



**REPORT TO THE CAPITAL REGIONAL DISTRICT BOARD
MEETING OF WEDNESDAY, JUNE 12, 2019**

SUBJECT **Public Hearing Report on Bylaw No. 4278, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 141, 2018”**

ISSUE

To receive the Report of the Public Hearing held April 30, 2019, for proposed Bylaw No. 4278, and to consider Bylaw No. 4278 for third reading and adoption.

BACKGROUND

At its meeting on April 10, 2019, the Capital Regional District (CRD) Board gave first and second reading to Bylaw No. 4278, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 141, 2018”, and passed a resolution to delegate authority to the Regional Director to hold a public hearing with respect to Bylaw No. 4278.

Bylaw No. 4278 (Appendix 1) will amend Bylaw No. 2040, “Juan de Fuca Land Use Bylaw, 1992”, to address the current legislative framework for the licensing of cannabis production, and to permit the use in the Sooke Business Park Industrial (M-SBP) zone.

On April 30, 2019, a public hearing was held for Bylaw No. 4278. There were two people in attendance. No submissions regarding the proposal were received. The Report of the Public Hearing is attached (Appendix 2).

ALTERNATIVES

Alternative 1

- a) That the minutes that form the Report of the Public Hearing for Bylaw No. 4278, which is certified as a fair and accurate summary of the representations that were made at the public hearing held on April 30, 2019, for Bylaw No. 4278, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 141, 2018”, be received; and
- b) That Bylaw No. 4278 be read a third time and adopted.

Alternative 2

That the minutes that form the Report of the Public Hearing for Bylaw No. 4278, which is certified as a fair and accurate summary of the representations that were made at the public hearing held on April 30, 2019, for Bylaw No. 4278, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 141, 2018”, be received.

LAND USE IMPLICATIONS AND PLANNING ANALYSIS

Amendments are proposed to Bylaw No. 2040 to reflect the new legislative framework for recreational cannabis consumption and production, and to permit cannabis production and related uses in the Sooke Business Park Industrial (M-SBP) zone.

Personal Use:

Personal cultivation of up to four cannabis plants by adults at a private residence are permitted by the *Cannabis Act* and the *Cannabis Control and Licensing Act*, but this can be further regulated by local governments if it is deemed practical and warranted. The proposed bylaw amendment does not seek to further restrict personal cannabis cultivation. Rather, the amendment adds a

new definition for '*cannabis production – personal*' and clarifies that no more than four cannabis plants may be cultivated at a dwelling.

Cannabis Cultivation on Agricultural Land:

Commercial cannabis cultivation and related ancillary uses are now considered a farm use in the Agricultural Land Reserve (ALR) subject to Agricultural Land Commission (ALC) policies that allow production outdoors in a field, in a structure with a soil base, or in a legally non-conforming structure. Activities designated as a farm use in the ALR must not be prohibited by local government. Staff will consult with the ALC on this policy when determining where cannabis cultivation can occur. The proposed bylaw amendment updates language and retains the 30 m setback requirement from front, side and rear parcel boundaries for cannabis cultivation.

Licensed Cannabis Facilities:

Local governments are able to regulate cannabis facilities outside the ALR. Considerations for locating cannabis facilities may include public tolerance for the use, location and proximity to civic uses, scale of the operation, policing and bylaw enforcement, as well as the capacity of local utilities. In the Juan de Fuca Electoral Area, factors such as odour, water use, septic capacity, hydro-electrical availability and electro-magnetic interference, waste management and fire protection have been raised as factors that inform land use decisions. Local governments may also wish to specify setbacks from non-compatible uses such as schools and parks.

Bylaw No. 2040 currently specifies that *intensive agriculture - medical marihuana production* is a permitted use in the General Industrial – Medical Marihuana (M2-MM) zone and the Sooke Business Park Industrial (M-SBP) zone. Proposed Bylaw No. 4278 adds a new definition for '*cannabis production – commercial*' and amends the Sooke Business Park Industrial (M-SBP) zone to permit all federal cannabis licence categories. At this time, the proposed amendment applies to the 11 properties zoned M-SBP. Separate consideration is being given to amending the General Industrial – Medical Marihuana (M-2MM) zone and remaining lands within the Sooke Business Park development.

The Sooke Business Park development is not within proximity to schools or daycare facilities and landscaping around the perimeter of the development provides a buffer from residential areas. The CRD Juan de Fuca Local Area Services Building is located within the development where public events and recreational programs occur, and the adjacent William Simmons Memorial Park and Butler Trail are used by the public, including youth. However, cannabis facilities proposed in the M-SBP zone occur within industrial buildings that are indistinguishable from other general industrial buildings. In addition, such facilities require high levels of security and may have no outward display of marketing that would negatively impact youth.

Beyond zoning authority, other tools are available to local governments to address local issues arising from certain types of development, such as development permit (DP) guidelines to regulate the form and character of buildings, and development cost charges to assist with paying the capital costs of providing utility infrastructure or park facilities that directly or indirectly service the development. CRD may also pursue bylaw enforcement of odour nuisances.

Staff recommend that the minutes that form the record of the public hearing for Bylaw No. 4278 be received, that Bylaw No. 4278 be read a third time, and that Bylaw No. 4278 be adopted.

CONCLUSION

A public hearing was held on April 30, 2019, for Bylaw No. 4278, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 141, 2018”. The minutes are attached as the Report of the Public Hearing.

There were two people in attendance at the public hearing. No submissions regarding the proposal were received.

Staff recommend Alternative 1 to receive the minutes and for the proposed bylaw to be given third reading and adopted.

RECOMMENDATIONS

- a) That the minutes that form the Report of the Public Hearing for Bylaw No. 4278, which is certified as a fair and accurate summary of the representations that were made at the public hearing held on April 30, 2019, for Bylaw No. 4278, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 141, 2018 ”, be received; and
- b) That Bylaw No. 4278 be read a third time and adopted.

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| 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 |

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Appendix 1 – Proposed Bylaw No. 4278

Appendix 2 – Report of the Public hearing April 30, 2019