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

SUBJECT **Development Permit with Variance for Lot 12, Section 10, Otter District, Plan VIP77477 – 2193 Otter Ridge Drive**

ISSUE SUMMARY

A request has been made for a development permit with variance to authorize subdivision on a parcel designated as a Sensitive Ecosystem Development Permit (DP) area, and to reduce the requirement that 10% of the lot perimeter of a parcel front onto a public highway.

BACKGROUND

The 0.7 hectare (ha) property is located at 2193 Otter Ridge Drive and is zoned Rural Residential 2 (RR-2) in the Juan de Fuca Land Use Bylaw No. 2040 (Appendix A). The subject property is bounded by Rural Residential 2 (RR-2) zoned parcels to the north and south, a Rural Residential 3 (RR-3) zoned parcel to the west, and by Otter Ridge Drive to the east. There is a single-family dwelling and accessory building accessed by an existing driveway located in the southeast corner of the parcel, adjacent to the road.

The applicant has submitted an application for a two-lot fee-simple subdivision (SU000737) (Appendix B). The RR-2 zone establishes an average minimum lot size of one hectare (ha); however, the application was made under Section 514 of the *Local Government Act* (Subdivision for a Relative). Including the panhandle, proposed Lot B is 0.28 ha, and the remainder parcel is 0.42 ha.

Portions of the parcel are designated as a Sensitive Ecosystem development permit area within the Otter Point Official Community Plan, Bylaw No. 3819; therefore, a development permit is required. Proposed Lot B does not meet the 10% minimum frontage requirement in Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 3.10(4); therefore, a frontage variance is also requested.

ALTERNATIVES

Alternative 1

The Land Use Committee recommends to the CRD Board:

That Development Permit with Variance DV000088 for Lot 12, Section 10, Otter District, Plan VIP77477, to authorize the subdivision of land designated as a Sensitive Ecosystems Development Permit Area; and to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 3.10(4) by reducing the minimum frontage requirement from 10% (31.6 m) of the lot perimeter to 1.93% (6 m) of the lot perimeter for proposed Lot B, as shown on the plans prepared by West Coast Design and Development Services, dated August 3, 2021, be approved.

Alternative 2

That the Development Permit with Variance DV000088 be denied.

IMPLICATIONS

Legislative Implications

The Otter Point Official Community Plan, Bylaw No. 3819, designates development permit areas (DPAs) and outlines development permit guidelines (Appendix C). The property is located within the Sensitive Ecosystem DPA; therefore, a development permit is required for subdivision. CRD Delegation of Development Permit Approval Authority Bylaw, 2009, Bylaw No. 3462, grants 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.

The Juan de Fuca Land Use Bylaw No. 2040, Part 2, Section 3.10(4), specifies that road frontage shall be a minimum of 10% of the perimeter of a parcel. A variance to reduce the minimum required frontage has been requested for proposed Lot B in order to permit the subdivision.

Public Consultation Implications

Pursuant to Section 499 of the LGA, 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 metres. Any responses received from the public will be presented at the June 21, 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:

An Environmental Review report was prepared by Patrick Lucey, R.P.Bio., of Aqua-Tex Scientific Consulting, to review the proposed subdivision in relation to the Sensitive Ecosystem DP guidelines. The report described the site conditions and characteristics, identified a man-made wetland on the adjacent parcel to the south and a natural wetland on the parcel to the west, noted that the remainder lot is fully developed with a dwelling and associated services, and confirmed that none of the trees within the designated Sensitive Ecosystem meet the definition of Mature Forest (being greater than 80 years old). The man-made wetland was determined to not be subject to the *Riparian Areas Protection Regulations (RAPR)* and the subject property is outside the 30 m Riparian Assessment Area associated with the natural wetland.

Recommendations from the report included that the panhandle driveway be constructed to avoid disturbance to the bed rock outcrop south of the existing dwelling on the proposed remainder lot, and that any cleared tree tops be checked by a botanist for the presence of Seaside Bone Lichen. If this species is identified, the top 2 m of any felled trees should be left on the parcel to encourage reproduction. The professional report is attached to the draft development permit with variance as an appendix.

Variance:

The Juan de Fuca Land Use Bylaw requires that where a lot being created by a subdivision fronts on a public highway, the minimum frontage on the highway shall be one-tenth of the perimeter of the lot. The applicant has proposed to reduce the minimum frontage requirement from 10% (31.6 m) to 1.93 % (6 m) for proposed Lot B.

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 lot boundaries are not at right angles to the road; however, the panhandle configuration is considered conforming on a cul-de-sac. The proposed panhandle meets the 6 m width requirement in the bylaw, and the parcel would be limited to a maximum lot coverage of 25%. The creation of one additional parcel is not expected to substantially affect the public road network or neighboring properties as the permitted uses support a single-family dwelling and related accessory uses, including one secondary suite subject to regulations.

Development Permit with Variance DV000088 has been prepared for consideration to authorize subdivision within a Sensitive Ecosystems Development Permit Area, and to grant a variance to reduce the minimum frontage requirement for proposed Lot B (Appendix D). 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 authorizing a 2-lot subdivision and wishes to reduce the minimum frontage requirement for proposed Lot B from 10% (31.6 m) of the lot perimeter to 1.9% (6 m) of the lot perimeter. A professional report was received to address the Sensitive Ecosystem DP guidelines. 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 Capital Regional District Board: That Development Permit with Variance DV000088 for Lot 12, Section 10, Otter District, Plan VIP77477 to authorize the subdivision of land designated as a Sensitive Ecosystems Development Permit Area; and to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 3.10(4) by reducing the minimum frontage requirement from 10 % to 1.93 % for proposed Lot B, as shown on the plans prepared by West Coast Design and Development Services, dated August 3, 2021, 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:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

ATTACHMENTS

- Appendix A: Subject Property Map
- Appendix B: Proposed Subdivision Plan
- Appendix C: Development Permit Guidelines
- Appendix D: Permit DV000088