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REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, JULY 21, 2020

SUBJECT **Development Permit with Variance for Lot A, Section 89, Sooke District, Plan VIP54145**

ISSUE SUMMARY

A request has been made for a development permit with variance to address the Steep Slopes and Shoreline Protection Development Permit (DP) guidelines and to vary the rear yard setback and the allowable projection of a deck into the rear yard setback for an addition to an existing single family dwelling in the Rural Residential 6 (RR-6) zone.

BACKGROUND

The 0.8 ha property is located at 7004 East Sooke Road and is within the Steep Slopes and Shoreline Protection development permit areas as designated by the East Sooke Official Community Plan, 2018, Bylaw No. 4000. The property is bounded by RR-6 zoned properties to the east and west, East Sooke Road to the south, and Sooke Harbour to the north (Appendix A).

There is an existing residence on the property along with an accessory building. Building Permit approval was granted in 1976 for construction of the single family dwelling; however, the building permit was never completed and lapsed in 1994 according to CRD dormant files policy.

An extensive renovation to the dwelling, including an expansion of the deck, was recently initiated prior to permit approvals; this resulted in a complaint to Bylaw Enforcement, a stop work order and violation file (VF000495). The applicant has applied for a building permit and development permit to complete alterations to the structure (Appendix B).

The applicant is requesting a variance to decrease the minimum rear yard setback required for the deck post and to increase the allowable projection of the deck beyond the post into the setback (Appendix C). A report has been provided by Richard T. Moser, P.Eng., of Ryzuk Geotechnical to address the Steep Slope and Shoreline Protection development permit areas and to satisfy requirements for registration of a Section 219 covenant associated with the building permit (Appendix E). Development Permit with variance DV000072 is included for consideration (Appendix F).

ALTERNATIVES

Alternative 1

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

That Development Permit with Variance DV000072 for Lot A, Section 89, Sooke District, Plan VIP54145 to permit alterations to a single-family dwelling in a Steep Slopes, and a Shoreline Protection Development Permit Area; and to vary Part 2, Section 10.09(d) by decreasing the minimum rear yard setback from 10 m to 7.5 m, and to vary Juan de Fuca Land Use Bylaw No. 2040, Part 1, Section 4.10 (1)(a) by increasing the maximum deck projection allowance into the rear yard setback from 1 m to 1.6 m, be approved.

Alternative 2

That Development Permit with Variance DV000072 be denied.

Alternative 3

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

IMPLICATIONS

Legislative Implications

The East Sooke Official Community Plan, Bylaw No. 4000, designates development permit areas (DPAs) and outlines development permit guidelines (Appendix D). The property is located within the Steep Slope and Shoreline Protection DPAs; therefore, a development permit is required. CRD Delegation of Development Permit Approval Authority Bylaw, 2009, 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 2, Section 10.09(d) specifies that the minimum rear yard setback in the RR-6 zone is 10 m. Since the northwest corner deck post is sited 7.5 m from the rear property boundary, a variance is required.

The Juan de Fuca Land Use Bylaw No. 2040, Part 1, Section 4.10 (1)(a) specifies that features on storeys above ground level may project up to 1 m into the required yard of the zone. Since the projection of the deck into the rear yard setback is greater than 1 m, a variance is required.

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 the owners of property within a distance of 500 metres of the subject property. Any responses received from the public will be presented at the July 21, 2020, Land Use Committee meeting. There is no legislative requirement for public consultation if a local government is considering the issuance of a development permit.

Land Use Implications

Development Permit:

The owner has submitted a geotechnical report prepared by Richard T. Moser, P.Eng., of Ryzuk Geotechnical, dated April 15, 2020, and amended May 20, 2020, to address the Steep Slope and Shoreline Protection DP guidelines for the proposed development (Appendix E). The report provided an assessment of the conditions found at the site, described potential impacts of the alterations, and provided recommendations for the proposed development. The report identifies that the proposed alterations will not significantly increase the footprint of the house; as such, effects will be minimal within the development permit areas.

The Report included a minimum flood construction level (FCL) calculation in keeping with the Provincial guidelines for coastal development and sea level rise. The dwelling and deck are setback from the top of a rocky bluff, which the Engineer confirmed is not susceptible to erosion. The Report will be secured via a Section 219 covenant as part of the building permit process in accordance with Section 56 of the *Community Charter*.

Variance:

The Rural Residential 6 (RR-6) zone regulations specify that the rear yard setback shall be a minimum of 10 m, and the general regulations in the land use bylaw specify that any projections into required setbacks be a maximum of 1 m. The northwest corner deck post is located 7.5 m from the rear property boundary and the deck projects a further 1.6 m beyond the post. The proposal otherwise meets requirements for the zone.

Development Permit with Variance DV000072 has been prepared for consideration to authorize the construction of an addition to a single-family dwelling partially located within a Steep Slopes and Shoreline Protection Development Permit Area, and to vary the siting of the deck by reducing the rear yard setback and increasing the maximum allowable projection (Appendix F). 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 the development permit with variance subject to public notification.

CONCLUSION

The applicant has requested a development permit with variance to authorize construction of an addition to a single family dwelling and increase the maximum allowable projection of a deck into the required rear yard setback. Since there will be minimal impact to the Steep Slope and Shoreline Protection development permit areas, staff recommend approval of the development permit with variance subject to public notification. If the Permit is approved by the Board, the Corporate Officer will proceed to issue the Permit and register a Notice of Permit on Title.

RECOMMENDATION

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

That Development Permit with Variance DV000072 for Lot A, Section 89, Sooke District, Plan VIP54145 to permit alterations to a single-family dwelling and deck located within in a Steep Slopes and a Shoreline Protection Development Permit Area; and to vary Part 2, Section 10.09(d) by decreasing the minimum rear yard setback from 10 m to 7.5 m, and to vary Juan de Fuca Land Use Bylaw No. 2040, Part 1, Section 4.10 (1)(a) by increasing the maximum deck projection allowance into the rear yard setback from 1 m to 1.6 m, be approved.

Submitted by:	Iain Lawrence, MCIP, RPP, Manager, Juan de Fuca Community Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, Acting Chief Administrative Officer

ATTACHMENTS

Appendix A: Subject Property Map
Appendix B: Building Plans
Appendix C: Site Plan with Variance
Appendix D: Development Permit Guidelines
Appendix E: Geotechnical Report
Appendix F: Permit DV000072