harvesting, testing and authorized sales via shipping. Since the date at which the permit was issued, the applicant has been working to meet Health Canada's requirements for a licensed facility and no activities authorized by the permit have been undertaken. The application for renewal requests a three year extension to the permit.

The *Local Government Act (LGA)* allows that the holder of a temporary use permit may apply to have the permit renewed, but that the permit may only be renewed once. Planning staff recommend that temporary use permit TP000010 be renewed for a period of three years.

ALTERNATIVES

Alternative 1:

The Land Use Committee recommends to the Capital Regional District Board that a three year renewal for Temporary Use Permit TP000010 to authorize a federally licensed micro-cannabis cultivation facility be approved.

Alternative 2:

That the temporary use permit renewal be denied.

LEGISLATIVE AND PUBLIC CONSULTATION IMPLICATIONS

Section 492 of the *LGA* enables a local government to issue temporary use permits within areas designated by the Official Community Plan (OCP). Temporary use permits may be issued throughout the Otter Point OCP area as outlined in Bylaw No. 3819 and in accordance with Sections 493 to 497 of the *LGA*.

Section 497(2) of the *LGA* states that a temporary use permit holder may apply to have the permit renewed, but that the permit may only be renewed once.

The LGA does not require that notice be given of the CRD's intent to pass a resolution regarding the renewal of a temporary use permit, and CRD Bylaw No. 3885 has no requirement for public notification or consultation of a temporary use permit renewal. However, notice of the June 21, 2022, Land Use Committee agenda will be published in the Sooke News Mirror and on the CRD website.

LAND USE IMPLICATIONS

The subject property is designated Settlement Area One (SA1) under the Otter Point OCP, Bylaw No. 3819. The designation supports temporary industrial uses with a valid temporary use permit on non-industrial zoned lands. The designation also supports home based business uses that are compatible with the community's character, including having minimal traffic, parking, noise or nuisance impacts.

In comparison with the federally licensed industrial cultivation facilities, such as those located in the Sooke Business Park, the scale of a micro-cultivation facility may be more in keeping with a home based business. Micro-cultivation licences issued by Health Canada permit a maximum cultivation area of 200 m², which is less than the 250 m² maximum allowable floor area of accessory buildings on parcels greater than 0.5 ha.

Micro-cultivation licences allow for cannabis possession, cultivation, propagation, harvesting, testing and authorized sales via shipping. Health Canada's regulations include requirements for professional production practices including pest control, air filtration, sanitation, quality assurance, product disposal, packaging and labelling. Licence holders undergo security clearance reviews and are required to maintain records of individuals on site. Physical security measures are also required for micro-cultivation facilities that prevent unauthorized access and create a physical barrier around the site. The applicant proposes that these measures can be implemented while maintaining the rural residential character of the property.

Since this is the first licenced micro-cultivation operation to be proposed on rural residential land in the Juan de Fuca, the full range of impacts are not yet known. At the time the Land Use Committee considered a recommendation for issuance of TP000010, staff advised that the use could be evaluated during the term of the temporary use permit and that should conditions of the permit not be met, the permit could be revoked. In addition, the use could be reviewed prior to renewal for a second three-year term.

The applicant has now requested that TP000010 be renewed, but has confirmed that Health Canada has not yet issued a licence as the building in which the use is to occur has not been completed. The applicant has also advised that the application to Health Canada has been amended to reduce the scale such that an existing shipping container, rather than a new accessory building, will be used and that a licence for a nursery area will be submitted to Health Canada after the initial licence has received approval.

The adjacent properties are zoned for rural, rural residential and agricultural uses. The proposed facility is not anticipated to alter the rural character of the area as the use is directed towards the rear of the parcel and the subject property is fenced and screened by vegetation. Conditions of the permit include the maintenance of the vegetative buffer and screening of the property. The proposed setbacks from the property lines for the facility are similar to what is required for agricultural buildings. Nuisance odour, light and noise will be restricted in a similar fashion to home based business regulations. Traffic and visitation to the property is also to be kept to a minimum and no retail sales are permitted from the facility.

Staff have prepared Temporary Use Permit TP000010 – RENEWAL (Appendix B) to continue to authorize cannabis cultivation in accordance with the *Cannabis Act* on the subject property. The permit includes conditions to screen the use from the road and adjacent properties, limit traffic flow, establish 15 m setbacks from parcel boundaries, protect DeMamiel Creek, and restrict

nuisances. Any buildings or structures required for the use will need to either be removed or converted to accommodate a permit use upon expiration of the permit.

Staff recommend that temporary use permit TP000010 be renewed, subject to public notification. The temporary use permit can only be renewed once; therefore, the property would be required to be rezoned in order to permit the use in perpetuity.

CONCLUSION

A temporary use permit to authorize a federally licensed micro-cannabis cultivation facility in the Rural Residential 2 (RR-2) zone was issued on July 24, 2019. The owner has submitted an application to renew the permit for a second three-year term. At this time, no activities associated with the proposed use have occurred on the property as a licence from Health Canada has not been issued; however, the applicant continues to work towards meeting Health Canada’s requirements. Staff recommend that the permit be renewed for a period of three years.

RECOMMENDATION

The Land Use Committee recommends to the Capital Regional District Board that a three year renewal for Temporary Use Permit TP000010 to authorize a federally licensed micro-cannabis cultivation facility be approved.

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

ATTACHMENTS

- Appendix A: Subject Property Map
- Appendix B: Temporary Use Permit TP000010 – Renewal