



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, SEPTEMBER 19, 2017**

SUBJECT **Zoning Amendment Application for Strata Lots 9, 11, 18, 19, 20, 21, 23 and 28, Section 16, Otter District, Plan VIS7096; and Lot A, Section 16, Otter District, Plan VIP89031, Except Part in Strata Plan VIS7096**

ISSUE

The applicants are proposing to rezone nine properties from the General Industrial (M-2) zone to a new Sooke Business Park Industrial (M-SBP) zone in order to clarify allowable uses, respond to market demand and permit licensed medical marihuana production facilities pursuant to Health Canada's *Access to Cannabis for Medical Purposes Regulations (ACMPR)*.

BACKGROUND

At its meeting on June 20, 2017, the Land Use Committee considered an application (RZ000247) to rezone four strata properties and one fee-simple remainder lot within the Sooke Business Park development located at 7450 Butler Road in Otter Point. A subsequent application (RZ000249) has been received from another property owner to rezone four additional strata properties in the Sooke Business Park. Permission has been granted by the original applicant to have these parcels added to the proposed bylaw amendment.

The parcels are zoned General Industrial (M-2) in the Juan de Fuca Land Use Bylaw, Bylaw No. 2040, and are adjacent to M-2 zoned and General Industrial – Medical Marihuana (M-2MM) zoned parcels. The parcels are designated as Settlement Area One (SA1) and as an Industrial Development Permit Area (DPA) in the Official Community Plan (OCP) for Otter Point, Bylaw No. 3819.

The subject properties were created by subdivision in 2011 as part of a 25-lot bare land strata. The strata lots share a common property access off Butler Road and have a common disposal field. Fee-simple Lot A can be accessed from both the strata road and Ramsden Road.

The proposed amendments would allow for the current set of permitted uses under the M-2 zone, as well as federally-licensed medical marihuana production facilities, business office and support services and private clubs. The new zone would prohibit those uses currently prohibited under the M-2 zone, as well as those uses listed on the Prohibited Uses covenant registered on the title of all the lots within the Sooke Business Park. The proposed additions are in response to changes in the economy and market since the zone was developed in 1992. The amendment would also allow vehicle parking to occur within the front yard setback of lots that do not front a public highway.

Proposed Bylaw No. 4187 would also amend the "general industrial use" definition, add definitions for "food and beverage processing" and "high tech", and rezone the parcels from M-2 to M-SBP (Appendix A).

The Land Use Committee recommended referral of the proposed bylaw, reflecting rezoning of five lots, to the following agencies at their meeting of June 20, 2017:

BC Hydro	District of Sooke	RCMP
CRD Building Inspection	Island Health	T'Sou-ke First Nation
CRD Protective Services	Ministry of Transportation and Infrastructure (MoTI)	

Comments were received from District of Sooke, Island Health, Sooke RCMP, CRD Protective Services and CRD Bylaw Enforcement and Animal Care, and the Ministry of Transportation and Infrastructure (Appendix B). The proposed bylaw was considered by the Otter Point Advisory Planning Commission on July 17, 2017 (Appendix C).

ALTERNATIVES

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

1. a) That the referral of proposed Bylaw No. 4187 directed by the Juan de Fuca Land Use Committee to BC Hydro, CRD Building Inspection, CRD Protective Services, District of Sooke, Island Health, Ministry of Transportation and Infrastructure, RCMP and T'Sou-ke First Nation be approved and the comments be received;

- b) That proposed Bylaw No. 4187, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 130, 2017”, as amended to reflect rezoning of nine properties, be introduced and read a first time, 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. 4187.
- 2. That the CRD Board not proceed with proposed Bylaw No. 4187.
 - 3. That the report be referred back to staff for more information.

LEGISLATIVE IMPLICATIONS

Should the proposal proceed, a public hearing pursuant to Section 464 of the *Local Government Act (LGA)* will be required subsequent to the amendment 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 amendment, and it will be advertised in the local paper and on the CRD website.

REFERRAL COMMENTS

Referrals were sent to eight agencies on June 21, 2017. The Ministry of Transportation and Infrastructure and Sooke RCMP responded to advise that they had no objection to or issue with the proposed rezoning. The District of Sooke stated no concerns with the application, but requested that the proposed Sooke Business Park Industrial (M-SBP) zone be renamed since the site is located outside of the District of Sooke. CRD Protective Services stated that provided the occupants meet all requirements of the BC Fire Code, there is no objection to the rezoning. CRD Bylaw Enforcement and Animal Care had no issue with the rezoning proposal, but acknowledged that, although licensed medical marihuana production facilities are regulated by Health Canada, complaints regarding other facilities have been received regarding nuisances related to traffic, odour, or, in one case, external lighting. Island Health also acknowledged that licensed medical marihuana production facilities are regulated by Health Canada, but requested that attention be given to odour control measures and that consideration be given to using buffers between residential and industrial zones. Island Health further noted that compliance with the *Drinking Water Protection Act*, the *Sewerage System Regulation* and the *Food Premises Regulation* is required if food/beverage processing is to take place.

The proposed bylaw for the five initial lots was considered by the Otter Point Advisory Planning Commission on July 17, 2017. At that meeting, the Commission received a submission from an adjacent property owner who expressed concern that the definition for the *private club* use could potentially include a night club and that such a use would significantly increase traffic and ambient night-time noise. Commission members agreed with those concerns and supported the idea of replacing the *private club* use with an *athletic facility* use.

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 Juan de Fuca Land Use Bylaw No. 2040 was amended in 2014 by Bylaw No. 3922 to define medical marihuana production facilities as an intensive agriculture use that is permitted on lands within the Agricultural Land Reserve. Bylaw No. 3923, which was also adopted in 2014, established a new General Industrial Medical Marihuana (M-2MM) zone, which added “intensive agriculture – medical marihuana production” to the list of permitted uses.

Since the time that the application was first considered by the Land Use Committee and the Otter Point APC, four additional parcels have been added to the proposed Bylaw at the request of a second land owner and with the permission of the original applicant. The amended bylaw will be forwarded to the Otter Point APC and any comments brought forward directly to the Regional Board. It should be noted that the inclusion of four additional parcels does not impact the comments received from other referral agencies and that the land use would be consistent over all nine parcels. For that reason, staff are of the opinion that it is reasonable that the additional parcels be included in Bylaw No. 4187. There will be opportunity to receive further comments at the Public Hearing.

Bylaw No. 4187 introduces a new Sooke Business Park Industrial (M-SBP) zone that would now be applied to nine lots within the Sooke Business Park. The proposed zone would permit “intensive agriculture – medical marihuana production” and a limited set of commercial uses, as well as introduce a parking setback allowance for lots that front the internal strata road.

Specific changes proposed in Bylaw No. 4187 include: updating the “general industrial use” definition to add clarity of interpretation; adding a definition for “food and beverage processing” to clarify the limit of that use; adding a definition for “high tech” to add clarity of interpretation; adding “athletic facilities” as a permitted use; adding “business office and support services” as a permitted use to accommodate activities such as offices and storage for professional contractors including land surveyors and engineers; qualifying that a caretaker’s dwelling may only occur as an accessory use; and specifying that the standard front yard setback for parking spaces does not apply to those lots that do not front a public road.

While allowing for an expanded set of uses, the M-SBP zone would also more clearly specify the set of prohibited uses. These uses include the prohibited uses under the M-2 zone, as well as those named within the Prohibited Uses covenant currently registered on the title of all lots within the Sooke Business Park.

With regards to the “intensive agriculture – medical marihuana production” use, there are no anticipated risks, odour, or security concerns related to the proposed use as the facilities are contained indoors and Health Canada’s regulations require license-holders to abide by strict security and quality control measures.

As a condition of rezoning, staff recommend that a covenant be registered on the title of subject properties requiring the remediation of any buildings used for medical marihuana production prior to commencement of any subsequent use.

Since the proposed additional uses are intended to complement the general industrial and public facility uses on adjacent parcels in the Sooke Business Park, they should not create a significant impact on adjacent properties. New construction will require an Industrial Development Permit to guide the form and character of the structures and require building permits.

CONCLUSION

The purpose of this zoning amendment is to rezone nine properties from the General Industrial (M-2) zone to a new Sooke Business Park Industrial (M-SBP) zone in order to clarify allowable uses, respond to market demand and permit licensed medical marihuana production facilities pursuant to Health Canada’s *Access to Cannabis for Medical Purposes Regulations (ACMPR)*.

Staff recommend proceeding with proposed Bylaw No. 4187, as amended, for first and second readings and proceeding to a public hearing.

RECOMMENDATIONS

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

- a) That the referral of proposed Bylaw No. 4187 directed by the Juan de Fuca Land Use Committee to BC Hydro, CRD Building Inspection, CRD Protective Services, District of Sooke, Island Health, Ministry of Transportation and Infrastructure, RCMP and T'Sou-ke First Nation be approved and the comments be received;
- b) That proposed Bylaw No. 4187, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 130, 2017", be introduced and read a first time, 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. 4187.

Submitted by:	Iain Lawrence, MCIP, RPP, Manager, Local Area Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning and Protective Services
Concurrence:	Larisa Hutcheson, P.Eng., Acting Chief Administrative Officer

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Attachments: Appendix A - Proposed Bylaw No. 4187
Appendix B - Referral Comments
Appendix C - Otter Point Advisory Planning Commission Minutes