

**REPORT TO THE CAPITAL REGIONAL DISTRICT BOARD  
MEETING OF WEDNESDAY, APRIL 14, 2021**

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**SUBJECT**      **Public Hearing Report on Bylaw No. 4380, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 148, 2020”**

**ISSUE SUMMARY**

To receive the Report of the Public Hearing held March 9, 2021, for proposed Bylaw No. 4380, and to consider Bylaw No. 4380 for third reading.

**BACKGROUND**

At its meeting of February 10, 2021, the Capital Regional District (CRD) Board gave first and second reading to Bylaw No. 4830, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 148, 2020” and passed a resolution to delegate authority to the Regional Director to hold a public hearing with respect to Bylaw No. 4380.

Bylaw No. 4380 (Appendix A) will amend Bylaw No. 2040, “Juan de Fuca Land Use Bylaw, 1992”, by deleting part of Lot 1, Section 18, Otter District, Plan VIP53538, Except Part in Plan VIP77828 from the Rural A-1 (A-1) Zone and by adding part of said lot to the Rural Residential 2 (RR-2) Zone and by adding the remainder to the Agricultural AG-1 (AG-1) Zone for the purpose of creating two additional rural residential parcels.

On March 9, 2021, a public hearing was held for Bylaw No. 4380. There were two people in attendance at the hearing. No written submissions or comments were received regarding Bylaw No. 4380. The Report of the Public Hearing is attached (Appendix B).

**ALTERNATIVES**

*Alternative 1*

- a) That the minutes that form the Report of the Public Hearing for Bylaw No. 4380, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 148, 2020”, which are certified as a fair and accurate summary of the representations that were made at the public hearing held on March 9, 2021, for Bylaw No. 4380, be received;
- b) That Bylaw No. 4380 be read a third time; and
- c) That Bylaw No. 4380 be adopted.

*Alternative 2*

That the minutes that form the Report of the Public Hearing for Bylaw No. 4380, which are certified as a fair and accurate summary of the representations that were made at the public hearing held on March 9, 2021 for Bylaw No. 4380, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 148, 2020”, be received.

**IMPLICATIONS**

*Regional Growth Strategy Implications*

Section 445 of the *Local Government Act* 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 Otter Point Official Community Plan (OCP) area is consistent with the OCP, it does not proceed to the full CRD Board for a determination of consistency with the RGS. The proposed rezoning is consistent with the policies of the Otter Point OCP.

*Referral Process Implications*

Bylaw No. 4380 was referred to external agencies, the Otter Point Advisory Planning Commission and to CRD departments in November 2020. Referral comments were returned and the CRD Board gave first and second reading to Bylaw No. 4380 at its meeting on February 10, 2021.

*Land Use Implications*

Section 4.1.1 of the Otter Point OCP, Bylaw No. 3819, states that development may be supported subject to the development having a minimal impact on the existing and natural features of the area, control of surface runoff, preventing depletion or contamination of existing wells, responding to physical constraints of the site, including retention of visual landscapes and natural areas, and protecting natural vegetation. In consideration of an application for rezoning, the OCP outlines that support is more likely where it can be demonstrated that community values and features can be protected subject to the following criteria:

- a. There is evidence from a Qualified Professional, or it is determined by CRD Planning staff, that the land is suitable for the intended use, there is an assessment of geotechnical and environmental constraints, there is evidence that potable water and sewage disposal can be supported on the parcel, and that development will not deplete or contaminate existing wells;
- b. The scale of the proposal supports the rural character of the community;
- c. The proposal demonstrates protection and preservation of the integrity of natural features and sensitive environmental features and includes adequate setbacks and vegetated buffers;
- d. A means of protection is provided for lands that are considered regionally or locally significant; this includes natural features that are valued by the community or provide public access to points of interest; protection will be provided as an amenity, and may be done by such means as transfer to the CRD, statutory right-of-way, covenant, or stewardship agreement with a conservation society;
- e. Construction using the best “green” techniques and materials is proposed; and
- f. Works, services or community benefits required to mitigate the impact of development are proposed.

Based on CRD orthophoto imagery and contour information, the subject property is largely unforested and slopes upwards from west to east at an approximate incline of 20%. The proposed rural residential areas on the east side of the property are not designated as development permit areas for the protection of the environment or for the protection of development from hazardous conditions; however, an area on the agricultural portion, to the west of the existing buildings, is designated as Watercourses and Wetlands development permit area for the protection of Orveas Creek. Since the purpose of the proposed rezoning is to permit two additional rural residential lots on the east side of the property, away from the riparian area, staff recommend that a professional report focused on the riparian area be required through a development permit process, rather than at the time of rezoning. A development permit is required at the time of subdivision, or prior to any land alteration or the issuance of a building permit within the development permit area.

The protection of natural features will also be ensured through the retention of covenants on title. Covenants EE142716 and EW147443 are registered on title limiting building and alterations adjacent to the creek. Covenant CA2238459 is also registered on title requiring further geotechnical review prior to construction. A review of the capacity of the site to accommodate on-site services will be conducted as part of the subdivision application process.

The OCP designates the subject property as Settlement Area 2 which signifies the predominant land use is rural residential; however, agriculture, resource extraction, commercial, industrial, tourism and park uses are also supported. The desired average parcel size for residential development within Settlement Area 2 is 1.0 ha with a minimum parcel size of 0.8 ha. The proposed rezoning and subdivision layout aligns with the intent of the OCP designation.

The proposed plan of subdivision suggests that the required setbacks for the existing uses and buildings can be met; however, upon receipt of a detailed survey as part of the subdivision application, a more detailed review will be conducted by staff to ensure compliance with land use regulations. The statutory park dedication requirements are not applicable to the proposed subdivision. No information about proposed construction practices or materials has been provided, but typical residential and agricultural buildings are anticipated to be developed on the lots.

The subdivision layout does not meet the requirement that 10% of the perimeter of the lot fronts on a road; therefore, a variance will be required as part of the subdivision process should the rezoning be supported.

The CRD Board gave the bylaw second reading, and passed a resolution to delegate authority to the Regional Director to hold a public hearing with respect to Bylaw No. 4380 at its meeting of February 10, 2021. In light of the absence of comment from the public at the Public Hearing, staff recommend that the proposed bylaw be given third reading and adopted.

### **CONCLUSION**

The purpose of this zoning bylaw amendment application is to rezone the subject property to create two additional rural residential parcels. Proposed Bylaw No. 4380 has been read a second time and a public hearing was held on March 9, 2021 for Bylaw No. 4380, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 148, 2020." 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. 4380, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 148, 2020", which are certified as a fair and accurate summary of the representations that were made at the public hearing held on March 9, 2021, for Bylaw No. 4380, be received;
- b) That Bylaw No. 4380 be read a third time; and
- c) That Bylaw No. 4380 be adopted.

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

### **ATTACHMENTS**

- Appendix A: Proposed Bylaw No. 4380
- Appendix B: Report of the Public Hearing March 9, 2021