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REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, SEPTEMBER 21, 2021

SUBJECT Development Permit with Variance for Strata Lot 7, Section 97, Sooke District, Strata Plan EPS6132 – 6301 Quail Peak Place

ISSUE SUMMARY

A request has been made for a Development Permit with Variance to authorize construction of a single family dwelling, reduce the front yard and side yard setback requirements, and permit that parking be located within the front yard setback of a residential parcel.

BACKGROUND

The 0.26 ha property is located at 6301 Quail Peak Place and is zoned Rural Residential 5 (RR-5) in the Juan de Fuca Land Use Bylaw No. 2040. The property is bounded by RR-5 zoned properties to the north and east, Quail Peak Place to the west, and Cole Road to the south (Appendix A).

An unnamed stream runs southwest to northeast, roughly bisecting the parcel. Portions of the property are designated as Steep Slopes, Riparian, and Sensitive Ecosystem development permit areas within in the East Sooke Official Community Plan, Bylaw No. 4000 (Appendix B). A development permit is required to authorize works in designated development permit areas. Site servicing requirements and building site preparations were completed on the northwest corner of the parcel as part of the subdivision that created the strata lot, and the new owner now wishes to construct a dwelling in that location (Appendices C and D).

In order to avoid the Streamside Protection and Enhancement Area (SPEA) associated with the stream, the owner is requesting variances to reduce the front yard setback requirement from 7.5 m to 5.5 m, the side yard setback requirement from 6 m to 2.5 m, and waive the requirement that no parking be located within the front yard setback of a parcel.

Development Permit with Variance DV000078 is included as Appendix F for consideration.

ALTERNATIVES

Alternative 1

The Land Use Committee recommends to the CRD Board:

That Development Permit with Variance DV000078 for Strata Lot 7, Section 97, Sooke District, Strata Plan EPS6132, to authorize construction of a single-family dwelling within a Riparian and Sensitive Ecosystem Development Permit Area, and to vary Juan de Fuca Land Use Bylaw No. 2040, as follows:

1. Part 2, Section 9.09(a) to reduce the front yard requirement from 7.5 m to 5.5 m;
2. Part 2, Section 9.09(b) to reduce the side yard requirement from 6 m to 2.5 m; and
3. Part 3, Section 6.0(3) to permit parking to be located within the required front yard be approved.

Alternative 2

That the Development Permit with Variance DV000078 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. The property is located within the Steep Slopes, Riparian, and Sensitive Ecosystem DPAs and, unless an exemption applies, 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 authority 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, Part 2, Section 9.09(a) and (b) specify that the minimum front and side yard setbacks be 7.5 m and 6 m respectively, and Part 3, Section 6.0(3) specifies that no parking area shall be located within the required front yard for the zone within which the lot is located. The proposed development does not meet these requirements; therefore, variances are 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 metres. Any responses received from the public will be presented at the September 21, 2021, 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:

A *Riparian Areas Protection Regulations (RAPR)* Assessment Report was submitted by Thomas Roy, R.P.Bio., of Cascadia Biological Services, dated May 30, 2021. The report reviews a stream that originates from several parcels located south of Cole Road and flows through the subject property towards Sooke Basin. The report addresses the CRD Riparian DP guidelines for the proposed development (Appendix E).

The Riparian Assessment Area is comprised predominantly of native vegetation. The biologist confirmed that a 10 m SPEA applies, and that an additional 5 m buffer for a total protected area of 15 m beyond the high water mark is required. The report confirmed that all services and the previously cleared building site are located beyond the 15 m boundary. No further clearing is proposed as a part of the development and development that is subject to the *RAPR* is exempt from the Sensitive Ecosystem development permit area.

Recommendations to protect the SPEA during construction are provided and include regular monitoring and a post construction report completed by a qualified environmental professional (QEP). The report was approved by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development in the *RAPR* Notification System on July 7, 2021. The professional report is attached to the proposed development permit (Appendix F).

Development Permit DP000287 authorizing site servicing for the parcels within Plan EPS6132 was issued as a part of subdivision. Construction of a dwelling under a valid Building Permit is exempt from Steep Slopes development permit area requirements as established by the East

Sooke Official Community Plan Bylaw no. 4000, Section 514(C), provided that no other part of the land in the Steep Slope DPA will be altered for other purposes. As proposed, the development meets the Steep Slope DP exemption criteria.

Variances:

The Rural Residential 5 (RR-5) zone regulations specify that front yard setbacks shall be a minimum of 7.5 m and that side yard setbacks shall be a minimum of 6 m. The owner has requested variances to reduce the front yard setback by 2 m to 5.5 m and to reduce the side yard setback by 3.5 m to 2.5 m for the proposed single family dwelling. The site plan indicates that the anticipated setbacks are 5.58 m (front) and 2.88 m (side); however, the owner has requested further reduced setbacks to provide a construction buffer.

The Location, Development and Maintenance Requirements for Public and Private Parking Areas regulations within Juan de Fuca Land Use Bylaw No. 2040 outlines parking requirements for residential development and specifies that no parking area shall be located in the required front yard of a zone. Two parking spaces are proposed in the front yard setback adjacent to the strata access road.

The minimum lot size specified by the RR-5 zone is 0.4 ha; however the subject property is only 0.26 ha, which was achieved through bareland strata lot averaging. The smaller lot size, combined with the required SPEA setback for the creek transecting the parcel places restriction on the buildable area and parking locations. Staff note that the requested side yard setback variance is adjacent to a vacant lot within the strata and that the reduced front yard setback and parking are adjacent to the internal strata access road.

Development Permit with Variance DV000078 has been prepared for consideration to authorize construction of a single-family dwelling within designated development permit areas and to grant variances to reduce the front yard setback requirement from 7.5 m to 5.5 m, the side yard setback requirement from 6 m to 2.5 m, and to permit parking within the front yard setback. 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 for the purpose of constructing a single-family dwelling. The proposed variances are to reduce the front yard setback requirement from 7.5 m to 5.5 m, reduce the side yard setback requirement from 6 m to 2.5 m, and to allow that parking be located within the front yard setback of the parcel. Since feasible building locations are restricted by the topography of the site and the predominance of the Riparian development permit area, 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

The Land Use Committee recommends to the CRD Board:

That Development Permit with Variance DV000078 for Strata Lot 7, Section 97, Sooke District, Strata Plan EPS6132, to authorize construction of a single-family dwelling within a Riparian and Sensitive Ecosystem Development Permit Area, and to vary Juan de Fuca Land Use Bylaw No. 2040, as follows:

1. Part 2, Section 9.09(a) to reduce the front yard requirement from 7.5 m to 5.5 m;
 2. Part 2, Section 9.09(b) to reduce the side yard requirement from 6 m to 2.5 m; and
 3. Part 3, Section 6.0(3) to permit parking to be located within the required front yard
- be approved.

Submitted by:	Iain Lawrence, MCIP, RPP, Manager, Juan de Fuca Community Planning
Concurrence:	Michael Barnes, MPP, Acting General Manager, Planning & Protective Services
Concurrence:	Nelson Chan, MBA, FCPA, FCMA, Acting Chief Administrative Officer

ATTACHMENTS

Appendix A: Subject Property Map
Appendix B: Development Permit Areas Map
Appendix C: Site Plan with Requested Variances
Appendix D: Building Elevation Drawings
Appendix E: Development Permit Guidelines
Appendix F: Permit DV000078