



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, JANUARY 17, 2012**

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**SUBJECT**      **DEVELOPMENT VARIANCE PERMIT FOR LOT 20, SECTION 15, OTTER DISTRICT,  
PLAN VIP87643**

**ISSUE**

A request has been made for a development variance permit to relax the side yard setback from 7.5m to 7.1m for the purpose of legalizing the siting a single-family dwelling under construction.

**BACKGROUND**

The 0.82ha property is located at 7574 LeMare Crescent in Otter Point and is zoned Rural Residential A (RR-A) in the Sooke Land Use Bylaw, Bylaw No. 2040 (Appendix 1). The property is within The Woods development which was created through an Official Community Plan and zoning amendment and subdivided in 2010. The property fronts onto LeMare Crescent to the west, undeveloped properties to the north and east, and a residential property to the south, all with similar zoning.

A building permit application to construct a single family dwelling on the property was issued in September 2011 (Appendix 2). In November, the building inspector requested a survey to confirm the location of the structure on the property. The survey indicates that the building was constructed within the 7.5m side yard setback of the RR-A zone (Appendix 3). The building inspector has issued a conditional certificate of occupancy pending approval of a variance to relax the side yard setback.

**ALTERNATIVES**

1. Approve the development variance permit to relax the side yard setback from 7.5m to 7.1m for the purpose of legalizing the siting of the single-family dwelling;
2. Deny the development variance permit to relax the side yard setback and require the structure to comply with zoning requirements.
3. Refer the application back to staff for more information.

**LAND USE IMPLICATIONS**

The owner made a building permit application in September 2011 to construct a one-story, 130m<sup>2</sup> dwelling with attached garage and 62m<sup>2</sup> attached studio on the subject property. The site plan submitted with the building permit application indicated the proposed siting would conform to the RR-A zoning setbacks. The RR-A zone requires a 7.5m front yard setback, a 7.5m side yard setback and a 10m rear yard setback. The building permit was issued as the proposed siting complied with the zoning requirements. The building inspector requested a survey to confirm the location of the structure in November and the survey indicates the building encroaches into the 7.5m side yard setback by 0.4m.

When the building permit was issued, the site plan indicated that the building would be sited well in compliance with the setback requirements; however, when the building was constructed there was an encroachment and due to the speed of the construction the error was not verified until after the building was completed. As a result the applicant is requesting a variance to bring the property into compliance with the zoning bylaw. The builder claims that they inadvertently sited the building due to the larger lots and greater setbacks in the neighbourhood. With respect to the impact of the encroachment there is significant separation between buildings and depending on the views of the neighbouring property owners there would be a minimal impact. If the variance is not approved there would a significant hardship on the owners that have subsequently purchased the property. As such, the proposal to relax the side yard setback for the purpose of legalizing the siting of the residence is recommended to be considered subject to public notification.

**LEGISLATIVE IMPLICATIONS**

The Sooke Land Use Bylaw No. 2040 specifies the setback requirements for principal buildings in the RR-A zone; to vary these requirements, a development variance permit is necessary.

**PUBLIC CONSULTATION IMPLICATIONS**

Pursuant to the *Local Government Act*, Section 922(4), 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. Capital Regional District Bylaw No. 3110, Fees and Procedures Bylaw, 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 January 17, 2012 Land Use Committee meeting.

**CONCLUSION**

The applicant is requesting a variance to relax the side yard setback from 7.5m to 7.1m for the purpose of legalizing the construction of a one-story residence with attached garage and studio. The building permit was issued as the proposed site plan complied with the setbacks required in the RR-A zone. However, the building inspector requested a survey prior to final occupancy and the survey indicates the dwelling encroaches 0.4m into the side yard setback. The variance request is recommended to be considered subject to public notification.

**RECOMMENDATION**

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

1. That Development Variance Permit (VAR-09-11) for Lot 20, Section 15, Otter District, Plan VIP87643 to relax the side yard setback from 7.5m to 7.1m, as shown in Appendix 3, for the purpose of legalizing the siting of the residence be approved.



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Emma Taylor, MA  
Planner



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June Klassen, MCIP  
Manager, Local Area Planning



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Robert Lapham, MCIP  
General Manager, Planning & Protective Services

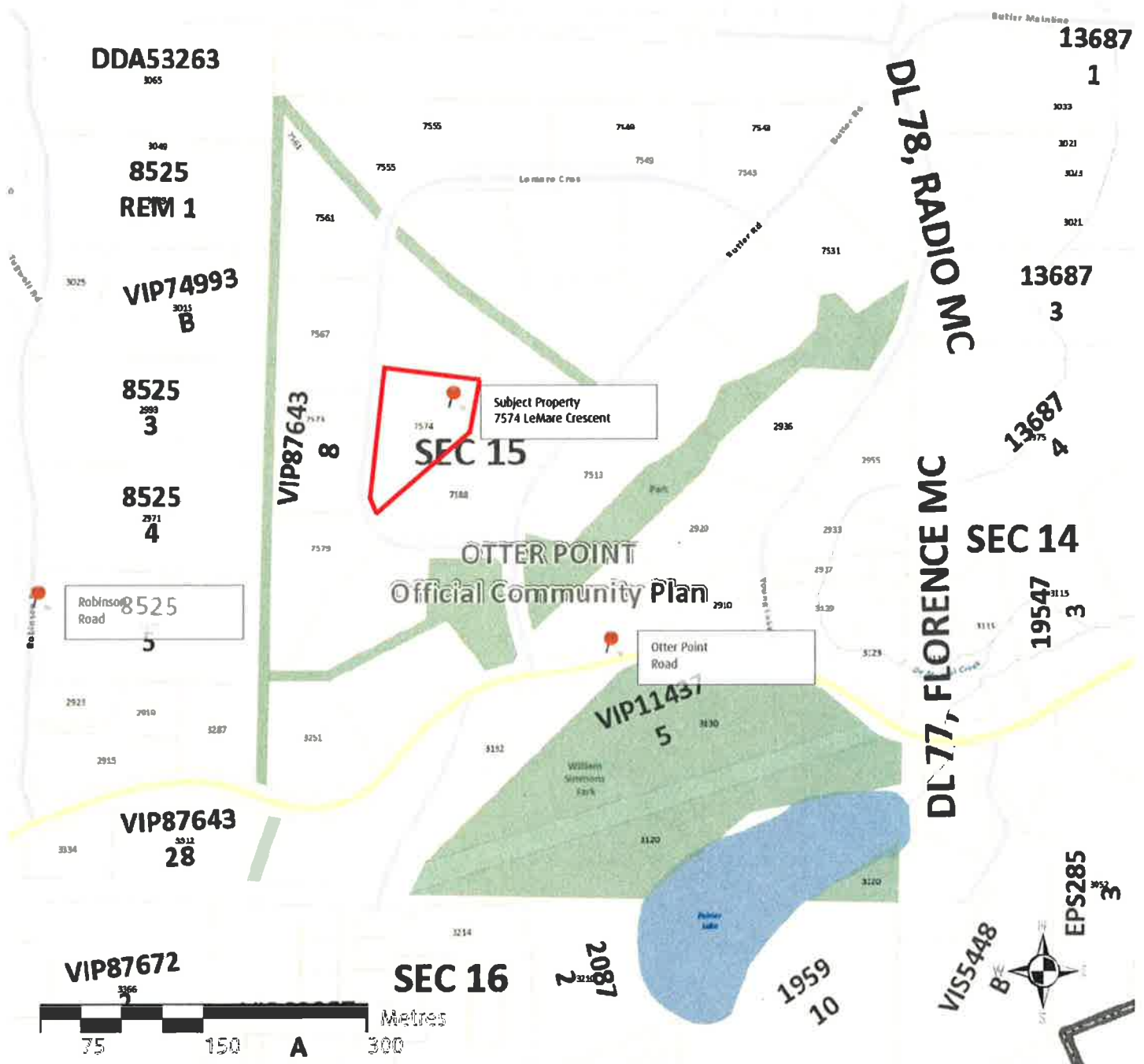


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Kelly Daniels  
Chief Administrative Officer  
Concurrence

Appendices:

1. Location
2. Building Plans
3. Survey



**Important**

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**7574 LeMare Crescent**

**VAR-09-11**

**Intramap 2.0**

Capital Regional District  
 gis@crd.bc.ca  
<http://www.crd.bc.ca>

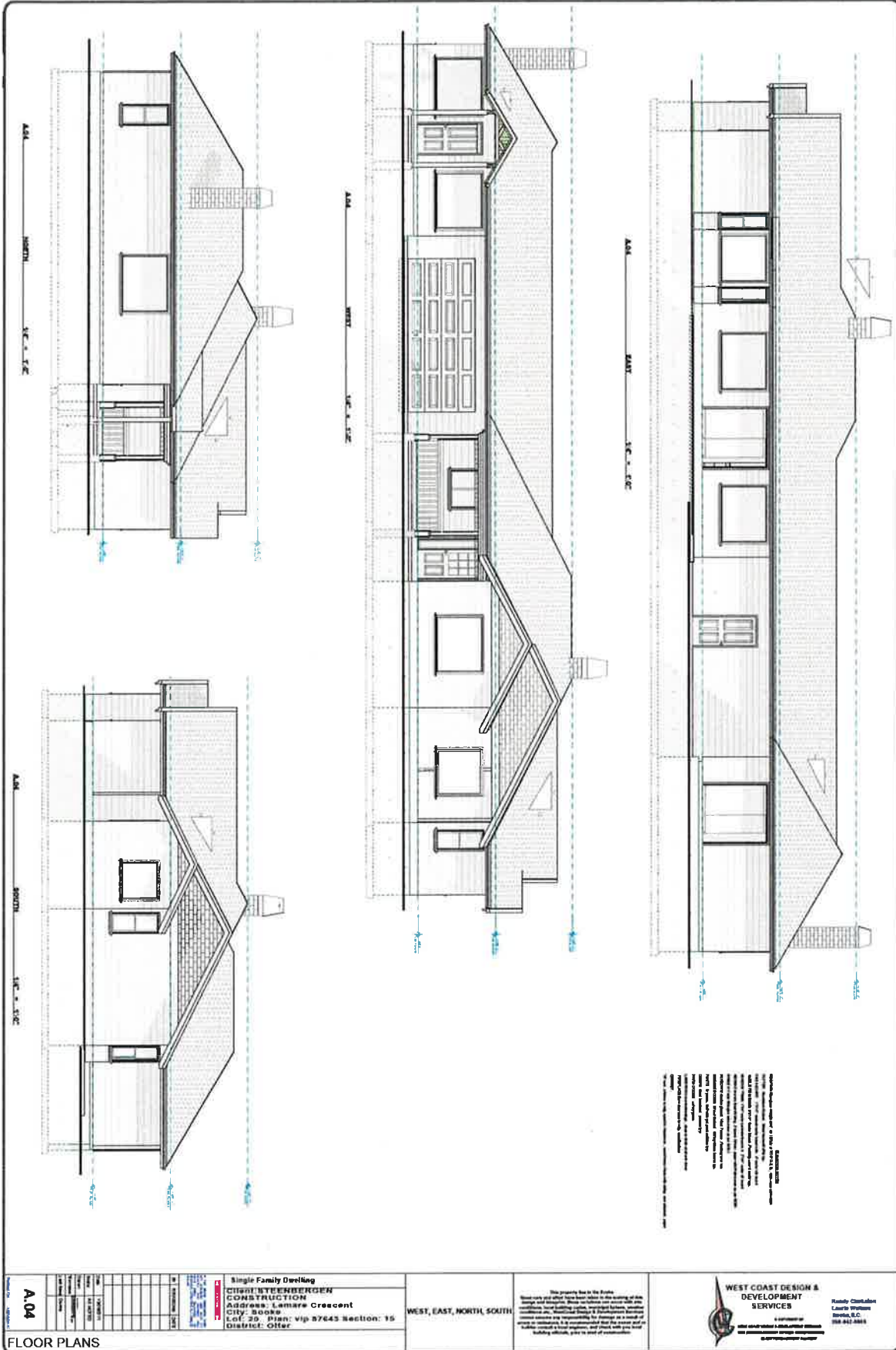












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**B.C. LAND SURVEYORS CERTIFICATE  
OF LOCATION OF DWELLING ON**

LOT 20, SECTION 15,  
OTTER DISTRICT, PLAN VP87643.  
PID: 028-146-972

I have examined the residential premises shown and hereby certify that the said structure is situated with respect to nearby boundaries as shown. This document is prepared for building inspection or mortgage purposes only and is for the exclusive use of our client. This document is not valid unless originally signed and sealed. This document shall not be used to define property lines or property corners. Unregistered interests have not been included or considered.



Jason C. Kozina, BCLS.

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Field survey dated this 26th day of October, 2011.

SCALE=1:1000. All distances are in metres.

NOTE: The parcel is subject  
to Statutory Building  
Scheme FB336862.

