



REPORT TO COUNCIL

Council Meeting: May 14, 2024
500 Matterson Drive, Ucluelet, BC V0R 3A0

FROM: JOHN TOWGOOD, MUNICIPAL PLANNER

FILE NO: 3360-20 RZ24-05

SUBJECT: ZONING AND DP AMENDMENTS FOR WEYERHAEUSER OCEANWEST PHASE 5

REPORT NO: 24-43

ATTACHMENT(S): APPENDIX A – APPLICATION
APPENDIX B – ZONING AMENDMENT BYLAW NO. 1341
APPENDIX C – DEVELOPMENT VARIANCE PERMIT 24-03
APPENDIX D – DEVELOPMENT PERMIT 18-07 (AMENDED)
APPENDIX E – 2018 SITE PLAN FROM DEVELOPMENT PERMIT 18-07
APPENDIX F – WETLAND REMEDIATION PLAN

RECOMMENDATION(S):

THAT Council directs Staff to give notice of first reading of *District of Ucluelet Zoning Amendment Bylaw No. 1341, 2024*.

BACKGROUND:

In 2018 Weyerhaeuser Co. Ltd. (the “**Applicant**”) started the process to subdivide a 10.3ha (25.5 acre) area of its lands located northeast of the Marine Drive and Cynamocka Road intersection; PID 026-784-297, Lot A, Plan VIP81555, District Lot 283, Clayoquot Land District, Except Plan VIP84686 and portions of PID 025-635-742, Lot 4, District Lots 285, 286 and 473, Clayoquot Land District Except Plan VIP80031 (“**the development area**”) (see **Figure 1**). The proposed subdivision would be phase 5 of the OceanWest development.

The applicant applied for and received a Development Permit (**DP**) and Preliminary Layout Assessment (**PLA**) for their subdivision application. With the DP approval in place, which included an environmental assessment by Environmental Dynamics Inc (**EDI**), the applicant began the clearing of the land, construction of roads and services for the subdivision. The progress of the subdivision was delayed first by the Covid-19 pandemic in 2020 when the development was put on hold by Weyerhaeuser. The applicant restarted the development in early 2022. After this restart, the Ministry of Land, Water and Resource Stewardship (the “**Ministry**”) issued an Engineer’s Order under the *Water Sustainability Act* to cease all works on the property. The Ministry stopped all works in several areas that they deemed to be impacted wetlands (including two wetland areas that were already cleared in the alignment of the Forbes Road extension) and

required that the entire site be reassessed to identify all streams and wetlands according to the *Water Sustainability Act*.

It should be noted that the applicant had originally engaged a biologist to do the environmental assessment of the development and subsequent environmental management plan prior to commencing any works on the site. The works were being carried out under the supervision of that biologist. The provincial order to stop work was the result of differing professional opinions on what defines a wetland under the *Water Sustainability Act*. Staff understand that the Province has begun work on a regionally-specific BC manual for wetland delineation.

The applicant, working with EDI and the Ministry, developed a Wetland Remediation and Offsetting Plan that involved a redesign of the development’s lot and road layout, an increase in the park dedication, wetland remediation, and environmental offsets. The proposed offsetting approach was approved by the Ministry in October of 2023 (see **Appendix F**).

The redesign of the subdivision to shift a section of Forbes Road to the west, away from the adjacent wetland, causes the need for a zoning amendment for the lot size allocation within the CD-5C Zone, Development Variances for a number of the lot frontages, and a requirement to exempt some of the lots from the minimum frontage required under the *Local Government Act*. The Applicant submitted and paid for a rezoning amendment, a Development Variance Permit (**DVP**) and updated subdivision PLA on March 4, 2024.



Figure 1. The Development Area

DISCUSSION:

This report has multiple elements that will require approvals in the following sequence:

Zoning:

The zoning of the development is Comprehensive Development Zone 5C (**CD-5C**), and the proposed zoning changes address three areas (see **Appendix B**); the first being the allowable number of various lot sizes in the development area. The CD-5C zone has the minimum lots size broken into three lot size categories; *CD-5C.2.1(1)(a)* (**Small**), *CD-5C.2.1(1)(b)* – (**Medium**), *CD-5C.2.1(1)(c)* – (**Large**). The zoning is written as follows:

CD-5C.2.1 Minimum Lot Size:

(1) Single Family Dwelling:

- (a) 405 m² (0.1 acre) but less than 650 m² (7,000 ft²) for at least 40 lots but not exceeding 50 lots;*
- (b) 650 m² (7,000 ft²) but less than 1,393.5 m² (15,000 ft²) for at least 10 lots but not exceeding 15 lots;*
- (c) 1,393.5 m² (15,000 ft²) for at least 55 lots but not exceeding 70 lots, but 1,618.75 m² (0.4 acre) for any of these lots if accessed off a major road;*

The change proposed in the new subdivision layout does not alter the number of lots created but rearranges the size of the lots (to allow for greater area being set aside as park land). The proposed subdivision, when combined with what has already been built out in previous Weyerhaeuser development areas (the first four phases of OceanWest), would be over the maximum number of Medium sized lots by six. To account for this, the proposed zoning amendment would reduce the maximum large lot allocation from 70 lots to 64 and increase the medium allocation from 15 to 21.

The second change proposed is in regard to the minimum lot size. Section CD-5C2.1(a) stipulates that lots must be less than 650m² and provides the imperial conversion for convenience only in brackets (see Section 104.1). However, 650m² converts to 6,996.54ft², not the 7,000ft² conversion stated in the bylaw. In the proposed subdivision plan the applicant created multiple lots at exactly 650m² in area, with the intention that they be considered as small lots. While this is consistent with the imperial conversion (6,996.54ft² being less than 7,000ft²), the imperial conversions included in the bylaw are for convenience only. Therefore, the proposed lot size doesn't quite meet the metric threshold as the zoning bylaw reads that a small lot must be less than 650m². Therefore, the proposed lots at exactly 650m² would have to be considered as medium lots. This would in turn affect the required lot frontage and maximum lot coverage. Staff propose for all instances in the CD-5C zone that 650m² be changed to 650.3m². This change would make the small

lot and medium lot threshold constant with the setback threshold and be a more accurate translation to imperial conversion. In staff's opinion this is partly a housekeeping matter to clean up the CD zoning.

The third change proposes to remove an awkward regulation within the CD-5C zoning. CD-5C.2.1 contains a requirement for larger lots on a major road "1,393.5 m² (15,000 ft²) for at least 55 lots but not exceeding 70 lots, but 1,618.75 m² (0.4 acre) for any of these lots if accessed off a major road". The original intent of this clause was most likely an attempt to increase forested areas along Marine Drive: put simply, less driveways more trees. Since lot frontage enacted for the large lots and the proposed greenspace covenant are better mechanisms to achieve the reduced driveways, it is proposed to just remove that clause within the CD-5C regulations.

The fourth change proposes to remove an obsolete clause within the CD-5C zoning. CD-5C.1.2 contains a clause that specifically relates to Lot 13, plan VIP84686; this parcel was removed from the CD-5C zone with the adoption of *District of Ucluelet Zoning Amendment Bylaw No. 1269, 2020*, making section CD-5C.1.2 now redundant.

Development Variance Permit for Minimum Frontage:

The applicant has worked with Ministry staff to arrive at an accepted wetland remediation and offsetting plan. The result is a proposal to set aside areas of high environmental value (wetlands and their buffer areas) as park. In order to set aside those areas, the applicant has squeezed three lots which therefore do not meet the minimum frontage requirement (Lots 81, 82 and Lot 87 – see **Appendix C**). Varying the minimum frontage for these three lots is reasonable. If/when notice is given for the bylaw amendments, staff would also give the required notice for public comment on the DVP. The Development Variance Permit would then be presented for consideration by Council separately but at the same meeting as the proposed zoning amendment is being considered for adoption.

Minimum Highway Frontage - Local Government Act:

Four of the proposed lots do not meet the minimum frontage required under section 512(2) of the *Local Government Act* which states:

512(1) If a parcel being created by a subdivision fronts on a highway, the minimum frontage on the highway must be the greater of:

- (a) 10% of the perimeter of the lot that fronts on the highway, and*
- (b) the minimum frontage that the local government may, by bylaw, provide.*

Lot 81, 82, 87, 90, 91, and 96 appear to not meet this 10% frontage requirement. Staff will provide a resolution for Council to consider exempting those lots from Section 512 of the *LGA* when the application returns on a future agenda.

Acceptance of Parkland:

Parkland dedication offered as part of a subdivision must be accepted by resolution of Council. This subdivision will create 3 areas of parkland for a total of 9,382m² total (see **Appendix A**) that correspond to the site’s environmentally sensitive areas. A resolution for Council consideration will be presented if/when the proposed zoning amendment is adopted.

OCP policy 2.63 supports the protection of sensitive ecosystems through park dedication. The subdivision would also provide connecting trail corridors generally consistent with the original DP site plan (see **Appendix E**). One internal pathway has been removed as the lots have shifted with the relocated Forbes Road, but the connectivity of trails with the broader trail network is maintained.

Amendment of Development Permit DP18-07:

The development of this subdivision has been undertaken under DP18-07 which was authorized under Ucluelet’s previous Official Community Plan (**OCP**). It is proposed to amend the existing DP by changing out the civil and landscape plans attached to this report (new plans are contained in **Appendix A**). This change represents the following:

- The lot layout would change to reflect the Wetland Remediation and Offsetting Plan.
- The sidewalk on both sides of Forbes Road will be reduced to one sidewalk located on the southeast side.
- The park sizes and locations are revised.
- There is a rerouting of the trailway system. It should be noted that the trail is to be constructed by the applicant, to District specifications, as part of the subdivision works (see drawing 100 Site Plan in **Appendix A**).

A draft of the amended DP is attached in **Appendix D**.

ANALYSIS OF OPTIONS:

A	Direct Staff to give notice of first reading of District of Ucluelet Zoning Amendment Bylaw No. 1341, 2024	<u>Pros</u>	<ul style="list-style-type: none">• Would allow District of Ucluelet Zoning Amendment Bylaw No. 1341, 2024, to be considered for first, second, third readings and adoption.
		<u>Cons</u>	<ul style="list-style-type: none">• Unknown at this time.
		<u>Implications</u>	<ul style="list-style-type: none">• Would allow District of Ucluelet Zoning Amendment Bylaw No. 1341, 2024 to be considered for first, second, third readings and adoption.• DVP and other decisions of Council would be considered at a future meeting once notification has been completed.

B	Modify the draft zoning bylaw prior to directing staff to give notice of first reading.	<u>Pros</u>	<ul style="list-style-type: none"> A modification to the bylaw amendment that Council deems appropriate may be beneficial to the application.
		<u>Cons</u>	<ul style="list-style-type: none"> Unknown at this time.
		<u>Implications</u>	<ul style="list-style-type: none"> The application would be delayed.
		<u>Suggested Motion</u>	<ul style="list-style-type: none"> “THAT Council directs staff to modify the draft <i>District of Ucluelet Zoning Amendment Bylaw No. 1341, 2024</i>, to (state desired outcome of amendments), for further consideration at a future meeting.”
D	Reject the application. [not recommended]	<u>Pros</u>	<ul style="list-style-type: none"> Unknown at this time
		<u>Cons</u>	<ul style="list-style-type: none"> Wetland remediation and offsetting work may be delayed. Construction and completion of utility connections would be delayed. The availability of new residential lots would be delayed. Would not allow applicant’s proposed subdivision to proceed.
		<u>Implications</u>	<ul style="list-style-type: none"> The application would not proceed. Additional staff time will be required to follow up with applicant and consultants.
		<u>Suggested Motion</u>	<ul style="list-style-type: none"> “THAT <i>District of Ucluelet Zoning Amendment Bylaw no. 1341, 2024</i> be rejected.” THAT Council indicates to staff and the applicant that in order to proceed with the development the following changes are necessary: [state reasons].

POLICY OR LEGISLATIVE IMPACTS:

This application impacts the *District of Ucluelet Zoning Bylaw No. 1160, 2013* by adding a text amendment and variance to section CD-5C.

It is important to note that *Bill 44 – 2023 Housing Statutes (Residential Development) Amendment Act, 2023* amended Part 14, Division 3, Section 464 (3) of the *Local Government Act*, which now states that:

- (3) A local government must not hold a public hearing on a proposed zoning bylaw if
- (a) an official community plan is in effect for the area that is the subject of the zoning bylaw,
 - (b) the bylaw is consistent with the official community plan,
 - (c) the sole purpose of the bylaw is to permit a development that is, in whole or in part, a residential development, and
 - (d) the residential component of the development accounts for at least half of the gross floor area of all buildings and other structures proposed as part of the development,

Where a public hearing would have previously been held, these legislative changes do not permit a public hearing for *District of Ucluelet Zoning Amendment Bylaw No. 1341, 2024*. For the

proposed development, the District of Ucluelet is permitted to provide the public the opportunity to make verbal submissions on the proposed variance (**DVP**) but is not permitted to hold a public hearing on the zoning bylaw amendment.

In addition, it is important to note, that the applicant is responsible for ensuring that all Provincial and Federal laws, requirements, and best practices are followed as the subdivision servicing proceeds.

NEXT STEPS:

If Council directs Staff to give notice of first reading of *District of Ucluelet Zoning Amendment Bylaw No. 1341, 2024*, staff will undertake the necessary notification and schedule the bylaw to be considered by Council for a potential first, second, third reading and adoption at a future Regular Council Meeting.

Respectfully submitted:

JOHN TOWGOOD, MUNICIPAL PLANNER
BRUCE GREIG, DIRECTOR OF COMMUNITY PLANNING
DUANE LAWRENCE, CAO