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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 Section 4, Renfrew District, Except Those Parts in Plans 427R, 23879, VIP68644, VIP79213, VIP80549, VIP82411, and EPP69011**

ISSUE SUMMARY

A request has been made for a development permit with variance to authorize subdivision on a parcel designated as Steep Slope, Riparian, and Sensitive Ecosystem Development Permit (DP) areas and to reduce the requirement that 10% of a parcel fronts onto a highway.

BACKGROUND

The subject property is a 145 ha parcel located at 12036 West Coast Road and is zoned Wildwood Terrace 4 (WT-4) and Commercial (C-1A) in Juan de Fuca Land Use Bylaw No. 2040 (Appendix A). That part of the subject property that is the subject of this application is bounded by French Beach Provincial Park and Resource Land (RL) zoned parcels to the west, Wildwood Terrace 1 (WT-1), Wildwood Terrace 2 (WT-2), and Wildwood Terrace 3 (WT-3) zoned parcels to the east, the remainder of Section 4 to the north, and West Coast Road to the south. The parcel is designated as Private Managed Forestry Land (PMFL) under the *Private Managed Forest Land Act*. The C-1A portion of Section 4 is located in the south east corner and is the subject of rezoning application RZ000267 to permit food and beverage processing and liquor lounge (brewery).

The rural residential areas of Section 4, including the WT-1, WT-2, WT-3 zoned areas, as well as the present subdivision proposal, are accessed via Trailhead Drive from West Coast Road. Access to the proposed subdivision, known as "Creekside Glen", crosses Second Creek, which roughly forms the eastern boundary of the subject area (Appendix B).

The owner has submitted a subdivision application for the creation of 12 fee simple parcels (Appendix C). Portions of the area are designated as Steep Slope, Riparian, and Sensitive Ecosystem development permit areas; therefore, a development permit is required. The plans show a reduction to the required 10% minimum road frontage for several of the proposed lots; therefore, a variance is also requested.

ALTERNATIVES

Alternative 1

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

That Development Permit with Variance DV000081 for Section 4, Renfrew District, except those parts in Plans 427R, 23879, VIP68644, VIP79213, VIP80549, VIP82411, and EPP69011 to authorize the subdivision of land designated as Steep Slope, Riparian, and Sensitive Ecosystems Development Permit Areas; and to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 3.10(4) by reducing the minimum frontage requirement from 10% to 1.5% for proposed Lot 1, 5% for proposed Lot 2, 1.1% for proposed Lot 5, 6.2% for proposed Lot 6, 0.9% for proposed Lot 7, 2.5% for proposed Lot 8, 0.5% for proposed Lot 11, and 0.7% for proposed Lot 12, as shown on the Tentative Plan of Subdivision, prepared by J.E. Anderson, dated August 23, 2021, be approved.

Alternative 2

That the Development Permit with Variance DV000081 be denied.

Alternative 3

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

IMPLICATIONS

Legislative Implications

The Shirley-Jordan River Official Community Plan, Bylaw No. 4001, designates development permit areas (DPAs) and outlines development permit guidelines (Appendix D). The property is located within the Steep Slopes, Riparian, and Sensitive Ecosystem DPAs; therefore, a development permit is required for subdivision. 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 3.10(4), specifies that road frontage shall be a minimum of 10% of the perimeter of a parcel. Variances to reduce the minimum frontage required is requested for proposed lots 1, 2, 5, 6, 7, 8, 11, and 12 in order to permit the subdivision.

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. JdF Community Planning will provide notice accordingly. 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 Geotechnical report prepared by Jordan Gybels, EIT, and Andrew Jackson, P.Geo., P.L.Eng. of Ryzuk Geotechnical described the site and addresses the steep slope development permit guidelines relative to the proposal. The engineers confirmed that a safe building site exists for each parcel and provided Landslide Assessment and Flood Assurance Statements for the subdivision design. Any future development activities proposed within the designated development permit areas on the newly created parcels require a subsequent Development Permit application and accompanying professional report.

An Environmental Assessment report was prepared by Brent Rutley, BIT, B.Sc., and Julie Budgen, R.P.Bio., B.Sc., of Corvidae Environmental Consulting Inc., addressing the Riparian DP and Sensitive Ecosystem DP guidelines for the proposed subdivision. The Report described the site conditions and provided recommendations to protect riparian and sensitive ecosystem areas. The biologists' report included the CRD's Subdivision Referral Report to the Ministry of Transportation and Infrastructure as an appendix and specified that no further action was specified for the frontage condition; however, the referral report dated October 26, 2020 was prepared to address an earlier 14-lot strata subdivision proposal for the parcel and has since been updated to identify the frontage requirements for the new layout.

The Report noted that the property is designated as PMFL and has been modified by past logging activity. Three streams that drain into Second Creek were identified and the Streamside Protection and Enhancement Area (SPEA) for these streams was calculated to be 10 m. Two

ditches adjacent to historical logging roads were also identified. The SPEA for these watercourses was calculated to be 5 m.

Works associated with the subdivision include the installation of several culverts and instream restoration works, including the reconnection of a roadside ditch to Second Creek. These works were authorized under Section 11 of the *Water Sustainability Act (WSA)* by the Ministry of Forests, Lands, Natural Resource Operations, and Rural Development. The Report noted that the SPEAs have been calculated to adequately protect the streams in perpetuity; therefore, the SPEAs should be flagged on site and no clearing of vegetation or disturbance should occur within those areas. *Riparian Areas Protection Regulation (RAPR)* assessment reports and development permits will be required prior to the construction of driveways and buildings on Lots 2-6, 8-10 and 12.

The professional reports are attached to the proposed development permit with variance (Appendix E).

Variance:

The Juan de Fuca Land Use Bylaw requires that where a lot being created by a subdivision fronts on a public highway, the minimum frontage on the highway shall be one-tenth of the perimeter of the lot. Proposed Lots 3, 4, 9, and 10 meet this requirement; however, the applicant has proposed to reduce the minimum frontage requirement from 10% to 1.5% for proposed Lot 1, 5% for proposed Lot 2, 1.1% for proposed Lot 5, 6.2% for proposed Lot 6, 0.9% for proposed Lot 7, 2.5% for proposed Lot 8, 0.5% for proposed Lot 11, and 0.7% for proposed Lot 12.

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 lot boundaries are not conventional, but they follow the natural topography and are designed to minimize stream crossings through the use of panhandle driveways and shared access driveways. The proposed parcels meet the required minimum of 1 ha specified by the WT-4 zone. The subdivision layout is not expected to affect the road network, or neighboring properties since the development otherwise complies with the regulations of the zone in terms of overall density. Parcels are limited to a maximum lot coverage of 25% and permitted uses support a single-family dwelling and related accessory uses, including a secondary or detached accessory suite.

Development Permit with Variance DV000081 has been prepared for consideration to authorize a 12-lot subdivision in Steep Slopes, Riparian, and Sensitive Ecosystems Development Permit Areas and to grant a variance to reduce the 10% minimum frontage requirement for proposed lots 1, 2, 5, 6, 7, 8, 11, and 12 (Appendix E). 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 authorizing a 12-lot subdivision and wishes to reduce the 10% minimum frontage requirement for several of the proposed parcels. Section 11 approvals were issued by the Province for works associated with the watercourses present on the property as they relate to land alteration and subdivision in accordance with the Riparian DP guidelines, and a geotechnical report has been received that addresses the Steep Slope DP guidelines. Therefore, 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 Capital Regional District Board:
That Development Permit with Variance DV000081 for Section 4, Renfrew District, except those parts in Plans 427R, 23879, VIP68644, VIP79213, VIP80549, VIP82411, and EPP69011 to authorize the subdivision of land designated as Steep Slope, Riparian, and Sensitive Ecosystems Development Permit Areas; and to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 3.10(4) by reducing the minimum frontage requirement from 10% to 1.5% for proposed Lot 1, 5% for proposed Lot 2, 1.1% for proposed Lot 5, 6.2% for proposed Lot 6, 0.9% for proposed Lot 7, 2.5% for proposed Lot 8, 0.5% for proposed Lot 11, and 0.7% for proposed Lot 12, as shown on the Tentative Plan of Subdivision, prepared by J.E. Anderson, dated August 23, 2021, be approved.

Submitted by:	Iain Lawrence, MCIP, RPP, Manager, Juan de Fuca Community Planning
Concurrence:	Emily Sinclair, MCIP, RPP, Acting General Manager, Planning & Protective Services
Concurrence:	Ted Robbins, B.Sc., C. Tech, Acting Chief Administrative Officer

ATTACHMENTS

Appendix A: Subject Property Map
Appendix B: Subdivision Site Limit Map
Appendix C: Tentative Plan of Subdivision with Requested Frontage Variances
Appendix D: Development Permit Guidelines
Appendix E: Permit DV000081