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**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, FEBRUARY 15, 2022**

SUBJECT **Development Permit with Variance for Lot 1, Section 18, Otter District, Plan VIP53538, Except Part in Plan VIP77828 – 4460 Rannveig Place**

ISSUE SUMMARY

A request has been made for a riparian development permit with variance to reduce the requirement that 10% of a parcel fronts onto a highway for the purpose of creating a three-lot subdivision.

BACKGROUND

The 5.35 hectare (ha) subject property is located at 4460 Rannveig Place in Otter Point (Appendix A). The parcel is within the Otter Point Fire Protection Local Service Area and serviced by on-site wells and septic. The subject property was originally subdivided and removed from the Agricultural Land Reserve (ALR) in 1991. In 2004, the land was subdivided in order to provide a residence for a relative, creating the current plan configuration.

In 2011, the parcel was rezoned (CRD File: Z-07-10) to create a new AG-1 zone on the former ALR portion of the property and a new Rural A-1 zone on the remainder to permit a two-lot subdivision that was never completed. The property was the subject of a zoning amendment again in 2021 (RZ000269) to rezone the Rural A-1 portion of the property to Rural Residential 2 (RR-2) for the purpose of creating two 1.0 hectare parcels and to adjust the AG-1 zone boundary to align with the proposed plan of subdivision (Appendices B and C). There are currently agricultural buildings, accessory buildings and two dwellings on the property.

The property is partly designated as a Watercourses and Wetland Areas development permit area (DPA) by the Otter Point Official Community Plan (OCP), Bylaw No. 3819. A development permit is required as part of the subdivision process. Proposed Lots 1 and 2 are roughly panhandle configurations and do not meet the requirement that one tenth of the perimeter of the lot fronts on a highway. The owner is requesting a variance to reduce the frontage requirement for Lot 1 from 67.27 m (10%) of lot perimeter to 7.31 m (1.1%), and Lot 2 from 56.36 m (10%) of lot perimeter to 9.35 m (1.6%). Development Permit with variance DV000076 is included as Appendix D for consideration.

ALTERNATIVES

Alternative 1

The Land Use Committee recommends to the CRD Board:

That Development Permit with Variance DV000076, for Lot 1, Section 18, Otter District, Plan VIP53538, Except Part in Plan VIP77828, to authorize a three-lot subdivision and to vary Juan de Fuca Land Use Bylaw No. 2040, Part 1, Section 3.10(4) by reducing the frontage requirement for proposed Lot 1 from 10% (67.27 m) of lot perimeter to 1.1% (7.31 m), and for proposed Lot 2 from 10% (56.36 m) of lot perimeter to 1.6% (9.35 m), as shown on the plans prepared by J.E. Anderson, dated January 4, 2022, be approved.

Alternative 2

That Development Permit with Variance DV000076 be denied.

Alternative 3

That the application be referred back to staff for additional information.

IMPLICATIONS

Legislative Implications

The Otter Point Official Community Plan, Bylaw No. 3819, designates development permit areas (DPAs) and outlines development permit guidelines. The property is located within the Watercourses and Wetland Areas DPA and a development permit is required prior to subdivision or alteration of land. CRD Delegation of Development Permit Approval Authority Bylaw No. 3462, gives the General Manager, Planning and Protective Services, the authority to issue a development permit; however, the delegated authority does not include development permits that require a variance, as stated in Section 5(a) of the bylaw.

Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part 1, Section 3.10(4) specifies that the minimum frontage on the highway shall be one tenth of the perimeter of the lot that fronts on the highway. The proposed lots do 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. Juan de Fuca Development Fees and Procedures Bylaw No. 3885, states that the Board may, at any time, 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 February 15, 2022, Land Use Committee meeting. There is no requirement for public consultation if a local government is considering a development permit.

Land Use Implications

Development Permit:

A Riparian Assessment report was submitted by Thomas Roy, R.P.Bio., of Cascadia Biological Services, dated December 20, 2021. The report addressed the *Riparian Areas Protection Regulations (RAPR)* and Watercourses and Wetland Areas DP guidelines for the proposed subdivision. The report reviewed Orveas Creek, which flows from the north, through a portion of the subject property along the western boundary of the parcel, under Otter Point Place and eventually into Orveas Bay. The Riparian Assessment Area (RAA) is comprised of native vegetation with fields historically cleared for agricultural uses adjacent to the stream, and the watercourse is considered fish bearing. The report established a Streamside Protection and Enhancement Area (SPEA) of 15 m.

The report confirmed that the driveway and all structures located on proposed Lot 3 are outside of the SPEA, that no further development is proposed within the RAA, and that any future works within the RAA would require additional assessment. The proposal is not anticipated to affect stormwater flow or drainage, and the report stated that there are no floodplain concerns at this site.

Variance:

The Juan de Fuca Land Use Bylaw requires that where a lot being created by a subdivision fronts on a highway, the minimum frontage on the highway shall be one tenth of the perimeter of the lot. Proposed Lot 3 meets this requirement; however, proposed Lot 1 requires 67.27 m of frontage, but is proposed to have only 7.31 m (1.1%) and Proposed Lot 2 requires 56.36 m of frontage, but is proposed to have only 9.35 m (1.6%).

In evaluating whether a frontage exemption is justified, the following technical criteria are normally considered:

- How does it relate to the topography of the area?
- Does it create any environmental impacts?
- Will reducing the frontage produce an awkward lot configuration?
- Will reducing the frontage eliminate future subdivision potential of the lot and of lots beyond?
- Will the exemption reduce road network and access options?
- Does the proposed reduction disturb existing residences?

The proposed subdivision configuration clearly defines Lot 3 within the Agricultural 1 (AG-1) zone boundary and creates two additional parcels with a minimum lot size of 1 ha as required by the RR-2 zone. The plan shows an existing driveway access to fully developed Lot 3 on Rannveig Place, and a panhandle driveway access from the cul-de-sac at the north end of Rannveig Place over proposed Lot 1, which is currently vacant. Proposed Lot 2 has a dwelling under construction and is also provided frontage on the cul-de-sac; the access strip to the building area is narrow, but meets the minimum panhandle requirements of Bylaw No. 2040.

The shape of the parent parcel is somewhat irregular due to previous subdivision layout and the historical location of the Agricultural Land Reserve boundary. Reduction of the frontage requirement for the proposed parcels does not increase those irregularities. The proposed 7.31 m and 9.35 m panhandle widths comply with Section 3.10(5) of Bylaw No. 2040 for lots that cannot be further subdivided.

The owner will put in place a reciprocal access easement between Lots 1 and 2 to utilize the existing driveway and reduce the impact of the subdivision on the neighbouring property to the south. Proposed Lot 1 and Lot 2 have no designated Development Permit areas.

Since the number of accesses onto Rannveig Place will not increase as a result of the creation of the additional parcels, the proposed subdivision layout should not affect the existing road network and access options. The proposed lot boundaries follow natural topographical features and existing infrastructure, and allow for the separation of private yards and buffers from riparian areas. Any residents that may be affected by the proposed frontage reduction will have an opportunity to come forward with their concerns through the public notification process. Staff recommend approval of DV000076 subject to public notification.

CONCLUSION

The applicant has requested a Riparian development permit with a variance to reduce the 10% minimum parcel frontage requirement for a proposed three-lot subdivision at 4460 Rannveig Place in Otter Point. Any neighbouring residents that may be affected by the proposal will have an opportunity to come forward with their comments through the public notification process. Staff recommend approval of the development permit with variance subject to public notification.

RECOMMENDATION

The Land Use Committee recommends to the Capital Regional District Board:
That Development Permit with Variance DV000076, for Lot 1, Section 18, Otter District, Plan VIP53538, Except Part in Plan VIP77828, to authorize a three-lot subdivision and to vary Juan de Fuca Land Use Bylaw No. 2040, Part 1, Section 3.10(4) by reducing the frontage requirement for proposed Lot 1 from 10% (67.27 m) of lot perimeter to 1.1% (7.31 m), and for proposed Lot 2 from 10% (56.36 m) of lot perimeter to 1.6% (9.35 m), as shown on the plans prepared by J.E. Anderson, dated January 4, 2022, be approved.

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| Submitted by: | Iain Lawrence, MCIP, RPP, Senior Manager, JdF Local Area Services |
| Concurrence: | Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services |
| Concurrence: | Robert Lapham, MCIP, RPP, Chief Administrative Officer |

ATTACHMENTS

- Appendix A: Subject Property Map
- Appendix B: Zoning Map
- Appendix C: Plan of Subdivision
- Appendix D: Permit DV000076