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**REPORT TO THE CAPITAL REGIONAL DISTRICT BOARD
MEETING OF WEDNESDAY, SEPTEMBER 8, 2021**

SUBJECT **Public Hearing Report on Bylaw No. 4407, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 150, 2021”**

ISSUE SUMMARY

To receive the Report of the Public Hearing held August 10, 2021, for proposed Bylaw No. 4407, and to consider Bylaw No. 4407 for third reading.

BACKGROUND

At its meeting of July 14, 2021, the Capital Regional District (CRD) Board gave first and second reading to Bylaw No. 4831, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 150, 2021” and passed a resolution to delegate authority to the Regional Director to hold a public hearing with respect to Bylaw No. 4407.

Bylaw No. 4407 (Appendix A) will amend Bylaw No. 2040, “Juan de Fuca Land Use Bylaw, 1992”, by amending the Forestry (AF) zone to add a site specific provision to permit an accessory portable sawmill and associated log and lumber storage uses on That Part of Lot 87, Renfrew District, Lying to the East of a Boundary Parallel to the Easterly Boundary of Said Lot and Extending From a Point on the Northerly Boundary of Said Lot Distant 10 Chains from the North East Corner of Said Lot and to the South of the Northerly Boundary of Plan 109 RW, Except Part in Plan 16260.

On August 10, 2021, a public hearing was held for Bylaw No. 4407. There were approximately nine people in attendance at the hearing. Four submissions were received in response to the notice of public hearing. One submission stated support for the proposal. Two submissions outlined concerns about the proposal and stated objection to the proposal. The final submission, which included a petition with ten signatures, outlined concerns about the proposal and stated objection to the proposal. One member of the public in attendance spoke in favour of the proposal; a second member of the public spoke in opposition to the proposal. The Report of the Public Hearing is attached (Appendix B).

ALTERNATIVES

Alternative 1

- a) That the minutes that form the Report of the Public Hearing for Bylaw No. 4407, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 150, 2021”, which are certified as a fair and accurate summary of the representations that were made at the public hearing held on August 10, 2021, for Bylaw No. 4407, be received;
- b) That Bylaw No. 4407 be read a third time; and
- c) That adoption of Bylaw No. 4407 be withheld pending:
 - i. Removal of the Notice on Title and confirmation that any outstanding building permits for existing buildings are addressed to the satisfaction of the CRD Chief Building Inspector; and
 - ii. Approval of an access permit to the subject property by the Ministry of Transportation & Infrastructure.

Alternative 2

That the minutes that form the Report of the Public Hearing for Bylaw No. 4407, which are certified as a fair and accurate summary of the representations that were made at the public hearing held on August 10, 2021 for Bylaw No. 4407, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 150, 2021”, be received.

IMPLICATIONS

Legislative

The Advisory Planning Commissions (APCs) were established to make recommendations to the Land Use Committee on land use planning matters referred to them relating to Part 14 of the *Local Government Act (LGA)*. The Shirley/Jordan River APC considered the application at its meeting April 6, 2021.

A license is required for non-domestic groundwater use pursuant to the *Water Sustainability Act*. This approval is issued by the Province and is not a precondition for rezoning.

Regional Growth Strategy

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 Official Community Plan (OCP) area is consistent with the OCP, it does not proceed to the full CRD Board for a determination of consistency with the RGS. The proposed zoning amendment is consistent with the policies of the Shirley-Jordan River OCP.

Land Use

The Shirley-Jordan River OCP, Bylaw No. 4001, designates the subject property as Coastal Upland. The intent of this designation is to support the continued use of these lands for forestry. Section 484(S) supports industrial uses associated with forestry on lands designated Coastal Upland. In addition, Section 444(R) outlines that rezoning applications for resource processing related to forestry are to consider the potential impacts on neighbouring properties and that adequate setbacks and screening requirements are implemented.

The property is zoned AF in Bylaw No. 2040, which permits silviculture, residential and ancillary uses. Portable sawmills are permitted as a Home Industry subject to Part 1, Section 4.06 of Bylaw No 2040.

The owner of the sawmill operation has requested this zoning amendment in order to expand beyond the scope of the Home Industry regulations by amending the AF zone to add the operation of an accessory portable sawmill as a site specific permitted use on the subject property.

During the referral process, concerns regarding noise from the operation were raised by a neighbouring property owner. The applicant has installed a sound proofing fence adjacent to the portable mill in an effort to reduce the sound level. During the APC's deliberations, it was also recommended that the hours of operation be limited during the day. Other adjacent neighbours commented during the initial referral and through the APC that they have not found noise from the mill to be intrusive. The applicant has agreed to modify proposed Bylaw No. 4407 since the original referral to limit the scale of the proposed portable sawmill operation and to address noise and nuisance concerns through the implementation of a noise level limit, hours of operation and visual screening.

Proposed Bylaw No. 4407 would permit a portable sawmill as accessory to the principal residential use of the property. Regulations for operation of an accessory portable sawmill are included that:

- limits the area on which the activity may occur to no greater than 0.5 ha;
- limits the total floor area for accessory buildings and structures related to the portable sawmill use to 60 m².
- requires that the operation be set back at least 30 m from the parcel boundaries;
- requires that the operation be screened by vegetation or a solid fence no less than 2.5 m in height;

- limits hours of mill operation to 9:00 am to 3:00 pm, Monday to Friday; and
- restricts noise associated with the sawmill to 55 dB when measured at the property line.

CRD Building Inspection has highlighted outstanding building permit items on the property; therefore, staff recommend that these items be addressed to the satisfaction of the Chief Building Inspector and that the Notice on Title be removed prior to consideration of approval of this rezoning application.

The Ministry of Transportation & Infrastructure requires a Type 1A access be developed and a permit obtained. Staff recommend that this requirement be satisfied prior to consideration of approval of Bylaw No. 4407.

Section 414 of the Shirley-Jordan River OCP outlines policies for water use and protection. Policy 414(B) states that in consideration of a development proposal, the protection of aquifers and water resources from contamination and depletion will be ensured. The Water Protection Section of Forests, Lands and Natural Resource Operations and Rural Development confirmed that non-domestic use of groundwater requires a provincial licence and that measures to ensure contaminants to not enter the aquifer be in place.

Section 414, also includes policies to ensure there is adequate water capacity to handle fire-fighting efforts. Comments received from the CRD Protective Services Division and the Shirley Volunteer Fire Department indicate that there are appropriate fire mitigation resources in place for the proposed use.

CONCLUSION

A public hearing was held on August 10, 2021, for Bylaw No. 4407, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 150, 2021”. The minutes are attached as the Report of the Public Hearing.

There were approximately nine people in attendance at the hearing. Four submissions were received in response to the notice of public hearing. One submission stated support for the proposal. Two submissions outlined concerns about the proposal and stated objection to the proposal. The final submission, which included a petition with ten signatures, outlined concerns about the proposal and stated objection to the proposal. One member of the public in attendance spoke in favour of the proposal; a second member of the public spoke in opposition to the proposal.

Based on changes to the bylaw to limit the scale of the operation, hours of operation and maximum allowable noise levels at the property line, as well as efforts by the owners to install sound proofing to ameliorate the current noise level, staff recommend Alternative 1 to receive the minutes and for the proposed bylaw to be given third reading and that adoption of the bylaw be withheld subject to removal of the Notice on Title and confirmation that any outstanding building permits for existing buildings are addressed to the satisfaction of the CRD Chief Building Inspector; and approval of an access permit to the subject property by the Ministry of Transportation & Infrastructure.

RECOMMENDATIONS

- a) That the minutes that form the Report of the Public Hearing for Bylaw No. 4407, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 150, 2021”, which are certified as a fair and accurate summary of the representations that were made at the public hearing held on August 10, 2021, for Bylaw No. 4407, be received;
- b) That Bylaw No. 4407 be read a third time; and
- c) That adoption of Bylaw No. 4407 be withheld pending:
 - i. Removal of the Notice on Title and confirmation that any outstanding building permits for existing buildings are addressed to the satisfaction of the CRD Chief Building Inspector; and
 - ii. Approval of an access permit to the subject property by the Ministry of Transportation & Infrastructure.

Submitted by:	Iain Lawrence, MCIP, RPP, Manager, Juan de Fuca Community Planning
Concurrence:	Michael Barnes, MPP, Acting General Manager, Planning & Protective Services
Concurrence:	Nelson Chan, MBA, FCPA, FCMA, Acting Chief Administrative Officer

ATTACHMENTS

- Appendix A: Proposed Bylaw No. 4407
- Appendix B: Report of the Public Hearing August 10, 2021