



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, SEPTEMBER 16, 2014**

---

**SUBJECT**     **DEVELOPMENT VARIANCE PERMIT FOR LOT B, SECTION 51, OTTER DISTRICT, PLAN VIP82573**

**ISSUE**

A request has been made for a development variance permit (VAR-02-14) to reduce the 10% minimum frontage requirement for the purpose of subdividing a parcel for a family member pursuant to Section 946 of the *Local Government Act (LGA)*.

**BACKGROUND**

The 2.55 ha vacant property is located on Tregear Road in Otter Point and is zoned Rural Residential 3 (RR-3) in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 (Appendix 1). The property fronts onto Tregear Road to the north, is adjacent to other RR-3 zoned properties to the north, south and east, and to Rural (A) zoned properties to the west. There are residences on an adjacent parcel to the west and across the road to the northeast.

The applicant has applied to subdivide Lot B for a family member pursuant to Section 946 of the *LGA*; however, proposed Lot 1 does not meet the requirement of Part 1, Section 3.10(4)(a) of Bylaw No. 2040 which states that, where a lot being created by a subdivision fronts on a highway, the minimum frontage on the highway shall be the greater of one tenth of the perimeter of the lot (Appendix 2). Proposed Lot 1 is 1.55 ha and requires a 77.657 m frontage but only has 52.43 m (6.75%). Proposed Lot 2 is 1 ha and meets the requirement with a 58.506 m frontage (12.36%).

**ALTERNATIVES**

1. Recommend to the CRD Board that the development variance permit to vary the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 1, Section 3.10(4)(a) to reduce the minimum frontage requirement of proposed Lot 1 from 77.657 m (10%) to 52.43 m (6.75%) for the purpose of subdividing for a family member pursuant to Section 946 of the *Local Government Act*, as shown in Appendix 2, be approved.
2. Recommend to the CRD Board that the development variance permit be denied and require the subdivision to comply with zoning requirements.
3. Refer the application back to staff for more information.

**LEGISLATIVE IMPLICATIONS**

Bylaw No. 2040 specifies that where a lot is being created by subdivision fronts on a highway, the minimum frontage requirement shall be the greater of one tenth the perimeter of the lot or the minimum frontage specified in this Bylaw. As no other frontage requirement is specified for the RR-3 zone, the proposed lots must be one tenth the perimeter of the lot. A development variance permit is required in order to allow proposed Lot 1 to have a frontage of 52.43 m or 6.75%.

In those situations where a relaxation is acceptable to the local government and a development variance permit is issued, the Provincial Approving Officer (Ministry of Transportation and Infrastructure) must be advised of the approval before the subdivision can be approved.

## **PUBLIC CONSULTATION IMPLICATIONS**

Pursuant to the *LGA*, 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 September 16, 2014 Land Use Committee meeting.

## **LAND USE IMPLICATIONS**

The current Otter Point Official Community Plan (OCP), 2012, Bylaw No. 3719, designates the subject property as Settlement Area which states the desired parcel size for residential development is in the two hectare range. The property was first created as part of a seven lot subdivision in 2006 under the provision of the RR-3 zone which permits lot sizes for subdivision purposes to be 1 ha average and 0.5 ha minimum (Part 2, Section 7.02(c) of Bylaw No. 2040). The parcel was further subdivided in 2007 as it was split by the road. The proposed subdivision of the subject property for a family member will not reduce the lot average of the original subdivision below the 1 ha requirement. The OCP and zoning bylaw do not include any specific requirements for lot size and configuration with respect to subdivisions under Section 946.

In evaluating whether a frontage exemption is justified, the following technical criteria are normally considered:

- Will reducing the frontage produce an awkward lot configuration?
- Will reducing the frontage eliminate future subdivision potential of the lot and of lots beyond?
- Does the proposed reduction disturb existing residences?
- Will the exemption reduce road network and access options?
- How does it relate to the topography of the area?
- Does it create any environmental impacts?

The frontage of the subject property is onto a cul de sac at the end of Tregear Road. There is one driveway access roughed-in from the cul de sac on a relatively level area. An additional driveway for proposed Lot 2 may require the addition of fill or blasting. Driveway access to the proposed lots will require a geotechnical engineer's report to meet emergency vehicle access requirements over the bedrock outcropping terrain as part of the subdivision approval; however, this is not expected to affect the proposed lot layout or create an awkward lot configuration. The reduced frontage would not affect future subdivision potential of the lots and minimal disturbance to adjacent properties is anticipated. As the lots front onto a cul de sac, the road network will not be impacted.

The proposed lots slope down to the south over bedrock terrain. Future driveways and development will require a Steep Slope and Sensitive Ecosystems development permit once the updated Otter Point OCP is adopted to address environmental and hazardous impacts to the site. Provided the parcels can meet water and septic requirements, and address concerns related to access and building sites, the proposed subdivision meets all other bylaw requirements. Staff recommends approval of the variance request subject to public notification.

## **CONCLUSION**

The applicant is requesting a development variance permit to reduce the minimum road frontage requirement of proposed Lot 1 from 10% to 6.75% for the purpose of subdividing for a family member under Section 946 of the *LGA*. Staff recommends approval of the variance request subject to public notification.

**RECOMMENDATION**

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

That Development Variance Permit VAR-02-14 for Lot B, Section 51, Otter District, Plan VIP82573 to vary the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 1, Section 3.10(4)(a) to reduce the minimum frontage requirement of proposed Lot 1 from 77.657 m (10%) to 52.43 m (6.75%) for the purpose of subdividing for a family member pursuant to Section 946 of the *Local Government Act*, as shown in Appendix 2, be approved.

**\*\*ORIGINAL SIGNED\*\***

---

Emma Taylor, MA  
Planner

---

June Klassen, RPP, MCIP  
Manager, Local Area Planning

---

Kevin Lorette, P.Eng., MBA  
General Manager  
Planning & Protective Services

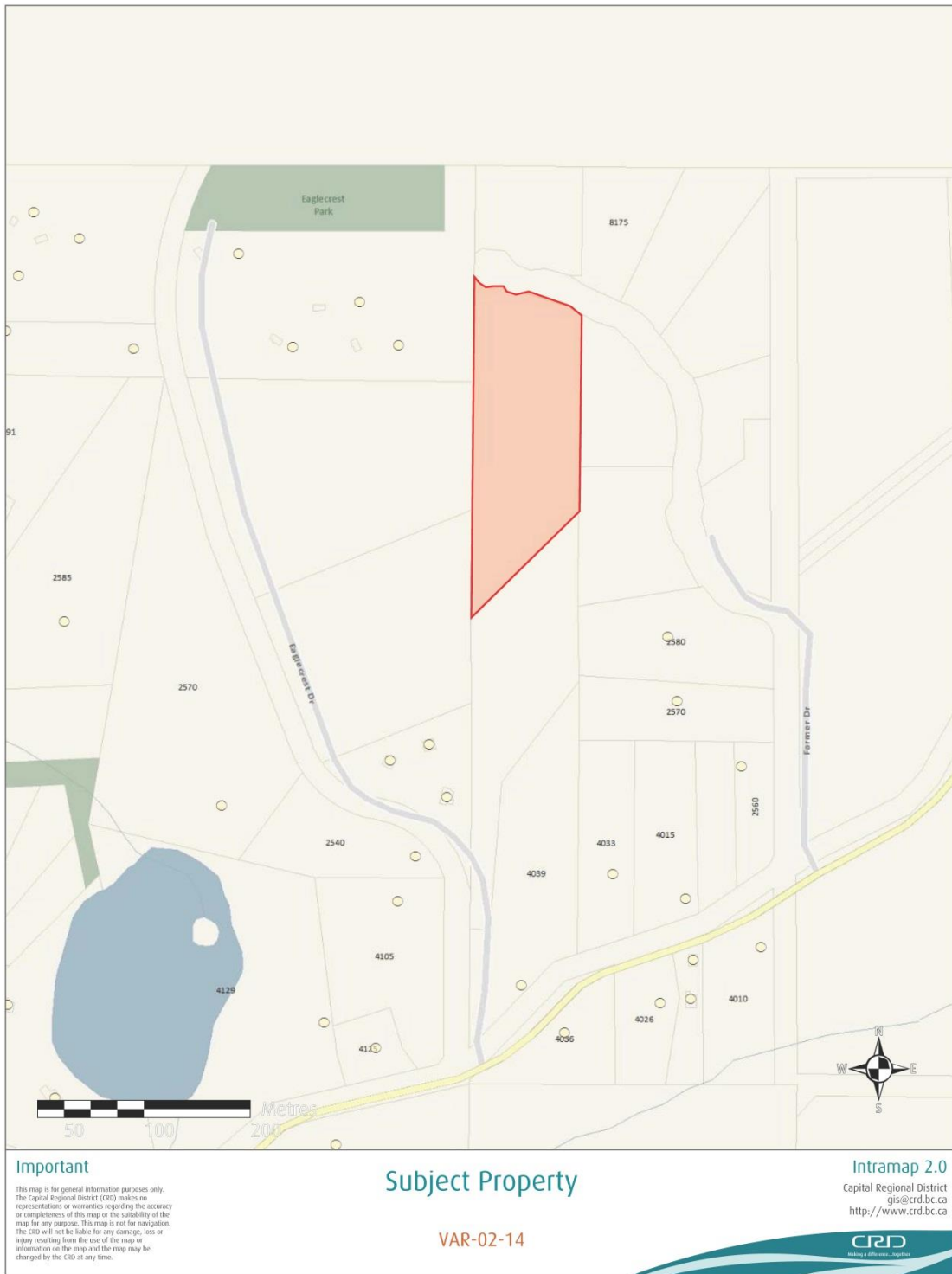
---

Robert Lapham, RPP, MCIP  
Chief Administrative Officer  
Concurrence

Appendices:

1. Subject Property Map
2. Plan of Subdivision

Appendix 1: Subject Property Map



Appendix 2: Plan of Subdivision

PROPOSED LOT 1  
PERIMETER = 776.570  
FRONTAGE = 52.43  
(6.75% OF PERIMETER)

PROPOSED LOT 2  
PERIMETER = 473.56  
FRONTAGE = 58.506  
(12.36% OF PERIMETER)

