

**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JUNE 15, 2021**

SUBJECT **Zoning Amendment Application for 9662 West Coast Road
(PID: 006-452-230)**

ISSUE SUMMARY

The owners have applied to rezone the subject property to permit a portable sawmill operation.

BACKGROUND

The approximately 3.5 ha subject property is located at 9662 West Coast Road in Shirley (Appendix A). The property is designated as Coastal Uplands in the Shirley-Jordan River Official Community Plan (OCP), Bylaw No. 4001, and is zoned Forestry (AF) in the Juan de Fuca Land Use Bylaw No. 2040 (Appendix B). The parcel is within the Shirley Fire Protection Service Area and is serviced by on-site wells and septic. There are no development permit areas designated on the property. There is an existing mobile home and several accessory buildings located on the property, as well as an area currently being used for a portable sawmill operation under the Home Based Business regulations of Bylaw No. 2040 (Appendix C). A development variance permit (DVP-22-07) was approved in 2007 to increase the total floor area of accessory buildings from 250 m² to 808.7 m² and to reduce the side yard setback from 1 m to 0.89 m for an existing woodshed.

The owners have submitted a rezoning application to permit an accessory portable sawmill operation beyond the scale permitted as a home industry in conjunction with the existing AF uses on the property (Appendix D). Staff have prepared Bylaw No. 4407, which would amend the AF zone to add portable sawmill as an accessory use on the subject property (Appendix E).

At its meeting of March 16, 2021, the Juan de Fuca Land Use Committee recommended referral of the proposed bylaw to the Shirley/Jordan River Advisory Planning Commission (APC), CRD departments, BC Hydro, District of Sooke, Ministry of Forests, Lands, Natural Resource Operations and Rural Development – Archaeology Branch, Island Health, Ministry of Environment & Climate Change strategy – Hazardous Waste and Forestry (Authorizations South) and Water Stewardship Division, Ministry of Transportation & Infrastructure, Pacheedaht First Nation, RCMP, Shirley Volunteer Fire Department, Sooke School District #62, and T'Sou-ke First Nation. Comments have been received from agencies and are included in Appendix F.

ALTERNATIVES

Alternative 1

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

1. That the referral of proposed Bylaw No. 4407, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 150, 2021" directed by the Juan de Fuca Land Use Committee to the Shirley/Jordan River Advisory Planning Commission, appropriate CRD departments, BC Hydro, District of Sooke, FLNR - Archaeology Branch, FLNR - Ministry of Forests, Lands, Natural Resource Operations and Rural Development, Island Health, Ministry of Environment & Climate Change Strategy – Hazardous Waste and Forestry, Authorizations South, Ministry of Environment & Climate Change Strategy – Water Stewardship Division, Ministry of Transportation & Infrastructure, Pacheedaht First Nation, RCMP, Shirley Volunteer Fire Department, Sooke School District #62, and T'Sou-ke First Nation be approved and the comments received;

2. That proposed Bylaw No. 4407, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 150, 2021” be introduced and read a first time and read a second time;
3. 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. 4407; and
4. That prior to adoption of proposed Bylaw No. 4407, the following conditions be met:
 - i) Removal of the Notice on Title and confirmation that any outstanding building permits for existing buildings are addressed to the satisfaction of the CRD Chief Building Inspector;
 - ii) Approval of an access permit to the subject property by the Ministry of Transportation & Infrastructure.

Alternative 2

That the CRD Board not proceed with proposed Bylaw No. 4407.

Alternative 3

That more information be provided.

IMPLICATIONS

Legislative

The Advisory Planning Commissions (APCs) were established to make recommendations to the Land Use Committee on land use planning matters referred to them relating to Part 14 of the *Local Government Act (LGA)*. The Shirley/Jordan River APC considered the application at its meeting April 6, 2021.

Should the proposal proceed, a public hearing pursuant to Part 14, Division 3 of the *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 notice of the proposed bylaw amendment and a public hearing will be advertised in the local paper and on the CRD website.

A license is required for non-domestic groundwater use pursuant to the *Water Sustainability Act*. This approval is issued by the Province and is not a precondition for rezoning.

Regional Growth Strategy

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 Shirley-Jordan River 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. The proposed zoning amendment is consistent with the policies of the Shirley-Jordan River OCP.

Referral Comments

Referrals were sent to 13 agencies, to CRD departments and to the Shirley/Jordan River APC. Comments received are summarized below and included in Appendix F.

RCMP stated no comment

Ministry of Transportation & Infrastructure requires the property owner to obtain an access permit.

District of Sooke stated their interests are unaffected.

CRD Building Inspection outlined there is a Notice on Title related to an outstanding building permit requirement on the property, as well as more recent permit files that are incomplete.

CRD Bylaw Enforcement provided recommendations for detecting, monitoring and regulating nuisance noise from the proposed portable sawmill use.

CRD Protective Services stated the local fire department is satisfied that the property has appropriate fire mitigation resources to support the proposed use.

FLNR – Ecosystems Section stated that the site has been heavily modified and natural vegetation removed, and that the agency's interests are unaffected.

FLNR – Archaeology Branch stated there are no known archaeological sites on the property and archaeological potential modelling for the area does not indicate a high potential for previously unidentified archaeological sites to be found on the subject property. Should any suspected archaeological deposits be encountered during land alterations on the property, all work must be halted and the Archaeology Branch contacted.

FLNR – Water Protection stated the subject property is located above a bedrock aquifer noted to have low to moderate vulnerability to contamination. Measures should be in place to ensure contaminants do not contaminate the aquifer. A water license for the required groundwater use is required.

Island Health stated no objection.

Pacheedaht First Nation provided verbal confirmation that the Nation's interests are unaffected.

The Shirley/Jordan River APC met on April 6, 2021, to consider the application. Six members of the public were in attendance. 26 letters of support and 4 letters in opposition to the proposal were received. The Shirley/Jordan River APC moved the following motion:

MOVED by Melody Kimmel, **SECONDED** by Blair Hughes that the APC report to the Land Use Committee that the APC has reviewed proposed Bylaw No. 4407 and:

- a) That it recommends that the principal industrial sawmill use be amended to portable sawmill use accessory to a permitted principal use;
- b) That it supports the maximum area devoted to an industrial sawmill and accessory log and lumber storage being 0.5 ha;
- c) That it recommends that proposed Bylaw No. 4407 specify the hours of operation for the portable sawmill operation be Monday – Friday from 9:00 am to 5:00 pm, excluding statutory holidays;
- d) That it recommends that staff work with the applicants to reduce the Total Floor Area of 1000 m² proposed for the sawmill operation;
- e) That it supports 30 m being that setbacks for the sawmill operation;
- f) That it recommends that the minimum height of a solid fence be increased from 1.8 m to 2.5 m;
- g) That it supports proposed Bylaw No. 4407 including language to address noise/nuisance enforcement measures.

CARRIED

Land Use

The Shirley-Jordan River OCP, Bylaw No. 4001, designates the subject property as Coastal Upland. The intent of this designation is to support the continued use of these lands for forestry. Section 484(S) supports industrial uses associated with forestry on lands designated Coastal Upland. In addition, Section 444(R) outlines that rezoning applications for resource processing related to forestry are to consider the potential impacts on neighbouring properties and that adequate setbacks and screening requirements are implemented.

The property is zoned AF in Bylaw No. 2040, which permits silviculture, residential and ancillary uses. Portable sawmills are permitted as a Home Industry subject to Part 1, Section 4.06 of Bylaw No 2040.

The owner of the sawmill operation has requested this zoning amendment in order to expand beyond the scope of the Home Industry regulations, as described in Appendix D, by amending the AF zone to add the operation of an accessory portable sawmill as a site specific permitted use on the subject property. Staff have prepared proposed Bylaw No. 4407 in for consideration (Appendix E).

Proposed Bylaw No. 4407 would permit a portable sawmill as accessory to the principal residential use of the property. Regulations for operation of an accessory portable sawmill are included that:

- limits the area on which the activity may occur to no greater than 0.5 ha;
- limits the total floor area for accessory buildings and structures related to the portable sawmill use to 60 m².
- requires that the operation be set back at least 30 m from the parcel boundaries;
- requires that the operation be screened by vegetation or a solid fence no less than 2.5 m in height; and
- restricts noise associated with the sawmill to 55 dB when measured at the property line.

Proposed Bylaw No. 4407 has been modified since the original referral based on comments from the APC and members of the public regarding the scale of the proposed portable sawmill operation, noise and nuisance concerns, and visual screening.

CRD Building Inspection has highlighted outstanding building permit items on the property; therefore, staff recommend that these items be addressed to the satisfaction of the Chief Building Inspector and that the Notice on Title be removed prior to consideration of approval of this rezoning application.

The Ministry of Transportation & Infrastructure requires a Type 1A access be developed and a permit obtained. Staff recommend that this requirement be satisfied prior to consideration of approval of Bylaw No. 4407.

Section 414 of the Shirley-Jordan River OCP outlines policies for water use and protection. Policy 414(B) states that in consideration of a development proposal, the protection of aquifers and water resources from contamination and depletion will be ensured. The Water Protection Section of FLNR confirmed that non-domestic use of groundwater requires a provincial licence and that measures to ensure contaminants to not enter the aquifer be in place.

Section 414, also includes policies to ensure there is adequate water capacity to handle fire-fighting efforts. Comments received from CRD Protective Services division and the Shirley Volunteer Fire Department indicate that there are appropriate fire mitigation resources in place for the proposed use.

Based on the information provided by the applicant and the policies of the Shirley-Jordan River OCP, staff recommend that proposed Bylaw No. 4407 be introduced, read a first and a second time, and that a public hearing be held. Staff further recommend that conditions raised by referral agencies be satisfied prior to consideration of approval of proposed Bylaw No. 4407.

CONCLUSION

The purpose of this zoning bylaw amendment application is to amend the Forestry (AF) zone to add a site specific provision to permit an accessory portable sawmill use. Staff have prepared proposed Bylaw No. 4407 and recommend receipt of referral comments, first and second reading and advancement to public hearing. Staff further recommend that conditions be met prior to consideration of final approval.

RECOMMENDATION

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

1. That the referral of proposed Bylaw No. 4407, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 150, 2021” directed by the Juan de Fuca Land Use Committee to the Shirley/Jordan River Advisory Planning Commission, appropriate CRD departments, BC Hydro, District of Sooke, FLNR - Archaeology Branch, FLNR - Ministry of Forests, Lands, Natural Resource Operations and Rural Development, Island Health, Ministry of Environment & Climate Change Strategy – Hazardous Waste and Forestry, Authorizations South, Ministry of Environment & Climate Change Strategy – Water Stewardship Division, Ministry of Transportation & Infrastructure, Pacheedaht First Nation, RCMP, Shirley Volunteer Fire Department, Sooke School District #62, and T’Sou-ke First Nation be approved and the comments received;
2. That proposed Bylaw No. 4407, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 150, 2021” be introduced and read a first time and read a second time; and
3. 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. 4407.
4. That prior to adoption of proposed Bylaw No. 4407, the following conditions be met:
 - i) Removal of the Notice on Title and confirmation that any outstanding building permits for existing buildings are addressed to the satisfaction of the CRD Chief Building Inspector;
 - ii) Approval of an access permit to the subject property by the Ministry of Transportation & Infrastructure.

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, MCIP, RPP, Chief Administrative Officer

ATTACHMENTS

- Appendix A: Subject Property
- Appendix B: Forestry AF Zone
- Appendix C: Site Plan
- Appendix D: Development Proposal
- Appendix E: Proposed Bylaw No. 4407
- Appendix F: Referral Comments