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DP-05-12 WITH VARIANCE - STOKES

**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, FEBRUARY 17, 2015**

SUBJECT **DEVELOPMENT PERMIT WITH VARIANCE FOR LOT 7, SECTION 129,
SOOKE DISTRICT, PLAN VIP67208 – 470 SEEDTREE ROAD**

ISSUE

A request has been made for a development permit with variance in order to address the steep slopes; watercourses, wetlands and riparian areas; and sensitive ecosystems development permit guidelines, and to reduce the required frontage of proposed Lot A and proposed Lot B, for the purpose of permitting a 3-lot, fee-simple subdivision.

BACKGROUND

The 4 ha subject property is located at 470 Seedtree Road in East Sooke and is zoned Rural Residential 2 (RR-2) in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040. The property is bounded by Rural A zoned properties to the north, east and west, and Seedtree Road to the south (Appendix 1).

The applicant has submitted a subdivision application (S-02-12) to create two additional lots (Appendix 2) in order to provide fee-simple title to three existing dwelling units. The property was the earlier subject of a zoning amendment application (Z-01-12) to rezone the parcel from Rural A, which specified a minimum lot size of 4.0 ha, to RR-2, which permits a minimum parcel size of 1 ha, in order to facilitate the proposed subdivision in place of a 3-lot building strata.

Since the property is partially designated as a Steep Slopes Development Permit Area (DPA); a Watercourses, Wetlands and Riparian Areas DPA; and a Sensitive Ecosystem DPA, the applicant must obtain approval of a development permit prior to final approval of the subdivision. In addition, the applicant must obtain approval of a development variance to relax the frontage requirement specified by Bylaw No. 2040 from 10% of the lot perimeter to 4.4% of the lot perimeter for proposed Lot A and 3.4% of the lot perimeter of proposed Lot B.

ALTERNATIVES

- 1) Recommend to the CRD Board that the Steep Slopes; Watercourses, Wetlands and Riparian areas; and Sensitive Ecosystems development permit with variance to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 1, Section 3.10(4)(a), by relaxing the minimum frontage requirement for proposed Lot A from 10% of the perimeter of the lot that fronts on a highway to 4.4% and for proposed Lot B from 10% to 3.4% of the lot perimeter, for the purpose of permitting a 3-lot fee-simple subdivision, be approved.
- 2) Recommend that the development permit with variance be denied and require that the subdivision layout comply with zoning requirements.
- 3) Refer the application back to staff for additional information.

LEGISLATIVE IMPLICATIONS

The East Sooke Official Community Plan, Bylaw No. 3718, outlines development permit guidelines for achieving the objectives of the development permit areas. The property is partially designated as a Steep Slopes DPA; a Wetlands and Riparian Areas DPA; and a Sensitive Ecosystem DPA; therefore, a development permit is required.

The Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 1, Section 3.10(4)(a), specifies frontage requirements for subdivision. To vary these requirements, a development variance 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 m. Any responses received from the public will be presented at the February 17, 2015, Land Use Committee meeting.

LAND USE IMPLICATIONS

Variances

The Juan de Fuca Land Use Bylaw, Bylaw No. 2040, establishes subdivision requirements for parcels in East Sooke. Part 1, Section 3.10(4)(a) 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 the perimeter of the lot that fronts on the highway." Since only 4.4% of the perimeter of proposed Lot A and 3.4% of the perimeter of proposed Lot B fronts on a highway, a development variance permit is required. The applicant has provided a letter from Ryan Hourston, BCLS, of JE Anderson and Associates, stating that the rationale for the proposed lot configuration is due to the steep topography at the west end of the parent parcel (Appendix 3). Staff note that access to the existing dwellings on the proposed lots is currently via a driveway over Lot C.

Development Permit

The subject property is partially designated as a Steep Slopes DPA. A geotechnical report, certified by Richard Brimmell, P.Eng., and dated March 8, 2008 (Appendix 4), identified two "future" building sites located to the north and northwest of dwelling on proposed Lot C. The report described the site to the northwest as free of geotechnical hazards and safe for the intended residential use. That site is now the location of the dwelling on proposed Lot A. The report also described the site to the north as capable of being "developed for foundations, however, a rockfall hazard exists" in that area due to its proximity to a southwest facing rock bluff. This second site would be the location of a new home to be built on proposed Lot B pending successful completion of the subdivision application and removal of the existing mobile home.

The subject property is partially designated as a Watercourses, Wetlands and Riparian Areas DPA. The applicant has submitted a letter (Appendix 5) from Thomas Roy, R.P.Bio (QEP), stating that the 30 m Riparian Assessment Area (RAA) does not project onto the land subject to the proposed subdivision, nor does the first order stream identified in the CRD's GIS, actually exist.

The subject property is partially designated as a Sensitive Ecosystem DPA. The applicant submitted a previous environmental report (Appendix 6) signed by Thomas Roy, R.P.Bio. (QEP), identifying environmentally sensitive habitat and species documented on the land. The report confirmed that the building location for the proposed dwelling, now the dwelling on proposed Lot A, was located outside any "sensitive ecosystem" polygons of the Sensitive Ecosystem Inventory (SEI). Staff note that the location of the dwellings on proposed Lots B

and C are also located outside any “sensitive” SEI polygons, and that all three buildings lie outside the Sensitive Ecosystem DPA.

PLANNING ANALYSIS

With regards to the requested frontage variances, the applicant has provided a letter from Ryan Hourston, BCLS, of JE Anderson and Associates. It is believed that due the steep topography, access to Lots A and B along their frontage on Seedtree Road would be impractical. Staff note that access to the existing dwellings on the proposed lots is currently via a driveway over Lot C. Since no changes will be made to that configuration as a result of subdivision and the access would be protected via a registered easement, the reduced frontage requirement should have no impact on the subject or surrounding properties.

With respect to the development permit requirements for the proposed subdivision, there are three existing dwellings on the property and no land alteration within a development permit area is required as part of this subdivision. Should the future owner of Lot B wish to remove the existing mobile home and construct a new dwelling in the location described by the March 8, 2008, geotechnical report, a more detailed geotechnical review and subsequent steep slopes DP would be required.

While it is likely that no further *RAR* Assessments would be required on the subject property or the proposed lots, future owners would be required to provide more detailed environmental assessments and obtain approval of a sensitive ecosystem DP prior to disturbing land within the Sensitive Ecosystem DPA.

CONCLUSION

The applicant is requesting a Steep Slopes; a Watercourses, Wetlands and Riparian Areas; and a Sensitive Ecosystem DP with variance to address geotechnical and environmental concerns, and to relax the required frontage in order to permit a 3-lot subdivision. The purpose of the subdivision is to provide fee-simple title to three existing dwellings currently located on the subject property, with no associated alteration of the land.

The BC Land Surveyor retained by the owners has stated that due to the steepness of the terrain adjacent to the public road frontage, direct access off Seedtree Road is impractical. Instead, access to the proposed lots would be via an existing driveway over proposed Lot C. The driveway currently services as access to the two dwellings that would be located on proposed Lots A and B, as well as to the dwelling on proposed Lot C.

In terms of future land development, the applicant submitted a geotechnical report addressing the potential construction of a dwelling on proposed Lot B, to the north of the existing dwelling on proposed Lot C. The geotechnical engineer has confirmed that future construction will require additional geotechnical review and oversight.

Since the applicant has confirmed that the subject property lies beyond 30 m of a watercourse, and since no land disturbance is currently proposed within the Steep Slopes or Sensitive Ecosystem DPAs, staff recommend approval of the development permit with variance subject to the conditions of the attached geotechnical report and subject to public notification.

RECOMMENDATIONS

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

1. That Steep Slopes; Watercourses, Wetlands and Riparian Areas; and Sensitive Ecosystems development permit DP-05-12 with variance for Lot 7, Section 129, Sooke District, Plan VIP67208 be approved subject to the following conditions:
 1. That the proposed development comply with the Steep Slopes; Watercourses, Wetlands and Riparian Areas; and Sensitive Ecosystems Development Permit Guidelines outlined in the East Sooke Official Community Plan, Bylaw No. 3718;
 2. That the proposed development comply with the recommendations outlined in the geotechnical engineer's report prepared by Richard Brimmell, P.Eng., dated March 8, 2008, (Appendix 3);
 3. That the geotechnical engineer's report prepared by Richard Brimmell, P.Eng., dated March 8, 2008, be secured via a restrictive covenant registered on title as part of the subdivision process; and
 4. That the conditions of this development permit with variance be verified as part of the subdivision process; and
2. That Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part 1, Section 3.10(4)(a) be varied by reducing the required frontage from 10% of the lot perimeter to 4.4% of the lot perimeter for proposed Lot A and 3.4% of the lot perimeter for proposed Lot B, as shown on the proposed Plan of Subdivision, EPP41954 (Appendix 2) in order to permit a proposed 3-lot subdivision.

****ORIGINAL SIGNED****

Iain Lawrence
Planner, Local Area Planning

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

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

Robert Lapham, MCIP, RPP
Chief Administrative Officer
Concurrence

Appendix 1: Subject Property Map

Appendix 2: Proposed Plan of Subdivision, Plan EPP41954

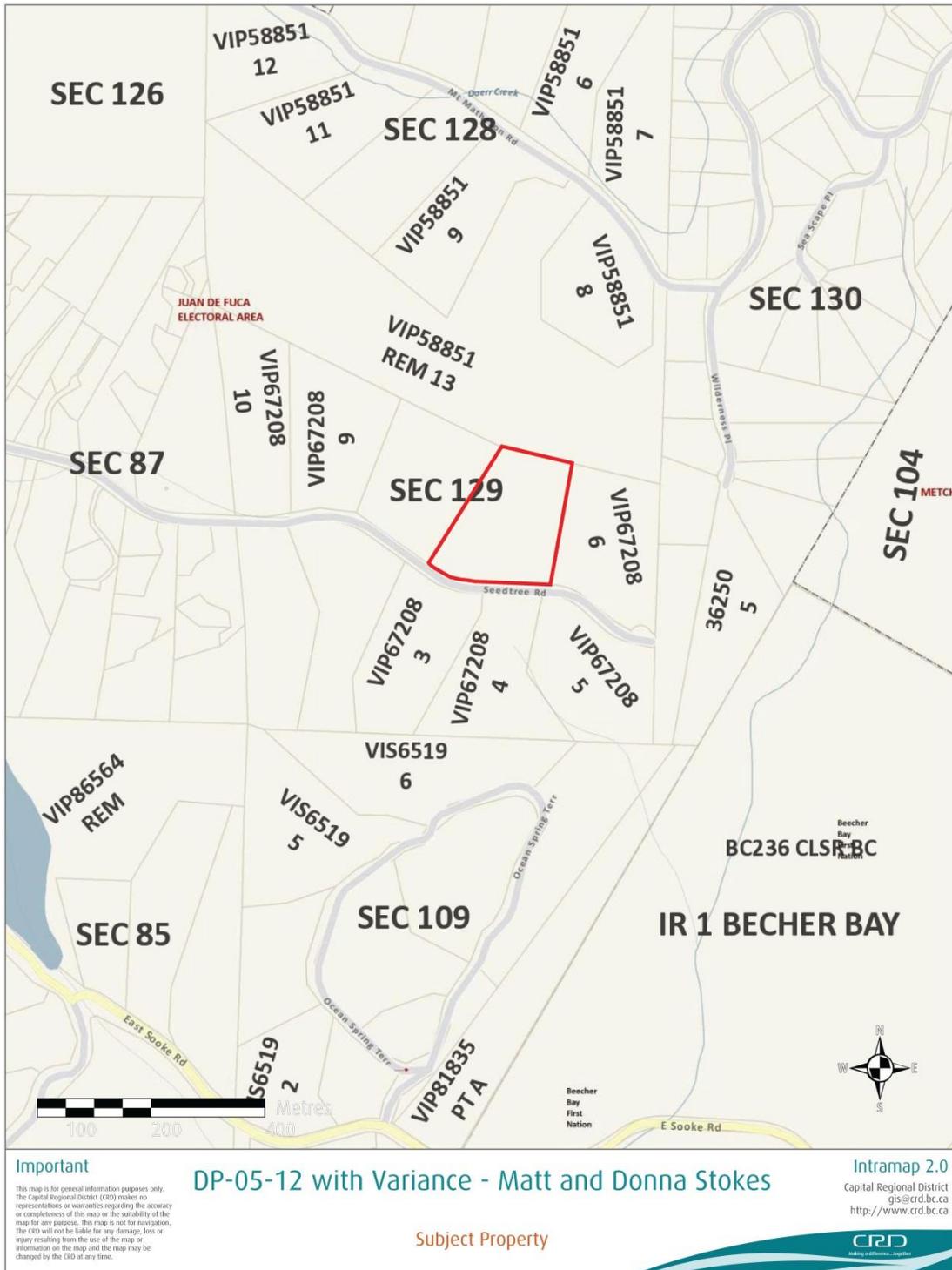
Appendix 3: JE Anderson Letter

Appendix 4: Geotechnical Report, Richard Brimmell, P.Eng., March 8, 2008.

Appendix 5: Environmental Report (RAR), Cascadia Biological Services, Thomas Roy, R.P.Bio. (QEP), December 19, 2014.

Appendix 6: Environmental Report (SEI), Cascadia Biological Services, Thomas Roy, R.P.Bio. (QEP), February 28, 2008.

Appendix 1: Subject Property Map



Important

This map is for general information purposes only. The Capital Regional District (CRD) makes no representations or warranties regarding the accuracy or completeness of this map or the suitability of the map for any purpose. This map is not for navigation. The CRD will not be liable for any damage, loss or injury resulting from the use of the map or information on the map and the map may be changed by the CRD at any time.

DP-05-12 with Variance - Matt and Donna Stokes

Subject Property

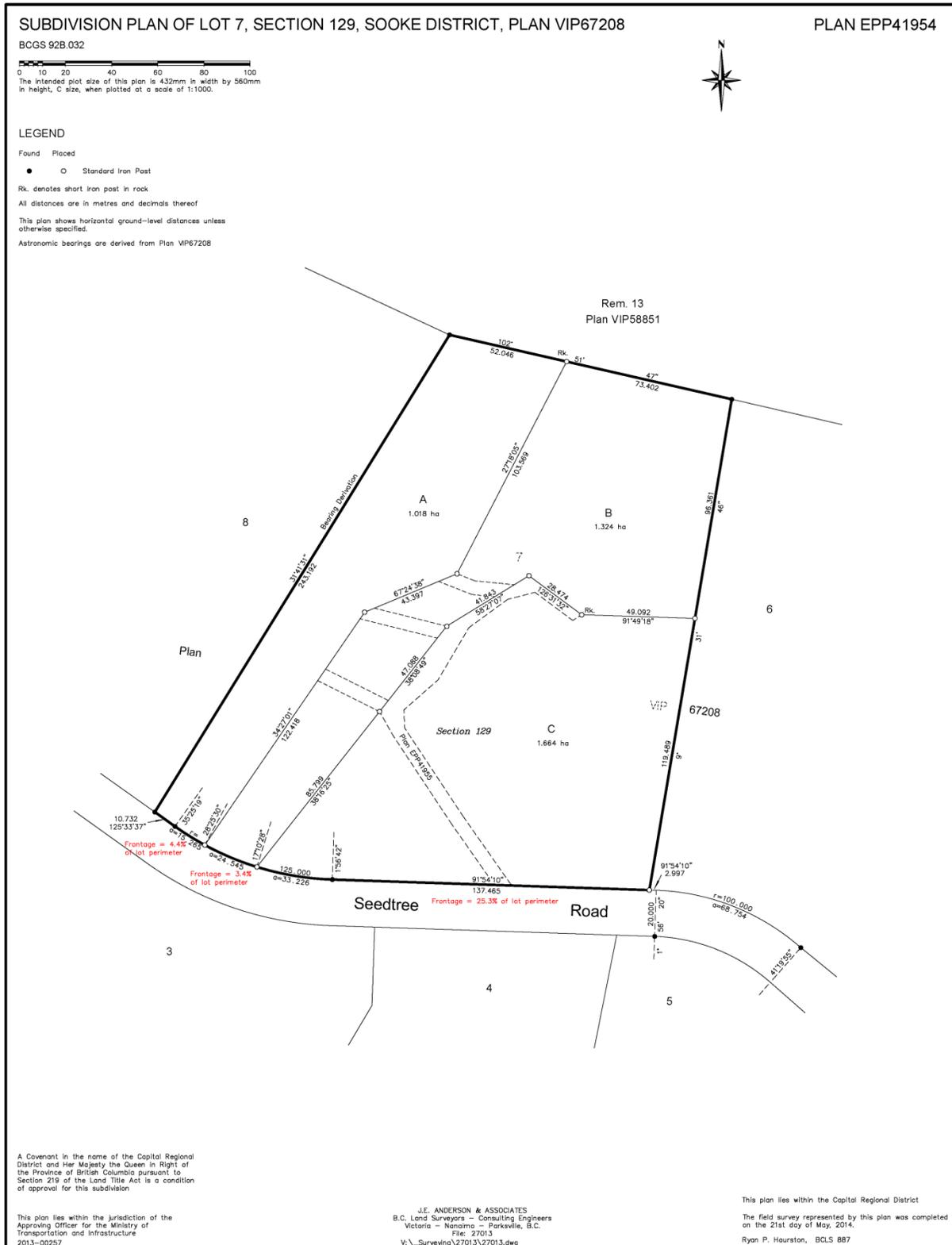
Intramap 2.0

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



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Appendix 2: Proposed Plan of Subdivision



LEGAL SURVEYS
MUNICIPAL ENGINEERING
LAND DEVELOPMENT AND MANAGEMENT



December 9, 2014

File No. 27013

Iain Lawrence
Juan de Fuca Local Area Planning
Capital Regional District
3-7450 Butler Road
Sooke, BC, V9Z 1N1

Dear Sir:

Re: 470 Seedtree Road – Matt and Donna Stokes

Pursuant to Section 944(1) of the Local Government Act, a parcel being created by subdivision requires that 10% of its perimeter fronts onto a public highway. Relief from this requirement can be granted by the local government according to Section 944(2) of the Local Government Act. In the subdivision of 470 Seedtree Road, the proposed Lot A and B do not meet this requirement. The rationale for the lot configuration is due to the steep topography at the west end of the property. It would be impractical to have access to Lot A and B along their frontage, so access is being granted over the existing driveway on proposed Lot C. In order to meet the lot area requirement for the zone, Lots A and B required to be long and narrow, increasing the lot perimeter and resulting in the 10% frontage requirement not being met.

If you have any questions regarding the subdivision of the property, please contact the undersigned.

Yours truly,

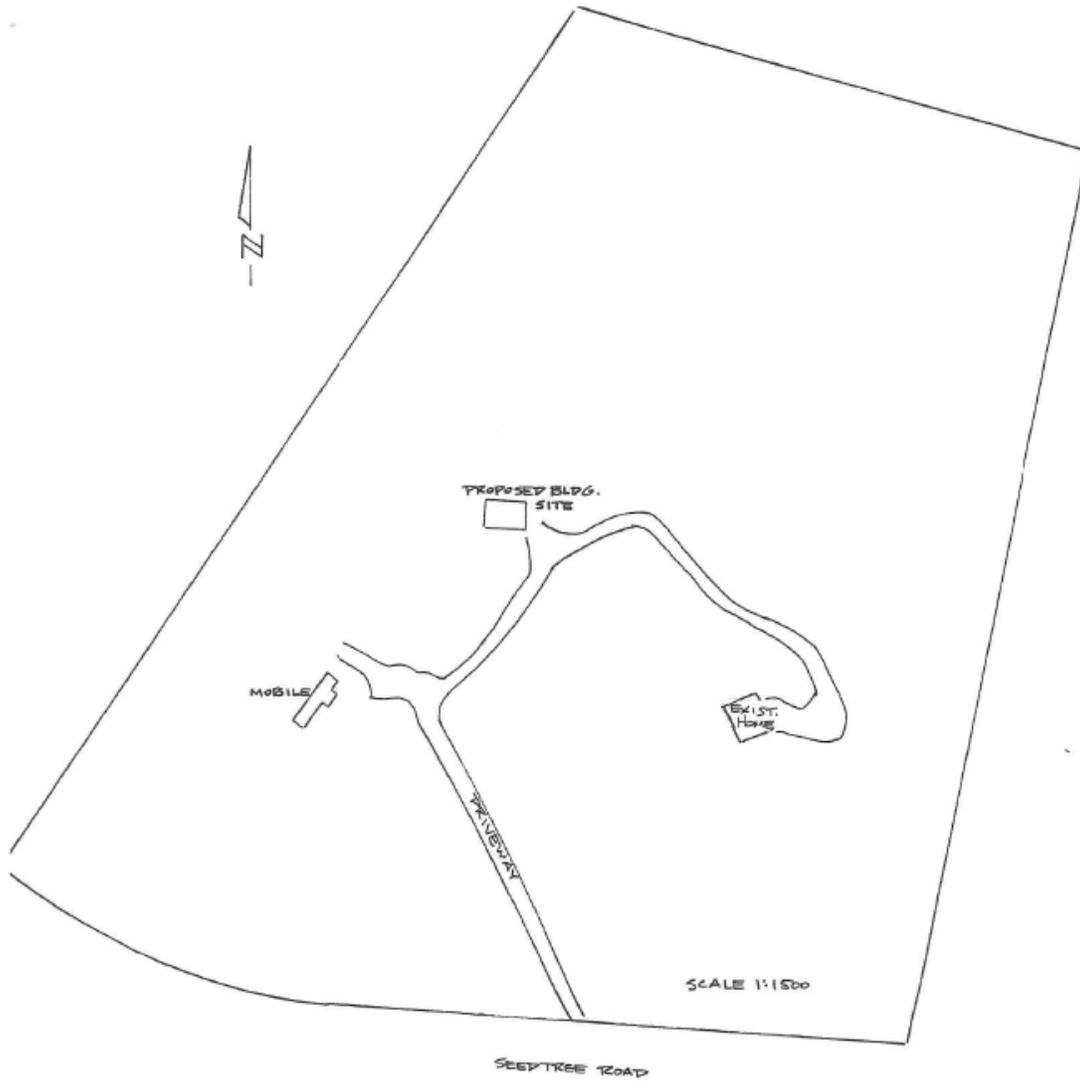
J.E. Anderson and Associates

Ryan P. Hourston, BCLS
on behalf of Matt Stokes

☐ 1A – 3411 Shelton Road
Nanaimo, BC, V9T 2H1
Phone 250-758-4631
Fax 250-758-4600

☐ 4211 Glasford Avenue
Victoria, BC, V8S 4R7
Phone 250-727-2214
Fax 250-727-3395

☐ 170 Merivale Ave., P.O. Box 247
Parksville, BC, V9B 2S4
Phone 250-248-8765
Phone 250-248-6199



Project: Proposed Building 470 Seedtree Rd. E. Sooke	DRAWING 1 File Number: 08-19	Drawing Name: Site Sketch
Client: Matt Stokes	Date: March 8/08	Richard Brimmell, P. Eng.

Appendix 5: Environmental Report (RAR)



Cascadia Biological Services
772 Goldstream Ave
PO Box 27034
Victoria, BC
V9B 5S4

December 19th 2014

Attn: Planner
Capitol Regional District

Re: 476 Seedtree Road – East Sooke

To whom it may concern,

Please be advised that this letter is confirmation that I, Thomas Roy of Cascadia Biological Services, have visited the property located at 470/474/476 Seedtree Road in East Sooke BC (refer to Attachment I for property location) in December of 2014. Cascadia was retained by the owner Matt/Donna Stokes to assess whether watercourses as defined by the Riparian Areas Regulations (RAR) legislation, are within 30m of the proposed subdivision and if watercourses are observed, do they affect the proposed subdivision in reference to the Riparian Assessment Area (RAA). From our assessment of the property, we have determined that the 30m RAA does not project onto the proposed subdivision nor does the 1st order stream identified as being on the subject property exist (refer to Attachment II). The property(s) are therefore not subject to the RAR legislation.

If you have any questions regarding this assessment, please do not hesitate to contact me by means below.

Thanks for your time.



Thomas Roy, R.P. Bio., QEP
Cascadia Biological Services



Attachment I – Overview Map



Appendix 5: Environmental Report (SEI)



Cascadia Biological Services
1442 White Pine Terrace
Victoria, BC
V9B 6J3

February 28, 2008

Attn: Planning Staff
Capitol Regional District (CRD)

Re: 470 Seedtree Rd – East Sooke

To whom it may concern,

The following letter identifies environmentally sensitive habitats/species documented on 470 Seedtree Road in East Sooke, BC and forms part of an application to build an accessory building/structure (Refer to Attachment I for building location) on the property. As required, environmentally significant habitats have been mapped and include assessments for rocky outcrops, waterbodies, wildlife trees, RAR polygons etc..

The area surrounding the proposed building site within the confines of the subject property fall into two sensitive ecosystem inventory (SEI) polygons (refer to Attachment II) as identified on the Natural Areas Atlas for the CRD. The area immediately north of the proposed building edge is classified as older second growth with the actual building site falling into the deleted due to disturbance, fragmentation, or remnant assessment polygons. Classified as Second Growth (SG), the majority of the northern polygon has been logged approximately 60-90 years ago, with regeneration being between 60 120 years old. The upper canopy is 100% Douglas fir with arbutus and Douglas fir intermixed in the sub canopy. The property has a southern aspect with areas of rocky outcrops and slopes greater than 35%. Sharp-tailed snake habitat requirements are present on the property except for the presence of talus and cover elements. Other environmentally significant observations within the property include two active deer trails with both recent and past use (pellets, tracks, antlers, and a skull) documented as well as three large Douglas fir snags meeting the definitions established for wildlife trees (cavities and nesting platforms observed however no visible nests). Species identified with the British Columbia Conservation Data Centre (BC CDC) including blue and red listed wildlife species were assessed for presence/absence on the property around the immediate area required for the proposed building. Specific species of concern on Vancouver Island and that have the potential to occur on the South Island include the Northern Goshawk, American Peregrine Falcon, Barn Owl, Western Screech Owl, Northern Pygmy Owl, Short Eared Owl, Red-legged Frog, and both the Vancouver Island Ermine and Water Shrew. Our wildlife/vegetation assessment of the property resulted in none of the above listed species identified within 30m of the proposed building area. As a result of our assessment, Cascadia Biological Services has concluded that impacts to the



environment will be negligible as a result of the proposed building location. Please refer to select photographs below of the proposed building site as well as documented wildlife trees

If you have any questions regarding this assessment, please do not hesitate to contact me by means below.

Thanks for your time.

Thomas Roy, R.P. Bio., QEP
Cascadia Biological Services

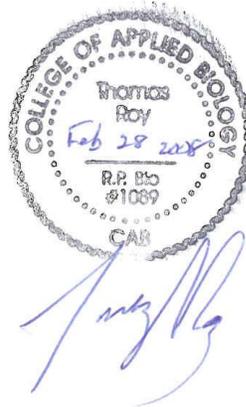




Plate #1 – View of the proposed building location on previously disturbed areas

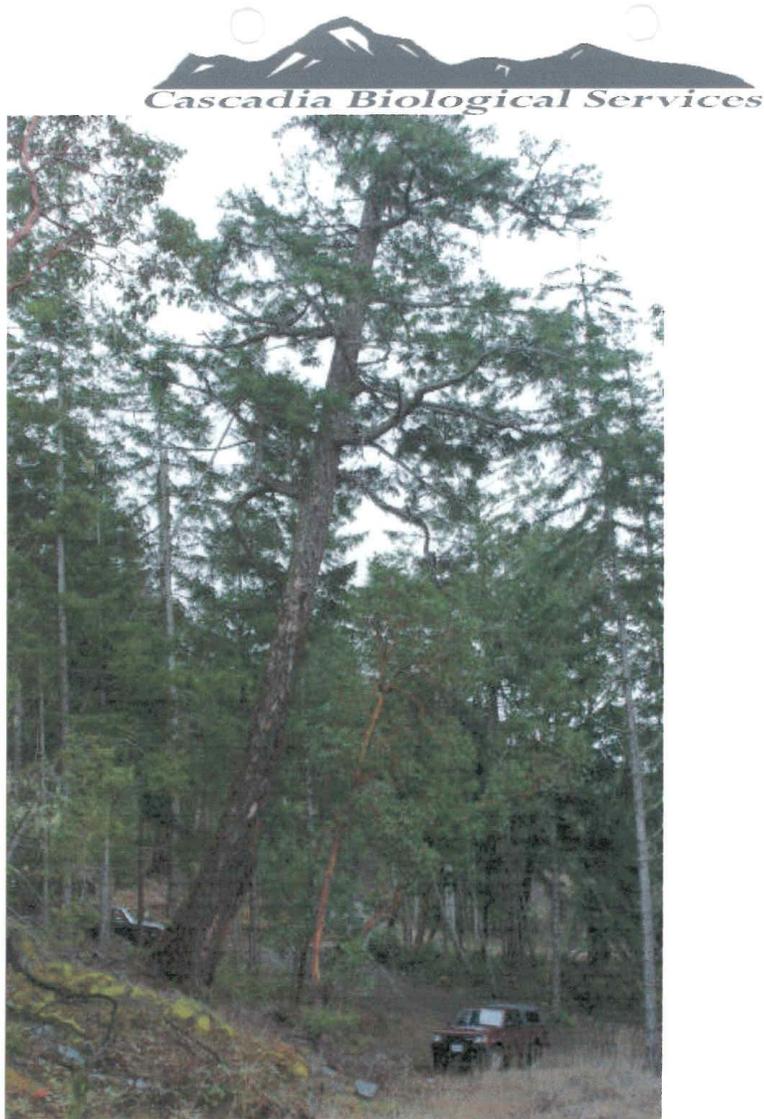


Plate #2 – View of wildlife tree immediately outside of the proposed building location

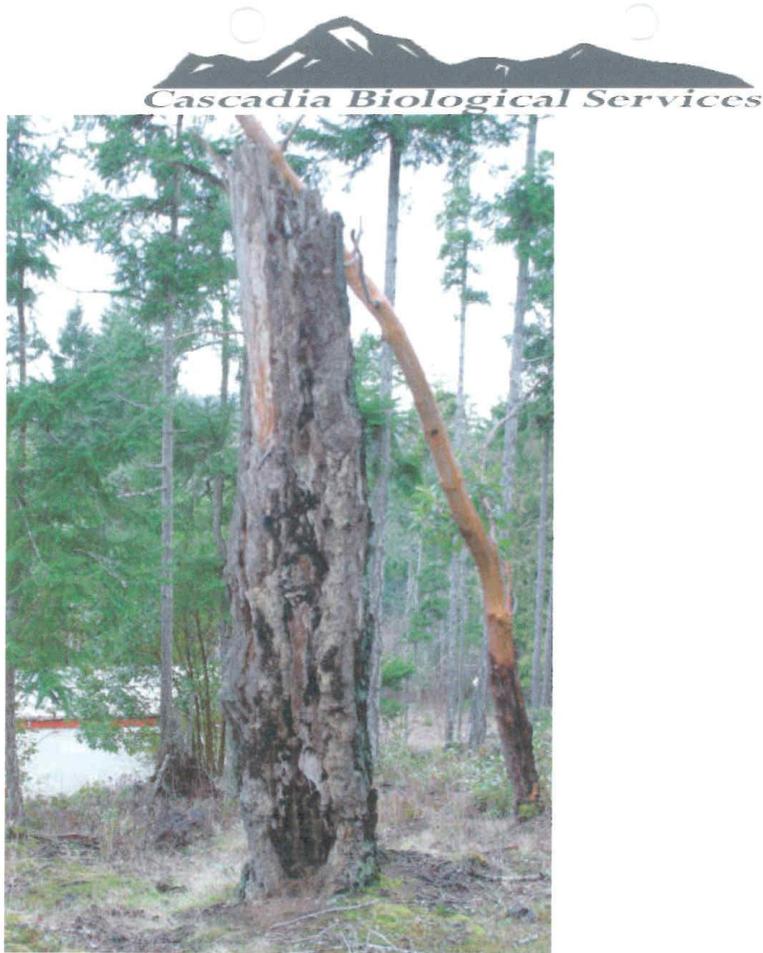


Plate #3 – View of wildlife tree approximately 50m from proposed building location

~~Right side wildlife tree as~~

