



STAFF REPORT TO COMMITTEE

DATE OF REPORT April 4, 2022

MEETING TYPE & DATE Electoral Area Services Committee Meeting of April 20, 2022

FROM: Development Services Division
Land Use Services Department

SUBJECT: Application No. RZ21C01 (3570 Telegraph Road/PID: 010-427-171)

FILE: RZ21C01

PURPOSE/INTRODUCTION

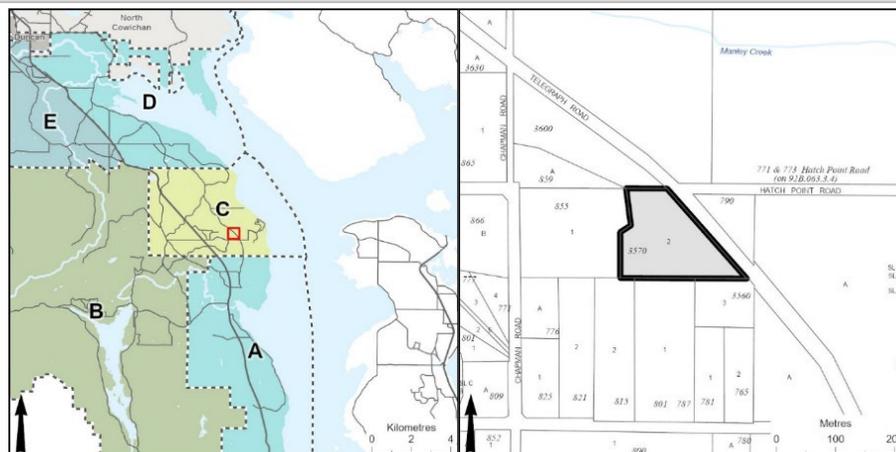
The purpose of this report is to present Official Community Plan (OCP) Amendment and Zoning Amendment Application File No. RZ21C01 for the property located at 3570 Telegraph Road (PID: 010-427-171). A new site-specific Comprehensive Development zone is proposed, to allow for the use of the property for a multi-unit family dwelling, with a maximum of three dwelling units, and tourist accommodation, with a maximum of four tourist sleeping units. An OCP amendment is required, as the proposed use exceeds what is permitted under the current Residential designation.

RECOMMENDED RESOLUTION

That it be recommended to the Board:

1. That the Official Community Plan and Zoning Amendment Bylaws for Application No. RZ21C01 (3570 Telegraph Road, PID: 010-427-171) be forwarded to the Board for consideration of 1st and 2nd reading;
2. That a public hearing be scheduled for Application No. RZ21C01 (3570 Telegraph Road, PID: 010-427-171), with Directors from Electoral Areas A, B, and C as delegates;
3. That the referrals for Application No. RZ21C01 (3570 Telegraph Road, PID:010-427-171) be accepted;
4. That a restrictive covenant be registered to prohibit any Strata Plan registration of dwellings, and restrict the expansion of tourist accommodation permitted on the property; and
5. That prior to consideration of adoption of Official Community Plan and Zoning Amendment Bylaws for Application No. RZ21C01 (3570 Telegraph Road, PID: 010-427-171), the applicant be required to provide the CVRD with a copy of the authorization from the Province of BC for the proposed use in accordance with the *Water Sustainability Act*.

LOCATION MAP



BACKGROUND

The subject property is approximately 2 ha in size, and currently zoned RR-2 – Rural Residential 2 Zone, within the South Cowichan Zoning Bylaw No. 3520. The Regional Land-Use Designation is Residential within the OCP for the Electoral Areas, with an Electoral Area C Local Area Plan (LAP) of Rural Residential. The property is located in Cobble Hill off of Telegraph Road, east of the Trans-Canada Highway, immediately across from Arbutus Ridge Golf Course.

The property was historically used as a turkey farm. For the past 15 years, the owner of the property has been offering two long-terms and four short-term rentals in addition to using the property as a primary place of residence. Currently, the owner resides in the primary residence, in which are also located two additional dwellings used for long-term rental. The owner currently uses operates four short-term rentals for temporary tourist accommodation, two of these rentals are located within the primary residence, and two are located in separate buildings. Several accessory buildings are also located on the property, including a shed, small shop, pergola, and two covered RV parking structures. The current use of the property for a single-family dwelling, two long-term rental suites, and four short-term rental units, does not comply with the Zoning Bylaw.

- See Attachment A – Background Table
- See Attachment B – Orthophoto
- See Attachment C – Site Photos



APPLICATION SUMMARY

The applicant has applied to amend the Zoning Bylaw to rezone the property from RR-2 – Rural Residential Zone, to a new site-specific zone, to allow for the current uses on the property to continue. No further development of the property is proposed, the owner does not intend to construct any new buildings, nor create any new impervious surfaces.

The new site-specific Comprehensive Development Zone would permit the existing uses on the property, allowing for a multi-family building with a maximum of three dwelling units, as well as temporary tourist accommodation with a maximum of four tourist sleeping units. An Amendment to the OCP for the Electoral Areas is required, as the current use exceeds the residential use explained in the policies for the Rural Residential land-use designation. The land-use designation of Tourist Commercial would encompass the activities on the property without requiring any new policy language in the OCP.

Note that the applicant originally applied with the proposal of a new “Rural Tourist” Zone, under the Rural Residential land-use designation; however, the current use of the property exceeds the residential use set out in the policies for the Rural Residential designation in the OCP. Further to this, to ensure compliance with *BC Building Code Regulations*, and appropriateness of the new zone within the existing Zoning Bylaw, a new Comprehensive Development Zone under the Tourist Commercial Designation is proposed.

- See Attachment D – Applicant Rationale
- See Attachment E – Site Plan

COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS

The application was referred to the Joint Advisory Planning Commission for Electoral Areas A, B, and C; a meeting was held virtually on August 5, 2021, at 7:00 p.m. The APC members passed a motion recommending approval of rezoning the subject property to allow for temporary tourist accommodation.

The rezoning development application was referred to external agencies, on July 22, 2021. Responses were received from Cowichan Tribes, Ministry of Transportation and Infrastructure,

Island Health, BC Transit, and the Water Authorizations Branch of the Ministry of Forests, Lands, Natural Resource Operations and Rural Development.

The application was referred to internal CVRD Divisions on July 5, 2021, and requested further comment on February 11, 2022. Responses were received from the Building Inspection Division, Water Management Division, Strategic Initiatives Division, and the Transit Division.

- See Attachment F – APC Minutes
- See Attachment G – External Agency Responses
- See Attachment H – Internal Division Responses

OFFICIAL COMMUNITY PLAN/POLICY CONSIDERATIONS

[Official Community Plan for the Electoral Areas Bylaw No. 4720](#): The Official Community Plan (OCP) considers the overarching Residential designation, and the Local Area Plans (LAPs) further distinguish between the Residential designations (Section 4.10 – Residential Designation). The OCP outlines the community’s values, vision, goals, objectives and policies; with the purpose to guide decisions. The policy areas of the OCP considered relevant include Policy Area 1, Our Communities: Growth Management, and Policy Area 5, Our Livelihoods. The objectives and policies within Section 4.1 “General Development”, as well as those within Section 4.9 “Commercial Designation”, apply to rezoning applications, and were considered in the Planning Analysis.

[Electoral Area C – Cobble Hill Local Area Plan](#): The property is designated Rural Residential within the Cobble Hill Local Area Plan (LAP). Residential Designation. Objectives and policies related to the Commercial Designation and Residential Designation within the LAP are considered to be relevant for the proposed rezoning application. In particular, objectives and policies within Section 2.8 “Commercial Designation”, and Section 2.8.7. “Tourist Commercial Designation” were considered in the Planning Analysis.

[South Cowichan Zoning Bylaw No. 3520](#): The subject property is zoned RR-2 – Rural Residential 2 Zone, within the South Cowichan Zoning Bylaw. The RR-2 Zone allows for a Single-family dwelling as a principal use. Bed and breakfast (B&B) accommodation is a permitted accessory use, provided the use complies with the General Regulations. One accessory dwelling unit or secondary suite is a permitted accessory use in the RR-2 Zone, provided it is in compliance with the General Regulations. The definitions for “Bed and breakfast accommodation”, “residential use”, “Residence”, “Tourist Accommodation”, “Tourist Sleeping Unit”, “Sleeping Unit”, and “Secondary Suite” are relevant to the application. The general regulations for bed and breakfast accommodation, Section 4.12, and for secondary suites, Section 4.16, have been considered in the Planning Analysis.

PLANNING ANALYSIS

[OCP for the Electoral Areas considerations](#): The policy areas of “Our Communities: Growth Management”, and “Our Livelihoods: The Regional Economy” are considered relevant to the proposed development, with Goal 1: Manage growth holistically, and Goal 8: Realize the region’s economic potential, being the most relevant. The subject property operates a unique form of rural tourism, which is desired by both members in the community and visitors and tourists from outside the Region. The proposed rezoning application to allow for an increase in the number of temporary tourist accommodation as a principal use, and two additional dwellings for long-term rental, is considered to meet objectives in Goals 1 and 8, namely to “expand tourism opportunities”, “Protect the rural character of rural lands and settlement areas”, and “Preserve rural, agricultural and environmentally significant lands”.

The rezoning application is consistent with the General Development Objectives and Policies (Section 4.1.1 & 4.1.2). The applicant is working with Provincial agencies to address water provision and sewage disposal to minimize risk to groundwater quality. No new roads nor utility

corridors are proposed. The environmental impact of the development is expected to be minimal, if any, as the proposed use is existing. The use has been occurring for 15 years, and the property is generally well-vegetated. No watercourses nor wetlands are located on the property, and no vegetation removal or further impermeable surfaces are proposed.

The property is currently designated Rural Residential in the OCP, but the use of the property for a 3-dwelling unit building and 4 temporary tourist accommodation sleeping units is considered by staff to exceed the residential use of the property. The use of the property is considered to align with a commercial use, primarily for rental accommodation both short-term and long-term. As such, an OCP map amendment is considered to be justified to change the land-use designation from Residential to Commercial. Though an OCP amendment is required to change the land-use designation, the use of the property is considered to meet overarching goals and objectives in the OCP, and no policy changes within the OCP are proposed.

The Tourist Commercial Designation anticipates increased demand for various types of commercial uses, including hospitality services such as restaurants, pubs, guest houses, or agri-tourism facilities in scenic locations. The proposed rezoning application is considered to align with this anticipated increase in demand, and to meet objectives and policies in the Commercial Designation (Section 4.9.1 & 4.9.2). The objectives include supporting establishments that are consistent with the rural ambiance of settlement notes, providing a range of commercial uses including tourist uses, development commercial areas where they best serve the needs of the community, buffering buildings and structures from adjacent rural and residential uses, and preserving access and views from adjacent rural and residential uses. The OCP policy for properties designated as Commercial indicate support for commercial development consistent with local heritage. The proposed development is considered to be consistent with this policy, as it makes use of the building layout for the previous use as a turkey farm which references the history of agriculture in the area.

Electoral Area C – Cobble Hill Local Area Plan: The property is designated Rural Residential within the Local Area Plan (LAP). As mentioned in the justification above, staff consider the use of the property to exceed what is customarily and reasonably accepted as residential use, and consider that the property aligns with a commercial use. The commercial designations are intended to support a diverse range of commercial businesses, and intend commercial uses to be small scale and aimed towards serving the needs of the local community, keeping with the heritage and character of the area. The proposed use of the property is considered to be consistent with local character and heritage.

Staff consider the “Tourist Commercial” designation to encompass and align most closely with the proposed use of the property. While the Tourist Commercial designation references specifically uses such as hotels, restaurants, and campgrounds, it is by no means limited to those larger scale commercial uses. The primary use of the property is for temporary tourist accommodation for the purposes of revenue, and as such, Tourist Commercial is considered an appropriate land-use designation. The use is considered to meet the objectives of the Tourist Commercial designation, including providing the development in an appropriate area, and linking the use to heritage tourism and agri-tourism (Section 2.8.7). Currently, there are no Tourist Commercial Policies, these are to be considered and developed with modernization (Section 2.8.8). Development Services staff anticipate that with modernization and the development of further policies to guide a variety of tourist commercial uses, that small-scale rural tourism will be a consideration.

Zoning considerations: The property is currently zoned RR-2 – Rural Residential 2 Zone. While the RR-2 Zone allows for bed and breakfast (B&B) as an accessory use to that of the primary use of a single-family dwelling; the current use of the property exceeds what is permitted in the Zoning Bylaw. The use of the primary residence and two separate buildings for short-term rental aligns with the temporary tourist accommodation use, and the portions of the buildings used fall under the definition of tourist sleeping units. Currently, each tourist sleeping unit is either 1 or 2

bedrooms, with either a kitchenette or full kitchen facilities. Development Services and the Building Inspection Divisions consider that there are 4 tourist sleeping units on the property, two located within the primary residence, and two in separate buildings.

The property continues to be used for residential purposes, including the principal residence of the property owner. Within the primary residence, in addition to the dwelling of the property owner, there are two additional dwelling units used for long-term rental accommodation. As there are a total of three dwelling units in the building, the *BC Building Code* and Zoning Bylaw would define the building as a multi-family building. The two tourist sleeping units described above are considered to be within one the primary dwelling of the owner.

Staff propose the site-specific “CD-5 Comprehensive Development 5 Zone – Telegraph Road” for the property to encompass the unique characteristics. The new site-specific zone allows for the primary residence to remain a principal use, with a multi-family building of maximum three dwelling units. Temporary tourist accommodation is also a permitted principal use on the property, with a maximum of four tourist sleeping units.

Additional special regulations for the multi-family dwelling use and the tourist accommodation use have been drafted and included in the CD-5 Zone. The regulations for the multi-family dwelling ensure that only a maximum of three dwelling units are permitted in the multi-family building, and that secondary suites within a dwelling unit are prohibited. The special regulations for tourist accommodation are included, and are based on the bed and breakfast regulations, intended to ensure a more residential and rustic character of the property. The special regulations for tourist accommodation include restricting the total number of tourists sleeping units to a maximum of four units, and restricting the number of rooms that can be used for overnight accommodation. The commercial activity must also be undertaken by the owner that continues to reside on the property, and the use must not generate any excessive traffic or create a nuisance of any kind.

Furthermore, additional regulations for landscaping and screening have been included in the CD-5 Zone. A vegetated landscape screen provides numerous benefits, including stormwater management functions, noise barrier, and visual screen, that protects both those residing on the property as well as neighbouring properties. Currently the property is well vegetated, with a 20 m landscape screen adjacent to the front parcel line fronting Telegraph Road, which adds to the visual aesthetic and rustic charm and character of the property. The front parcel line setback in the CD-5 Zone is 20 m to ensure the landscape screen remains in tact.

Servicing considerations: The water use is considered commercial by Provincial staff with Island Health and Water Authorizations. The property is currently serviced by a private septic system and a private well. Island Health does not have record of a septic tank for 3570 Telegraph Road. The applicant will be required to ensure all regulations in the Sewerage System Regulation are met. The water supply of the private well to multiple buildings meets the definition of a *Water Supply System under the Drinking Water Protection Act and Regulation*; to continue with the use, the applicant must have their water well approved for potable use, and receive an Operating Permit for Water Supply System from Island Health. Under the Provincial *Water Sustainability Act* an Authorization is required, as the use is considered for commercial purpose.

The applicant will need to demonstrate that all Provincial requirements regarding site servicing are met, or submissions or applications for approvals, authorizations, or reviews, have been started. The applicant has initiated the application process for a groundwater license, and as the use is considered existing by the Province, having been in operation for 15 years, the applicant will be permitted to go through the existing use stream of water licence applications.

No further development of impervious surfaces is proposed with the development. An increase in drainage from development is not expected, as the impervious surfaces of the buildings already exist, and no further alteration to the existing vegetation on site is proposed. The rezoning and OCP amendment will not result in any expansion of impervious surfaces, but rather legitimize the

current use on the property. As mentioned above, the property is well vegetated, and includes a 20 m vegetated buffer on the lower portion of the property fronting Telegraph Road. Special Regulations for landscape screening have been included in the draft CD-5 Zone to maintain this buffer area, which provides valuable stormwater management function.

Building considerations: The applicant is aware of the requirements from the Building Inspection Division. Several Building Permits will be required to bring the existing buildings and uses in to compliance with the *BC Building Code*. The *Building Code* does not allow for more than one secondary suite, and so the principal residence building would be considered a multi-family building, with three dwelling units. Staff recommend the registration of a restrictive covenant to prohibit the registration of a Building Strata Plan under the *Strata Property Act*, as well as prohibit any dwellings to contain secondary suites. This ensures that the maximum number of buildings in the primary residence is three, and that the dwellings remain under one property title.

The two tourist sleeping units located in the principal residence building are not considered full separate dwelling units under the *BC Building Code*. Rather, these are more consistent with the definition of tourist sleeping unit, and are contained within the principal owner's residence. Staff recommend including language in a restrictive covenant to ensure that no additional tourist sleeping units are constructed in the multi-family dwelling. The restrictive covenant recommendation would guarantee that no tourist sleeping units would be permitted in the other two dwelling units. Two additional tourist sleep units are also located in sperate buildings. While these two units may need to meet dwelling requirements in the *Building Code* for health and safety; for the purposes of the Zoning Bylaw, they are still considered short-term rental tourist accommodation sleeping units. Development Services staff recommend that a restrictive covenant also prohibit long-term rental and use of these units for residential purposes.

Development Permit Area (DPA) considerations: Staff consider the rural character and heritage of the property to be a key attribute in supporting the application and the recommendation to move forward with first and second reading. Staff consider that the use of the property is commercial in nature, and recommend an OCP amendment to change the land-use designation. With this land-use designation change, the Form and Character DPA for Commercial and Mixed-Use Development applies to the property, and the DPA maps will be updated to reflect this. The Form and Character guidelines will allow any further development on the property to be subject to the guidelines, and aligned with the rural character of the area, ensuring the property's rural character and heritage is maintained despite the change in zoning. The applicability of Development Permit Area guidelines also allows for community consultation with regards to any future construction or major renovation to the buildings and structures on the property, as Form and Character Development Permit applications are referred to Advisory Planning Commission.

Conclusion: Staff are of the opinion that the proposed rezoning application RZ21C01 meets the overall intention of the OCP for the Electoral Areas, and that the property is suitable for a new site-specific CD-5 Zone. The site-specific zone includes special regulations to ensure the property retains the existing rural character. The property is a unique form of rural tourism, desired by both members in the community and visitors from outside the region. The application meets the goals of expanding tourism opportunities, while keeping with the rural character and heritage of the area, and preserving the environmentally significant characteristics of the property.

The proposed new zone aligns with a commercial use, and an OCP amendment is proposed to change the land-use designation from Rural Residential to Tourist Commercial. The new commercial designation will ensure that the form and character of the property is retained with further development, as any new buildings or major renovations will be subject to Development Permit Area guidelines, which also allow for community input through referral to the Advisory Planning Commission. Development Services staff recommend that OCP and Zoning Amendment Bylaws be forwarded to the Board for consideration of 1st and 2nd reading, and that a public hearing be scheduled to allow for further public input.

- See Attachment I – OCP Map Amendment
- See Attachment J – Zoning Amendment

OPTIONS

Option 1:

That it be recommended to the Board:

6. That the Official Community Plan and Zoning Amendment Bylaws for Application No. RZ21C01 (3570 Telegraph Road, PID: 010-427-171) be forwarded to the Board for consideration of 1st and 2nd reading;
7. That a public hearing be scheduled for Application No. RZ21C01 (3570 Telegraph Road, PID: 010-427-171), with Directors from Electoral Areas A, B, and C as delegates;
8. That the referrals for Application No. RZ21C01 (3570 Telegraph Road, PID:010-427-171) be accepted;
9. That a restrictive covenant be registered to prohibit any Strata Plan registration of dwellings, and restrict the expansion of tourist accommodation permitted on the property; and

That prior to consideration of adoption of Official Community Plan and Zoning Amendment Bylaws for Application No. RZ21C01 (3570 Telegraph Road, PID: 010-427-171), the applicant be required to provide the CVRD with a copy of the authorization from the Province of BC for the proposed use in accordance with the *Water Sustainability Act*.

Option 2:

That Application No. RZ21C01 (3570 Telegraph Road, PID: 010-427-171), be denied, and a partial refund be provided in accordance with CVRD's Development Application Procedures and Fees Bylaw.

Prepared by:



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Reviewed for form and content and approved for submission to the Committee:

Resolution:

Corporate Officer

Financial Considerations:

Chief Financial Officer

ATTACHMENTS:

- Attachment A – Background Table
- Attachment B – Orthophoto

- Attachment C – Site Photos
- Attachment D – Applicant Rationale
- Attachment E – Site Plan
- Attachment F – APC Minutes
- Attachment G – External Agency Responses
- Attachment H – Internal Division Responses
- Attachment I – OCP Map Amendment
- Attachment J – Zoning Amendment