



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, SEPTEMBER 19, 2017**

SUBJECT **Development Permit with Variance for Lot C, Section 9, Otter District,
Plan 14072 – 8418 West Coast Road**

ISSUE

A request has been made for a steep slopes and sensitive ecosystems development permit with variance to reduce the requirement that 10% of the parcel fronts onto a highway for the purpose of creating a two-lot subdivision in the Rural Residential 3 (RR-3) zone.

BACKGROUND

The 4.29 ha property is located at 8418 West Coast Road and is zoned Rural Residential 3 (RR-3) in the Juan de Fuca Land Use Bylaw No. 2040. The property is bounded by RR-3 zoned properties to the east and west, Rural A and Rural Residential 2 (RR-2) properties to the north and West Coast Road to the south (Appendix 1). The RR-3 zone permits a 2 ha minimum lot size for subdivision purposes and the applicant has received a Preliminary Layout Approval from the Provincial Approving Officer for a two-lot subdivision (Appendix 2).

The property is within the steep slopes and sensitive ecosystems development permit areas as established in the Otter Point Official Community Plan, Bylaw No. 3819. A development permit is required as part of the subdivision process.

The owner is requesting a variance to reduce the requirement that one tenth of the perimeter of the lot fronts on a highway. Proposed Lot 1 is 2.1 ha and requires 145 m of frontage, but has 59 m (4%). Proposed Lot 2 is also 2.1 ha and requires 155 m of frontage and has 63 m (4%).

ALTERNATIVES

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

1. That Development Permit with Variance DV000054 for Lot C, Section 9, Otter District, Plan 14072 for the purpose of creating a two-lot subdivision, be approved.
2. That Development Permit with Variance DV000054 be denied and require the development to comply with frontage requirements and that a Development Permit be obtained.
3. That the application be referred back to staff for more information.

LEGISLATIVE IMPLICATIONS

The Otter Point Official Community Plan, Bylaw No. 3819, Schedule A, Part 6, designates development permit areas and outlines development permit guidelines. The subject property is within the steep slopes and the sensitive ecosystem DP areas; therefore; a development permit is required.

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 being 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. 3110, 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 September 19, 2017 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: The applicant has submitted a geotechnical report prepared by James Russell, M.Sc., P.Eng., of Ryzuk Geotechnical, dated June 13, 2017, to address the steep slope development permit (DP) guidelines. The report describes the property as generally sloping up to the north with mature vegetation and a watercourse located approximately 300 m upslope of West Coast Road. The steep slope area is located in the vicinity of the watercourse. Due to the presence of the steep slopes in this area, the report establishes a northern limit for development without further geotechnical review. The area south of this boundary is considered safe from hazards and development in this area is considered safe.

Portions of the property are included in the mature forest category of the sensitive ecosystem development permit area. A report has been submitted by Craig Barlow, R.P.Bio., QEP, of Applied Ecological Solutions Corp., dated March 10, 2017, to address the DP guidelines. The portion of the property fronting West Coast Road is described as being partially developed with a single-family home, accessory buildings and driveway area. Evidence of tree clearing around existing structures has occurred to reduce the windthrow hazard. The northern portion of the property is forested and classified within the Coastal Douglas-Fir zone. A recorded Bald Eagle's nest is located approximately 70 m east of the subject property, but the report indicates this should not influence the acceptance of the subdivision application. There is a wide gully with steep embankments in the middle portion of the property that includes a wetland, but the qualified professional indicates that the *Riparian Areas Regulation* does not apply. The report recommends that all future development should occur within the already cleared area in the southern portion of the property.

Both reports recommend that future development of the property occur within the southern portion of the property adjacent to West Coast Road. The recommendations outlined in the reports are included as conditions in the development permit (Appendix 3).

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. The subject property was created by subdivision in 1960, prior to the establishment of local government frontage requirements, and has 8% of the perimeter of the lot fronting on West Coast Road.

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 property is level with West Coast Road with a gradual incline towards the north. There are no DP areas designated on the portion of the property adjacent to West Coast Road and no environmental impacts are anticipated from the construction of driveways in this area. The proposed lot configuration will result in narrow semi-triangular shaped parcels with no further subdivision potential, given the minimum lot size of 2.0 ha specified by the RR-3 zone.

A driveway provides access from West Coast Road to the existing home on proposed Lot 1. Construction of a new driveway on proposed Lot 2 would require an access permit from the Ministry of Transportation and Infrastructure (MoTI) as West Coast Road is designated as a controlled access highway. MoTI's acceptance of the subdivision requires driveways to be constructed to the satisfaction of the Provincial Approving Officer prior to final approval. The reduction in frontage from 10% to 4% (59 m on proposed Lot 1 and 63 m on proposed Lot 2) is considered adequate to provide access to each 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.

CONCLUSION

The applicant has requested a development permit with variance for a proposed two-lot subdivision at 8418 West Coast Road in Otter Point. Reports have been submitted to address the steep slopes and sensitive ecosystem development permit guidelines. The variance requested is to reduce the minimum parcel frontage requirement from 10% to 4% for the proposed lots. Staff recommend that the requested development permit with variance be approved, subject to public notification.

RECOMMENDATION

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

That Development Permit with Variance DV000054 for Lot C, Section 9, Otter District, Plan 14072 for the purpose of creating a two-lot subdivision, be approved.

Submitted by:	Emma Taylor, MA, MCIP, RPP, Planner
Concurrence:	Iain Lawrence, MCIP, RPP, Manager, Local Area Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Larisa Hutcheson, P.Eng., Acting Chief Administrative Officer

Appendix 1: Subject Property Map

Appendix 2: Plan of Subdivision

Appendix 3: Permit DV000054