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Minutes of a Meeting of the Juan de Fuca Land Use Committee
Held Tuesday, October 16, 2012 at the Juan de Fuca Electoral Area Office, #2-6868 West Coast Road, Sooke, BC

PRESENT: Director Mike Hicks (Chair), Roy McIntyre, Kara Middleton, Heather Phillips, Harold Shipton, Art Wynans
Staff: June Klassen, Local Area Planning Manager; Wendy Miller, Recording Secretary
ABSENT: Ted Dixon
PUBLIC: Approximately 9

The meeting was called to order at 7:02 p.m.

1. Approval of the Agenda

At this time, June Klassen advised that the owner of 372 Becher Bay Road has asked that consideration of application VAR-03-12 be tabled until the November meeting.

MOVED by Harold Shipton, **SECONDED** by Roy McIntyre that the agenda be amended to strike consideration of application VAR-03-12. **CARRIED**

2. Approval of the Supplementary Agenda

MOVED by Heather Phillips, **SECONDED** by Harold Shipton that the supplementary agenda be approved. **CARRIED**

3. Adoption of Minutes from the Meeting of September 18, 2012

MOVED by Art Wynans, **SECONDED** by Roy McIntyre that the minutes from the meeting of September 18, 2012 be adopted with the following amendments: (1) Page 2, Item 6 a) strike "The current subdivision plan is supported by the Chair of the Wilderness Mountain water service area.", (2) Page 5, Item 7 b) insert "Lot 7, Section 129, Sooke District, Plan VIP67208" before "be introduced", (3) Page 6, Item 8 a) strike "intent of the zoning bylaw." and insert "the intent of the RGS.", (4) Page 6, Item 8 a) strike "that, if the Director cannot be a member of the PTPSC", (5) Page 6, Item 8 a) strike "at minimum", (6) Page 7, Item 8 a) strike "stated issue" and insert "took issue", (7) Page 7, Item 8 a) insert "This would require a change in legislation and is beyond Board authority." after "Marg Misk-Evans clarified that issues such as the ability to appeal cannot be addressed as part of the development of the Regional sustainability Strategy." **CARRIED**

4. Chair's Report

No report.

5. Planner's Report

A public hearing for the Official Community Plan for Malahat (Bylaw No. 3721) was held on October 15. The report of public hearing and recommendation that Bylaw No. 3721 be read a third time will be presented to the CRD Board in November.

6. Development Variance Permit Application

a) VAR-04-12 – Lot 10, Section 10, Otter District, Plan VIS5070 (Nickell – 8153 Taylor Place)

June Klassen spoke to the staff report and building permit history advising that the applicant is requesting a development variance permit to reduce the side yard setback for a detached accessory suite from 6 m to 4.83 m for the purpose of siting a detached accessory suite inside an existing accessory building.

June Klassen directed attention to the supplementary agenda. In response to the supplementary submissions, it was advised that Vancouver Island Health Authority (VIHA) approved the septic field for two units on August 22, 2011 and a further site inspection by VIHA on September 21, 2012 found no problems. It was further advised that the property account with Kemp Lake Water District is for two dwelling units.

The Chair confirmed that the applicant was not present.

Rudy Dobovicnik, adjacent property owner, questioned if the property has been inspected by a geotechnical professional, noting that a wetland on the property has been negatively impacted by the placement of fill. The fill has also adversely impacted water flow to neighbouring properties. Rudy Dobovicnik reported that the property septic field was compacted with a plate and that the field is being used to keep livestock causing increased concern regarding septic system failure and runoff. Rudy Dobovicnik expressed no support for the requested side yard setback, stating that on acreages there is no need to come closer to the property line.

Tom Scott, adjacent property owner, stated concern regarding the potential for the proposed detached suite to expand further into the existing accessory building and the potential for the suite in the principal dwelling unit to be re-established. Tom Scott stated that the subject property has been sloped to direct all runoff across his property. Tom Scott spoke to costs incurred for ditch and culvert work to address the runoff and flash flooding.

Rudy Dobovicnik stated concern regarding the runoff reaching Otter Ridge Drive and the ocean.

Tom Scott noted that the VIHA inspection in September 2012 was performed after weeks of no rain.

June Klassen advised that drainage can be reviewed as part of the building permit process and that the Ministry of Transportation and Infrastructure can address runoff crossing the road. It was advised that the survey only reflects siting of the existing accessory building and that a covenant can be placed on the property limiting the number of dwelling units to two.

The Chair noted that the bylaw for detached accessory suites (Bylaw No. 3605) permits applications to allow suites in existing accessory buildings.

As included in the staff report, the initial site plan for the accessory building indicated that the building was located 6 m from the side lot line. The survey to confirm the setback indicated that the building was located 4.83 m from the side lot line. June Klassen advised that the building permit cannot be finalized until a development variance permit is approved. The development variance permit can direct that final occupancy cannot be granted until VIHA inspects the septic field.

June Klassen responded to a LUC member and a member of the public advising that the buildings and structures on the property do not exceed the maximum lot coverage. It was advised that the existing accessory building without the proposed suite meets all setback requirements. A variance is required as the detached accessory suite must be located within the same setbacks as the principal dwelling.

June Klassen responded to another LUC member noting that site specific land use implications of each development variance permit application are reviewed by staff and that public consultation is required as part of the development variance permit application approval process.

A LUC member stated that adjacent property owners should not have to correct drainage problems created by another property owner. Drainage problems should be corrected by the property owner who caused the drainage issues.

Rudy Dobovicnik stated it is his understanding that the strata documents pertaining to the subject property do not permit buildings that counter building bylaws and that the strata documents do not permit rental suites.

The Chair advised that the CRD does not regulate strata documents/building schemes.

A LUC member stated that it is not good operating style to require a development variance permit after construction.

June Klassen advised that a double fee is charged for construction work completed without a building permit. Areas designated as a development permit area must have a qualified professional deem that the site is safe for the intended use.

A LUC member stated that it is unclear as to how to proceed, considering the the information provided in the staff report and the concerns relayed by the public.

MOVED by Art Wynans, **SECONDED** by Roy McIntrye that the Juan de Fuca Land Use Committee support the staff report and recommendation as amended and recommend to the CRD Board:

1. That Development Variance Permit VAR-04-12 for Lot 10, Section 10, Otter District, Plan VIS5070 to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 6.07(b), by reducing the side yard setback from 6 m to 4.83 m for the purpose of siting a detached accessory suite in an existing accessory building, as shown on the attached site plan, dated June 29, 2012 (Appendix 3), be approved.
2. That the Juan de Fuca Land Use Committee direct the Building Inspector to require Vancouver Island Health Authority to address the serious septic system concerns raised by neighbours and that the Building Inspector consider the serious drainage concerns raised by neighbours as part of the building permit process and that no occupancy permit be issued until the concerns are addressed.

A LUC member questioned whether the LUC has authority to direct the Building Inspector, suggesting wording changes to the recommendation or tabling the application until more information is received regarding the stated concerns.

The Chair called the question and it was three in favour, Roy McIntyre, Kara Middleton and Heather Phillips opposed. **DEFEATED**

The Chair advised that the application will proceed to the Board for consideration without a recommendation from the LUC.

7. New Business

8. Adjournment

MOVED by Art Wynans, **SECONDED** by Harold Shipton that the meeting adjourn.

The meeting adjourned at 7:43 p.m.

Chair