



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

SUBJECT **Development Variance Permit for Lot 17, Section 43, Highland District, Plan 14620
- 6736 Mark Lane**

ISSUE

A request has been made for a development permit with variance to address the Steep Slope Development Permit guidelines and to reduce the side yard setback for the purpose of constructing an accessory building.

BACKGROUND

The 0.1 ha property is located at 6736 Mark Lane in Willis Point and is zoned Community Residential – One (CR-1) in the Comprehensive Community Plan for Willis Point, Bylaw No. 3027. The property is bounded by CR-1 zoned properties to the north and south, Mark Lane to the east, and the Saanich Inlet to the west (Appendix 1). The property is designated in the Steep Slopes and Foreshore development permit (DP) areas in Bylaw No. 3027.

A garage was constructed on the property in 1974 and a steep slopes development permit was issued in 2000 (DP-04-00) for the construction of a single-family dwelling. There is an existing 9.6 m² accessory building on the property that the owner wishes to improve by constructing a 34.4 m² addition (Appendix 2). The accessory building is located within the steep slopes development permit area and is within the 1.5 m side yard setback requirement of the CR-1 zone (Appendix 3).

The owner is requesting a steep slope development permit with variance to reduce the side yard setback from 1.5 m to 0.62 m for the purpose of constructing an addition to the accessory building. Development permit with variance DV000058 is included as Appendix 4 for consideration.

ALTERNATIVES

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

1. That Development Permit with Variance DV000058 for Lot 17, Section 43, Highland District, Plan 14620, to authorize construction in a Steep Slopes Development Permit Area, and to vary the Comprehensive Community Plan for Willis Point, Bylaw No. 3027, Schedule B, Part IV, Section 22.2(d)(ii), by reducing the side yard setback from 1.5 m to 0.62 m for the purpose of constructing an addition to an accessory building, be approved.
2. That the Development Permit with Variance DV000058 be denied and require the development to comply with zoning requirements and that a Development Permit be obtained.
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 DPA and a development permit is required prior to construction. 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 IV, Section 22.2(d)(ii), specifies that no building or structure shall be located within 1.5 m of an interior side parcel line. 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 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 metres. Any responses received from the public will be presented at the July 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 Ryzuk Geotechnical, dated May 30, 2019, to assess the Steep Slope DP guidelines for the proposed construction of an accessory building. The geotechnical report describes the site as westerly sloping towards the foreshore. Moderately steep slopes are present near Mark Lane and at the shore.

The proposed building location is approximately 5-8 m from the base of the moderate slope near Mark Lane. The slope is 3-4 m high and retained by 3 rows of stacked boulders lying at 40 degrees. It is lightly vegetated, bedrock controlled and globally stable, although some surficial movement is evident. The report confirms that there is no slope instability that would result in undue risk of hazard in the proposed location. Foundations should bear atop bedrock or native mineral soil and silt fencing is recommended for mitigating erosion if fine/sandy soils or seepage are encountered. Storm water is recommended to be stored or dispersed to non-erodible surfaces.

The recommendations in the geotechnical report have been inserted as conditions of the development permit and are deemed to address the Steep Slope DP guidelines in Bylaw No. 3027. A copy of the permit and geotechnical report is included in Appendix 4 for consideration.

Variance:

The owner is requesting a variance to add to an existing accessory building on the property. The 9.6 m² building is located 0.62 m from the southern side property boundary, which does not comply with the siting regulations for the CR-1 zone. The bylaw requires that accessory buildings be located at least 1.5 m from the side property lines. The proposed construction would add a second storey to the existing shed for storage and a carport; however, the proposed addition will not project further into the side yard requirement than the existing structure. The proposed addition will meet the 6 m setback requirement from the front property line.

The CR-1 zone permits a total floor area of accessory buildings of 10% of the parcel area. Based on the size of the subject property, a total floor area of 109 m² of accessory buildings could be constructed. There is an existing 28 m² studio and the proposed accessory building will be 44 m²; therefore, the proposed total floor area of accessory buildings complies with the bylaw. The proposal also complies with the 40% total lot coverage requirement for the subject property.

Development Permit with Variance DV000058 has been prepared for consideration to authorize construction of an addition to the existing shed and to grant a variance to reduce the setback requirement from 1.5 m to 0.62 m from the southern side property line (Appendix 4). 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 DV000058 subject to public notification.

CONCLUSION

The applicant has requested a Steep Slopes development permit with a variance to reduce the side yard setback for accessory buildings from 1.5 m to 0.62 m for construction of an addition to an accessory building.

RECOMMENDATION

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

That Development Permit with Variance DV000058 for Lot 17, Section 43, Highland District, Plan 14620, to authorize construction in a Steep Slopes Development Permit Area, and to vary the Comprehensive Community Plan for Willis Point, Bylaw No. 3027, Schedule B, Part IV, Section 22.2(d)(ii), by reducing the side yard setback from 1.5 m to 0.62 m for the purpose of constructing an addition to an accessory building, be approved.

Submitted by:	Emma Taylor, MA, MCIP, RPP, Planner
Concurrence:	Iain Lawrence, MCIP, RPP, Manager, Juan de Fuca Community 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: Building Plans

Appendix 3: Site Plan

Appendix 4: Permit DV000058