



Making a difference...together

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

SUBJECT **Zoning Amendment Application for Section 4, Renfrew District Except Those Parts in Plans 427R, 23879, VIP68644, VIP79213, VIP80549, VIP82411 and EPP69011 – 12036 West Coast Road**

ISSUE SUMMARY

The owner has applied to rezone a portion of the subject property to permit a brewery with lounge, picnic area and retail sales, and a country market.

BACKGROUND

The approximately 145 hectare (ha) subject property is located at 12036 West Coast Road in Jordan River (Appendix A). A 3.3 ha portion of the property is currently zoned Wildwood Terrace Neighbourhood Commercial (C-1A) (Appendix B) and the remainder of the property is zoned Wildwood Terrace 4 (WT-4) (Appendix C) under the Juan de Fuca Land Use Bylaw No. 2040. There is a gravel processing facility and related shop/office and weigh scale facilities in accordance with the WT-4 zone provisions. The property is also classified as Managed Forest under PMFL and BC Assessment.

The property is designated as Pacific Acreage in the Shirley-Jordan River Official Community, Bylaw No. 4001. Portions of the property are designated as development permit areas for Steep Slopes, Riparian, Sensitive Ecosystem, Commercial and Industrial areas, and is within the Development Approval Information Area specified in Bylaw No. 4001. The parcel is outside a fire protection area and would be serviced by on-site wells and septic.

The subject parcel has been altered through a series of subdivision applications in the vicinity of Trailhead Drive since 2005. A 14-lot subdivision application is currently under review for the western portion of the subject property in accordance with the development potential permitted in the WT-4 zone (SU000728 and SU000729). Statutory park dedication requirements have already been met for the lands.

The owner has submitted a rezoning application for a brewery with accessory retail sales, on-site tasting and lounge, as well as a country market use (Appendix D). The applicant is also requesting to realign the zoning boundary in order to separate the C-1A uses from the existing WT-4 uses. Staff have prepared Bylaw No. 4381 which would amend the C-1A zone by adding *country market* and *food and beverage processing* as permitted uses with accessory service and sale of liquor subject to approval of a licence and endorsement under the *Liquor Control and Licensing Act* (Appendix E). An amendment to the boundary of the Commercial & Industrial development permit area to align with the zoning boundary will follow as part of an upcoming OCP amendment.

At its meeting of November 17, 2020, 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, FLNR - Archaeology Branch, Island Health, Liquor and Cannabis Regulation Branch, Managed Forest Land Council, Ministry of Environment & Climate Change Strategy – Water Stewardship Division, Ministry of Forests, Lands, Natural Resource Operations and Rural Development, Ministry of Public Safety & Emergency Services – Wildfire Service, Ministry of Transportation & Infrastructure, Pacheedaht First Nation, RCMP, 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:

- a) That the referral of proposed Bylaw No. 4381, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 149, 2020" 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, Island Health, Liquor and Cannabis Regulation Branch, Managed Forest Land

Council, Ministry of Environment & Climate Change Strategy – Water Stewardship Division, Ministry of Forests, Lands, Natural Resource Operations and Rural Development, Ministry of Public Safety & Emergency Services – Wildfire Service, Ministry of Transportation & Infrastructure, Pacheedaht First Nation, RCMP, Sooke School District #62, and T'Sou-ke First Nation be approved and the comments received;

- b) That proposed Bylaw No. 4381, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 149, 2020" be introduced and read a first time and read a second time; and
- c) That in accordance with the provision 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. 4381.
- d) That prior to adoption of the bylaw, the applicant:
 - i) Provide confirmation that a Contaminated Site Release has been issued by the Province;
 - ii) Provide confirmation that a commercial access permit has been issued by the Province;
 - iii) Secure a covenant on title pursuant to Section 219 of the *Land Title Act* in favour of the CRD requiring that a fire suppression sprinkler system be installed in all buildings and structures;
 - iv) Provide confirmation that building permits have been issued for all buildings and structures located on the subject property.

Alternative 2

That the CRD Board not proceed with proposed Bylaw No. 4381.

Alternative 3

That more information be provided.

IMPLICATIONS

Legislative Implications

Section 21 of the *Private Managed Forest Land Act* restricts local government authority regarding uses of private managed forest land so as not to have the effect of restricting a forest management activity. Staff referred the proposal to the Managed Forest Land Council and the Ministry of Forests, Lands, Natural Resource Operations and Rural Development for comment.

As the property has been used for industrial gravel pit and processing uses, as well as forestry, a site profile has been submitted pursuant to the *Environmental Management Act*.

A license is required for non-domestic groundwater use pursuant to the *Water Sustainability Act*.

The brewery use will require a manufacturer licence (brewery) in accordance with the *Liquor Control and Licensing Act*. Endorsement applications for an on-site store, picnic area, lounge and special events are subject to local government and public consultation.

Public Consultation

The Advisory Planning Commissions (APCs) were established to make recommendations to the Land Use Committee on land use planning matters referred to them under to Part 14 of the *Local Government Act* (LGA). The proposed amendment bylaw was referred to the Shirley/Jordan River APC.

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.

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 intent of the proposed brewery and lounge, and country market is to meet the interests of both the travelling public and local residents, which is in keeping with the commercial and

tourism objectives of the Shirley-Jordan River OCP. An OCP amendment to update the Commercial and Industrial Development permit area for the subject property will follow as a separate bylaw, and will require review by the CRD Board to determine consistency with the RGS.

Referral Comments

CRD Building Inspection stated that existing buildings and structures are to be reviewed for compliance with building bylaw requirements and, as the property is outside of a fire protection area, provisions for rural fire fighting and/or a fire sprinkler system are required.

CRD Bylaw Enforcement provided no objections to the application.

CRD Protective Services recommended that no new buildings be occupied until a sprinkler system is installed in accordance with NFPA 13 and to the satisfaction of the Building Inspection Division, or the proponent has commissioned a report from a fire suppression engineer and completed all recommendations.

District of Sooke stated that their 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 – Environmental Stewardship recommended that a search of bird nests protected under the *Wildlife Act* be conducted prior to vegetation clearing, that clearing be conducted outside of nesting period from March 1 to August 31 to reduce impacts on all bird species, and that should the nest of a bird requiring protecting be located, the recommended buffer distances be applied.

FLNR – Water Protection outlined that the primary water source in the area are two aquifers that have been identified as moderately vulnerable to contaminants introduced at the land surface, and that measures should be in place to ensure on site contaminants do not contaminate the aquifers while minimizing impervious surfaces which limits natural recharge. A water licence is required for the proposed brewery use.

Island Health stated no objection to the application provided that the proposed brewery complies with the *Drinking Water Protection Act/Regulation* and *Sewerage System Regulation*.

Liquor and Cannabis Regulation Branch responded to state that an application for a liquor licence has not yet been submitted; however, at the time this report was drafted, JdF Community Planning has been notified that an application has since been submitted to the LCRB application portal.

Ministry of Transportation & Infrastructure stated no objection provided structures are located greater than 4.5 m from the highway right-of-way, that a commercial access permit be obtained, and that no storm drainage be directed into the highway system.

Pacheedaht First Nation identified their interest in lands in the Jordan River area, and expressed a willingness to discuss the proposed brewery and lounge development plans to ensure respect for archaeological and cultural heritage values, and to convey environmental and social concerns. Pacheedaht also recommended that the CRD provide opportunity to update the OCP with respect to the Nation's interests and cultural history. The applicant, Pacheedaht staff and JdF Planning staff met via video- and tele-conference to discuss the proposal in further detail.

RCMP stated no comment on the application.

The Shirley/Jordan River APC met on December 9, 2020, with approximately 18 members of the public in attendance. The APC passed the following motion:

MOVED by Brenda Mark, **SECONDED** by Fiona McDannold that the APC report to the Land Use Committee that the APC has reviewed proposed Bylaw No. 4381 and:

- a) That it recommends support for amending the C-1A zone to support food and beverage processing to permit a brewery;

- b) That it does not recommend support for amending the C-1A zone to support an onsite store, picnic area, lounge and special event area;
- c) That it does not recommend support for amending the C-1A zone to increase the Maximum Size of Principal Building from 1,000 m² to 4,000 m²;
- d) That it recommends support for amending Bylaw No. 2040 to address parking requirements for the food and beverage processing;
- e) That more information be provided by the applicant regarding the overall scale and design of the proposal in the form of a public information meeting for residents.

Prior to calling the vote, the Chair requested comment from staff regarding how the proposal will proceed after the APC meeting.

Iain Lawrence confirmed that:

- the proposal and the minutes from tonight's meeting, as well as the written submissions considered at this meeting, will be returned to a meeting of LUC for its consideration
- notice of that meeting will be mailed to owners and occupants within 500 m of the subject property
- notice of that meeting will also be sent to tonight's public attendees

The Chair called the vote on the motion.

Opposed: Blair Hughes
CARRIED

Land Use

The Shirley-Jordan River Official Community Plan, Bylaw No. 4001, designates the subject property as Pacific Acreage. The objectives of this designation are to support rural residential uses, as well as agriculture, home based business, small-scale neighbourhood commercial activities, small-scale tourism, community parks and civic uses, with an average density of one parcel per two hectares within a plan of subdivision. Pacific Acreage policies are supportive of small-scale commercial uses serving local needs.

The C-1A zone was established in 2013 for this 3.3 ha portion of the subject property to permit a convenience store and limited retail uses. This portion of the property remains vacant and the applicant is proposing to add *country market* and *food and beverage processing* as permitted uses in the C-1A zone for the purpose of establishing a brewery facility with on-site tasting, lounge and retail sales, as outlined in Appendix D. The applicant is also proposing to shift the zone boundary slightly west to avoid an area used for forestry and gravel processing not permitted in the C-1A zone.

The brewery use will require a manufacturer licence (brewery) in accordance with the *Liquor Control and Licensing Act*. A manufacturer licence allows sale of products to licensees through an agreement with the Liquor Distribution Branch, marketing and promotion of products offsite to licensees and the public, serving of samples to patrons, and guided tours of the manufacturing facility, which may include service and sale of samples. Separate endorsement applications are available to manufacturing licence holders for an onsite store, picnic area, lounge and/or special event area. The serving of food is required in conjunction with a lounge endorsement. The picnic area, lounge and special event endorsements are subject to additional local government, First Nation and public consultation. Endorsements are in-line with the neighbourhood commercial/retail uses in the C-1A zone subject to future public consultation and local government approval as part of the endorsement license applications.

Staff have prepared proposed Bylaw No. 4381 to add *food and beverage processing*, accessory onsite sales, picnic area, lounge and special event areas subject to the *Liquor Control and Licensing Act*, and associated parking requirements to the C-1A zone (Appendix E). The definition of *food and beverage processing* is defined in Bylaw No. 2040 as follows:

FOOD AND BEVERAGE PROCESSING means the use of a building or structure where food and beverages are processed or otherwise prepared for human consumption. Includes the production of beer, wine and spirits in accordance with all applicable Provincial regulations. Includes tasting and retail sales accessory to the principal food and beverage processing use. Includes catering operations, but does not include a restaurant use.

In addition to the *food and beverage processing* use, the applicant is also requesting the addition of a *country market* use in the C-1A zone in response to public input at an open house hosted by the applicant

in response to the Advisory Planning Commission meeting. Staff propose including the requested use along with an updated definition as follows:

COUNTRY MARKET means a food and craft market with multiple vendors in a fixed location occurring on a temporary basis offering goods for sale that are grown, processed or produced by the vendors that may include fruits, vegetables, herbs, flowers; baked products, and original crafts, as well as the sale of prepared food for human consumption on the premises, on-site preparation of foods and operation of a movable food stand; excludes the sale of used or second hand material or antiques or commercial products for resale

The construction of a commercial building will require issuance of a development permit for the form and character of commercial buildings, as outlined in Section 550 of Bylaw No. 4001. The Shirley/Jordan River APC did not support the increase in floor area from 1000 m² to 4000 m² in the C-1A zone and that more information be provided by the applicant regarding the overall scale and design of the proposal in the form of a public information meeting for residents. The applicants held a public open house and have stated that 1,000 m² is not sufficient for their needs. Through discussions with the applicant, staff have revised Bylaw No. 4381 to permit a total floor area for principal buildings of 2,000 m². This is equivalent to a lot coverage of 6% if built-out on a single storey. Should the rezoning be approved, an OCP amendment will be required to realign the commercial development permit area. The proposed location for the brewery is outside of any DPAs established for protection of the environment or for protection from hazardous conditions.

Pacheedaht First Nation has expressed interest in updates to the OCP that reflect the Nation's cultural history and landholdings in Jordan River. Staff will meet with members of Pacheedaht about the proposed updates and bring forward an OCP amendment at a later date. Items pertaining to water use and the social and environmental impacts of the brewery and lounge uses will be addressed through the processes administered by the respective provincial licensing and approving agencies.

The Shirley/Jordan River APC provided support for the brewery use, but was not supportive of the proposed endorsements for an onsite store, picnic area, lounge and special event area. Staff are of the opinion that the proposed endorsements add the required neighbourhood commercial character to align with the Pacific Acreage policy, whereas food and beverage processing alone may not provide this quality. Endorsements under the manufacturer's licence for a brewery require additional provincial, local government and public consultation that will be considered separate from the rezoning.

Section 414 of Bylaw No. 4001 outlines policies for water use and protection. Policy 414B states that in consideration of a development proposal, the protection of aquifers and water resources from contamination and depletion will be ensured. Policy H indicates that industrial or commercial uses proposed for areas with aquifers at high risk of contamination will provide a hydrological assessment. Provincial groundwater data included in Map 3 in Bylaw No. 4001, identifies the subject property as having high intrinsic aquifer vulnerability. Section 414, also includes policies regarding rainwater collection and the use of water-efficient fixtures, as well as improvements to ensure there is adequate water capacity to handle fire-fighting efforts (Policies K, L and N). These policies are addressed through provincial licensing and oversight as the applicant will require a water licence for the commercial use in accordance with the *Water Sustainability Act*, and the contaminated sites review though the Ministry of Environment includes measures to ensure site contaminants do not enter the ground. Confirmation of an approved water supply will be a requirement of the building permit process. Due to the lack of a fire protection service area, staff recommend a covenant be registered on title requiring installation of a fire suppression sprinkler system with adequate water storage.

Section 434 of the OCP outlines the location and type of desired parks and trails in the community. Statutory park dedication has been provided for the subject property as part of previous subdivision developments. Section 454 of the OCP indicates that as part of a rezoning proposal, routes and facilities for alternative transit options such as walking and cycling will be taken into consideration and that increased connectivity between neighbourhoods for walking and cycling be considered. Establishment of neighbourhood commercial uses is noted in section 493 as a means of reducing greenhouse gas emissions from vehicles by providing goods within the community. Also, Policy 464 K identifies the need for a local site for meetings and activities, which could occur on the subject property as the C-1A zone permits Civic uses. Proposed Bylaw No. 4381 has been prepared to include on-site parking requirements for the brewery use. The Ministry of Transportation & Infrastructure regulates commercial access requirements in the Electoral Area and requires the applicant obtain an access permit.

There is one building permit record for a steel building on the property; however, CRD Building Inspection has confirmed that additional permits are required for existing buildings. Staff recommend that approval of the rezoning be subject to issuance of the required building permits. Any new buildings proposed will also require building permits and on-site sewerage systems.

Based on the information provided by the applicant, responses from referral agencies, and the policies of the Shirley-Jordan River OCP, staff recommend that proposed Bylaw No. 4381 be read and first and a second time, that a public hearing be held, and that conditions be met prior to consideration of approval.

CONCLUSION

The purpose of this zoning bylaw amendment application is to amend the Wildwood Terrace Neighbourhood Commercial C-1A zone to add *country market* and *food and beverage processing* in order to permit a brewery with ancillary onsite service and sales. Staff have prepared proposed Bylaw No. 4381 and recommend receipt of referral comments, first and second reading, a public hearing, and that conditions be met prior to consideration of approval.

RECOMMENDATION

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

- a) That the referral of proposed Bylaw No. 4381, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 149, 2020” 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, Island Health, Liquor and Cannabis Regulation Branch, Managed Forest Land Council, Ministry of Environment & Climate Change Strategy – Water Stewardship Division, Ministry of Forests, Lands, Natural Resource Operations and Rural Development, Ministry of Public Safety & Emergency Services – Wildfire Service, Ministry of Transportation & Infrastructure, Pacheedaht First Nation, RCMP, Sooke School District #62, and T’Sou-ke First Nation be approved and the comments received;
- b) That proposed Bylaw No. 4381, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 149, 2020” be introduced and read a first time and read a second time; and
- c) That in accordance with the provision 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. 4381.
- d) That prior to adoption of the bylaw, the applicant:
 - i) Provide confirmation that a Contaminated Site Release has been issued by the Province;
 - ii) Provide confirmation that a commercial access permit has been issued by the Province;
 - iii) Secure a covenant on title pursuant to Section 219 of the *Land Title Act* in favour of the CRD requiring that a fire suppression sprinkler system be installed in all buildings and structures;
 - iv) Provide confirmation that building permits have been issued for all buildings and structures located on the subject property.

| | |
|---------------|---|
| 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: Subject Property, Current Zoning and Application Area Map
Appendix B: Wildwood Terrace Neighbourhood Commercial C-1A Zone
Appendix C: Wildwood Terrace 4 Zone
Appendix D: Development Proposal
Appendix E: Proposed Bylaw No. 4381
Appendix F: Referral Comments