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DP-31-10 – Orr

**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, MARCH 20, 2012**

SUBJECT DEVELOPMENT PERMIT WITH VARIANCE FOR LOT B, SECTION 42, HIGHLAND DISTRICT, PLAN 13453

ISSUE

The purpose of this report is to request a development permit with variances to legalize existing structures, to permit repairs to an existing boathouse and retaining wall, and to permit the construction of a new deck within a steep slopes and foreshore, wetlands and riparian development permit areas and within the side, front and rear yard setback requirements of the Community Residential 1 (CR-1) zone of the Comprehensive Community Development Plan for Willis Point, Bylaw No. 3027.

BACKGROUND

The 0.07ha waterfront property located at 7436 Mark Lane in Willis Point is zoned CR-1 and is adjacent to similarly zoned residential properties (Appendix No. 1). There is an existing dwelling, boathouse, shed, deck and retaining wall on the property which all predate the establishment of Building Inspection regulations in the CRD (Appendix No. 2). The owner is requesting a development permit with variances to legalize the siting of the existing structures, as shown in Appendix No. 3, in order to repair the boathouse and retaining wall and in order to construct a new deck, as shown in Appendix No. 4, within the steep slope and foreshore development permit areas.

ALTERNATIVES

- 1) Approve the development permit with variance to legalize existing structures and to permit repairs to the boathouse and retaining wall and to permit the construction of a new deck.
- 2) Deny the development permit with variance and do not permit the construction.
- 3) Request additional information from the applicant.

LAND USE IMPLICATIONS

The existing dwelling, boathouse, retaining wall and shed were in existence prior to the adoption of zoning and building inspection regulations for the area and are now considered to have legal non-conforming status as they are located within the setback requirements of the CR-1 zone as established in Bylaw No. 3027. As the property falls within the Steep Slopes and the Foreshore, Wetlands and Riparian Areas pursuant to the Comprehensive Community Plan for Willis Point, Bylaw No. 3027, repairs to the structures cannot be considered by the Board of Variance, as established by Part 901(3)(b) of the *Local Government Act*. Therefore, in order to authorize structural repairs and new construction within the development permit areas, the Land Use Committee should consider legalizing the existing structures through the issuance of a development permit with variances.

DP and Variance to Legalize Dwelling

The applicant is requesting a variance to relax the side yard setback from 1.5m to 0.7m for the purpose of legalizing the existing dwelling. A report has been submitted by a Professional Engineer confirming the existing dwelling is structurally sound, meets existing flood control requirements and is safe for the intended use (Appendix No. 5). There are no floodplain regulations established in Bylaw No. 3027 under Section 910 of the *Local Government Act*; however, the Building Inspector considers the provincial *Flood Hazard Area Land Use Management Guidelines* when evaluating construction within floodplain areas.

DP and Variance for New Deck

Should the variance to legalize the dwelling be approved, the Land Use Committee may consider recommending approval of a development permit with variances for the new deck by relaxing the side yard setback from 1.5m to 0.6m and to relax the rear yard setback from 6m to 3m. A report was prepared by David Lawrie, Professional Engineer, on January 24, 2011 regarding the construction of the proposed deck and specifies deck footing design (Appendix No. 6).

DP and Variance for Existing Deck and Seawall

Improvements to the existing deck and seawall are proposed. Therefore, the Land Use Committee may consider recommending approval of a variance to relax the rear yard setback from 1.5m to 0m for the purpose of legalizing the existing deck and seawall and issuing a development permit to authorize repairs. A report was prepared by C.N. Ryzuk & Associates Ltd. on September 21, 2010 addressing the seawall construction and geotechnical conditions (Appendix No. 7). The report recommends that works be carried out in accordance with the Department of Fisheries and Oceans (DFO) Best Management Practices. The report suggests that placement of the backfill and associated flattening of grade will improve stability conditions in the slope area and mitigate future potential for silt laden runoff. A civil engineer is to assess the suitability of the existing seawall to structurally accommodate additional load.

DP and Variance for Existing Boat House

Structural repairs to the existing boathouse are proposed. The applicant has been issued a License (No.109587) from the Ministry of Sustainable Resource Management to occupy 0.0267ha of foreshore with the boathouse and float until April 30, 2013. The Land Use Committee may consider recommending approval of a variance to relax the rear yard setback from 1.5m to 0m and to relax the side yard setback from 1.5m to 0.7m for the purpose of legalizing the existing boathouse and issuing a development permit to authorize repairs.

Variance for Existing Shed

The applicant is also requesting a variance to relax the front yard setback from 6m to 0m for the purpose of legalizing an existing shed. The Ministry of Transportation & Infrastructure has issued a permit (No. 2010-06530) to authorize the existing shed constructed within the right-of-way. Therefore, the Land Use Committee may consider recommending approval of the variance.

Consideration of the applicant's request for a development permit with variances to legalize existing structures and authorize construction should be considered subject to public notification. From planning and site development perspective staff has assumed that the community objective would be to accommodate the non-conforming and previously constructed structures by granting the development permit and variances to legalize the existing structures and to enable repairs. As the new deck replaces a structure previously sited in the same location, there would appear to be no additional impact to adjacent properties.

INTER-DEPARTMENTAL IMPLICATIONS

In order for the proposed structures to be built/repared/legalized, building permits will be required which will make specific reference to the conditions of the development permit with variance and may require additional assessments. The building division will ensure the structures meet the requirements provided in this development permit with variance and that the appropriate building permits are acquired.

LEGISLATIVE IMPLICATIONS

The Willis Point Comprehensive Community Plan, Bylaw No. 3027, specifies the yard requirements for the CR-1 zone. To vary this requirement, a development variance permit is necessary. Bylaw No. 3027 designates lands within development permit areas. As the property is within Development Permit Area No. 1: Steep Slopes and Development Permit Area No. 2: Foreshore, Wetlands and Riparian Areas, a development permit is required.

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 March 20, 2012 Land Use Committee meeting.

CONCLUSION

The applicant is requesting a development permit with variances to legalize existing structures and to permit repairs to an existing boathouse and retaining wall, and to permit the construction of a new deck within a steep slopes and foreshore, wetlands and riparian development permit areas. The structures

also fall within the side, front and rear yard setback requirements of the CR-1 zone. Reports have been submitted in support of the application which confirms the proposed construction is safe for the intended use. From planning and site development perspective staff has assumed that the community objective would be to accommodate the non-conforming and previously constructed structures by granting the development permit and variances to legalize the existing structures and to enable repairs. As the new deck replaces a structure previously sited in the same location, there would appear to be no additional impact to adjacent properties.

Staff recommends approval of the development permit with variances subject to the recommendations outlined in the engineers' reports and subject to public notification.

RECOMMENDATIONS

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

- 1) That the development permit with variance (DP-31-10) for Lot B, Section 42, Highland District, Plan 13453 to legalize the existing dwelling, shed, boathouse, deck and retaining wall by relaxing:
 - i. the side yard setback for the dwelling from 1.5m to 0.7m;
 - ii. the rear yard setback for the existing deck and retaining wall from 6m to 0m;
 - iii. the side yard setback for the boathouse from 1.5m to 0.7m;
 - iv. the rear yard setback for the boathouse from 1.5m to 0m;
 - v. the front yard setback for the shed from 6m to 0m

as shown in Appendix No. 3, be approved; and

- 2) That the development permit with variance (DP-31-10) for Lot B, Section 42, Highland District, Plan 13453 to repair a boathouse and retaining wall and to construct a new deck by relaxing:
 - i. the side yard setback for the new deck from 1.5m to 0.6m;
 - ii. the rear yard setback for the proposed deck from 6m to 3m

as shown in Appendices No. 3 & 4, be approved subject to the following conditions:

- i. that the proposed construction comply with the Steep Slope and Foreshore Development Permit Guidelines outlined in the Official Community Plan for Willis Point, Bylaw No. 3027;
- ii. that the proposed development comply with the recommendations outlined in the reports prepared by C.N. Ryzuk & Associates Ltd. dated September 21, 2010 and David Lawrie dated January 24, 2011 and February 10, 2012, as shown in Appendices No. 4, 5 & 6; and
- iii. that final reports be submitted by the Qualified Professionals confirming the conditions of this development permit with variance have been met prior to finalization of the building permit.

Original Signed

Emma Taylor, MA
Planner

Original Signed

Robert Lapham, MCIP
General Manager, Planning & Protective Services

Original Signed

June Klassen, MCIP
Manager, Local Area Planning

Original Signed

Kelly Daniels
Chief Administrative Officer
Concurrence

Appendix No. 1	Location Map
Appendix No. 2	Photo
Appendix No. 3	Survey, Island Land Surveying, October 15, 2010
Appendix No. 4	Building Plans
Appendix No. 5	Report prepared by David Lawrie, February 10, 2012
Appendix No. 6	Report prepared by David Lawrie, January 24, 2011
Appendix No. 7	Report prepared by C.N. Ryzuk & Associates Ltd, September 21, 2010

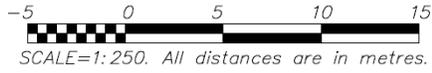
Appendix 1: Location Map



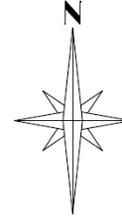
Appendix 2: Photo



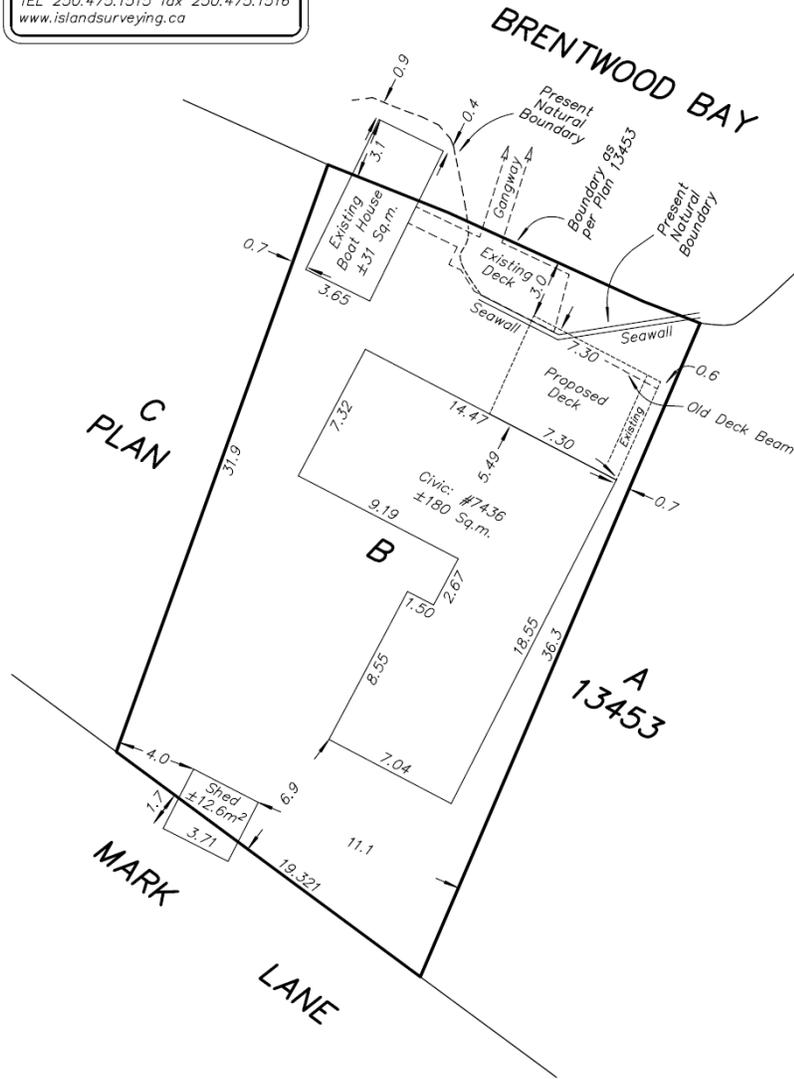
**SITE PLAN OF LOT B, SECTION 42,
HIGHLAND DISTRICT, PLAN 13453.**

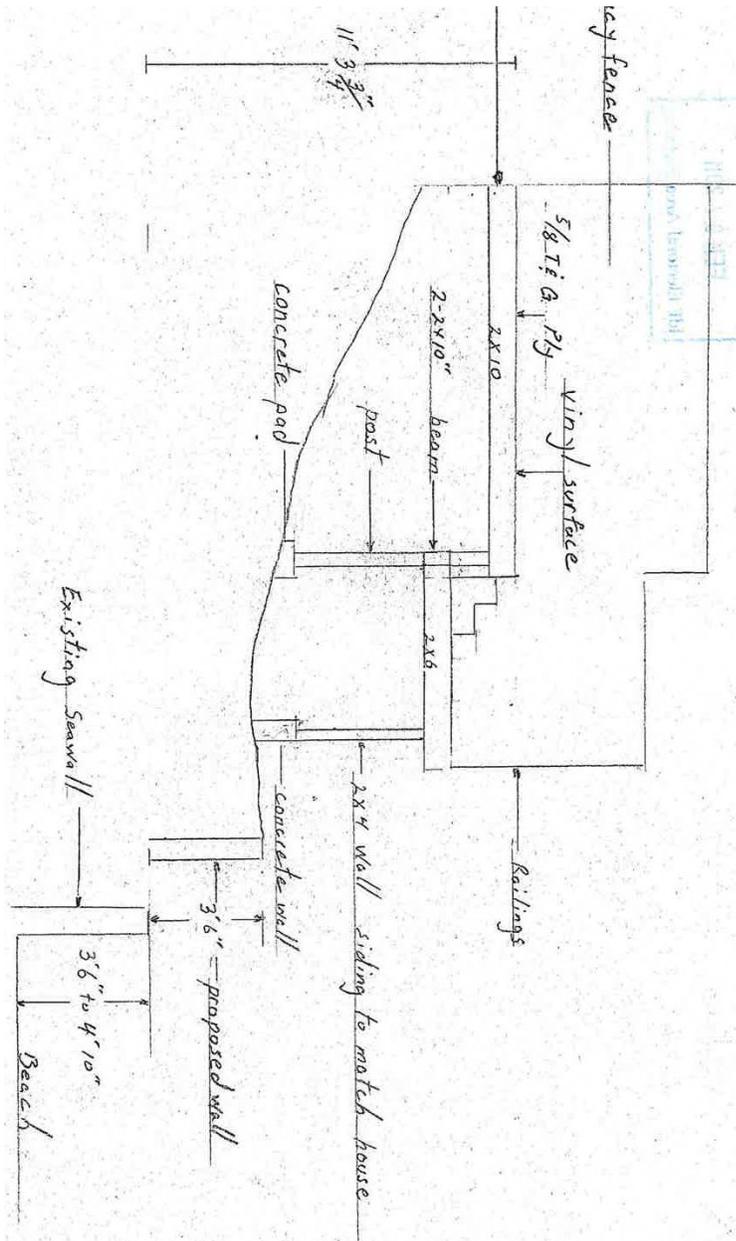


NOTE: Dimensions shown may vary upon completion of a legal survey.



File: W100-ORR-MN
Date: October 15, 2010
Island Land Surveying Ltd.
1-15 Cadillac Avenue
Victoria, B.C. V8Z 1T3
TEL 250.475.1515 fax 250.475.1516
www.islandsurveying.ca





Appendix 5: Report prepared by David Lawrie, February 10, 2012

Feb. 10, 2012.

D. M. Lawrie, P.Eng.
7036 Mark Lane,
Victoria, B.C.
V9E-2A1.

Mr. G. Orr,
7436 Mark Lane,
Victoria, B.C.
V9E-2A1.

Re Telecon Request by Mr. Robert Gutierrez, Jan. 31, 2012, for a verification of the structural integrity of the residence at 7436, Mark Lane, Victoria B.C.

An inspection, by D.M. Lawrie, P. Eng., Feb. 1, 2012, of the G. Orr residence at 7436, Mark Lane, has confirmed that the land under review may be used safely for the use intended, namely, the location of one single family dwelling and that the aforementioned residence is structurally sound.

In addition, the vertical elevation between the High Tide Mark and the residence foundation, meets flood control requirements.

These verifications, an addition to the Sealed Letter of Feb. 1, 2012, are presented to assist in the issuing of the required C.R.D. Development Permit and the subsequent Permit approval for construction of the deck on the foreshore facing side of the residence.



D.M. Lawrie, P. Eng.

Appendix 6: Report prepared by David Lawrie, January 24, 2011

Mr. G. Orr
7436 Mark Lane
Victoria, BC
V9E 2A1

D.M. Lawrie
7036 Mark Lane
Victoria, BC V9E 2A1
Jan. 24/2011

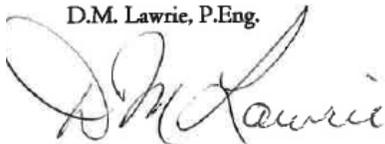
Re: Proposed Sundeck Addition – Lot B Section 42
Highland District, Plan I34553

This report is an addendum to the Geotechnical report provided to Mr. G. Orr by C.N. Ryzuk & Assoc. Ltd. Sept. 21, 2010, file 8.5800-I, and is in reference to the last paragraph on pg 1: "We understand that Mr. E. Hoel, P. ENG, (since deceased) has been engaged to assess the suitability of the existing seawall to structurally accommodate additional load from the new (sundeck) landscaping feature."

An on-site review Jan 21, 2011, by D.M. Lawrie, P. Eng., and reference to a $\frac{1}{4}'' = 1$ ft. drawing of the "proposed deck" prepared by Mr. G. Orr, determined the load and location of footings for support of the 18ft. x 24 ft. deck. Posts for the main 24 ft. width of the deck; spaced at 8 ft. centers, will bear on 24" x 24" x 8" minimum, reinforced concrete pads. The bearing area of the concrete footings, poured on compacted native soils and angular rock on the site, will carry all structural and service loads imposed by the 18'-0" x 24'-0" area of the proposed deck.

The remaining 6' x 24' portion of the deck, bearing on a 2" x 4" wood frame wall, will be adequately supported at the west end by 4' 3" of the existing buttressed seawall. Extending east, the stud wall will bear on 7'6" of reinforced concrete retaining wall, poured to connect between the jog in the retaining wall and an existing 2'-3" x 2'-3" x 18" thick concrete post which is firmly imbedded in visible rock outcrop. The poured reinforced concrete footing and retaining wall will continue East, 7' 3" as the end of the support for the 2" x 4" stud deck support wall.

D.M. Lawrie, P.Eng.



Appendix 7: Report prepared by C.N. Ryzuk & Associates Ltd., September 21, 2010

C.N. RYZUK & ASSOCIATES LTD.
Geotechnical/Materials Engineering

28 Crease Avenue Victoria, B.C. V8Z 1S3 Tel: (250) 475-3131 Fax: (250) 475-3611

September 21, 2010
File No: 8-5800-1

Mr. G. Orr
7436 Mark Lane
Victoria, B.C.
V9E 2A1

Dear Sir,

Re: Proposed Landscaping Wall Construction
7436 Mark Lane – Juan De Fuca Electoral Area, B.C.

As requested, we have undertaken an assessment of the existing geotechnical conditions at the referenced site and now write to provide our associated comments as such relate to your proposal to construct a small segmental concrete block landscaping wall to the rear of your existing concrete seawall. From discussions with Ms. J. Klassen of the Capital Regional District (CRD), we understand that geotechnical comment is required as the development site falls within the foreshore Development Permit Area (DPA) and that a floodplain exemption is required. We now provide the following comments for review, which are provided in accordance with, and are subject to, the attached Statement of Terms of Engagement.

The waterfront lot is located on the north side of Mark Lane, facing north out over Brentwood Bay. An existing single family dwelling is present that occupies much of the lot footprint. In general, the lot relief slopes gently down to the north from Mark Lane towards the foreshore area. However, a localized 5 m wide strip of moderately sloping grade is present to the north of the dwelling that extends down to the rear of an existing seawall which likely defines the present natural boundary of Saanich Inlet. To the north of the seawall, the intertidal zone is characterized by a gently sloping gravel and cobble beach deposit with localized zones of outcropping bedrock.

The existing seawall was constructed of cast in place concrete. The wall was approximately 1.2 m in height, 8 to 10 m in length, has a measured width (along the top) of 0.25 m and incorporates concrete buttresses extending north and south from the wall face for additional support. The wall alignment is generally east to west across the property with a northerly trending "dog leg". Backfill to the seawall appears to consist of locally obtained mineral fills. The age of the wall is uncertain, however, it appears in good condition.

It is proposed that a 1.0 to 1.2 m high segmental concrete block landscaping feature (Allan Block type or similar) be constructed just to the rear of the existing seawall. The associated backfill will flatten the current grade between dwelling and the existing seawall. We understand that Mr. E. Hoel, P.Eng, has been engaged to assess the suitability of the existing seawall to structurally accommodate additional load from the new landscaping feature.

C.N. RYZUK & ASSOCIATES LTD.

Mr. G. Orr
7436 Mark Lane – Juan De Fuca Electoral Area, BC

September 21, 2010

As noted, due to the proximity of the proposed works to the foreshore (within 15 m of the natural boundary with Saanich Inlet), the proposed works fall within DPA No.2 as referenced in the Willis Point Official Community Plan (OCP) and on Map 3B contained therein. DPA No.2 addresses issues relating to protection of the environment, ecosystems and biological diversity. From our observations, the existing soil conditions exposed between the dwelling and seawall consist of native silty sand mineral soils and/or fill version of the native and some angular rock fill pieces to 0.3 m dimension. An old stump was in place with retained roots. Limited organic soil was observed, with minimal vegetation present. Minor seepage was noted to the east, possibly emanating from the higher property to the east and from southern portions of the subject lot. A shallow rill on the slope was observed, possibly indicating past overland flows during rainfall events.

We expect that the proposed landscaping works could be completed without requiring access to the intertidal foreshore area. In addition, and due to the limited site access and proposed wall facing materials, it is likely that facing blocks and backfill will require to be brought to the construction site by hand. Mechanical equipment utilized, if any, will be limited to small gas plate tamper equipment to assist in achieving backfill compaction. In any case, we would recommend that these works be carried out in accordance with the Department of Fisheries and Oceans (DFO) Best Management Practices. We expect that the placement of the backfill and associated flattening of the grade will improve stability conditions in the slope area and mitigate future potential for silt laden run off.

With regard to floodplain exception, Section 910 of the Local Government Act indicates that the local government may exempt a person from application of the relevant sections of the act if the government considers it advisable and has received a report from a geotechnical engineer indicating that the land may be used safely for the use intended. We consider that the site of the proposed landscaping feature will be above that of the High High Water Large Tide (HHWLT) and as such would not be subject to tidal inundation. We expect that construction of the landscaping wall will not unduly effect existing support conditions for the adjacent dwelling. Accordingly, we expect that from a geotechnical perspective, the land can be used safely for the use intended, namely construction of the noted landscaping feature, and in accordance with Section 910 of the Local Government Act, we consider that the proposed works meet the requirements for floodplain exception.

We hope that the preceding meets with your approval and is satisfactory for your requirements at present. If we can provide additional information or clarification in this regard at this time, please call us.

Yours very truly,
Ryzuk Geotechnical


R.S. Currie, P. Eng.
Geotechnical Engineer
/rsc



Attachment – Statement of Terms of Engagement