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REPORT TO THE CAPITAL REGIONAL DISTRICT BOARD MEETING OF WEDNESDAY, NOVEMBER 10, 2021

SUBJECT Public Hearing Report on Bylaw No. 4412, “Land Use Bylaw for the Rural Resource Lands, Bylaw No. 1, 2009, Amendment Bylaw No. 8, 2021” and Bylaw No. 4413, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 151, 2021”

ISSUE SUMMARY

To receive the Report of the Public Hearing held October 5, 2021, for proposed Bylaw Nos. 4412 and 4413, and to consider Bylaw Nos. 4412 and 4413 for third reading.

BACKGROUND

At its meeting of September 8, 2021, the Capital Regional District (CRD) Board gave first and second reading to Bylaw No. 4412, “Land Use Bylaw for the Rural Resource Lands, Bylaw No. 1, 2009, Amendment Bylaw No. 8, 2021” and Bylaw No. 4413, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 151, 2021” and passed a resolution to delegate authority to the Regional Director to hold a public hearing with respect to Bylaw Nos. 4412 and 4413.

Bylaw No. 4412 (Appendix A) will amend Bylaw No. 3602, “Land Use Bylaw for the Rural Resource Lands, Bylaw No. 1, 2009”, by deleting the outdoor recreation definition and permitted use.

Bylaw No. 4413 (Appendix B) will amend Bylaw No. 2040, “Juan de Fuca Land Use Bylaw, 1992”, by deleting the outdoor recreation definition and permitted use.

On October 5, 2021, public hearings were held for Bylaw Nos. 4412 and 4413. There were four people in attendance at the hearings. Three submissions were received in response to the notice of public hearings for Bylaw No. 4412 and 4413. Two submissions stated support for the proposed bylaws. One submission outlined support for existing uses being able to continue as a legal non-conforming use, should the bylaws be adopted. One member of the public stated concern regarding the ability of the bylaws to override existing agreements for use of Crown lands. One member of the public in attendance spoke in favour of proposed Bylaw No. 4413 and commented that in order for legal non-conforming status to be conferred on a property, the use prior to amendment of the bylaw must be in conformance with the permitted uses of the zone. The Reports of the Public Hearing are attached (Appendices C and D).

ALTERNATIVES

Alternative 1

- a) That the minutes that form the Report of the Public Hearing for Bylaw No. 4412, “Land Use Bylaw for the Rural Resource Lands, Bylaw No. 1, 2009, Amendment Bylaw No. 8, 2021”, which are certified as a fair and accurate summary of the representations that were made at the public hearing held on October 5, 2021, for Bylaw No. 4412, be received;
- b) That Bylaw No. 4412 be read a third time.
- c) That Bylaw No. 4412 be adopted.
- d) That the minutes that form the Report of the Public Hearing for Bylaw No. 4413, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 151, 2021”, which are certified as a fair and accurate summary of the representations that were made at the public hearing held on October 5, 2021, for Bylaw No. 4413, be received.
- e) That Bylaw No. 4413 be read a third time.
- f) That Bylaw No. 4413 be adopted.

Alternative 2

That the minutes that form the Reports of the Public Hearing for Bylaw Nos. 4412 and 4413, which are certified as a fair and accurate summary of the representations that were made at the public hearings held on October 5, 2021 for Bylaw No. 4412, “Land Use Bylaw for the Rural Resource Lands, Bylaw No. 1, 2009, Amendment Bylaw No. 8, 2021” and Bylaw No. 4413, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 151, 2021”, be received.

IMPLICATIONS

Legislative

Should the *outdoor recreation* use be removed from Bylaws 2040 and 3602 as a permitted use, lawful outdoor recreation facilities operating prior to adoption of the amending bylaws would be considered legal non-conforming (i.e. grandfathered), and would be allowed to continue in accordance with Section 528 of the *Local Government Act (LGA)*.

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. Since the proposal includes an amendment to the Land Use Bylaw for the Rural Resource Lands, Bylaw No. 4412 was considered by the Planning and Protective Services Committee at its meeting of July 21, 2021. The CRD Board considered Bylaw No. 4412 and deemed it consistent with the CRD Regional Growth Strategy, 2018, Bylaw No. 4017, at its meeting of September 8, 2021.

Referral Comments

Bylaw Nos. 4412 and 4413 were referred to external agencies and the Shirley/Jordan River Advisory Planning Commission in May 2021. Referral comments were returned and the CRD Board gave first and second readings to Bylaw Nos. 4412 and 4413 at its meeting of September 8, 2021.

Land Use

The policies in the Official Community Plan (OCP) for the Rural Resource Lands, Bylaw No. 3591, support uses including outdoor recreation; tourism, including agri-tourism; and parks and wilderness activities.

The Shirley-Jordan River OCP, Bylaw No. 4001, designates lands zoned RL and RD-1 in Bylaw No. 2040 as either Coastal Upland or Renewable Resource. The Coastal Uplands policies support consideration of low-impact recreation and low-impact tourism uses if lands are removed from the Private Managed Forest Land program. Lands designated Renewable Resource in Bylaw No. 4001 are intended to support forestry and resource uses.

Outdoor recreation opportunities in the Rural Resource Lands and in Shirley-Jordan River OCP areas are valued by local residents, as well as those throughout the region. Formal recreation sites and trails in the area, such as Tanksy, Avatar Grove, Lizard and Fairy lakes, and the Kludahk Trail, are managed by the Province and are not subject to local government zoning. There are also many informal outdoor recreation opportunities occurring on Crown, forestry and private lands, such as hunting, fishing, off-road motorcycling, and hiking. These uses may continue as authorized under Provincial jurisdiction and regulation.

The regional tourism sector relies considerably on access to parks, trails and wilderness areas. However, the broad scope of what may be permitted as *outdoor recreation* under CRD bylaws on private land is problematic, particularly with regards to “low-impact wilderness camping”, as the use is not further defined and does not include regulatory measures to determine allowable densities, modes of access, site servicing or associated infrastructure. Parcels zoned to permit *outdoor recreation* range in size from less than three hectares to several thousand hectares. Further, the land varies in degree to which the setting might be considered “wilderness”. These factors make it more difficult to develop effective general regulations. For these reasons staff recommend removal of *outdoor recreation* as a permitted use from Bylaw Nos. 2040 and 3602, and that proposals for commercial recreation opportunities, including camping, be considered through site specific zoning amendment applications in order that appropriate regulations may be applied.

Parks, hiking trails, horse trails and bicycle paths are uses permitted in all zones within Bylaw No. 2040. Ecological reserves, fish and wildlife habitat, fish hatcheries on lots greater than 4 ha, parks, watershed protection and erosion control are uses permitted in all zones under Bylaw No. 3602. Staff recommend expanding the uses permitted in all zones in Bylaw No. 3602 to include hiking trails, horse trails and bicycle paths, as a means of continuing to support those popular, but more limited outdoor recreation uses.

CONCLUSION

Juan de Fuca Community Planning staff have initiated Bylaw No. 4412 to delete *outdoor recreation* as a permitted use from the Land Use Bylaw for the Rural Resource Lands, 2009, Bylaw No. 3602, and to add hiking trails, horse trails and bicycle paths as uses permitted in all zones.

Bylaw No. 4413 has been initiated by staff to delete *outdoor recreation* as a permitted use from the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040. No additional uses permitted in all zones are proposed as part of Bylaw No. 4413.

Public hearings were held on October 5, 2021, for Bylaw No. 4412 and Bylaw No. 4413. The minutes are attached as the Report of the Public Hearing. Based on the results of the public hearing, staff recommend that the minutes be received, and that the Bylaws be given third reading and adopted.

RECOMMENDATIONS

- a) That the minutes that form the Report of the Public Hearing for Bylaw No. 4412, “Land Use Bylaw for the Rural Resource Lands, Bylaw No. 1, 2009, Amendment Bylaw No. 8, 2021”, which are certified as a fair and accurate summary of the representations that were made at the public hearing held on October 5, 2021, for Bylaw No. 4412, be received;
- b) That Bylaw No. 4412 be read a third time.
- c) That Bylaw No. 4412 be adopted.
- d) That the minutes that form the Report of the Public Hearing for Bylaw No. 4413, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 151, 2021”, which are certified as a fair and accurate summary of the representations that were made at the public hearing held on October 5, 2021, for Bylaw No. 4413, be received.
- e) That Bylaw No. 4413 be read a third time.
- f) That Bylaw No. 4413 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. 4412
Appendix B: Proposed Bylaw No. 4413
Appendix C: Reports of the Public Hearing October 5, 2021