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REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, OCTOBER 19, 2021

SUBJECT **Development Permit with Variance for Lot 9, Section 129, Sooke District, Plan VIP67208 – 590 Seedtree Road**

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 the lot perimeter of a parcel front onto a public highway.

BACKGROUND

The 4.03 hectare (ha) property is located at 590 Seedtree Road and is zoned Rural Residential 6A (RR-6A) in the Juan de Fuca Land Use Bylaw No. 2040 (Appendix A). The subject property is bounded by Rural (A) zoned parcels to the east, north, and west, and by Seedtree Road and the approximate end of Seedtree Creek to the south. There is a single-family dwelling accessed by an existing driveway located in the southwest corner of the parcel, adjacent to the road and creek. An additional gravel driveway accesses the northern portion of the parcel from the front lot line, and is the approximate location of the proposed common property access for the strata parcels.

The subject property was recently rezoned from Rural (A) to RR-6A (RZ000260) in accordance with the Settlement policies of the East Sooke Official Community Plan, 2018, Bylaw No. 4000. The applicant has now submitted an application for a two-lot fee-simple subdivision (SU000725) and a separate application for a three-lot bare land strata subdivision (SU000726) (Appendix B). The RR-6A zone establishes an average minimum lot size of one hectare (ha). As part of the two-lot subdivision, proposed Lot A is 1.02 ha and will remain as fee simple, while proposed Lot B, which will be further subdivided into three bare land strata lots, is 3.01 ha.

Portions of the parcel are designated as Steep Slope, Riparian, and Sensitive Ecosystem development permit areas; therefore, a development permit is required. Both proposed parcels in the first phase of subdivision do not meet the 10% minimum frontage requirement in Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 3.10(4); therefore, frontage variances are also requested.

ALTERNATIVES

Alternative 1

The Land Use Committee recommends to the CRD Board:

That Development Permit with Variance DV000083 for Lot 9, Section 129, Sooke District, Plan VIP67208 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 8.49% for proposed Lot A and 10 % to 6.4% for proposed Lot B, as shown on the plans prepared by J.E. Anderson, dated August 30, 2021, be approved.

Alternative 2

That the Development Permit with Variance DV000083 be denied.

Alternative 3

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

IMPLICATIONS

Legislative Implications

The East Sooke Official Community Plan, 2018, Bylaw No. 4000, designates development permit areas (DPAs) and outlines development permit guidelines (Appendix C). The property is located within the Steep Slope, 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 required frontage are requested for proposed Lots A and B in order to permit the first phase of subdivision.

Public Consultation Implications

Pursuant to Section 499 of the *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 may, at any time, 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 October 19, 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 Shane Smith, P.Geo., EIT, and James Russell, M.Sc., P.Eng., of Ryzuk Geotechnical described the site and addressed the steep slope development permit guidelines relative to the proposal. The engineers confirmed that safe building sites exist for each parcel and provided Landslide Assessment and Flood Assurance Statements for the subdivision design.

The professionals provided recommendations for construction of the common property access road and identified existing and potential rockfall hazards to be addressed. Additional rockfall hazard review following subdivision related construction activity will be required, and any future development activities proposed within the designated development permit areas on the newly created parcels will require subsequent Development Permit applications and accompanying professional reports. The engineers consider the proposed subdivision to be feasible from a geotechnical perspective.

An Environmental Assessment report was prepared by Craig Barlow, R.P.Bio., QEP, of Applied Ecological Solutions Corp. to review the proposed subdivision in relation to the *Riparian Areas Protection Regulations (RAPR)* requirements and the Sensitive Ecosystem DP guidelines. The report described the origin and location of the Seedtree Creek as beginning at a roadside ditch at the southwest corner of the parcel, and calculated a Streamside Protection and Enhancement Area (SPEA) of 2 m from the ditch. The report noted that the SPEA is beyond the extents of the parcel, that proposed Lot A is fully developed with a dwelling and associated services, and that no further land alteration is proposed for the subdivision in this area.

The applicant has requested that the requirement to submit a *RAPR* Assessment Report be waived on the basis of the environmental assessment. JdF Planning staff agree that a full *RAPR* assessment would be excessive at this time given the location and nature of the watercourse in relation to property and proposed subdivision works. Any future development activities within the Riparian development permit area would require a subsequent Development Permit application and accompanying *RAPR* report prepared by a Qualified Environmental Professional (QEP).

The professional reports are attached to the proposed development permit with variance as appendices.

Variances:

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. The applicant has proposed to reduce the minimum frontage requirement from 10% to 8.49% (48.85 m) for proposed Lot A, and 6.4% (65.12 m) for proposed Lot B.

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 as development of the parcel is severely limited by the steep slopes. The proposed parcels meet the required minimum lot size of 1 ha specified by the RR-6A zone. The subdivision layout is not expected to affect the public road network or neighboring properties since the development otherwise complies with the regulations of the zone in terms of overall density. While proposed Lot B will be further subdivided as a 3-lot bare land strata, access to each lot is via a Common Property driveway with a single point of access onto Seedtree Road. Multiple driveways would be impractical for the proposed subdivisions given the steep topography of the area. The proposed parcels would be limited to a maximum lot coverage of 25%, and permitted uses support a single-family dwelling and related accessory uses, including one of either a secondary suite or detached accessory suite subject to regulations.

Development Permit with Variance DV000083 has been prepared for consideration to authorize subdivision within Steep Slope, Riparian, and Sensitive Ecosystems Development Permit Areas, and to grant variances to reduce the 10% minimum frontage requirement for proposed Lots A and B (Appendix D). 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 2-lot subdivision and wishes to reduce the 10% minimum frontage requirement for proposed Lot A and proposed Lot B. No further land alterations are proposed within designated Riparian DP areas as a part of the subdivision, and professional reports were received that address the Steep Slope and Sensitive Ecosystem DP guidelines. 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 DV000083 for Lot 9, Section 129, Sooke District, Plan VIP67208 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 8.49% for proposed Lot A and 10 % to 6.4% for proposed Lot B, as shown on the plans prepared by J.E. Anderson, dated August 30, 2021, be approved.

Submitted by:	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

ATTACHMENTS

Appendix A: Subject Property Map
Appendix B: Proposed Subdivision Plans
Appendix C: Development Permit Guidelines
Appendix D: Permit DV000083