



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JUNE 18, 2013**

SUBJECT **DEVELOPMENT VARIANCE PERMIT FOR LOT 21, SECTION 15, OTTER DISTRICT, PLAN VIP87643**

ISSUE

A request has been made for a development variance permit to relax the side yard setback of the Rural Residential A (RR-A) zone from 7.5 m to 7.07 m for the purpose of constructing a single-family dwelling with secondary suite.

BACKGROUND

The 0.82 ha property is located at 7564 Lemare Crescent in Otter Point and is zoned Rural Residential A (RR-A) in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 (Appendix 1). The property fronts onto Lemare Crescent to the west, residential properties to the east and south, and a Juan de Fuca Community Parks trail to the north. The adjacent parcels are also zoned RR-A.

A building permit was issued on May 1, 2013 for a single-family dwelling with secondary suite (Appendix 2). A survey was submitted by Island Land Surveying Ltd. on May 22, 2013 showing the location of the foundation encroaching into the 7.5 m side yard setback of the RR-A zone (Appendix 3). The siting was due to a survey error and the applicant wishes to pursue the variance request rather than cutting the foundation back to meet the 7.5 m setback.

ALTERNATIVES

1. Approve the development variance permit to vary Part 2, Section 4A.05 of the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, from 7.5 m of a side parcel line to 7.07 m of a side parcel line for the purpose of constructing a single-family dwelling with secondary suite.
2. Deny the development variance permit and require the structure to comply with zoning requirements.
3. Refer the application back to staff for more information.

LAND USE IMPLICATIONS

The applicant received a building permit to construct a single-family dwelling with secondary suite on May 1, 2013 and engaged Island Land Surveying Ltd. to site the location of the proposed foundation at 7.5 m, consistent with the zoning setbacks. Due to a survey error, the foundation was constructed 7.07 m from the side parcel boundary. The applicant wishes to pursue this variance to reduce the side yard setback from 7.5 m to 7.07 m to accommodate the building in its current location.

The property is within the designated settlement containment area in the Otter Point Official Community Plan, Bylaw No. 3719, which is intended for more intensive residential development. The proposed residential use of the property is in keeping with the settlement area policies as outlined in Section 4.2.1.2 of Bylaw No. 3719 and complies with all other provisions of the RR-A zone and applicable sections of Bylaw No. 2040. Side yard setbacks in most rural residential zoning districts within Bylaw No. 2040 are 6 m which is less than the 7.07 m requested by this application.

Should the variance be denied, the applicant would be required to cut the foundation back to 7.5 m and alter the building design accordingly. Part 1, Section 4.10 of Bylaw No. 2040 permits projections of up to 1 m into required yards for certain building features; such projections may be incorporated if the building design must be altered. Until a decision has been made on the variance request, no building inspections will be conducted.

As the extent of the variance requested is minor and the encroachment is not expected to create hardship on adjacent properties, staff recommends approval of the variance subject to public notification.

LEGISLATIVE IMPLICATIONS

Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, specifies a minimum side yard requirement of 7.5 m for parcels within the Rural Residential A (RR-A) zone. Pursuant to Section 922 of the *Local Government Act*, a development variance permit is required to allow a reduced side yard of 7.07 m.

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 m. Any responses received from the public will be presented at the June 18, 2013 Land Use Committee meeting.

CONCLUSION

A building permit to construct a single-family dwelling with secondary suite was issued for 7564 Lemare Crescent in Otter Point. The survey submitted confirms the foundation encroaches into the 7.5 m side yard setback of the RR-A zone. The applicant is now requesting a variance to reduce the side yard requirement from 7.5 m to 7.07 m to permit the construction. Staff recommends approval of the variance request subject to public notification.

RECOMMENDATION

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

1. That Development Variance Permit VAR-06-13 for Lot 21, Section 15, Otter District, Plan VIP87643 to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 4A.05, by reducing the side yard requirement from 7.5 m to 7.07 m as shown in the Island Land Surveying Ltd. survey plan dated May 22, 2013 for the purpose of constructing a single-family dwelling with secondary suite, be approved.

****ORIGINAL SIGNED****

Emma Taylor, MA
Planner

June Klassen, MCIP, RPP
Manager, Local Area Planning
Concurrence

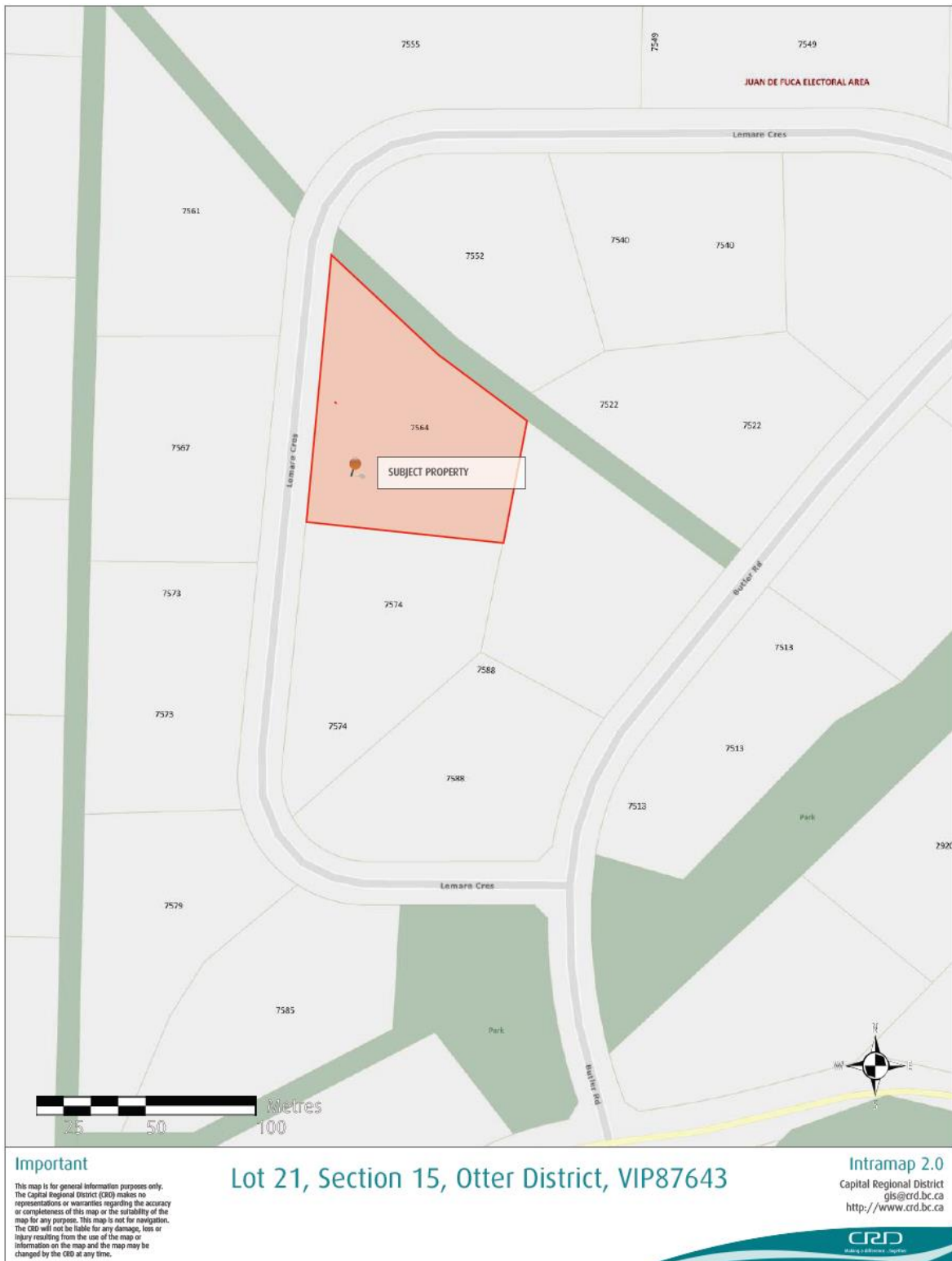
Marg Misek-Evans, MCIP, RPP
Acting General Manager
Planning and Protective Services
Concurrence

Robert Lapham, MCIP, RPP
Chief Administrative Officer
Concurrence

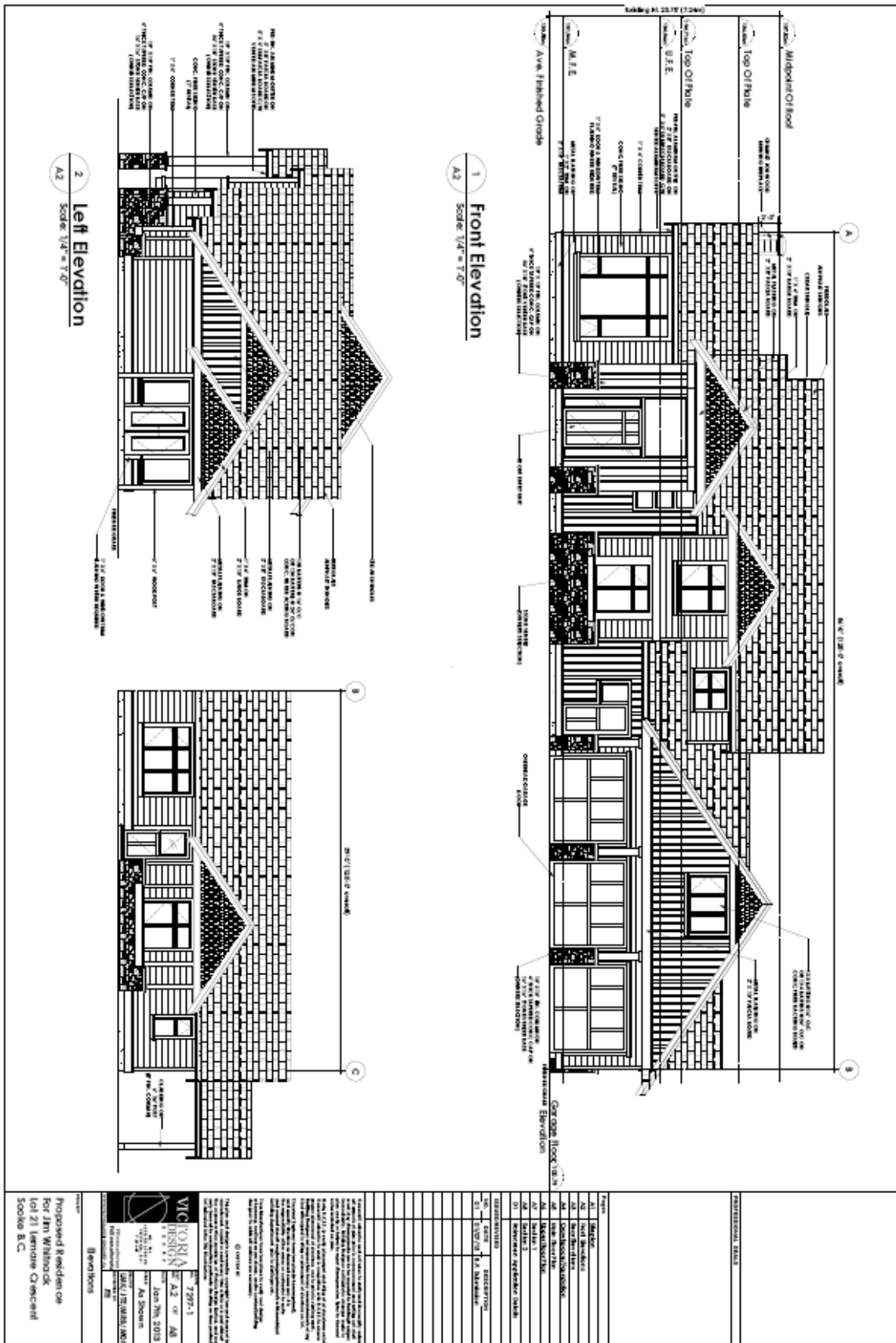
Appendices:

1. Subject Property Map
2. Building Plans
3. Survey

Appendix 1: Subject Property Map



Appendix 2: Building Plans



Appendix 3: Survey

