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REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, JUNE 20, 2023

SUBJECT Development Permit with Variance for Lot 30, Section 98, Sooke District, Plan 33263 – 6067 Brecon Drive

ISSUE SUMMARY

A request has been made for a Development Permit with Variance to authorize construction of an accessory building within a designated Riparian Development Permit area, as well as to reduce the front yard setback requirement, increase the maximum height, and increase the maximum combined total floor area allowance for accessory buildings and structures on the lot, and to legalize the siting of the existing single-family dwelling.

BACKGROUND

The 0.2 ha property is located at 6067 Brecon Drive and is zoned Rural Residential 5 (RR-5) in the Juan de Fuca Land Use Bylaw No. 2040. The property is bounded by Brecon Drive to the north and RR-5 zoned properties to the east, south, and west (Appendix A). An unnamed stream runs south-to-north on the adjoining parcel to the west. Portions of the property are designated as Steep Slopes, and Riparian development permit areas by the East Sooke Official Community Plan, Bylaw No. 4000.

Four building permits were completed on the subject property: a single-family dwelling, which was given occupancy in 1988 (23428) along with a woodstove (37915) and detached garage (31361). An addition to the east side of the house was completed in 2010 (JD10-110). During the Planning review for the addition, it was identified that the double garage was constructed to be permanently attached to the dwelling via the carport and roofline; as such, it is considered part of the structure.

There are several temporary storage structures located on the parcel and the owner wishes to construct a detached garage with a loft area in the northwest corner of the subject property to provide permanent storage and workspace (Appendices B and C). Variances have been requested to reduce the front yard setback requirement, increase the maximum allowable height, and increase the maximum combined total floor area allowance for accessory buildings and structures. Development Permit with Variance DV000091 is included as Appendix D for consideration.

ALTERNATIVES

Alternative 1

The Land Use Committee recommends to the CRD Board:

That Development Permit with Variance DV000091 for Lot 30, Section 98, Sooke District, Plan 33263, to authorize construction of an accessory building within a Riparian Development Permit Area, and to vary Juan de Fuca Land Use Bylaw No. 2040, as follows:

1. Part 1, Section 4.01 (1)(d) to reduce the front yard requirement for an accessory building from 15 m to 6 m;
2. Part 1, Section 4.01 (2)(a) to increase the maximum height of an accessory building from 6 m to 7.32 m; and
3. Part 1, Section 4.01 (2)(c) to increase the maximum combined total floor area allowance for accessory buildings and structures from 100 m² to 167 m² on a lot with an area of more than 2,000 m² and less than 5,000 m²

be approved.

Alternative 2

That the Development Permit with Variance DV000091 be denied.

IMPLICATIONS

Legislative Implications

The East Sooke Official Community Plan, Bylaw No. 4000, designates development permit areas (DPAs) and outlines development permit guidelines. The property is located within the Riparian DPA and, unless an exemption applies, 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.

Given the location of the principal dwelling, Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 1, Section 4.01(d) specifies that accessory buildings shall be not less than 15 m from the front lot line. Section 4.01 (2)(a) specifies that an accessory building in a Rural Residential zone shall not exceed 6 m in height, and Section 4.01 (2)(c) specifies that the combined total floor area of all accessory buildings and structures on a lot with an area of more than 2,000 m² and less than 5,000 m² shall not exceed 100 m². The proposed development does not meet these requirements; therefore, variances are 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 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 June 20, 2023, 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 Areas Protection Regulations (RAPR)* Assessment Report, dated May 3, 2023, was submitted by Erin Vekic, R.P.Bio., of Corvidae Environmental Consulting. The Report reviewed a stream that originates to the south and flows north towards Sooke Basin though the neighboring property to the west in accordance with Provincial regulations and the East Sooke OCP Riparian Development Permit guidelines (Appendix E).

The biologist confirmed that a 10 m SPEA applies to the stream, and that the proposed siting of the garage provides an additional 2 m buffer for a total protected area of 12 m beyond the high-water mark. The report confirmed that the building site and all related services are located outside this area and that no further clearing is proposed as a part of the development.

Recommendations to protect the SPEA during construction are provided and include installation of silt fencing; storing materials and soils on dry, flat areas at least 15 m from the edge of the SPEA; and reducing the amount of time soils are exposed by placing straw or seeding disturbed areas until groundcover is established. The report was approved by the Province and notification was provided through the RAPR Notification System on May 18, 2023. Therefore, the report also addresses the Riparian DP guidelines. The professional report is attached to the proposed development permit (Appendix D).

Variances:

The accessory buildings and structures regulations of Bylaw No. 2040 specify that: where an accessory building is located closer to the front lot line than the principal building, the front yard setback shall be 15 m. The regulations also specify that the maximum height of an accessory building is 6 m and that the maximum combined total floor area allowance for accessory buildings and structures on a lot with an area of more than 2,000 m² and less than 5,000 m² is 100 m².

The owner has requested variances to reduce the front yard setback from 15 m to 6 m, to increase the maximum height from 6 m to 7.32 m, and to increase the maximum combined total floor area allowance for accessory buildings and structures from 100 m² to 167 m². The total floor area of the garage includes 131.4 m² for the main floor and 32.3 m² for the loft storage area.

The minimum lot size specified by the RR-5 zone is 0.4 ha; however, the subject property is only 0.2 ha as it was created through subdivision prior to adoption of the land use bylaw. The smaller lot size combined with the steep slope and riparian development permit areas restricts the available buildable area. The proposed variances are not anticipated to defeat the intent of the bylaw as the maximum lot coverage of 25% will not be exceeded and vegetated buffers adjacent to the watercourse, which provide a spatial separation with the adjoining property, will be maintained.

Development Permit with Variance DV000091 has been prepared for consideration to authorize construction of an accessory building within a designated development permit area and to grant variances to reduce the front yard setback requirement, increase the maximum height, and increase the maximum combined total floor area of accessory buildings. Any 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.

CONCLUSION

The applicant has requested a development permit with variance for the purpose of constructing a detached garage. The proposed variances are to reduce the front yard setback requirement for accessory buildings and structures from 15 m to 6 m, to increase the maximum height of accessory buildings and structures from 6 m to 7.32 m, and to increase the maximum combined total floor area of accessory buildings and structures from 100 m² to 167 m² on a lot with an area of more than 2,000 m² and less than 5,000 m².

Feasible building locations are restricted by the topography of the site and parcel size. Staff recommend approval of the development permit with variance subject to public notification. If the Permit is approved by the Board, the Corporate Officer will proceed to issue the Permit and register a Notice of Permit on Title.

RECOMMENDATION

The Land Use Committee recommends to the CRD Board:

That Development Permit with Variance DV000091 for Lot 30, Section 98, Sooke District, Plan 33263, to authorize construction of an accessory building within a Riparian Development Permit Area, and to vary Juan de Fuca Land Use Bylaw No. 2040, as follows:

1. Part 1, Section 4.01 (1)(d) to reduce the front yard requirement from 15 m to 6 m;
2. Part 1, Section 4.01 (2)(a) to increase the height permitted from 6 m to 7.32 m; and
3. Part 1, Section 4.01 (2)(c) to increase the maximum combined total floor area allowance for accessory buildings and structures from 100 m² to 167 m² on a lot with an area of more than 2,000 m² and less than 5,000 m²

be approved.

Submitted by:	Iain Lawrence, MCIP, RPP, Senior Manager, JdF Local Area Services
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Ted Robbins, B.Sc., C. Tech., Chief Administrative Officer

ATTACHMENTS

- Appendix A: Subject Property Map
- Appendix B: Site Plan
- Appendix C: Concept Building and Elevation Drawings
- Appendix D: Permit DV000091
- Appendix E: Development Permit Guidelines