



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, SEPTEMBER 15, 2015**

SUBJECT **Development Variance Permit for Lot A, Section 51, Otter District,
Plan VIP89485**

ISSUE

A request has been made for a development variance permit to reduce the requirement that ten percent of the lot fronts onto a highway for the purpose of creating a two-lot subdivision.

BACKGROUND

The 2.03 ha property is located at 4039 Otter Point Road and includes frontage on Eaglecrest Drive (Appendix A). The parcel is zoned Rural Residential 2 (RR-2) in the Juan de Fuca Land Use Bylaw, Bylaw No. 2040, and is bound to the north and east by parcels zoned Rural Residential 3 (RR-3) and to the west and south by parcels zoned Rural A (A).

The property was subdivided in 2012 under the RR-3 provisions (S-11-10) and subject to conditions of a steep slopes development permit with frontage variance (DP-26-10). In 2015, the property was rezoned to RR-2 by Bylaw No. 3964 (Z-02-14). The applicants are now proposing a two-lot subdivision under the provisions of the RR-2 zone (Appendix B). Proposed Lot 1 will include the existing house, accessory buildings, dug well and septic field. Proposed Lot 2 is undeveloped and would be accessed via a panhandle driveway from Otter Point Road over an unmapped watercourse.

The applicants are requesting a variance to reduce the requirement in Part 1, Section 3.10(4)(a) of Bylaw No. 2040 that one tenth of the perimeter of the lot fronts on a highway. Proposed Lot 1 is 1 ha and meets the requirement with a frontage of 244.76 m (~52%). Proposed Lot 2 is 1 ha and requires a 58.48 m (~10%) frontage but only has 6.04 m (~1%) as it is a panhandle lot.

ALTERNATIVES

That the Land Use Committee recommends to the CRD Board:

1. That Development Variance Permit VA000135 for Lot A, Section 51, Otter District, Plan VIP89485 to vary the Juan de Fuca Land Use Bylaw, Bylaw No. 2040, Schedule "A", Part 1, Section 3.10 item (4)(a) to reduce the minimum frontage requirement from 58.48 m to 6.04 m for proposed Lot 2 for the purpose of permitting a two-lot subdivision as shown in the Site Plan submitted by West Coast Design & Development Services, August 12, 2015 (Appendix B), be approved.
2. That the development variance permit be denied and require the subdivision to comply with zoning requirements.
3. That the application be referred back to staff for more information.

LEGISLATIVE IMPLICATIONS

The Juan de Fuca Land Use Bylaw, Bylaw No. 2040, Schedule "A", Part 1, Section 3.10 (4) specifies where a lot being created by a subdivision fronts on a highway, the minimum frontage on the highway shall be the greater of: (a) one tenth of the perimeter of the lot that fronts on the highway; or (b) the minimum frontage specified in this Bylaw for the lot. As no other frontage requirement is specified for the RR-2 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 2 to have a frontage of 6.04 m or approximately 1% for a panhandle access.

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 & Infrastructure) must be advised of the approval before the subdivision can be approved.

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 September 15, 2015 Land Use Committee meeting.

LAND USE IMPLICATIONS

The property is designated as Settlement Area 2 in the Otter Point Official Community Plan, Bylaw No. 3819. The Settlement Area 2 designation supports average parcel size of one hectare with a minimum parcel size of 0.8 hectares for residential development. Proposed Lots 1 and 2 are consistent with the Settlement Area 2 designation. The proposed subdivision is also consistent with the minimum lot size requirement of 1 ha for the RR-2 zone. As indicated in the definition of PANHANDLE LOT, the area of the access strip is not included in the minimum lot area calculations.

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

- How does it relate to the topography of the area?
- Does it create any environmental impacts?
- 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?

A small portion of the property is designated within the Steep Slopes Development Permit Area (DPA) in Bylaw No. 3819. The Steep Slopes DPA boundaries include areas having slopes exceeding 30% or 16.7 degrees in slope over a minimum 10 metre run. DP-26-10, issued in 2011, included conditions related to a geotechnical engineer's assessment of the property in 2010. The report formed a covenant registered on title of the lots created by Plan VIP89485 indicating recommendations for safe building sites. As this covenant will remain on title of the properties, the requirement for an additional development permit has been waived.

An unmapped watercourse flows westerly through the subject property into King Creek. A report has been submitted pursuant to the *Riparian Areas Regulation* as required for the proposed subdivision. The future access to Lot 2 would involve constructing a driveway over the watercourse. Notification under Section 9 of the *Water Act* may be required for the driveway construction in and about the stream. As part of the subdivision process, the Otter Point Fire Department provided comment on driveway construction in order to ensure access for emergency vehicles. Environmental impacts of driveway construction will be mitigated at the time of construction.

Part 1, Section 3.10 (7) of Bylaw No. 2040 requires side lot lines to be substantially at right angles or radial to street lines unless the Approving Officer is satisfied that it is impractical to comply. As the configuration of the existing parcel does not conform to this provision, it is likely to be deemed impractical to comply. The proposed lot configuration results in a 6 m wide, 243 m² panhandle access to proposed Lot 2. Part 1, Section 3.10(5)(a) requires a minimum width of 6 m for a panhandle access strip to lots that are not capable of further subdivision. As proposed Lot 2 will not be capable of further subdivision, the 6 m wide access strip is acceptable.

Through the public notification process, any residences that may be affected by the proposed frontage reduction will have an opportunity to come forward with their concerns. Ministry of Transportation & Infrastructure's review of the subdivision will involve consideration of road network and access options.

Staff recommends Alternative 1 subject to public notification and consideration of comments from neighbouring residents.

CONCLUSION

The applicant is requesting a reduction of the minimum frontage requirement from 58.48 m (~10%) to 6.04 m (~1%) for the proposed subdivision. 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 VA000135 for Lot A, Section 51, Otter District, Plan VIP89485 to vary the Juan de Fuca Land Use Bylaw, Bylaw No. 2040, Schedule "A", Part 1, Section 3.10 item (4)(a) to reduce the minimum frontage requirement from 58.48 m to 6.04 m for proposed Lot 2 for the purpose of permitting a two-lot subdivision as shown in the Site Plan submitted by West Coast Design & Development Services, August 12, 2015 (Appendix B), be approved.

Submitted by:	Emma Taylor, MCIP, RPP, Planner
Concurrence:	June Klassen, MCIP, RPP, Manager Local Area Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Kevin Lorette, P.Eng., MBA, Acting Chief Administrative Officer

ET:wm

Appendices:

- A. Subject Property Map
- B. Site Plan, West Coast Design & Development Services, August 12, 2015

Appendix A: Subject Property Map



