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**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, MARCH 18, 2025**

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**SUBJECT Development Variance Permit for Lot 7, District Lot 29, Otter District,  
Plan VIP59848 – 7827 Dalrae Place**

**ISSUE SUMMARY**

A request has been made for a development variance to reduce a flanking yard setback from 6 m to 4 m and a rear yard setback from 10 m to 5.5 m, to address undue hardship under the *Riparian Areas Protection Regulation* requirements for the purpose of a two-lot subdivision (SU000736).

**BACKGROUND**

The 1.0 ha property is located at 7827 Dalrae Place in Otter Point (Appendix A) and is zoned Rural Residential 2 (RR-2) under the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040. The parcel has an irregular shape and is roughly bisected by a wetland that is protected by a covenant. The property is partially designated as Steep Slopes and Watercourses and Wetlands Development Permit (DP) areas by the Otter Point Official Community Plan (OCP), Bylaw No. 3819. The parcel has road frontage on Carpenter Road and Dalrae Place. A single-family dwelling and detached garage are located on the southern portion of the lot with access from Dalrae Place. Neighbouring parcels on Dalrae Place and Carpenter Road are also zoned RR-2.

The parent parcel meets the minimum parcel size specified by RR-2 zone; however, the landowner wishes to subdivide the parcel into two lots (Appendix B) to provide residence for a relative in accordance with Section 514 of the *Local Government Act (LGA)*. No minimum lot size is specified by the RR-2 zone for parcels created under this section of the *LGA*.

The *Riparian Areas Protection Regulation (RAPR)* specifies that where less than 30% of a proposed parcel is available for development after the standard of protection and the required yard setbacks are applied, development is considered to put additional pressure on the riparian areas and present undue hardship. The owner has requested variances to reduce the required flanking yard setback of proposed Lot A and the rear yard setback of the proposed Remainder Lot to ensure both parcels have an adequate developable area and remove the undue hardship designation under the *RAPR* (Appendix C).

**ALTERNATIVES**

*Alternative 1*

The Land Use Committee recommends to the Capital Regional District Board:

That Development Variance Permit VA000164 to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, be approved as follows:

- a. Section 6.07(c) is varied by reducing the flanking yard setback requirement for proposed Lot A from 6 m to 4 m; and
- b. Section 6.07(d) is varied by reducing the rear yard setback requirement for proposed Remainder Lot 7 from 10 m to 5.5 m;

for the purpose of removing undue hardship for a two-lot subdivision of Lot 7, District Lot 29, Otter District, Plan VIP59848, pursuant to the *Riparian Areas Protection Regulation*.

*Alternative 2*

That the development variance permit be denied, and the proposed parcels be required to comply with setback requirements.

## **IMPLICATIONS**

### *Legislative Implications*

The Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 6.07(c) and (d), specify that buildings and structures in the RR-2 zone be located a minimum of 6 m from a flanking lot line and 10 m from a rear lot line.

The *RAPR* specifies the conditions under which local governments may approve development in or near riparian areas and outlines the standard of protection for those areas. This includes delineation of a Streamside Protection and Enhancement Area (SPEA) and determining undue hardship at the time of subdivision. Where less than 30% of the area of a proposed parcel is available as a buildable area due to SPEA calculations and zoning setbacks, undue hardship is determined to exist. The *RAPR* allows local governments to approve variances to reduce yard setbacks and alleviate the hardship. The application of SPEA and yard setbacks requirements creates potential undue hardship for each of the proposed lots under subdivision application SU000736.

### *Public Consultation Implications*

Pursuant to Section 499 of the *LGA*, if a local government proposes to pass a resolution to issue a development variance permit, it must give notice to each resident/tenant within a given distance as specified by bylaw. Capital Regional District Bylaw No. 3885, Fees and Procedures Bylaw, states that a notice of intent must be mailed to adjacent property owners within 500 m of the subject property. Any responses received from the public will be forwarded by staff to the Land Use Committee (LUC) in advance of the March 18, 2025, LUC meeting.

### *Land Use Implications*

The landowner proposes to create an additional parcel for a relative under Section 514 of the *LGA*. If a parcel is designated as DP area, a development permit is required to authorize subdivision. Where development, including subdivision, is to occur within riparian areas under the *RAPR*, the Ministry of Water, Land and Resource Stewardship must approve a Riparian Areas Assessment report prepared by a Qualified Environmental Professional (QEP) prior to CRD issuance of the DP.

The landowner submitted a development permit application to meet the CRD's subdivision requirements. However, the riparian assessment identified that both proposed parcels would be subject to undue hardship under the *RAPR* due to the SPEA calculation for a wetland on the parent parcel and the minimum setbacks for buildings and structures specified by the RR-2 zone.

The existing dwelling on the proposed Remainder Lot is partially located in the SPEA; however, it was constructed prior to *RAPR* regulations and complies with the terms of covenant EH127722. The existing accessory building meets the 1 m rear and side yard setback requirements specified by the Accessory Buildings and Structures regulations in Bylaw No. 2040.

The Otter Point OCP supports the consideration of variances from applicable zoning regulations in order to minimize encroachment into the DP area. Reducing the flanking setback for proposed Lot A along Dalrae Place from 6 m to 4 m and the required rear yard setback for proposed Remainder Lot 7 from 10 m to 5.5 m will increase the developable areas of the proposed parcels to meet *RAPR* standards and minimize encroachment into the DP area.

Upon receiving *RAPR* approval for the subdivision layout, the development will be aligned with the development policies of the Settlement Area land use designation and the DP guidelines in the Otter Point OCP. The riparian areas assessment report for the development permit application will be reviewed by staff in accordance with the Watercourses and Wetland Areas DP guidelines.

It is not anticipated that a reduction in yard setbacks will impose a hardship on adjacent properties; however, notice of the requested variance will be sent to owner and occupiers of land within 500 m of the subject property and any comments received will be forwarded to the LUC for consideration.

Staff recommend approval of development variance permit VA000164 (Appendix D), subject to public notification and consideration of comments from neighbouring residents. If the variance is approved, any structures on proposed Lot A that are located less than 4.5 m from the Dalrae Place right-of-way will require a permit from the Ministry of Transportation and Transit.

**CONCLUSION**

The applicant has requested a variance to alleviate future undue hardship under the *RAPR* and facilitate a 2-lot subdivision. In order to meet *RAPR* standards, a variance to reduce the flanking yard setback for proposed Lot A from 6 m to 4 m and the rear yard setback for proposed Remainder Lot 7 from 10 m to 5.5 m is required. If the Permit is approved by the Board, the Corporate Officer will proceed to issue the Permit and register a Notice on Title.

**RECOMMENDATION**

The Land Use Committee recommends to the Capital Regional District Board:  
That Development Variance Permit VA000164 to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, be approved as follows:

- a. Section 6.07(c) is varied by reducing the flanking yard setback requirement for proposed Lot A from 6 m to 4 m; and
- b. Section 6.07(d) is varied by reducing the rear yard setback requirement for proposed Remainder Lot 7 from 10 m to 5.5 m;

for the purpose of alleviating undue hardship for a two-lot subdivision of Lot 7, District Lot 29, Otter District, Plan VIP59848, pursuant to the *Riparian Areas Protection Regulation*.

Submitted by:	Iain Lawrence, MCIP, RPP, Senior Manager, JdF Local Area Services
Concurrence:	Patrick Klassen, MCIP, RPP, Acting General Manager, Housing, Planning & Protective Services
Concurrence:	Ted Robbins, B.Sc., C. Tech., Chief Administrative Officer

**ATTACHMENTS**

- Appendix A: Subject Property Map
- Appendix B: Proposed Plan of Subdivision
- Appendix C: Variance Request
- Appendix D: Development Variance Permit VA000164