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**REPORT TO THE CAPITAL REGIONAL DISTRICT BOARD
MEETING OF WEDNESDAY, SEPTEMBER 8, 2021**

SUBJECT **Public Hearing Report on Bylaw No. 4381, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 149, 2020”**

ISSUE SUMMARY

To receive the Report of the Public Hearing held August 10, 2021, for proposed Bylaw No. 4381, and to consider Bylaw No. 4381 for third reading.

BACKGROUND

At its meeting of July 14, 2021, the Capital Regional District (CRD) Board gave first and second reading to Bylaw No. 4831, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 149, 2020” and passed a resolution to delegate authority to the Regional Director to hold a public hearing with respect to Bylaw No. 4381.

Bylaw No. 4381 (Appendix A) will amend Bylaw No. 2040, “Juan de Fuca Land Use Bylaw, 1992”, by adding “food and beverage processing” and “country market” as principal uses and “onsite store”, picnic area, lounge and special event area accessory to a manufacturer liquor licence, subject to the *Liquor Control and Licencing Act* as accessory uses to the Wildwood Terrace Neighbourhood Commercial (C-1A) zone; and by deleting That Part of Section 4, Renfrew District except those parts in Plans 427R, 23879, VIP68644, VIP79213, VIP80549, VIP82411 and EPP69011 from the Wildwood Terrace 4 (WT-4) Zone, and adding to the Wildwood Terrace Neighbourhood Commercial (C-1A) Zone and by deleting That Part of Section 4, Renfrew District except those parts in Plans 427R, 23879, VIP68644, VIP79213, VIP80549, VIP82411 and EPP69011 from the Wildwood Terrace Neighbourhood Commercial (C-1A) Zone, and adding to the Wildwood Terrace 4 (WT-4) Zone.

On August 10, 2021, a public hearing was held for Bylaw No. 4381. There were approximately nine people in attendance at the hearing. Two submissions of non-support were received in response to the notice of public hearing. No written submissions or comments were received at the hearing for Bylaw No. 4381. 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. 4381, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 149, 2020”, which are certified as a fair and accurate summary of the representations that were made at the public hearing held on August 10, 2021, for Bylaw No. 4381, be received;
- b) That Bylaw No. 4381 be read a third time; and
- c) That adoption of Bylaw No. 4381 be withheld pending:
 - i) Confirmation that a Contaminated Site Release has been issued by the Province;
 - ii) Confirmation that a commercial access permit has been issued by the Province;
 - iii) Registration of 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; and
 - iv) Confirmation that any outstanding building permits for existing buildings are addressed to the satisfaction of the CRD Chief Building Inspector.

Alternative 2

That the minutes that form the Report of the Public Hearing for Bylaw No. 4381, which are certified as a fair and accurate summary of the representations that were made at the public hearing held on August 10, 2021 for Bylaw No. 4381, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 149, 2020”, be received.

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.

Regional Growth Strategy

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 Shirley-Jordan River 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 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.

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. 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 A). 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 Advisory Planning Commission (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 met 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.

Concern was raised in the two submissions forming part of the public hearing record regarding the use of groundwater. 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 through the Ministry of Environment includes measures to ensure site contaminants do not enter the ground. Confirmation of an approved water supply and septic system will be a requirement of the building permit process.

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 confirmation that outstanding building permits for existing buildings are addressed to the satisfaction of the CRD Chief Building Inspector. Any new buildings proposed will also require building permits and on-site sewerage systems.

CONCLUSION

A public hearing was held on August 10, 2021, for Bylaw No. 4381, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 149, 2020". The minutes are attached as the Report of the Public Hearing.

There were approximately nine people in attendance at the hearing. Two written submissions of non-support were received in response to the notice of public hearing. No written submissions or comments were received at the hearing for Bylaw No. 4381.

Staff recommend Alternative 1 to receive the minutes and for the proposed bylaw to be given third reading and that adoption of the bylaw be withheld subject to confirmation that a Contaminated Site Release and commercial access permit has been issued by the Province; subject to registration of a covenant requiring that a fire suppression sprinkler system be installed in all buildings and structures; and subject to any outstanding building permits for existing buildings are addressed to the satisfaction of the CRD Chief Building Inspector.

RECOMMENDATIONS

- a) That the minutes that form the Report of the Public Hearing for Bylaw No. 4381, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 149, 2020”, which are certified as a fair and accurate summary of the representations that were made at the public hearing held on August 10, 2021, for Bylaw No. 4381, be received;
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 - iv) Confirmation that any outstanding building permits for existing buildings are addressed to the satisfaction of the CRD Chief Building Inspector.

Submitted by:	Iain Lawrence, MCIP, RPP, Manager, Juan de Fuca Community Planning
Concurrence:	Michael Barnes, MPP, Acting General Manager, Planning & Protective Services
Concurrence:	Nelson Chan, MBA, FCPA, FCMA, Acting Chief Administrative Officer

ATTACHMENTS

- Appendix A: Proposed Bylaw No. 4381
- Appendix B: Report of the Public Hearing August 10, 2021