

## SUNSHINE COAST REGIONAL DISTRICT STAFF REPORT

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**TO:** Planning and Development Committee – April 21, 2022

**AUTHOR:** Julie Clark, Senior Planner  
Chris Humphries, Planning Technician

**SUBJECT:** Roberts Creek Official Community Plan Amendment Bylaw 641.13, 2021  
(1220 Lockyer Road) – Alternate Solution

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### RECOMMENDATIONS

**THAT the report titled Roberts Creek Official Community Plan Amendment Bylaw 641.13, 2021 (1220 Lockyer Road) – Alternate Solution be received for information;**

**AND THAT based on receipt of new information as outlined in this staff report resolution 082/22 Recommendation No. 2 as adopted at the March 24, 2022 regular Board meeting be brought back for reconsideration of alternate action;**

**AND THAT Roberts Creek Official Community Plan Amendment Bylaw 641.13 be abandoned;**

**AND THAT staff be directed to proceed with the alternate solution, including:**

- 1. The development of a compliance agreement to wind-down unpermitted land uses and pursuing compliance on any land development issues;**
  - 2. Subject to achieving a compliance agreement, prepare for Board decision a policy of temporary selective enforcement of bylaws relating to siting of recreational vehicles at 1220 Lockyer Road.**
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### BACKGROUND

As reported at [recent Committee meetings](#), the application for 1220 Lockyer Road in Roberts Creek seeks temporary authorization to continue a non-conforming use on the property, which currently contravenes the Roberts Creek Official Community Plan and Zoning Bylaw No. 310. The application goal is to secure approval to permit a time-limited use of 4 recreational vehicles on the property.

Risk analysis and preparation of conditions regarding the retroactive and proposed use for the property has yielded an alternate solution that is shared in this report.

### DISCUSSION

With Board direction to move this application to second reading, Planning staff have continued work with staff from Bylaw, Building, Solid Waste and Utilities about conditions for the applications.

Staff have reached out to Regional Districts around the Province for analogues and lessons. Many regional districts are experiencing similar questions and challenges in how to handle impacts from this province-wide housing crisis, which has come to include unlawful siting of RVs

as long-term accommodation. We continue to hear from our internal and external colleagues that there are liability and precedent concerns related to the possibility that SCRD will support this use.

Case law relating to people taking up residence in recreational vehicles is evolving as the impacts of the housing crisis become greater in the Province. Reference to these factors was presented in the [first reading report in November 2021](#),

With respect for the Board's authority, staff propose a reconsideration of the decision to advance the application to second reading.

#### *Option #1 - Proposed Alternative Solution*

This approach includes a compassionate timeline for tenants while also focusing on restoring land use compliance. A 'Wind Down Plan' with a timeline that meets or exceeds timelines associated with tenancy regulations is proposed. If implemented, this solution would involve:

- Rescinding the Board's resolution #0822/22 Recommendation No. 2 and abandonment of the bylaw amendment
- A letter of direction from SCRD Bylaw Enforcement to the property owner which aligns the owner (landlord) with the *Mobile Home Park Tenancy Act* for cause of giving tenant notice (s. 40(1)J).
- Pursuing bylaw compliance:
  - **Compliance Agreement** - Land Use:
    - Wind down of RV use and any other land use issues within deadline (6 months to 1 year to allow time for tenants to find new accommodation)
    - Draft and implement Board policy for this duration to not enforce against unlawful RV use on this property
    - If timeline exceeded, enforcement begins
  - **Pursue Compliance** – Development Issues:
    - Addresses any land alteration, riparian, health and safety bylaw contraventions (shorter timeline) – noting these aspects are still being investigated
    - Coordinate with province and VCH

This solution de-couples the compliance approach for each of the infractions and allows for:

- 1) A compassionate timeline for tenants to relocate;
- 2) Property owner accountability and compliance related to land alteration, riparian protocols, health and safety concerns; and
- 3) Addressing concerns about accountability, bylaw contraventions and corresponding precedent.

If staff are unsuccessful in establishing a compliance agreement with the property owner, or if an established compliance agreement is contravened, ticketing, up to daily, would follow a period of negotiation in good faith.

**If this solution is implemented, the total time of unlawful use of RVs, since infractions were first reported, would be approximately 2 to 3 years. The maximum allowable time of a Temporary Use Permit is 3 years.**

*Option #2 – Proceeding with Second Reading / Public Hearing*

If the Board does not wish to proceed with the solution outlined above and wishes to proceed to Public Hearing for the land owner’s proposed OCP amendment, staff would seek further legal advice regarding proposed OCP amendment conditions, drafting of a future TUP, and other possible tools for mitigating SCRD liability. Some of this information could be presented as part of staff’s introduction at the Public Hearing.

If proceeding to Public Hearing:

- As outlined in the First Reading staff report, there are risks for the tenants and the community and liability for SCRD by permitting the use of recreational vehicles for long-term occupation.
- Concurrence with SCRD Financial Plan and Solid Waste Management Plan is a required step before consideration of second reading of the OCP amendment Bylaw.
  - Finance staff have reviewed the application documents and have not identified any direct implications to SCRD’s current 2022-2026 Financial Plan.
  - Solid waste staff have also reviewed the application documents and provided comments in relation to the Solid Waste Management Plan that are included as proposed conditions, below. Of note, SCRD Refuse Collection Bylaw No. 431 does not include RVs for eligibility to receive refuse collection service, therefore a commercial contract would be required.
- Conditions are proposed, subject to be refined as updated information is received. These would be presented at Public Hearing.
- Applicant has received (January 25, 2022), a list of Standard Development Requirements (which has since been slightly refined, in Attachment A), and is aware that these are draft conditions for OCP amendment approval. The applicant has stated that work is underway to satisfy the requirements but no documentation has been submitted to SCRD to date.
- The draft conditions have been refined since additional referral comments were received. As part of the referral process, VCH has confirmed that a septic filing has been received which confirms inadequacies with the septic system on the property for the current and proposed use. Work has not yet commenced to correct the situation.
- If the OCP amendment application does not advance to second reading, the proposed conditions will be used to inform the proposed compliance agreement.

*Organization and Intergovernmental Implications*

Staff time is a significant organizational and intergovernmental implication related to this file. Depending on the decisions made, there are future organizational implications for staff time (planning, risk management, bylaw enforcement and public inquiries that may include Freedom of Information requests), as well as community perception of precedent and community trust in SCRD.

*Financial Implications*

Staff time is the main financial implication for SCRD at this time. Per SCRD Bylaw No.522, the applicant would be entitled to a partial refund if the application does not proceed to a public hearing.

*Timeline for next steps or estimated completion date*

If the Board rescinds resolution #082/22 Recommendation No. 2, and votes to abandon the amendment bylaw the application process to amend the Roberts Creek OCP (641.13) would halt once the recommendation is adopted by the Board.

The bylaw enforcement process would begin, as outlined above, and following Board Policy.

**STRATEGIC PLAN AND RELATED POLICIES**

N/A

**CONCLUSION**

Staff propose an alternate solution to proceeding with OCP000027 application. The proposal involves a ‘Wind Down Plan’ of RV uses on the property, directed by rescinding the Board resolution, abandoning the amendment bylaw, and seeking a compliance agreement.

Staff believe this alternate path provides a solution that meets the most needs going forward, including a compassionate timeline for the tenants to relocate, compliance accountability for the property owner, demonstration to the community that property owner / compliance and accountability is being sought; and serves to lessen SCRD exposure to liability and precedent.

**ATTACHMENTS**

Attachment A – Standard Development Conditions, Refined to Include Referral Feedback

Reviewed by:			
Manager	X – J. Jackson	CFO/Finance	X – T.Perreault
GM	X – I. Hall	Legislative	X – S. Reid
CAO	X – D. McKinley	Solid Waste	X – R. Rosenboom

## **Attachment A**

### **Standard Development Conditions, Refined to Include Referral Feedback**

#### Conditions of OCP amendment:

Conditions are to be satisfied within a reasonable time frame (to be determined, and could form part of a bylaw compliance agreement) of 3<sup>rd</sup> reading, if granted, and prior to 4<sup>th</sup> and final reading:

- Completion and submittal of a BCLS-Certified Survey of the subject property, detailing location of the development permit areas, berm, rock wall, RV pads and MOTI set backs.
- Completion, submittal and implementation of a Fire Safety Plan for the property, as approved by Roberts Creek Fire Department.
- Electrical safety documentation submission: Proof that all electrical installations on the property have been installed in accordance with the requirements of the British Columbia Electrical Safety Regulation.
- Completion and submittal of a Riparian assessment, completed by a Qualified Environmental Professional (QEP) to determine further needs and best practices relating to the drainage ditch running along the southern extent of the property, flowing to a fish bearing portion of Flume Creek. Possible Condition and Impact Assessment and Development Permit requirements pending QEP guidance.
- Certified arborist review and plan for health and retention of trees along the south property line facing the highway. Submit to SCR D and implement.
- An On-Site Stormwater Management and Drainage Plan is to be completed by a Professional Engineer and implemented by the applicant following referral to MOTI for comment and acceptance by SCR D.
- SCR D utilities commercial rate
- SCR D solid waste commercial contract required for solid waste services
- shíshálh Nation's comments: in relation to the retroactive nature of this application, post-development geotechnical, archaeological, and biological assessments should be commissioned for the property (SCR D to consider if/how these can be incorporated as part of next steps)
  
- VCH Conditions:
  - Assessment required of the current system, to be submitted to VCH.
  - If the system meets the specifications, a retroactive filing under the BC Sewerage Regulation will be considered. If the system fails to meet the specifications, upgrades by an authorized person must be completed.
  
- MOTI Conditions: Drainage and set backs:
  - Recreational vehicles to be in compliance with the highway setback regulation of 4.5m from the highway right of way.
  - Removal of the drain pipe leading to the SCR D-maintained multi-use path located within the Sunshine Coast Highway right-of-way.

These preliminary conditions may be refined as professional assessment information is provided. Additional conditions, including a bond, are anticipated to attach to a TUP, if approved.