



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, NOVEMBER 21, 2017**

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**SUBJECT**      **Zoning Amendment Application for Lot 2, Section 2, Renfrew District, Plan VIP4194 (PID: 000-141-917); Lot 6, Section 2, Renfrew District, Plan VIP4194 (PID: 006-062-229); Lot C, Section 2, Renfrew District, Plan VIP60061 (PID: 023-000-392); Lot 1, Section 2, Renfrew District, Plan VIP11741 (PID: 005-054-532); Lot 1, Section 2, Renfrew District, Plan VIP4194 (PID: 000-141-909); Lot A, Section 2, Renfrew District, Plan VIP60061 (PID: 023-000-376); Lot 8, Section 2, Renfrew District, Plan VIP4194 (PID: 006-062-270); Lot 9, Section 2, Renfrew District, Plan VIP4194 (PID: 006-062-318); Parcel Number 1 (DD130151I) of Parcel A (DD88175I), of Section 2, Renfrew District (PID: 009-573-127); Lot A, Section 2, Renfrew District, Plan VIP50879 (PID: 016-334-485); Lot 1, Section 9, Renfrew District, Plan EPP59131 (PID: 029-899-907); Lot 2, Section 9, Renfrew District, Plan EPP59131 (PID: 029-899-915); and Lot 3, Section 9, Renfrew District, Plan EPP59132 (PID: 029-900-221)**

**ISSUE**

The applicant proposes to rezone four parcels from the Jordan River Hamlet (JR-1) zone to a new Restricted Development – Flood Hazard Area (RD-1) zone; to rezone five parcels from the Jordan River Hamlet Commercial (C-1B) zone to the RD-1 zone; to rezone one parcel from the Jordan River Destination Resort (CR-1A) zone to the RD-1 zone; and to rezone three parcels from the Rural A zone to the RD-1 zone, in order to restrict development within an area found to be at risk of catastrophic flooding due to dam failure associated with an extreme seismic event.

**BACKGROUND**

The thirteen subject properties are located in Jordan River, and are designated as Settlement Area in the Shirley/Jordan River Official Community Plan (OCP), Bylaw No. 3717. Under the current OCP, several of the parcels are partially designated as a Steep Slopes or as a Watercourses, Wetlands and Riparian Areas development permit area.

Four of the subject properties are zoned JR-1, five are zoned C-1B, one is zoned CR-1A, and three are zoned Rural (A) under the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040. These zones permit a variety of commercial, residential and agricultural uses, and allow for overnight accommodation.

In 2014, BC Hydro completed a seismic hazard study in an effort to better understand the intensity of ground movements during a major to extreme earthquake and the potential impact on their facilities. BC Hydro considers the Jordan River Dam to be safe under normal circumstances and to be one of the strongest dams in BC; however, there are no dams known to have been constructed to the level identified in the hazard study. The study identified that the seismic hazard at the Jordan River Dam was almost twice as high as was previously thought, and that it was particularly vulnerable given its proximity to the major fault line west of Vancouver Island.

In order to mitigate the risk associated with a catastrophic dam failure, BC Hydro purchased thirteen at-risk properties: ten from private individuals and three from the Capital Regional District. As the owner, BC Hydro has registered restrictive covenants and statutory rights-of-way to restrict overnight accommodation and residential habitation. The purpose of rezoning the properties is to formalize the permitted uses and activities in a manner that is consistent with the covenants.

Upon completion of the rezoning, BC Hydro intends on disposing of the lands so that the community is able to use the lands subject to the permitted and restricted uses. Staff have prepared Bylaw No. 4188 to rezone the subject from JR-1, C-1B, CR-1A and Rural A to RD-1 (Appendix A). The proposed Bylaw as referred to agencies is included in Appendix B.

The Land Use Committee recommended referral of the proposed bylaw to the following agencies at their meeting of July 18, 2017:

CRD Building Inspection	Island Health	Pacheedaht First Nation
CRD Protective Services	Ministry of Environment	Te'Mexw Treaty Association
CRD Regional Parks	Ministry of Transportation & Infrastructure	T'Sou-ke First Nation
Fisheries & Oceans Canada		

Comments were received from Fisheries and Oceans Canada, the Ministry of Environment, the Ministry of Transportation & Infrastructure, Island Health, Pacheedaht First Nation, CRD Bylaw and Animal Care Services, CRD Protective Services and CRD Regional Parks (Appendix C). The proposed bylaw was considered by the Shirley/Jordan River Advisory Planning Commission (APC) on August 2, 2017 (Appendix D).

### **ALTERNATIVES**

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

1. a) That the referral of proposed Bylaw No. 4188 directed by the Juan de Fuca Land Use Committee to CRD Building Inspection, CRD Protective Services, CRD Regional Parks, Fisheries & Oceans Canada, Island Health, Ministry of Environment, Ministry of Transportation and Infrastructure, Pacheedaht First Nation, Te'Mexw Treaty Association, T'Sou-ke First Nation, and the Shirley/Jordan River Advisory Planning Commission be approved and the comments be received;
- b) That proposed Bylaw No. 4188, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 132, 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. 4188.
2. That the CRD Board not proceed with proposed Bylaw No. 4188.
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 eleven agencies on July 19, 2017. Responses were received from Fisheries and Oceans Canada, the Ministry of Environment, the Ministry of Transportation and Infrastructure, Island Health, Pacheedaht First Nation, CRD Bylaw and Animal Care Services, CRD Protective Services and CRD Regional Parks.

Fisheries and Oceans Canada advised that it does not have a regulatory role related to the rezoning application because it does not propose works, undertakings or activities that may result in serious harm to fish.

The Ministry of Forests, Lands and Natural Resource Operations, responding on behalf of the Ministry of Environment, advised that their interests were unaffected by the proposed rezoning. The Ministry of Transportation and Infrastructure also advised that it had no objection to the proposed bylaw amendment.

Island Health commented that it supports the proposal as it recognizes safety concerns related to potential dam failure in the event of an extreme seismic event.

Pacheedaht First Nation responded to request that the maximum lot coverage be increased from 25% for the parcels on the west side of Jordan River. They also viewed the proposed 12 m maximum height allowance as too restrictive for structures such as an envisioned cultural centre.

CRD Bylaw and Animal Care Services stated no issue with the rezoning application.

CRD Protective Services advised that it was supportive of the proposed rezoning.

CRD Regional Parks confirmed that its interests are unaffected by the proposed rezoning and that it supports the application.

The proposed bylaw was considered by the Shirley/Jordan River APC on August 2, 2017. At that meeting, the APC requested clarification regarding BC Hydro's current and future obligations for remediation of any contaminated sites and recommended that language be added to exclude gas bars, gas stations or bulk fuel sales, auto repair and car wash, or any use for which a permit is required under the *Environmental Management Act* or *Regulation* be added to the "retail stores" use. The APC recommended that the proposed permitted uses be aligned with the land use designations in the proposed OCP and that the subject properties be designated as a commercial or industrial development permit area. In response to what was considered to be a lack of information regarding the future plans for the lands, the APC requested that a public information meeting be held prior to first reading of the bylaw. The APC recommended that the rezoning proposal incorporate consideration of parkland, community market space, arts and culture space, and conservation areas.

## **PLANNING ANALYSIS**

The current Shirley/Jordan River OCP designates the subject property as Settlement Area. This designation supports commercial, tourism development, forestry, industrial and agricultural activities. It is the owner's intention that the lands be prevented from further subdivision to create additional parcels and that overnight accommodation be prohibited.

The JR-1 zone has a limited set of permitted uses that includes residential and home based business uses. The C-1B zone allows a wider range of uses, including residential, retail and convenience stores and restaurants. The CR-1A zone allows residential and tourist accommodation uses, and restaurants. The Rural A zone allows a broad range of uses including residential, agriculture and intensive agriculture, silviculture, animal hospitals and veterinary clinics, and land-based aquaculture.

While some of the permitted uses under the current zones do not involve overnight accommodation, all of the zones do allow either residential or tourist accommodation. For this reason, as well as to reinforce registered restrictive covenants and statutory rights-of-way, the applicant has requested that a new Restricted Development – Flood Hazard (RD-1) zone be applied to those parcels within the designated flood-hazard/inundation area.

The RD-1 zone would apply to thirteen lots in Jordan River and allows for a similar set of permitted uses as those allowed under the current zones, including arts and culture, light industrial, offices, outdoor recreation, restaurants, retail stores and silviculture, and expressly prohibits overnight accommodation.

In response to the Shirley/Jordan River APC's request for a public information meeting, the Electoral Area Director held a meeting at Jordan River to provide background on the situation regarding the flood hazard and to respond to questions from residents. A representative of Pacheedaht First Nation was also in attendance, and clarified that Pacheedaht intends to purchase the lands from BC Hydro. In response to questions from the public, Pacheedaht advised that there are currently no fixed plans for the lands, but that they do form a part of the Nation's long-term economic development plan. Currently envisioned uses include eco-tourism, a cultural centre and the potential storage of forestry related products.

Light industrial uses would only be permitted on parcels greater than 4.0 ha, which excludes those parcels on the west side of Jordan River. The industrial uses contemplated at the present time include warehouses and the storage of forestry related products. While the proposed OCP supports forestry activity on the three larger properties, it does not contemplate a wider range of industrial uses. The current OCP, under which this application must be evaluated, does, however, support such uses.

At the time this report was written, BC Hydro had removed the dwelling units from the properties on the west side of Jordan River. Underground oil tanks used for storing home heating oil were also removed at that time. Any contamination on the east side of the river is the responsibility of the original polluter and BC Hydro has expressed no intention of addressing such conditions.

In response to comments from the Shirley/Jordan River APC, retail uses have been restricted to prohibit gas stations or any other use that would require a permit under the *Environmental Management Act* or *Regulation*.

Subsequent to referral of the proposed zoning amendment, BC Hydro requested that the “outdoor recreation use”, which excluded overnight camping, be removed from the list of principal uses and added to the list of accessory uses. Such a change allows for eco-tourism uses that would be accessory to a principal retail or cultural use. Planning staff have no reason to object to this proposed change.

The proposed amendment will create three split zoned parcels; however, the Rural A/RD-1 split would not increase the potential number of dwelling units or lots that could be created by subdivision.

Staff recommends Alternative 1, approval of the referral, receipt of comments and proceeding for first and second readings of Bylaw No. 4188.

### **CONCLUSION**

The purpose of this zoning amendment is to restrict development within an area found to be at risk of catastrophic flooding due to dam failure associated with a major to extreme seismic event. The proposed bylaw has been revised to address comments received from Pacheedaht First Nation and the Shirley/Jordan River APC.

Staff recommend proceeding with proposed Bylaw No. 4188 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. 4188 directed by the Juan de Fuca Land Use Committee to CRD Building Inspection, CRD Protective Services, CRD Regional Parks, Fisheries & Oceans Canada, Island Health, Ministry of Environment, Ministry of Transportation and Infrastructure, Pacheedaht First Nation, Te'Mexw Treaty Association, T'Sou-ke First Nation, and the Shirley/Jordan River Advisory Planning Commission be approved and the comments be received;
- b) That proposed Bylaw No. 4188, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 132, 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. 4188.

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

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Attachments: Appendix A - Proposed Bylaw No. 4188, for 1<sup>st</sup> and 2<sup>nd</sup> reading  
Appendix B - Proposed Bylaw No. 4188, for referral  
Appendix C - Referral Comments  
Appendix D - Shirley/Jordan River Advisory Planning Commission Minutes