



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, APRIL 16, 2019**

SUBJECT **Development Permit with Variance for Lot 1, Section 128, Sooke District, Plan VIP58851 – 5480, 5488, 5494 Mt. Matheson Road**

ISSUE

A request has been made for a development permit with variance to address the Steep Slopes, Riparian and Sensitive Ecosystem Development Permit (DP) guidelines, and to decrease the front yard setback requirement for an accessory building for a proposed three-lot subdivision in the Rural Residential 6A (RR-6A) zone.

BACKGROUND

The 4.05 ha property is located at 5480, 5488 and 5494 Mt. Matheson Road in East Sooke and was recently rezoned to Rural Residential 6A (RR-6A) for the purpose of creating a three-lot bare land subdivision (Appendices 1 and 2). The property is bounded by Rural A zoned properties to the east and west, the District of Sooke boundary to the north, and Mt. Matheson Road to the south.

There are three existing dwellings on the property that are accessed from a common driveway that crosses Doerr Creek and rises up from Mt. Matheson Road to the north. The dwellings are serviced by individual wells and septic systems.

The property is designated as a Steep Slopes, Riparian and Sensitive Ecosystem development permit area and a development permit is required as a condition of subdivision. A geotechnical engineer's report has been submitted to address the Steep Slope development permit guidelines and a biologist's report has been submitted to address the Riparian and Sensitive Ecosystem development permit guidelines.

There is an existing carport structure on the property that would become non-conforming with respect to siting upon registration of the proposed subdivision. The owner is requesting a variance to allow this structure within 2.76 m of the front property line on proposed Strata Lot 3 (Appendix 3).

ALTERNATIVES

Alternative 1:

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

That Development Permit with Variance DV000065, for Lot 1, Section 128, Sooke District, Plan VIP58851, to authorize a three-lot subdivision and to vary the Juan de Fuca Land Use Bylaw No. 2040, Part 1, Section 4.01(d) by reducing the front yard setback for an existing accessory building on proposed Strata Lot 3 from 15 m to 2.76 m, be approved.

Alternative 2:

That Development Permit with Variance DV000065 be denied and require the development to comply with zoning requirements and that a Development Permit be obtained.

Alternative 3:

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

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 Steep Slopes, Riparian and Sensitive Ecosystem DPAs and a development permit is required prior to the subdivision of land. CRD Delegation of Development Permit Approval Authority Bylaw No. 3462, gives the General Manager, Planning and Protective Services, the power 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 1, Section 4.01(d), specifies setback requirements for accessory buildings. A development variance permit is required in order to vary this requirement.

PUBLIC CONSULTATION IMPLICATIONS

Pursuant to Section 499 of the *Local Government Act (LGA)*, 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 given distance as specified by bylaw. Capital Regional District Bylaw No. 3885, Juan de Fuca Development 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 April 16, 2019, 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 submitted a geotechnical report prepared by Shane Moore, P.Geo., of Ryzuk Geotechnical, dated August 16, 2018, to assess the Steep Slope DP guidelines for the proposed subdivision. No other site disturbance is proposed at this time.

The geotechnical report describes the terrain as generally bedrock controlled with exposed bands of steeper terrain and near vertical bluffs in both the northern and southern portions of the property. The engineer does not consider the soil or rock slopes to be subject to large scale instability. Rock fall hazard is considered to be low and away from existing residential infrastructure. The report states that the land may be used safely for the use intended.

A report was prepared by Corvidae Environmental Consulting Inc. in August 2018 addressing the Riparian and Sensitive Ecosystem DP guidelines for the proposed subdivision. The report describes the existing gravel driveway that crosses a culverted roadside ditch. To the east and upstream of the culvert, the ditch is 1.5 m wide and less than 1 m deep. West and downstream of the culvert, the channel becomes wider and more well-defined. The watercourse is connected to Doerr Creek which is dammed upstream of the property. Due to the highly seasonal nature of the water flow, the report states that fish are unlikely to occur on the subject property, although the riparian area was noted to provide suitable habitat for amphibians.

The report lists plant species observed on site that are representative of the Coastal Western Hemlock biogeoclimatic zone. Three invasive species were observed along the roadside. No bird nests or wildlife species of concern were observed in the project area; however, observances of four species at risk are recorded within two kilometres of the property. As no construction or site disturbance is proposed for the subdivision, the report does not recommend mitigation measures.

The professional reports are attached to the proposed development permit for subdivision (Appendix 4).

Variance:

The owner has requested a variance to reduce the front yard setback from 15 m to 2.76 m on proposed Strata Lot 3 to allow the siting of an existing accessory building upon registration of the proposed subdivision (Appendix 3). The applicant proposes that the subdivision layout suits the topography, common driveway and existing dwellings. Rather than amending the proposed subdivision boundaries, the applicant is requesting a variance.

The general regulations for accessory buildings specify that no accessory building shall be located closer to the front lot line than the principal building, except that where the distance between the principal building and the front lot line is greater than 15 m, the accessory building shall not be less than 15 m from the front lot line. In the case of proposed Strata Lot 3, the front parcel line is the proposed lot line adjacent to the common access road/driveway and the existing carport is located 2.76 m from that boundary. The setback for accessory buildings from all other lot lines is 1 m.

Since the front property line of Strata Lot 3 demarks the end of the common access rather than a public road, which would present increased traffic safety concerns, and since there will be no change in the location of any existing structures relative to one another as a result of the subdivision, it is anticipated that granting the variance will have no negative impact on the future use and enjoyment of the subject property or the neighbouring properties.

Development Permit with Variance DV000065 has been prepared for consideration to authorize the proposed subdivision and siting of an existing accessory building (Appendix 4). Staff recommend approval of the development permit with variance, subject to public notification.

CONCLUSION

The applicant is requesting a Steep Slopes, Riparian and Sensitive Ecosystem development permit and a variance to reduce the front yard setback for accessory buildings from 15 m to 2.76 m for a three-lot bare land strata subdivision.

RECOMMENDATION

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

That Development Permit with Variance DV000065, for Lot 1, Section 128, Sooke District, Plan VIP58851, to authorize a three-lot subdivision and to vary the Juan de Fuca Land Use Bylaw No. 2040, Part 1, Section 4.01(d) by reducing the front yard setback for an existing accessory building on proposed Strata Lot 3 from 15 m to 2.76 m, be approved.

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

ET: wm

Attachments: Appendix 1: Subject Property Map
Appendix 2: Site Plan of Proposed Subdivision
Appendix 3: Building Location Survey
Appendix 4: Development Permit with Variance DV000065