



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, MAY 21, 2019**

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**SUBJECT**     **Development Permit with Variance for Lot 1, Section 43, Highland District,  
Plan 14620 – 6900 Mark Lane**

**ISSUE**

A request has been made for a steep slopes and a foreshore development permit with variance to reduce the rear and exterior side setback requirements for the purpose of renovating an existing residence and accessory buildings in the Community Residential One (CR-1) zone.

**BACKGROUND**

The 0.1 ha property is located at 6900 Mark Lane and is zoned Community Residential One (CR-1) and is within the steep slopes and the foreshore development permit areas designated by the Comprehensive Community Plan for Willis Point, 2002, Bylaw No. 3027. The property is bounded by CR-1 zoned properties to the south, Mark Lane to the east and north, and Saanich Inlet to the west (Appendix 1).

There is an existing residence on the property along with a boathouse, carport and pool building. A Board of Variance approval was granted in 1975 for construction of a swimming pool building to be located three feet from the south property line. However, the building permits were never completed and the setback was never verified. The other existing buildings are also non-conforming for siting and were never issued building permits.

The applicant now wishes to undertake extensive renovations to the existing residence and accessory buildings (Appendix 2). A report has been provided from Ryzuk Geotechnical to address the steep slope and foreshore development permit guidelines. The applicant is requesting variances to reduce the rear yard setback from 6 m to 1.5 m for renovation of the existing house, from 1.5 m to 0.1 m for renovation of the pool building, and to reduce the exterior side yard setback from 4.6 m to 0.8 m for improvements to the carport structure. Development Permit with variance DV000067 is included as Appendix 3 for consideration.

**ALTERNATIVES**

*Alternative 1:*

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

1. That Development Permit with Variance DV000067, for Lot 1, Section 43, Highland District, Plan 14620, to authorize construction in a steep slope and foreshore development permit area, and to vary the Comprehensive Community Plan for Willis Point, Bylaw No. 3027, Schedule B, Part III, Section 22(2)(d) by:
  - a) reducing the rear setback from 6 m to 1.5 m for renovation of the residence; and
  - b) reducing the rear setback from 1.5 m to 0.1 m for renovation of the accessory pool building; and
  - c) reducing the exterior side setback from 4.6 m to 0.8 m for improvements to the accessory carport and rock wall structures,be approved.

*Alternative 2:*

2. That Development Permit with Variance DV000067 be denied and require the development to comply with setback requirements and that a Development Permit be obtained.

*Alternative 3:*

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

### **LEGISLATIVE IMPLICATIONS**

The Comprehensive Community Plan for Willis Point, Bylaw No. 3027, Schedule A, designates development permit areas (DPAs) and outlines development permit guidelines. The property is located within the Steep Slopes and the Foreshore, Wetlands and Riparian Areas DPAs and a development permit is required prior to 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.

The Comprehensive Community Plan for Willis Point, Bylaw No. 3027, Schedule B, Part III, Section 22, specifies setback requirements for the CR-1 zone. The proposed construction does not meet these requirements; 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 May 21, 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 entire property is designated within the steep slope development permit (DP) area and the area within 15 m of the natural boundary of the sea is designated as a DP area for protection of the shoreline environment in Bylaw No. 3027. The applicant has submitted a geotechnical report prepared by Ryzuk Geotechnical to address the steep slope and foreshore DP guidelines.

The geotechnical report describes the site as sloping down from Mark Lane towards the west at a steep inclination of approximately 40 degrees. Some benched areas are occupied by the existing driveway and residential structures. The site is considered stable with some small-scale surficial instabilities. Evidence of surficial slope movement is noted with potential risk for rock slope instability during a seismic occurrence.

The proposed construction will generally be limited to the eastern portion of the property, including the main residence, accessory building, carport, and rock walls. The work will require local excavation such that new foundations extend to bedrock. The proposed renovations are feasible from a geotechnical perspective and installation of silt abatement fencing is recommended to limit sediment ingress to the marine area. No alteration of drainage or sloped areas are to occur. All foundations and retaining wall preparations will require further geotechnical review through the building permit process.

*Variance:*

The subject property has frontage on a highway along the north and east property boundaries. The northern boundary of the subject property is the shortest and is therefore considered the front parcel line having a 6 m setback requirement. The eastern boundary adjacent to Mark Lane is the exterior side parcel line with a 4.6 m setback. The rear parcel line, along the south, requires a 6 m setback and the west side parcel line requires a 1.5 m setback and compliance with the Foreshore DP guidelines.

The applicant is proposing to substantially renovate the existing house by removing interior floor area on the west side and converting it to exterior deck, with no change to the existing structural footprint within the foreshore DPA and the western 6 m rear setback. Additional residential floor area is proposed on the eastern and southern sides of the dwelling within the 6 m rear (south) setback. The applicant is requesting consideration of a variance in order to apply the 1.5 m setback along the southern boundary, consistent with the interior side setback requirement in the CR-1 zone.

Proposed renovations to the accessory pool building include removal of the top floor area and converting it to a rooftop garden terrace and retaining the existing storage below. The structure is currently non-conforming with respect to siting and the owners are requesting a variance to retain the existing concrete walls located 0.1 m from the rear (south) property line. Removal of the roof structure will reduce visibility from the road and adjacent properties. The applicant considers removal of the existing concrete work that previously supported the pool structure to be onerous and has instead designed the terrace within the existing footprint subject to approval of the variance.

The area around the existing non-conforming carport is determined to be unstable and improvements to the rock retaining wall are recommended by the geotechnical engineer. A new concrete retaining wall below the carport roof is proposed to be located 0.8 m from the exterior side parcel line adjacent to Mark Lane. The applicant is requesting a variance to reduce the setback from 4.6 m to 0.8 m for the purpose of completing this work. A structure permit from the Ministry of Transportation and Infrastructure will also be required for work in proximity to the highway.

Any residents that may be affected by the proposed variance will have an opportunity to come forward with their concerns through the public notification process. Staff recommend approval of DV000067 subject to public notification.

**CONCLUSION**

The applicant has requested a steep slopes and foreshore development permit with a variance to reduce the rear and exterior side setback requirements for the proposed renovation of a single-family dwelling and accessory buildings at 6900 Mark Lane in Willis Point.

## **RECOMMENDATION**

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

That Development Permit with Variance DV000067, for Lot 1, Section 43, Highland District, Plan 14620, to authorize construction in a steep slope and foreshore development permit area, and to vary the Comprehensive Community Plan for Willis Point, Bylaw No. 3027, Schedule B, Part III, Section 22(2)(d) by:

- a) reducing the rear setback from 6 m to 1.5 m for renovation of the residence; and
- b) reducing the rear setback from 1.5 m to 0.1 m for renovation of the accessory pool building; and
- c) reducing the exterior side setback from 4.6 m to 0.8 m for improvements to the accessory carport and rock wall structures,

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: Site Plan
- Appendix 3: Permit DV000067