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**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JULY 19, 2022**

**SUBJECT Development Variance Permit for Lot 1, Section 32, Otter District,
Plan 25866 – 8015 West Coast Road**

ISSUE SUMMARY

A request has been made for a development variance to reduce the front yard setback for an accessory building from 7.5 m to 3.8 m, and to allow an accessory building to be located closer to the front lot line than the principle building.

BACKGROUND

The 1,780 m² property is located at 8015 West Coast Road 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 shoreline property was created by subdivision in 1972, prior to the adoption of zoning in the Otter Point area, and is less than the minimum parcel size now specified by RR-2 zone. The parcel has an irregular shape and is situated next to Strait of Juan de Fuca (Sooke Bay) with access from West Coast Road. Immediately adjacent parcels are also zoned RR-2. The property has a gradual slope down from West Coast Road towards the shoreline. The existing buildings are established on elevations that are roughly a meter or more below the road grade.

The landowner has constructed an accessory building within the front yard setback area and closer to the front lot line than the principle building. The established accessory building is also located within the Ministry of Transportation and Infrastructure's required setback from a highway right-of-way of 4.5 m.

Following a stop work order that was posted on the property on March 3, 2022, the landowner has obtained approval from the Ministry for placement of the accessory structure within the highway setback area (Appendix B). The landowner is now requesting a variance from the CRD, for the regulations of the Juan de Fuca Land Use Bylaw 1992, Bylaw No. 2040, which specify the front lot line setback and the siting of the accessory building relative to the location of the principle building.

ALTERNATIVES

Alternative 1

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

That Development Variance Permit VA000157 for Lot 1, Section 32, Otter District, Plan 25866, to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 6.07(a), by reducing the front yard setback from 7.5 m to 3.8 m; and Part 1, Section 4.01(1)(d) by allowing an accessory building to be located closer to the front lot line than the principle building to authorize the siting of a utility building, be approved.

Alternative 2

That the development variance permit be denied and the accessory building be required to comply with zoning requirements.

LEGISLATIVE IMPLICATIONS

The Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 6.07(a), specifies that buildings and structures be placed a minimum of 7.5 m from the front lot line. Furthermore, the Juan de Fuca Land Use Bylaw 1992, Bylaw No. 2040, Part 1, Section 4.01(1)(d) specifies that no accessory building shall be located closer to the front lot line than the principal building except that where the principal building is more than 15 m away from the front lot line, the setback for an accessory building is 15 m. The accessory building does not meet this requirement; therefore, a variance is requested.

PUBLIC CONSULTATION IMPLICATIONS

Pursuant to Section 499 of the *Local Government Act*, if a local government is proposing 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 the Board at any time may refer an application to an agency or organization for their comment. In addition, it states that a notice of intent must be mailed to adjacent property owners within a distance of not more than 500 m. Any responses received from the public will be presented at the July 19, 2022, Land Use Committee meeting.

LAND USE IMPLICATIONS

The RR-2 zone specifies that a minimum setback for buildings and structures and the general regulations for accessory buildings and structures specifies the location of an accessory building relative to the position of the principle building. Bylaw No. 2040 defines front lot line as, “the lot line that divides the lot from the highway, provided that in the case of having more than one lot line abutting a highway, the shortest lot line shall be deemed to be the front lot line.” In this case, the front lot line abuts West Coast Road.

The subject property is located within the Settlement Area 1 land use designation of the Otter Point Official Community Plan. Part 4.0, Section 4.11(3) of the Otter Point OCP requires that the following be considered with respect to development:

- a. The development of the site will have minimal impact on the existing man-made and the natural physical features of the area.
- b. The development is designed to control surface runoff.
- c. The development is designed to prevent the depletion or contamination of existing wells.
- d. All development must respond to the physical constraints of the site and must be consistent with the retention of the visual landscape or natural areas. Especially on or near hilltops and rides.
- e. All residential development should endeavor to protect the natural native vegetation cover.

The accessory building is aligned with the considerations for development within the Settlement Area Land Use designation. The landowner has proposed that the accessory building be located closer to road rather than other possible locations on the property in order to limit potential impacts to the shoreline area of Sooke Bay. Other locations for siting this structure on the property are limited and would likely also require a variance request due to topographic constraints, the shape of the parcel and proximity to the shoreline. Staff have visited the site and are of the opinion that while there are other potential locations that the accessory building could have been located; the present location is less prominent compared to other areas on the property. Moreover, the location of the accessory building clusters existing development to one area, reducing the need to clear vegetation for the purposes of construction. The property’s irregularities and the placement of structures and/or buildings have a minimal impact on West Coast Road; are unimposing on the frontage of the road way, and are consistent with the community’s contextual character (Appendices C - E).

It is not anticipated that the accessory building imposes any hardships on neighboring 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 Land Use Committee for consideration.

Staff recommend approval of development variance permit VA000157; subject to public notification and consideration of comments from neighbouring residents.

CONCLUSION

The applicant has requested a variance to reduce the front yard setback and siting of an accessory building regulations within Bylaw No. 2040 for an existing building that was constructed without a permit in the Rural Residential 2 (RR-2) zone, in response to a stop work order that was posted on March 3, 2022. The accessory building has received approval from the Ministry of Transportation regarding the Ministry's required setback from a highway and is sited in a location that is not expected to create hardship on the neighbouring properties. Development variance permit VA000157 is included in Appendix F for consideration.

RECOMMENDATION

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

That Development Variance Permit VA000157 for Lot 1, Section 32, Otter District, Plan 25866, to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 6.07(a), by reducing the front yard setback from 7.5 m to 3.8 m; and Part 1, Section 4.01(1)(d) by allowing an accessory building to be located closer to the front lot line than the principle building to authorize the siting of a utility building, be approved.

Submitted by:	Iain Lawrence, MCIP, RPP, Senior Manager, JdF Local Area Services
Concurrence:	Kevin Lorette, P.Eng., MBA, Acting Chief Administrative Officer

ATTACHMENTS

- Appendix A: Subject Property Map
- Appendix B: Ministry of Transportation permit to reduce building setback less than 4.5 metres.
- Appendix C: Site Plan / Land Survey
- Appendix D: Building Elevation Drawings
- Appendix E: Site Photos
- Appendix F: Permit VA000157