



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

SUBJECT **Development Permit with Variance for Lot 2, Section 95, Sooke District,
Plan 45068 – 1021 Parkheights Drive**

ISSUE

A request has been made for a steep slopes, sensitive ecosystems, and riparian 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 6A (RR-6A) zone.

BACKGROUND

The 2.03 ha property is located at 1021 Parkheights Drive and was recently rezoned Rural Residential 6A (RR-6A) in the Juan de Fuca Land Use Bylaw No. 2040. The property is bounded by Rural Residential 3 (RR-3) zoned properties to the north and south, East Sooke Regional Park to the west, and Parkheights Drive to the east (Appendix 1).

The applicant has submitted an application for a two-lot subdivision in accordance with the provisions of the RR-6A zone that permit a 1 ha average minimum lot size with no lot smaller than 0.5 ha (Appendix 2). Proposed Lot A is 0.5 ha and proposed Lot B is 1.53 ha. As a condition of rezoning, a covenant has been registered on title restricting further subdivision of the lands.

The property is within the steep slopes, sensitive ecosystems, and riparian development permit areas as established in the East Sooke Official Community Plan, Bylaw No. 4000. A development permit is required as part of the subdivision process.

Proposed Lot B is a panhandle configuration and does not meet the requirement that one tenth of the perimeter of the lot fronts on a highway. The owner is requesting a variance to reduce the frontage requirement from 58.6 m (10%) of lot perimeter to 10.05 m (1.7%).

Development Permit with variance DV000066 is included as Appendix 3 for consideration.

ALTERNATIVES

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

1. That Development Permit with Variance DV000066, for Lot 2, Section 95, Sooke District, Plan 45068, to authorize a two-lot subdivision and to vary the Juan de Fuca Land Use Bylaw No. 2040, Part 1, Section 3.10(4) by reducing the frontage requirement for proposed Lot B from 58.6 m (10%) to 10.05 m (1.7 m), be approved.
2. That Development Permit with Variance DV000066 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 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 subdivision or alteration 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.

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. 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 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 has submitted a geotechnical report prepared by Richard Brimmell, M.Sc., P.Eng., of Brimmell Engineering, dated July 3, 2018, to address the steep slope development permit (DP) guidelines for the proposed subdivision. No site disturbance within the steep slope DP area is proposed at this time.

The geotechnical report describes Lot A as already being developed and without any geotechnical issues. Proposed Lot B has rolling terrain and includes a pond and stream. Localized steep areas within the southwest quadrant of the lot. No evidence of rockfall or slope instability was observed. The report indicates that the land is safe for the use intended and that future construction be inspected and approved by a geotechnical engineer.

A Riparian Assessment report was submitted by Jennifer McEwen, R.P.Bio., of Madrone Environmental Services, dated July 23, 2018. The report addresses the Riparian and Sensitive Ecosystem DP guidelines for the proposed subdivision, and confirmed that the location of the watercourse is not accurately represented on CRD mapping.

The report reviews a stream that flows from East Sooke Park, through a portion of the subject property, and into Anderson Cove. It was determined that the watercourse does meet the definition of a stream under *Riparian Areas Regulation*. The stream has a 7.5% average gradient with cascade-pool channel characteristics. The Riparian Assessment Area is comprised predominantly of native vegetation with one occurrence of an invasive species and a field historically cleared for horses and now comprised of tall grass and weeds. A wetland located on the adjacent property is connected to the stream. An existing driveway providing alternative access from Parkheights Drive to proposed Lot B is located within the Streamside Protection and Enhancement Area (SPEA) adjacent to the wetland. The driveway is considered legal non-conforming, which means that it can be maintained, but not expanded beyond its current footprint. Recent repairs to the driveway to allow vehicular access were approved by the R.P.Bio. An existing pond is located within proposed Lot B and is isolated with no inlet or outlet. The report recommends that, although the RAR does not apply to the pond, that a no-build setback be imposed around the pond to preserve the habitat.

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. Proposed Lot A meets this requirement; however, proposed Lot B requires 58.6 m of frontage, but is proposed to have only 10.05 m (1.7%).

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 subdivision configuration allows for the majority of existing residential development to be included in proposed Lot A along the frontage of Parkheights Drive, and for a panhandle access to the larger, proposed Lot B, which is currently vacant. The proposed lot boundaries follow natural topographical features and allow for separation of private yards and buffers from riparian areas and East Sooke Regional Park.

The panhandle access is not proposed as a driveway access, but could be developed in the future without environmental impacts. The owners have requested an easement over the adjacent property to the north to improve and utilize the existing driveway adjacent to the riparian area. Use of the existing driveway to the north is proposed in order to reduce the impact of the subdivision on the neighbouring property to the south. Proposed Lot B is approximately 1.5 ha and has building sites outside of the DP areas.

The panhandle access proposed is 10.05 m wide along Parkheights Drive, narrowing to 8.5 m before widening into the approximately 1.5 ha parcel. The proposed lot lines are generally at right angles and radial to street lines which is consistent with Section 3.10(7) of Bylaw No. 2040.

The proposed 8.5 m panhandle width complies with Section 3.10(5) of Bylaw No. 2040 for lots that cannot be further subdivided. A covenant is being registered on title of the land as part of the rezoning process to prevent further subdivision.

The proposed subdivision layout is not expected to affect road network and access options. East Sooke Regional Park lies beyond the subject property; however, CRD Regional Parks has commented that public or private access into the park should not to be made available at this location.

Any residents that may be affected by the proposed frontage reduction will have an opportunity to come forward with their concerns through the public notification process.

Staff recommend approval of DV000066 subject to public notification.

CONCLUSION

The applicant has requested a Steep Slopes, Riparian and Sensitive Ecosystem development permit with a variance to reduce the minimum parcel frontage requirement for a proposed two-lot subdivision at 1021 Parkheights Drive in East Sooke.

RECOMMENDATION

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

That Development Permit with Variance DV000066, for Lot 2, Section 95, Sooke District, Plan 45068, to authorize a two-lot subdivision and to vary the Juan de Fuca Land Use Bylaw No. 2040, Part 1, Section 3.10(4) by reducing the frontage requirement for proposed Lot B from 58.6 m (10%) to 10.05 m (1.7%), 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:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

ET:wm

Attachments:

- Appendix 1: Subject Property Map
- Appendix 2: Plan of Subdivision
- Appendix 3: Permit DV000066