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## REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, JULY 21, 2020

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**SUBJECT**      **Zoning and Official Community Plan Amendment Application for That Part of Section 17, Otter District, Lying East of Otter Point Road, Except Parcel C (DD43782I) And Except Parts in Plans 3054 And 17721 – 3542 & 1-3542 Otter Point Road**

### **ISSUE SUMMARY**

The owner has applied to rezone the subject property to permit six rural residential parcels and an industrial sawmill operation.

### **BACKGROUND**

The 15 hectare (ha) subject property is located at 3542 Otter Point Road and is zoned Rural A in the Juan de Fuca Land Use Bylaw No. 2040 (Appendix A). The property is designated as Settlement Area 2 and is partly designated as a Watercourses and Wetland Areas development permit area (DPA) by the Otter Point Official Community Plan (OCP), Bylaw No. 3819. The parcel is within the Otter Point Fire Protection Local Service Area and serviced by on-site wells and septic. There is currently a dwelling and a sawmill operation on the property.

The owner originally submitted a rezoning and subdivision (SU000711) application to create five 1 ha, Rural Residential 2 (RR-2) zoned parcels, a 6 ha parcel for a sawmill operation, and a 4 ha parcel for an aquaponics facility. Staff prepared Bylaw No. 4316 to rezone the parcel for the requested uses, and Bylaw No. 4317 to amend the Otter Point OCP by designating portions of the property as Watercourses & Wetland Areas and Commercial & Industrial DPAs.

At their meeting of July 16, 2019, the Juan de Fuca Land Use Committee recommended referral of the proposed bylaws to agencies. Comments are summarized in Appendix B and included as received in Appendix C. Since the time that referrals were circulated, the applicant has revised the application to remove the aquaponics facility and to include an additional RR-2 zoned parcel on Otter Point Road. The updated site plan is included in Appendix D. Staff have amended Bylaw Nos. 4316 and 4317 accordingly.

### **ALTERNATIVES**

#### *Alternative 1*

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

- a) That the referral of proposed Bylaw No. 4316, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 147, 2019" and Bylaw No. 4317, "Otter Point Official Community Plan Bylaw, 2014, Amendment Bylaw No. 2, 2019" to the Otter Point Advisory Planning Commission; the Juan de Fuca Electoral Area Parks and Recreation Advisory Commission; CRD departments; BC Hydro; Department of Fisheries and Oceans; District of Sooke; Ministry of Agriculture; Ministry of Environment and Climate Change Strategy; Ministry of Forests, Lands and Natural Resource Operations; Ministry of Transportation and Infrastructure; RCMP; Sooke School District #62; and T'Sou-ke First Nation be approved and the comments received;
- b) That proposed Bylaw No. 4316, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 147, 2019" be introduced and read a first time and read a second time;
- c) That proposed Bylaw No. 4317, "Otter Point Official Community Plan Bylaw, 2014, Amendment Bylaw No. 2, 2019" be introduced and read a first time and read a second time;
- d) 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. 4316 and Bylaw 4317; and
- e) That prior to adoption of the bylaws, the applicant:
  - i. Provide confirmation from a Qualified Environmental Professional that the vegetative screening requirements in the M-3 zone and the recommendations for restoration of the riparian area outlined in the Conditions and Impacts report prepared by Corvidae Environmental Consulting Inc., dated February 2020, have been implemented;

- ii. Secure a covenant on title pursuant to Section 219 of the *Land Title Act* in favour of the CRD requiring that the fire protection works related to the sawmill operation, described in the letter from the Otter Point Volunteer Fire Department dated January 30, 2020, be installed and conveyed to CRD prior to subdivision or further building construction.

*Alternative 2*

That the CRD Board not proceed with proposed Bylaw No. 4316 and Bylaw No. 4317.

*Alternative 3*

That more information be provided.

## **IMPLICATIONS**

### Legislative and Public Consultation Implications

A site profile has been submitted to the Ministry of Environment & Climate Change Strategy (ENV) in accordance with the *Environmental Management Act* and *Contaminated Sites Regulation*. A regional district must not approve a development application with respect to a site where a site profile is required until such time a release is granted pursuant to Section 557 of the *Local Government Act (LGA)*. A release has been granted by the Ministry of Environment for rezoning, but further site investigation is required as part of subdivision approval.

The sawmill operation requires a Waste Discharge Authorization pursuant to the *Environmental Management Act* and a groundwater licence pursuant to the *Water Sustainability Act*. These approvals are issued by the Province and are not a precondition for rezoning.

Should the proposal proceed, public hearings pursuant to Part 14, Division 3 of the *LGA* will be required subsequent to the amendments passing second reading by the CRD Board. Property owners within 500 m of the subject property will be sent notice of the proposed bylaw amendments and public hearings 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. Since the proposal includes an amendment to the Otter Point OCP, the bylaws will be considered by the Planning and Protective Services Committee and the CRD Board for a determination of consistency with the RGS prior to the bylaws being adopted.

The proposed amendments update development permit area maps to designate additional parts of the subject property for protection of the natural environment and to establish objectives for the form and character of industrial development.

### Referral Process Implications

Referrals were sent to external agencies, the Otter Point Advisory Planning Commission (APC), the Juan de Fuca Electoral Area Parks and Recreation Advisory Commission (JdF EA PRAC), and CRD departments in July 2019. Comments are summarized in Appendix B and included as received in Appendix C. As changes to the bylaws after the referral was first circulated do not add new uses or increase overall parcel density, staff are of the opinion that a second referral to agencies is not necessary.

### Land Use Implications

Since the Land Use Committee first considered this application, referral comments have been received from agencies and the development proposal has been amended to remove the aquaponics use. In response, proposed Bylaw No. 4316 has been revised to delete the proposed aquaponics zone, and to include approximately 7 ha under the Rural Residential 2 zone and 8 ha under the new Industrial Sawmill zone. The bylaw also deletes the light, heavy and marine industrial zone categories that no longer apply to any land within the JdF EA (Appendix E). Proposed Bylaw No. 4317 amends the Otter Point OCP by adding to the Watercourses and Wetland Areas DPA for protection of an unmapped watercourse, and adding to the Commercial and Industrial Areas DPA in order to establish objectives for the form and character of the proposed industrial development (Appendix F).

In consideration of an application for rezoning, Section 4.1.1(4) of the Otter Point OCP states that proposals should demonstrate that community values and features can be protected subject to an assessment of the suitability of the land for the proposed use, no depletion or contamination of groundwater, appropriate scale and rural character, demonstrated protection of sensitive features and land significant to the region or community, use of 'green' building techniques, and measures to mitigate impact of development. Further, Section 4.1.1(11) outlines considerations for mixed use development, including: form and character compatibility; adequate parking and traffic flow; protection and separation of residential areas.

Environmental constraints: As part of this application, an Environmental Assessment report was submitted by Corvidae Environmental Consulting (Appendix G). The report identifies the location of a watercourse on the property and recommends environmental protection measures. In response to recent unauthorized clearing within the riparian area, a Conditions and Impacts report was provided that proposed replanting native species in the riparian area (Appendix H). Staff recommend that a Qualified Environmental Professional (QEP) verify that this work is completed prior to adoption of the bylaws.

Water supply and sewage disposal: Section 5.6 of the Otter Point OCP states that the OCP designates 51% of the Plan area as Rural Lands to allow for low density development, that all subdivision applications must include proof of sufficient potable water from individual drilled wells as determined by a Qualified Professional, and that all development should protect groundwater sources and not deplete or contaminate existing wells. The proposed rezoning includes rural residential parcels that are located within the Settlement Area 2 land use designation. Should the rezoning be supported, the parcels will require proof of potable water as part of the subdivision process in the amount of 1,400 litres per day per lot in accordance with Part 6, Section 6.02 of Bylaw No. 2040. Members of the public expressed concern that groundwater supplies are scarce in the area and that many wells run dry. Measures to conserve groundwater include incorporating rainwater capture systems in new buildings or installing storage tanks at the time of construction. The applicant has indicated a willingness to install such a system; however, it is beyond the scope of the subdivision bylaw. It is noted that the proposed rezoning does not increase the density of residential development permitted by the existing Rural A zone.

The *Water Sustainability Act* requires non-domestic users of groundwater to obtain a licence; therefore, the sawmill operation will require a provincial water licence.

Island Health provided comment to state that subdivisions must comply with the *Drinking Water Protection Act/Regulation* and *Sewerage System Regulation*. These regulations pertain to domestic water supply systems and domestic sewage, and not to the industrial component of the proposed development. Discharge associated with the sawmill operation may require provincial authorization under the *Environmental Management Act*. The applicant has initiated the authorization process with the Province.

Scale of development: The subject property is designated as Settlement Area 2, which supports a desired average parcel area for residential development of one ha with a minimum parcel area of 0.8 ha. Proposed Bylaw No. 4316 rezones a portion of the property to the RR-2 zone, which allows an average lot size of one ha and permits residential, agricultural and home based business uses, with a density of one dwelling unit plus either a secondary suite or a detached accessory suite. This is in keeping with the OCP policies.

An economic development objective of the Otter Point OCP supports accommodating limited industrial and commercial development with a focus on the Sooke Business Park. The subject property is in the vicinity of the Sooke Business Park (Appendix I).

Protection of natural features: Proposed Bylaw No. 4317 will add the unmapped watercourse to the Riparian development permit area and require that any future encroachment within this area be authorized by permit. The reports prepared by Corvidae Environmental Consulting Inc. outline recommendations to protect or restore natural features on the site. Due to the historical industrial use, there is a contaminated sites review underway and subdivision approval will be withheld until a determination is made.

Access to the proposed sawmill operation is across the watercourse at the eastern edge of the property on the existing Tenbury Road allowance. Industrial access and road dedication will be determined by TRAN and secured at time of subdivision. Works in and about a stream require provincial notification under Section 11 of the *Water Sustainability Act*. A development permit will be required as part of subdivision.

Adequate setbacks and vegetated buffers: Proposed Bylaw No. 4316 includes requirements to implement natural vegetative buffers to screen the proposed industrial use from adjacent roads and properties. Staff recommend that a Qualified Professional confirm these buffers are implemented prior to adoption of the proposed bylaws.

Protection of land considered regionally or locally significant: Section 5.1(15) of the Otter Point OCP identifies high potential park and trail opportunities including a desire to establish an inter-connected network of trails through the Plan area. The JdF Community Parks division currently holds a Licence of Occupation over the Weiland Road right-of-way for future construction of a multi-use trail extending from William Simmons Memorial Park to Kemp Lake Road, but the right of way terminates at the subject property. The JdF EA PRAC recommended establishment of a trail for continuation of Wieland Road. TRAN has requested dedication of Weiland Road along the southern portion of the property, which would allow the network to be completed.

Subdivisions that create three or more lots, where the smallest lot is less than 2 ha in size, are required to provide park dedication pursuant to Section 510 of the LGA. Future consideration of statutory park dedication would occur as part of the subdivision process should the rezoning be supported.

Use of 'green' building techniques: Bylaw No. 4317 designates part of the property as a Commercial and Industrial DPA to regulate form and character in accordance with the DP guidelines. A development permit will be required for construction of any sawmill buildings or structures. The CRD Building Inspection Division advises that a Registered Professional will be required to be involved in certain aspects of the construction and that the applicant is advised to work with the CRD to resolve any outstanding building permits.

Works, services or community benefits to mitigate the impact of development: The need for fire protection measures was raised during the referral process. The Otter Point Volunteer Fire Department has proposed that the applicant install water supply in the form of tanks (60,000 ga) to aid fire protection for the industrial sawmill use and the community. Staff recommend a covenant be registered on the title of the property that requires the installation of the works by the applicant and access to the system by the fire department prior to subdivision or further building construction.

Concerns were raised at the APC meeting regarding noise and nuisances from the existing sawmill operation and increased intensity of the proposed uses. Concerns with increased traffic were also raised at the APC resulting from the number of employees and commercial trucks. CRD Bylaw Enforcement notes that nuisance-related complaints are likely to increase with an expansion of the sawmill operation in close proximity to residences. However, the applicant's planned upgrades include moving the sawmill indoors and switching from combustion engine saws to electric saws. These measures are anticipated to reduce the disturbance generated by noise.

Staff recommend receipt of the referral comments, first and second reading of Bylaw Nos. 4316 and 4317, proceeding to public hearing, and requiring that conditions be met prior to adoption of the bylaws.

## **CONCLUSION**

The purpose of this OCP and zoning bylaw amendment application is to rezone the subject property to allow a six lot rural residential subdivision and an eight hectare industrial sawmill operation. Referral comments have been received and issues identified. Staff recommend proceeding with the bylaws subject to conditions being met prior to adoption.

## **RECOMMENDATION**

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

- a) That the referral of proposed Bylaw No. 4316, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 147, 2019” and Bylaw No. 4317, “Otter Point Official Community Plan Bylaw, 2014, Amendment Bylaw No. 2, 2019” to the Otter Point Advisory Planning Commission; the Juan de Fuca Electoral Area Parks and Recreation Advisory Commission; CRD departments; BC Hydro; Department of Fisheries and Oceans; District of Sooke; Ministry of Agriculture; Ministry of Environment and Climate Change Strategy; Ministry of Forests, Lands and Natural Resource Operations; Ministry of Transportation and Infrastructure; RCMP; Sooke School District #62; and T’Sou-ke First Nation be approved and the comments received;
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Submitted by:	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

## **ATTACHMENTS**

- Appendix A: Subject Property Map
- Appendix B: Summary of Referral Comments
- Appendix C: Referral Comments
- Appendix D: Development Proposal
- Appendix E: Proposed Bylaw No. 4316
- Appendix F: Proposed Bylaw No. 4317
- Appendix G: Environmental Report
- Appendix H: Conditions and Impacts Report
- Appendix I: Industrial Zoning Map