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**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JUNE 21, 2022**

SUBJECT **Development Variance Permit for Section 42, Otter District Except That Part Lying 50 feet on Each Side of the Centre Line of the Right of Way Shown on Plan121 RW and Except That Part in Plan EPP63580 (Clark Road & Aythree Way)**

ISSUE SUMMARY

A request has been made for a variance to reduce the requirement that 10% of a parcel front onto a highway, and to reduce the minimum width of a panhandle access strip for the purpose of creating a seven-lot subdivision.

BACKGROUND

The 57.8 hectare (ha) property is zoned Forestry (AF) under the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, and located at the end of Aythree Road in Otter Point (Appendix A). The subject property is adjacent to other AF zoned parcels to the north and west, and to Rural (A) zoned parcels to the east and south. Portions of the proposed parcels are designated as Steep Slope, Watercourses and Wetlands, and Sensitive Ecosystem development permit areas. A large wetland and several watercourses are located on the parcel.

The owners have submitted subdivision and development permit applications (SU000704, DP000291, and DP000371) to create seven rural lots and a 15.5 ha remainder parcel (Appendix B). Proposed Lots 2-7 do not meet the requirement specified in Part 1, Section 3.10(4)(a) of Bylaw No. 2040 that one-tenth of the perimeter of the lot front a public highway; therefore, the applicants have requested variances.

In addition, proposed Lot 2 is a panhandle configuration and the applicants have requested a variance to reduce the minimum width of the panhandle strip from 20 m to 15.7 m. Development Variance Permit VA000155 is included as Appendix C for consideration.

ALTERNATIVES

Alternative 1:

The Land Use Committee recommends to the CRD Board:

That Development Variance Permit VA000155 for Section 42, Otter District Except That Part Lying 50 feet on Each Side of the Centre Line of the Right of Way Shown on Plan121 RW and Except That Part in Plan EPP63580 to vary:

- a) Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part 1, Section 3.10(4) by reducing the required frontage for:
 - i. Lot 2 from 231 m (10%) to 15.7 m (0.68%);
 - ii. Lot 3 from 112 m (10%) to 46 m (4.13%);
 - iii. Lot 4 from 116 m (10%) to 100 m (8.61%);
 - iv. Lot 5 from 134 m (10%) to 51.7 m (3.85%);
 - v. Lot 6 from 116 m (10%) to 38.3 m (3.3%);
 - vi. Lot 7 from 124 m (10%) to 49.4 m (3.99%); and
- b) Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part 1, Section 3.10(5)(b) by reducing the minimum width of a panhandle access strip from 20 m to 15.7 m;

for the purpose of creating a seven-lot subdivision, be approved.

Alternative 2:

The Land Use Committee recommends to the CRD Board:

That the development variance permit be denied and require that the subdivision comply with zoning requirements.

IMPLICATIONS

Legislative Implications

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. Proposed Lots 2-7 do not meet this requirement; therefore, variances are requested.

Part 1, Section 3.10 (5)(b) of Bylaw No. 2040 requires that if a panhandle lot is capable of being further subdivided under the provisions of the bylaw, the minimum width of the access strip at any point shall be 20 m. Proposed Lot 2 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 proposes to pass a resolution to issue a development variance permit, it must give notice to each resident/tenant within a distance specified by bylaw. Capital Regional District Bylaw No. 3885, Juan de Fuca Application 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 June 21, 2022, Land Use Committee meeting.

Land Use Implications

Frontage:

The Rural Lands accommodate larger rural residential parcel sizes with a density of one parcel per four hectares in the Otter Point Official Community Plan, Bylaw No. 3819. The proposed plan is consistent with the Rural Lands designation.

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?
- Does the proposed reduction disturb existing residences?
- Will the exemption reduce road network and access options?

The land that is the subject of this application is designated as Steep Slope, Watercourses and Wetlands, and Sensitive Ecosystem Development Permit Areas by the Otter Point OCP. Development permits DP000291 and DP000371 were issued to authorize the 7-lot subdivision and the construction of roads and works and services related to subdivision approval.

Part 1, Section 3.10(7) of Bylaw No. 2040 requires that side lot lines be substantially at right angles or radial to street lines unless the Approving Officer is satisfied that it is impractical to comply. The applicant has submitted the proposed access design to the Provincial Approving Officer as part of the subdivision review. With the exception of proposed Lot 2, the angle of the side lot lines to the north of the constructed road meet design requirements. The remainder parcel can only be accessed from Clark Road in the north due to the large wetland and watercourses on the lot. The requested variances are for vacant parcels within a proposed plan of subdivision and each lot has adequate frontage to provide individual accesses from the public roadway.

Panhandle:

The applicants have also requested a variance to reduce the panhandle width requirement specified in Part 1, Section 3.10 (5)(b) of Bylaw No. 2040 from 20 m to 15.7 m. The proposed panhandle extends approximately 135 m from the property's boundary at Aythree Road at a width of 15.7 m. Proposed Lot 2 is 11.6 ha and is capable of further subdivision under the current zone.

A 20 m wide panhandle is the standard requirement for designing vehicle access to any additional lots created by subdivision. Under this proposal, the 15.7 m panhandle would serve as access for Lot 2 from Aythree Road. While the minimum lot size specified by the zone would facilitate subdivision to create up to one additional lot, the owner's intended use of the property as an equestrian facility would make use of the entire parcel.

Through the public notification process, any residences that may be affected by the proposed frontage reduction will have an opportunity to come forward with their concerns. Staff recommend Alternative 1, subject to public notification and consideration of comments from neighbouring residents.

CONCLUSION

The applicant has submitted a seven-lot subdivision application and has requested a reduction of the minimum frontage requirement from 10% of the lot perimeter for several proposed parcels. A variance has also been requested to reduce the minimum width of the panhandle strip for proposed Lot 2 from 20 m to 15.7 m. Staff recommend approval of development variance permit VA000155 (Appendix C), subject to public notification.

RECOMMENDATION

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

That Development Variance Permit VA000155 for Section 42, Otter District Except That Part Lying 50 feet on Each Side of the Centre Line of the Right of Way Shown on Plan121 RW and Except That Part in Plan EPP63580 to vary:

- a) Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part 1, Section 3.10(4) by reducing the required frontage for:
 - i. Lot 2 from 231 m (10%) to 15.7 m (0.68%);
 - ii. Lot 3 from 112 m (10%) to 46 m (4.13%);
 - iii. Lot 4 from 116 m (10%) to 100 m (8.61%);
 - iv. Lot 5 from 134 m (10%) to 51.7 m (3.85%);
 - v. Lot 6 from 116 m (10%) to 38.3 m (3.3%);
 - vi. Lot 7 from 124 m (10%) to 49.4 m (3.99%); and
- b) Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part 1, Section 3.10(5)(b) by reducing the minimum width of a panhandle access strip from 20 m to 15.7 m;

for the purpose of creating a seven-lot subdivision, 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:	Bob Lapham, MCIP, RPP, Chief Administrative Officer

ATTACHMENTS

- Appendix A: Subject Property Map
- Appendix B: Sketch Plan of Proposed Subdivision
- Appendix C: Permit VA000155