



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, NOVEMBER 19, 2019**

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**SUBJECT**      **Zoning Amendment Application for Lot 12, Section 128, Sooke District, Plan VIP58851  
– 5495 Mt. Matheson Road**

**ISSUE**

The owner is proposing to rezone the subject property from the Rural (A) zone to the Rural Residential 6A (RR-6A) zone to permit a four-lot subdivision.

**BACKGROUND**

The 4.07 ha subject property is located in East Sooke at 5495 Mt. Matheson Road and is zoned Rural (A) in the Juan de Fuca Land Use Bylaw No. 2040 (Appendix 1). The parcel is adjacent to Rural A zoned land to the west, south and east and Mt. Matheson Road to the north.

The property is designated as Settlement in the East Sooke Official Community Plan (OCP), Bylaw No. 4000, and is within the steep slopes, sensitive ecosystem and riparian development permit areas. The parcel is serviced by on-site septic and groundwater wells, and is within the East Sooke Fire Protection Service Area.

A development permit was issued to authorize construction of two dwellings and driveways within the steep slopes, riparian and sensitive ecosystem DPAs (DP-18-12). There is one house on the property that was constructed in 2014. Covenant CA3979900 is registered on title requiring a professional engineer to confirm that the land is safe for the use intended. There is also a building scheme registered on title, as well as an easement to provide access to a shared well on an adjacent property.

The owner has submitted an application to rezone the property from Rural A to RR-6A in order to create the potential for subdivision of up to four parcels with an average parcel area of 1.0 ha and a maximum density of one single-family dwelling, with either a secondary or a detached accessory suite (Appendix 2). At the present time, however, the owner has submitted an application for a two-lot subdivision (SU000712). Staff have prepared Bylaw No. 4314, which would rezone the parcel from Rural (A) to RR-6A (Appendix 3).

At their meeting of July 16, 2019, the Juan de Fuca Land Use Committee recommended referral of the proposed bylaw to the East Sooke Advisory Planning Commission (APC), the Juan de Fuca Electoral Area (JdF EA) Parks and Recreation Advisory Commission, CRD departments, BC Hydro, District of Sooke, Island Health, FLNR – Archaeology Branch, Ministry of Transportation and Infrastructure, RCMP, Scia'new First Nation, Sooke School District #62 and T'Sou-ke First Nation. Comments have been received from agencies and are included in Appendix 4.

**ALTERNATIVES**

*Alternative 1*

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

- a) That the referral of proposed Bylaw No. 4314, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 146, 2019" directed by the Juan de Fuca Land Use Committee to the East Sooke Advisory Planning Commission; the Juan de Fuca Electoral Area Parks and Recreation Advisory Commission; appropriate CRD departments; BC Hydro; District of Sooke; Island Health; FLNR – Archaeology Branch; Ministry of Transportation & Infrastructure; RCMP; Scia'new First Nation; Sooke School District #62; and T'Sou-ke First Nation be approved and the comments received;
- b) That proposed Bylaw No. 4314, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 146, 2019" be introduced and read a first time; and
- c) That the owner provide a report prepared by a Qualified Professional with expertise in fire suppression that recommends how the proposed development can be accessed by emergency vehicles and meet the National Fire Protection Association standard 1142 Water Supplies for Suburban and Rural Fire Fighting or an equivalent level of protection prior to second reading and a public hearing.

*Alternative 2*

That the CRD Board not proceed with proposed Bylaw No. 4314.

*Alternative 3*

That more information be provided.

**LEGISLATIVE AND PUBLIC CONSULTATION IMPLICATIONS**

Should the proposal proceed, a public hearing pursuant to Part 14, Division 3 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 the public hearing will be advertised in the local paper and on the website.

**REGIONAL GROWTH STRATEGY IMPLICATIONS**

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 East Sooke Official Community Plan area is consistent with the OCP, it does not proceed to the full CRD Board for a determination of consistency with the RGS. Staff are of the opinion that this zoning bylaw amendment proposal is consistent with the policies of the East Sooke Official Community Plan.

The RGS recognizes that water service may be extended to those lands designated as Settlement by the East Sooke OCP. The subject property is outside of a community water service area and is not requesting water service connections.

**REFERRAL COMMENTS**

Referrals were sent to external agencies, the East Sooke APC, the JdF EA Parks and Recreation Advisory Commission, and CRD departments. Comments received are noted below and included in Appendix 4.

CRD Bylaw Enforcement does not have any specific objections to this application, but notes that with increased density in the area, increased demands for Bylaw Services intervention may result.

CRD Protective Services stated that the applicant must ensure that proposed developments can be served by the local fire department and comply with the Building Regulation Bylaw regarding access to property and adequate water supply for firefighting.

CRD Regional and Strategic Planning reviewed the proposal in the context of the Regional Growth Strategy (RGS) policies and commented that: the proposed 1 hectare parcel size is in keeping with the rural character and is consistent with the land uses in the Growth Management Concept Plan; the proposal is in keeping with slow to moderate growth rates; and that measures proposed to protect sensitive ecosystems and park land will address Capital Green Land policies. As connections to a community water system is not being proposed, RGS policy 2.2(b) is not applicable.

BC Hydro stated no objection to the rezoning, but noted that the proponent should investigate servicing available for the development.

District of Sooke stated no objection.

FLNR – Archaeology Branch stated there are no known archaeological sites recorded on the subject property and that no study or permit is required at this time; however, if archaeological material is encountered during development, all activities must stop immediately and the Archaeology Branch contacted for direction.

Island Health commented that they will require the future subdivisions to comply with the *Drinking Water Protection Act/Regulation* and the *Sewerage System Regulation*.

Ministry of Transportation and Infrastructure stated no concerns with the proposed rezoning.

RCMP stated no comments or issues with the rezoning.

A meeting of the East Sooke APC was held on September 9, 2019. There were five members of the public in attendance. No submissions were received in response to public notification of the meeting. The APC discussed the proposal and passed the following motion:

**MOVED** by Tim Marks, **SECONDED** by Rhonda Underwood that the APC supports the application with a water supply with dry hydrant above the houses for firefighting services. **CARRIED**

A meeting of the JdF EA Parks and Recreation Advisory Commission was held on July 30, 2019. There was one member of the public in attendance and no written submissions were received regarding the application. The Commission discussed the proposal and passed the following motion:

**MOVED** by Commissioner Sielopp, **SECONDED** by Commissioner Braunschweig that the Commission supports the rezoning application and has identified no specific park interests for the subject property. **CARRIED**

### **PLANNING ANALYSIS**

The East Sooke Official Community Plan (OCP), Bylaw No. 4000, designates the subject property as Settlement. The objectives of this designation are to maintain the rural character of East Sooke through low-density development occurring at a gradual pace; to support a range of economic activities at a scale appropriate to the size of the community and its rural nature; and to provide affordable housing and rental accommodation options appropriate for a rural community. Settlement policies are supportive of an average density of one parcel per hectare within a plan of subdivision, provided that no new parcels are created with an area of less than 0.4 ha (policy 484B). Further, policy 484E provides for an alternative to building strata development by supporting consideration of rezoning Rural A zoned land to permit subdivision.

The proposed RR-6A zone allows a 1 ha average parcel size and a minimum parcel size of 0.5 ha. The zone allows for residential, agricultural and home based business uses, with a density of one dwelling unit plus either a secondary suite or a detached accessory suite. Should the rezoning be supported, the owner wishes to create up to three additional parcels in a phased approach, with one additional parcel being proposed at the present time.

Policy 424G of the East Sooke OCP outlines the preferred methods for acquiring park land and trails including: as a condition of a rezoning, as an amenity contribution, or as dedication at time of subdivision. The application was referred to the JdF EA Parks and Recreation Advisory Commission. The Commission identified no specific recreation park or trail interests for the subject property in conjunction with either rezoning or subdivision. While the potential to require parkland dedication in accordance with Section 510 of the *Local Government Act* exists under the proposed zone, the current subdivision proposal does not trigger park dedication requirements since only one additional parcel would be created. However, should the newly created parcels be subdivided within 5 years of their registration, park dedication requirements would apply.

The East Sooke OCP outlines transportation policies in section 444 and states that as part of a rezoning proposal, current and future transit requirements, as well as alternative transit options, such as walking and cycling, will be taken into consideration. BC Transit operates an East Sooke bus service along Gillespie Road within approximately 500 metres (m) of the subject property. As part of rezoning and subdivision applications, connectivity between neighbourhoods (policy 444K) and identification of future pedestrian and cycling routes in the area (policy 444G) should also be considered. There are currently no alternative access routes to the Mt. Matheson neighbourhood and a suitable route has not been identified.

The property is designated as Steep Slopes, Sensitive Ecosystems and Riparian development permit areas (DPAs). A development permit will be required as a condition of subdivision should the request for rezoning be supported. Section 410 of the East Sooke OCP outlines policies for buffering and protecting sensitive ecosystems from new development, retention of existing vegetation and restoration of disturbed areas. An environmental report prepared by Swell Environmental Consulting has been provided that identifies Doerr Creek on the property, as well as areas within the terrestrial herbaceous ecosystem and older second growth forest. The report outlines existing conditions and considerations for future site development (Attachment 5).

East Sooke APC members and local residents stated concern regarding availability of an adequate supply of potable water and water for firefighting services. Section 451 of the East Sooke OCP identifies goals for a safe and healthy community including that all residents have a safe and reliable supply of potable water and there is adequate provision for water used in fighting fires. Further, policy 414G states that the protection of aquifers from contamination and depletion will be considered in all development proposals. Staff recommend that the

applicant provide a report prepared by a Qualified Professional that recommends how the proposed development can be accessed by emergency vehicles and meet the National Fire Protection Association standard 1142 Water Supplies for Suburban and Rural Fire Fighting or an equivalent level of protection.

As previously noted, this zoning amendment application was referred to external agencies, the East Sooke APC, the JdF EA Parks and Recreation Advisory Commission and CRD departments. Based on the information provided by the applicant and the policies of the East Sooke OCP, Juan de Fuca Community Planning staff recommend receipt of referral comments, proceeding with proposed Bylaw No. 4314 for first reading, and that the owner provide a professional's report recommending fire protection measures and access for the proposed development prior to second reading and a public hearing.

### **CONCLUSION**

The purpose of this zoning bylaw amendment application is to rezone the subject property from Rural (A) to Rural Residential 6A (RR-6A) to allow subdivision to create up to four residential lots. Referral comments have been received and staff recommend that proposed Bylaw No. 4314 proceed for first reading, and that the owner provide a professional report addressing fire protection measures and access for the proposed development prior to second reading and public hearing.

### **RECOMMENDATION**

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

- a) That the referral of proposed Bylaw No. 4314, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 146, 2019" directed by the Juan de Fuca Land Use Committee to the East Sooke Advisory Planning Commission; the Juan de Fuca Electoral Area Parks and Recreation Advisory Commission; appropriate CRD departments; BC Hydro; District of Sooke; Island Health; FLNR – Archaeology Branch; Ministry of Transportation & Infrastructure; RCMP; Scia'new First Nation; Sooke School District #62; and T'Sou-ke First Nation be approved and the comments received;
- b) That proposed Bylaw No. 4314, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 146, 2019" be introduced and read a first time; and
- c) That the owner provide a report prepared by a Qualified Professional with expertise in fire suppression that recommends how the proposed development can be accessed by emergency vehicles and meet the National Fire Protection Association standard 1142 Water Supplies for Suburban and Rural Fire Fighting or an equivalent level of protection prior second reading and a public hearing.

Submitted by:	Emma Taylor, RPP, MCIP, Planner
Concurrence:	Iain Lawrence, RPP, MCIP, Manager, Juan de Fuca Community Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Robert Lapham, RPP, MCIP, Chief Administrative Officer

ET:wm

#### **Attachments:**

- Appendix 1: Subject Property Map
- Appendix 2: Rural Residential 6A Zone
- Appendix 3: Proposed Bylaw No. 4314
- Appendix 4: Referral Comments
- Appendix 5: Swell Environmental Consulting Report