

Memo

To: District of Sooke Committee of the Whole

From: Bev Suderman, Chris Hall & Michael Kelly
Island Planning Services Consortium

Date: May 24, 2011

Re: Sooke Zoning Bylaw Project 2011: Legal & Agency Review Process

Consultant Report

The purpose of this report is to update the District of Sooke's Committee of the Whole as to:

1. The legal and agency review process;
2. Recommended changes to the draft Zoning Bylaw as a result of the reviews and public input;
3. A list of policy areas and individual property requests that need Council direction; and
4. A recommendation for moving the draft Sooke Zoning Bylaw to formal adoption.

Please note that members of the consulting team will be present at the May 30 meeting of the Committee of the Whole, and will be able to elaborate on the key points of this memo at that time. Please note also that this report builds on previous reports to the Committee of the Whole.

Legal and Agency Review

The review draft of the Sooke Zoning Bylaw was sent to Sooke's legal counsel and a variety of agencies for review on May 3, with a request for responses by May 24.

Legal review was completed by Ray Young, of Young Anderson Barristers and Solicitors, by May 6.

To date the District of Sooke has received comments from the following agencies:

- Fortis BC – No concerns
- Telus – No concerns
- BC Transit – No concerns
- Agricultural Land Commission – Some changes to Agricultural zones and individual parcels zoning in the ALR requested
- CRD Parks – Some additional parcels identified for Parks zoning

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In this review period, the consultants have also worked with individual property owners to discuss their zoning concerns, and in some cases, are recommending bylaw changes as a result. This report reflects all of the “mistake in zoning” forms submitted since the start of the public consultation process.

Recommended Changes to the draft Zoning Bylaw

Based on the results of the legal/agency review, and ongoing input from the Sooke public, a number of changes to the draft Zoning Bylaw are recommended. The table below highlights the major recommended changes. All changes that are proposed are incorporated into “track changes” version of the draft Zoning Bylaw which is provided to Council as an attachment to this report.

Zoning Bylaw Section	Original Text from Legal/Agency Review version of the draft Zoning Bylaw	Recommended Revisions	Rationale
Definitions	ASSEMBLY USE means the use or occupancy of a structure or a part thereof for the gathering of persons for civic, political, social, charitable, philanthropic, cultural, private recreational or private educational purposes; excludes places of worship	ASSEMBLY USE means the use or occupancy of a structure or a part thereof for the gathering of persons for civic, political, social, charitable, philanthropic, cultural, private recreational or private educational purposes; excludes places of worship	Places of worship are a usual place of assembly as well. Contradictory to intent; severely restricted potential locations of churches
Definitions General Regulations Permitted uses	BOARDING AND LODGING means a use where an unrelated individual, for consideration, receives accommodation in a dwelling unit and where meals may or may not be provided.	Delete Boarding and Lodging from definitions. Delete Board and Lodging General Regulation. Delete Boarding and Lodging as a permitted use in the Zoning Bylaw.	Definition of family in the ZB allows up to 5 unrelated individuals to share one dwelling unit, so this deletion will result in no impact to the permitted uses in Sooke.
Definitions	INSTITUTIONAL USE means a facility established to serve a social, recreational, educational, religious or other public purpose. May include, but is not limited to: arena, armory, cemetery, college, community centre, community hall, court of law, fire hall, hospital, library, municipal office, park, playground, places of worship, police station, public art gallery,	INSTITUTIONAL USE means a facility established to serve a social, recreational, educational, religious or other public purpose. May include, but is not limited to: arena, armory, cemetery, college, community centre, community hall, court of law, fire hall, hospital, library, municipal office, park, playground, places of worship , police station, public art gallery, public museum, school, stadium or public swimming pool;	Religious uses are usually viewed as a private, not a public purpose. Therefore, deleted from definition of Institutional Use/

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Zoning Bylaw Section	Original Text from Legal/Agency Review version of the draft Zoning Bylaw	Recommended Revisions	Rationale
	public museum, school, stadium or public swimming pool;		
Definitions	PLACE OF WORSHIP means a building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body which is recognized as exempt from taxation under the Canada Income Tax Act;	PLACE OF WORSHIP means a building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body which is recognized as exempt from taxation under the Canada Income Tax Act;	Legal: Probably an unconstitutional restraint on religion.
Definitions	PUBLIC VIEW CORRIDOR means the line of sight along a public highway or right of way towards an object of significance to the community, namely the waterfront or mountains;	PUBLIC VIEW CORRIDOR means the line of sight along a public highway or right of way towards an object of significance to the community, namely the waterfront or mountains;	Legal: Phrase is subjective. Recommendation that the District of Sooke identify its public view corridors to assist with recession plane rules.
General Regulations	17.c. The keeping of up to 3 female poultry in enclosed runs is permitted on lots less than 2,000 m ² but more than 600 m ² . Runs shall provide at least 0.8 m ² of space per bird and coops of at least 0.2 m ² of space per bird;	17.c. The keeping of up to 6 female poultry in enclosed runs is permitted on lots less than 2,000 m ² but more than 600 m ² . Runs shall provide at least 0.8 m ² of space per bird and coops of at least 0.2 m ² of space per bird;	Public request for increased number of birds, due to seasonal fluctuations in laying, and the need to transition hens as they age.
General Regulations	33.b. If a dwelling unit is accessory to the principal commercial or industrial use it shall not occupy more than 50% of the first storey of the building, or not exceed 90 m ² in size.	Delete regulation	Concern that this may be too restrictive, particularly in those cases where a caretaker residence is being provided.
General	37. Setbacks (Water):	Add exemption for agriculture:	Concern from ALC that

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Regulations	Notwithstanding any other provision of this Bylaw, no building or structure shall be located within 15m of the high water mark of the sea, nor within 30m of a surface supply of drinking water. No development shall occur within 30m of a watercourse or within 30m of the top of ravine bank of a ravine less than 60m wide or within 10m of the top of ravine bank of a ravine greater than 60m wide or greater unless:	The lands are designated as ALR lands, and the development is for agricultural purposes, in which case the development is exempt from the setback requirements per the <i>Agricultural Land Commission Act</i> and regulations.	this provision is inconsistent with the ALC Act and regulations
General Regulations	<p>41. Storage of Vehicles, Junk or Wrecks:</p> <p>a) Storage of vehicles on any residential lot shall be limited to one unlicensed vehicle stored in the rear yard.</p> <p>b) Unless specifically permitted by this Bylaw, no lot shall be used for a junkyard or for the external storage, collection or accumulation of all or part of any automobile wreck, derelict motor vehicle, or all or part of any motor vehicle which is not either:</p> <p>i. Registered and licenced in accordance with the <i>Motor Vehicle Act</i>; or</p> <p>ii. Capable of motion under its own power.</p>	<p>41. Storage of Vehicles, Junk or Wrecks:</p> <p>a) Storage of vehicles on any residential lot shall be limited to one unlicensed vehicle stored in the rear yard.</p> <p>b) Unless specifically permitted by this Bylaw, no lot shall be used for a junkyard or for the external storage, collection or accumulation of all or part of any automobile wreck, derelict motor vehicle, or all or part of any motor vehicle which is not either:</p> <p>i. Registered and licenced in accordance with the <i>Motor Vehicle Act</i>; or and</p> <p>ii. Capable of motion under its own power.</p>	Section strengthened in response to Bylaw Enforcement concerns.

Zoning Bylaw Section	Original Text from Legal/Agency Review version of the draft Zoning Bylaw	Recommended Revisions	Rationale
General Regulations	45. Temporary Buildings A temporary building or structure may be placed for construction or marketing or office purposes on a lot being developed, for a period not to exceed the duration of such construction or one year.	45. Temporary Buildings A temporary building or structure may be placed for construction or marketing or office purposes on a lot being developed, for a period not to exceed the duration of such construction or one year. Temporary buildings may also include show homes intended ultimately for permanent use as dwelling units.	Added to ensure that show homes would be permitted in all zones where new homes are under construction, and to avoid having to add show homes to every zone.
General Regulations	48. Wildfire Provisions Lots located in areas designated as High to Extreme wildfire risk are required to abide by the conditions set out in the District of Sooke's Community Wildfire Protection Plan.	Delete regulation	Premature to add this provision now. The public needs to have a chance to view the provisions, and comment, prior to adoption of the Wildfire Plan. Appropriate to add such a provision at that time.
Schedules 101, 102 & 103	Maximum lot coverages: RU1 – 10% RU2 – 15% RU3 – 20%	Increased maximum lot coverages to 35%. Also, added condition of use for agricultural production dependent on greenhouses, for a maximum lot coverage of up to 75%.	To be in alignment with the Ministry of Agriculture's Guide for Bylaw Development in Farming Areas (2011)
Schedules 101, 102 & 103	Conditions of use: Agriculture and agriculture-intensive only permitted beyond 30 m from a watercourse	Conditions of use: Agriculture and agriculture-intensive only permitted beyond 30 m from a watercourse of use	Does not conform to ALC legislation
Schedules 502 & 503	Prohibited Uses: • Burning of vehicles	Prohibited Uses: • Burning of vehicles	Prohibiting the burning of vehicles in this zone

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	<ul style="list-style-type: none"> • Refuse and garbage dumps • Uses for which a permit is required under the Environmental Management Act or regulations under that Act. 	<ul style="list-style-type: none"> • Refuse and garbage dumps • Uses for which a permit is required under the Environmental Management Act or regulations under that Act. 	<p>may imply that it is permitted in other zones.</p> <p>Environmental Management Act has been modified significantly so that many formerly permitted activities are now governed under this Act. Provision is too restrictive.</p>
Schedule 601	Modifying permitted and accessory uses, so that “Institutional uses accessory to public parks” can be a principal use within the P1 zone		One of the parcels in the Sooke Potholes area is used primarily as a works yard for the parks area. This change ensures that it is not out of compliance with the ZB.
Schedule 704	<p>W6 Zone Purpose:</p> <p>This zone provides for marine industrial uses that are associated with an upland use in the District of Sooke where a water lease has been allocated for industrial uses.</p>	<p>W6 Zone Purpose:</p> <p>This zone provides for marine industrial uses that are associated with an upland use in the District of Sooke where a water lease has been allocated for industrial uses.</p>	Not all W6 zoned properties are leased. Some are fee simple. Ownership is not relevant to the land use.
Schedule 704	<p>W6 Zone Principal Uses:</p> <ul style="list-style-type: none"> • Any use permitted in W1 • Boat building, repairs and sales 	<p>W6 Zone Principal Uses expanded to include:</p> <ul style="list-style-type: none"> • Any use permitted in W1 • Boat building, repairs, rentals,and 	Uses expanded to bring existing W6 zoning into compliance with zoning bylaw.

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	<ul style="list-style-type: none"> • Breakwater • Storage areas for the shipment, loading, unloading or sorting of logs, including booming grounds 	<ul style="list-style-type: none"> sales • Boat ramp • Boat shed • Breakwater • Marina • Marine fuel station • Restaurant • Retail sales • Storage areas for the shipment, loading, unloading, sorting and shipping of good and materials. Includes sorting of logs, including booming grounds 	

Map Changes:

As part of the public consultation process, the consultants have heard from a number of property owners in the District of Sooke requesting changes to the proposed zoning of their property. The following changes to the draft Zoning Map have been requested. Please note that several property owners have responded, but we do not yet have resolution on their question, so further map changes may be requested. If so, these will be documented in the next consultant report. See also attached maps outlining proposed changes.

#	Address	PID	Former zoning (ZB 270)	Requested zone (proposed ZB 500)	Recommendation	Comments
1	Butler Lagoon Site		W1	W6	Approve	Dredged area created to permit industrial uses. Correction of W1 zone designation.
2	BC Adventure College (Fuse	000-101-702 (property	W-1	W-3	Approve	Commercial lease in place.

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	Restaurant) 5449 Sooke Rd	adjacent to foreshore lease)				
3	1573 Dufour Rd Lease #1400471	D.L. 233	W3	W2	Approve	Existing lease and dock constitute a private moorage facility (a single dock for personal, non-commercial moorage)
4	1581 Dufour Rd Lease #1400385		W2	W3	Approve	Existing lease and dock. Operation (under the terms of the lease) for boat moorage and fishing charter service.
5	6961 Possession Pt Rd Lease #1405241		W3	W2	Approve	Existing lease and dock for private moorage.
6	2532 Sooke River Road	004-891-058	RU3	RU3	Approve	Property owner objection to proposed rezoning to RU1, reduced development rights. Property surrounded by RU3 & RU4 zoned lands. In character with surrounding lands.
7	7107 Deerlepe Rd	005-641-888	RU3	RU3	Approve	Property owner objection to proposed rezoning to RU1, reduced development rights. Farm surrounded by RU4 properties.
8	1836 Tomlinny Road	027-850-617	R1	RM3	Not approve	No rationale provided, other than the change from outside of SSA to inside SSA.
9	Sun River Estates (CD2) – Sooke River Park		P1	RU3	Approve	ALC request, in accordance with ALC Resolution 2678/2010.
10	Intersection of Deerlepe & Whiffen Spit Roads		P1		To be determined	ALC concern that Commission approval should be obtained before zoning is changed to P1. Awaiting further information.

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Council Direction Needed:

There are some areas where policy direction is best provided by Council. These include:

- Recession plane
- Section 52.1 re excess parking prohibition in commercial areas

Recession plane: There has been a significant amount of discussion about the recession plane rules throughout the development of the draft Zoning Bylaw. This has resulted in some changes to the current draft of the bylaw such that the rules would affect only buildings within the Town Centre, and generally only affect one side unless it was a very large building that fronted on two streets that contained significant public view corridors to the water.

The general regulations regarding recession planes are different from the recession plane rules in the Mariner's Village (CD7) zone. Those rules, which were established through the CD zone negotiations, may be excessively generous as a trade-off for the construction of affordable housing and increased density, and may not be a good model for the community's vision of development within the Town Centre. No clear consensus has emerged through the process.

Given the uncertainty that is created by not having greater clarity, the District of Sooke may wish to consider a future project to identify significant public view corridors, and update the Town Centre Plan and/or the Official Community Plan accordingly.

If the Council would like to see changes to the recession plane rule, it would be helpful to know the will of Council at this stage in the Zoning Bylaw process. Consultant recommendation is to leave the section as it is currently presented.

Section 53.1 re excess parking prohibition in commercial areas: This provision has drawn a lot of comment throughout the development of the draft Zoning Bylaw. It is a very strong statement. The new regulation has been incorporated directly from the District of Sooke's Sustainability Strategy and Transportation Plan. The consultants respectfully suggest that the community may not yet be ready for such a regulation, and request direction from Council. Options include:

- a) Council confirm that it is comfortable with this proposed regulation, as drafted;
- b) Council wishes to remove the provision and reinstate the existing provisions of the Sooke Zoning Bylaw 270, section 17.3, which simply said that "If off-street parking spaces in excess of bylaw requirements are provided, the location, design and operation shall comply with the requirements of this bylaw."

The consultants would appreciate Council direction on this matter.

Other Considerations:

This section addresses other considerations, some outside of the purview of the Zoning Bylaw, that Council should know about, and that Council may wish to take action about. (Some of these have already been brought to Council's attention, but are brought together here into one place.)

These other considerations include:

- Consideration of frontages

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- Development of Development Permit (DP) Guidelines
- Refinement of the Amenity Policy
- Fuller analysis of the parking tools available to the District of Sooke
- Agricultural strategy integration.

Frontages: The inclusion of frontage requirements has resulted in quite a number of comments. Some are against any frontage requirements and prefer maintaining the current practice, while others have commented on the dimensions and have suggested alternative standards.

From the consultants' perspective, frontage requirements can be beneficial primarily in two areas:

- Rural areas where it serves to discourage subdivision and to avoid narrow lots and
- In small lot residential zones as a means of distinguishing SFR's, those with suites and those with duplexes.

Frontages in commercial and industrial zones when combined with minimum parcel sizes can also avoid issues with on-street parking and access issues although such subdivisions are not common. Typically commercial and industrial subdivisions are created as part of a larger development and developers are quite conscious of the need to ensure adequate size lots and access provisions.

So with that background, we have undertaken discussions with Sooke staff as to whether in Sooke's experience there is much benefit in including frontages in the bylaw. In rural areas there is always the 10% rule as a fall back which can achieve a reasonable frontage on larger lots. There is also the added benefit of flexibility by not having frontage requirements when dealing with a challenging site; the absence of frontage requirements may permit the creation of some lots that might otherwise not have been possible with strict frontage requirements.

The consultants do not want to charge ahead if in the inclusion of frontages is not beneficial or proves unnecessary. Discussions with staff are not yet completed, and may result in either a recommendation to modify the provisions, or a recommendation to removed them.

Development Permit Guidelines: In a number of places in the draft Zoning Bylaw, the legal review highlighted areas that are more properly the purvue of Development Permit or design guidelines, rather than appropriate to zoning regulation. The key distinction is that regulation presents limited discretion, whereas the use of Development Permit guidelines permits a wide range of discretion and negotiation between the applicant and the municipality in coming to an agreement that works best for the site, for the project, for the developer, and for the community.

As part of the Zoning Bylaw review process, the consultants have become aware of the need for guidelines to be developed for live-work developments, public view corridors, and Manufactured Home Park building additions. There may be other areas that staff have also identified as requiring additional guidance. Until such time as Development Permit guidelines are developed and adopted by the District of Sooke, the consultants are recommending that these DP-type provisions be maintained within the Schedules of the draft Zoning Bylaw, to aid in providing direction to staff and applicants.

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Amenity Policy Refinement: Current policy uses residential units as the basis of calculating the charge. In the case of rezoning to permit greater lot density, however, the policy is not clear especially since some subdivision parcels can have more than one unit. Council may wish to direct staff to refine the amenity policy to clarify how density will be calculated for subdivisions.

Parking: In addition to the specific challenge regarding new parking policy, as discussed in the previous section, Council may wish to direct staff to conduct a fuller analysis of parking tools for Town Centre and short/long term implications based on different combinations of tools. Currently there is a 50% parking reduction in the Town Centre, bonus for underground parking, and an option for 'cash in lieu'. Unless directed otherwise, the new Zoning Bylaw will also add a maximum limit on how much is provided, as well as a bike parking requirement. There may be other tools for parking management, based on what Council wishes to achieve, that are more appropriate to Sooke's current circumstances, ie strong need for continued car use, and lack of infrastructure in Town Centre, in combination with the desire to make Sooke a walkable community.

Subdivision Provisions in the Zoning Bylaw: A number of elements that might more appropriately be located in the Subdivision Bylaw are found in the Zoning Bylaw. These include provisions related to panhandle lots, lot areas and frontages, and subdivision more generally. Council may wish to direct staff to update the Subdivision Bylaw to include these subdivision design elements that are considered by the approving officer.

Agriculture: It is our understanding that the District of Sooke is proposing to undertake a local agriculture area plan in the near future, to address some of the goals of the OCP. As part of the overall planning process, the consultants recommend that the Zoning Bylaw provisions as they relate to agriculture be reviewed, and possibly updated once the agricultural strategy has been completed.

Next Steps:

Next steps in the District of Sooke's Zoning Bylaw development process are as follows:

1. Ongoing discussion with individual property owners and agencies re any additional concerns with the proposed zoning.
2. Ongoing discussion with staff about any outstanding issues, such as frontages, that need to be resolved.
3. Moving towards the formal adoption process in June, which will include a further community meeting/open house and public hearing.

Recommendations:

The consulting team recommends that:

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1. Council consider each of the proposed changes to individual properties, and approve or disapprove them as appropriate.
2. Council provide the consultants with direction on the outstanding questions related to recession plane and excess parking.
3. The draft District of Sooke Zoning Bylaw be forwarded, as amended, for formal adoption by the District of Sooke, to receive 1st and 2nd reading on June 13;
4. Council directs the staff to consider moving appropriate subdivision provisions from the Zoning Bylaw into the subdivision bylaw, when updating the Subdivision Bylaw at some point in the future;
5. Council direct the Sooke staff to update the Parking Facility Reserve Fund Establishment Bylaw to include the dollar amount required for cash-in-lieu contributions for Town Centre parking.

Attachments:

1. Draft Zoning Bylaw, showing proposed changes
2. Draft Zoning Bylaw Schedules, showing proposed changes
3. Draft Zoning Bylaw Map showing individual parcel change requests
4. Draft Zoning Bylaw Map showing proposed zoning scheme

Memo

To: District of Sooke Committee of the Whole

From: Bev Suderman, Chris Hall & Michael Kelly
Island Planning Services Consortium

Date: May 29, 2011

Re: Sooke Zoning Bylaw Project 2011: Legal & Agency Review Process
Comments received after May 23, 2011

Consultant Report

The purpose of this report is to update the District of Sooke's Committee of the Whole as to comments on the draft Zoning Bylaw received after May 23, 2011.

Legal and Agency Review Update

In addition to the agencies mentioned in the May 24 report, the District of Sooke has received comments from the following agencies:

- Ministry of Transportation and Infrastructure – No concerns. The Ministry will continue to review all applications and referrals within 800m of Highway 14 to ensure they meet our specific requirements.
- District of Metchosin – No concerns.
- Capital Regional District, Juan de Fuca – Concern re Kemp Lake Watershed.
- T'Sou-ke First Nation – Concern re industrial zoning of neighbouring property.

In this review period, the consultants have also received comments from individual property owners regarding their zoning concerns, and in some cases, are recommending bylaw changes as a result.

Recommended Changes to the draft Zoning Bylaw

The table below highlights comments received since May 23, 2011, and the consultants' recommendations.

Commenter	Comment	Discussion	Recommendation
Sooke River Hotel	The Zoning change from C4 to C2 is OK, except for lot coverage of 30%. Would like to keep 60% in SSA /40% outside SSA	Lot coverage of 30% for C2 zone is too low. Propose to change the zone provisions to permit 60% lot coverage within the SSA; 40% outside of SSA. This change will affect a number of properties within the Town Centre.	Change lot coverage within the C2 zone as follows: 60% within SSA 40% outside SSA
Timberwest	Objects to proposed zoning change, from RU3 to RU1. Smaller parcel sizes are more affordable, manageable, and economically viable.	Purpose of the zoning change is to recognize the existing uses of large parcels for forestry/agriculture. If the property owners are interested in future subdivision to permit small-scale farming, they have the option to rezone at that time. The proposed District of Sooke agricultural planning process can potentially provide more policy direction.	No change.
Ed Shaw	Objects to the removal of aquaculture as a permitted use; concern re setbacks for intensive agriculture.	Current zoning is RU1. Aquaculture is a permitted use in RU1, RU2, & RU3 zones. At the request of the Agricultural Land Commission, setbacks for intensive agriculture (including aquaculture) have been deleted, as being out of compliance with ALC Act and Regulations.	No change.
CRD-Juan de Fuca	Concern re zoning of lands within Kemp Lake Watershed (drinking water): Intensive agriculture is a permitted use. Potential negative impacts on drinking water.	No change from Bylaw 270: RU2 zoning. Intensive agriculture permitted on properties of 2 ha+. Properties of concern are 51 ha & 34 ha respectively. The larger parcel is partially in the ALR, particularly on the northern lakeshore.	No change.
T'Sou-ke First Nation	Concern re incompatible land use: industrial adjacent to residential on T'Sou-ke Indian Reserve No. 1.	Agree that adjacent uses can be problematic. The FN use of this land is roughly equivalent to the District of Sooke's existing zone RS-2. The adjacent land in Sooke is zoned industrial (M2), which creates the real potential that industrial uses will be situated immediately next to residential areas. The OCP designates the area as Technical Industrial Business park.	Need Council direction as to how to proceed. See discussion below.
T'Sou-ke First Nation	Concern re incompatible land use: industrial adjacent to proposed retail, professional or other commercial uses.	The zoning at the Butler Brothers gravel extraction is such that industrial operations could be situated immediately adjacent to areas that T'Sou-ke hopes to develop for non-	Need Council direction as to how to proceed. See

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		industrial purposes. T'Sou-ke hopes to develop these lands over time for purposes such as retail or professional offices and sees the existing zoning on these lands as creating a significant barrier to developing the reserve lands to their fullest extent.	discussion below.
YM-YWCA of Victoria: Camp Thunderbird	Concern re zoning redesignation to P1. Request to continue with equivalent of existing zoning: RU2/RU4. YM-YWCA is currently undergoing a planning exercise and do not wish to compromise the process	Change map designation from proposed P1 to RU2/RU4. Existing land uses may be non-conforming. YM-YWCA may need to apply for rezoning once their master planning exercise is complete, if they wish to change or expand uses.	Change zoning designation on map.
Gail Hall re Sun River Estates – "Sooke River Park"	Concern re proposed change in zoning designation of Sooke River Park from P1 to RU3	The proposed change is in response to a comment from the ALC indicating that "The zoning of the existing park along the Sooke River in Sun River Estates may need to be changed if it is intended to act on the approval of the Commission to exclude a portion of land within the development to accommodate a school (ALC Resolution 2678/2010). A condition of approval was that the zone be changed to Agriculture." The proposed change is for the zoning only, not for the land use. The land use will remain as park. Parks are a land use permitted in every zone.	No change.

Council Direction Needed

T'Sou-ke First Nation concern re incompatible zoning between existing on-Reserve residential land use and existing industrial land uses within the District of Sooke:

The current zoning (Bylaw 270) on the properties adjacent to the T'Sou-le Indian Reserve No. 1 (south side) is M2. While the land uses (residential and industrial) are incompatible, they have been in place for a while. The OCP designates the area as a possible Technical Industrial area.

The current zoning (Bylaw 270) on the properties on the north side of the T'Sou-le Indian Reserve No. 1 is also M2. The T'Sou-ke First Nation is concerned that the zoning at the Butler Brothers gravel extraction is such that industrial operations could be situated immediately adjacent to areas that T'Sou-ke hopes to develop for non-industrial purposes. T'Sou-ke hopes to develop these lands over time for purposes such as retail or professional offices and sees the existing zoning on these lands as creating a significant barrier to developing the reserve lands to their fullest extent.

The T'Sou-ke First Nation is requesting that the zoning of these lands be modified so that new heavy industrial uses will not be permitted in close proximity to reserve lands.

Discussion:

None of the lands in question are zoned for Heavy Industrial use (M3), which seems to be the major concern of the First Nation. Nevertheless, the consultants agree that there are land uses that can create conflicts, particularly on the south side, where industrial uses are in the immediate proximity of residential land uses on the Reserve.

There appears to be an opportunity for the District of Sooke and the T'Sou-ke First Nation to engage in discussions with a view towards reaching greater congruity between the T'Sou-ke Land Use Plan and the District of Sooke's Official Community Plan (OCP).

Council will need to decide whether they wish to rezone the site now on the basis of the new industrial zone (M5). If Council chooses to rezone in accordance with the plan, the permitted land uses (and zoning) will still be industrial, but more compatible with residential than the current zoning and development. In this case, however, current uses will remain non-conforming for as long as they wish, albeit with limitations on their ability to expand. So it may take some time for land uses to change.

Options for Council to consider:

1. Leave the existing zoning, but through the DP process, ensure setbacks and landscaping / screening are appropriate for the proposed Industrial use;
2. Initiate consultation with the landowners to determine future plans, promote the M5 zoning and/or potentially remove certain of the permitted uses and/or restrict hours of operation for the specifically identified properties, to prevent excessive land use conflicts;
3. Rezone the site now, on the basis of the new Technical Industrial zone;
4. Rezone the site later, in a separate process, on the basis of the new Technical Industrial zone (recommended).

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