

JUAN DE FUCA LAND USE COMMITTEE

Notice of Meeting on Tuesday, **June 21, 2022 at 7:00 pm**

Juan de Fuca Local Area Services Building, #3 – 7450 Butler Road, Otter Point, BC

SUPPLEMENTARY AGENDA

1. Additional information received for the following agenda items:
 - a) Agenda Item 6 a) VA000155 – Section 42, Otter District Except That Part Lying 50 feet on Each Side of the Centre Line of the Right of Way Shown on Plan121 RW and Except That Part in Plan EPP63580 (Clark Road & Aythree Way)
 - Sheila Hubbard, Otter Point
 - Howard Taylor, Otter Point
 - Jo Phillips, Otter Point
 - Sharon Sterling, Otter Point
 - Sean Thompson and Erika Utitz, Otter Point
 - Andrew MacKay, Otter Point
 - b) Agenda Item 7 a) DV000088 - Lot 12, Section 10, Otter District, Plan VIP77477 (2193 Otter Ridge Drive)
 - Bruce and Dawn Hobensheild, Otter Point
 - James Gable and Shelly Lowewen Gable, Otter Point

From: [Sheila Hubbard](#)
To: [jdf.info](#)
Subject: Variance permit application
Date: Sunday, June 12, 2022 5:07:29 PM

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To: Juan de Fuca Community Planning

Regarding: Development variance permit application, Section 42, file VA000155

I am the owner of a property adjoining the proposed subdivision. I am surprised that so many of the proposed lots have so much less road frontage than required. Did the company that owns Section 42 not do their homework with respect to subdividing in Otter Point? Or did they plan the subdivision, knowing the boundaries were wrong, but assuming that JdF Community Planning is a pushover and they could get anything they wanted through a variance?

Anyway, I don't see a problem with the variances requested for lots 3, 4, 5, 6, 7 if CRD thinks the reduced frontage still provides safe access. However there is a zoning application to permit a campground on lot 2, which means there is the potential for public traffic and trailers to travel down this narrow, unpaved, steep, windy private road at night and in poor weather. I can see a bad accident happening there. I will only support reducing the required frontage and panhandle width for proposed lot 2 if the application to permit a campground is withdrawn.

Sincerely, Sheila Hubbard

From: [Howard Taylor](#)
To: [jdf info](#)
Subject: Development variance permit for Section 42
Date: Thursday, June 16, 2022 2:15:21 PM

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To: Juan de Fuca Community Planning

Regarding: Development variance permit application, Section 42

I support the variances requested for proposed lots 3 through 7 (variances a.i – a.vi) if CRD Planning believes the reduced frontages provide safe access to the proposed lots. However, I don't support the reduced panhandle width (variance b) for proposed lot 2 because this lot is subject to a zoning request to permit a public campground. The road on the panhandle provides the only access to the campground. This area has steep slopes, the long access road is unpaved, and campers not familiar with the property could get into serious trouble on such a narrow access.

If campground use was withdrawn from the proposed AG-2 zoning for lot 2, I would support variance b.

Thanks,

Howard Taylor

[Redacted signature block]

From: [jphillips](#)
To: [Wendy Miller](#); [jdf info](#)
Subject: public input on development variance request
Date: Saturday, June 18, 2022 6:56:13 PM

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Hello.....

Re: Development Variance Permit for Section 42, Otter District Except That Part Lying 50 feet on Each Side of the Centre Line of the Right of Way Shown on Plan121 RW and Except That Part in Plan EPP63580 (Clark Road & Aythree Way).

My response as a citizen living close to this proposed development is that because this is a huge variance it should be rejected and the developer can redesign the plan to conform to the regulations already set in place. It is a poor precedent to permit something so extremely differing from the regulations. What it does is basically encourage future developers to simply ignore the rules and bylaws, figuring they can just ask for a variance permit. This sounds like a very unprofessional and even disingenuous way to run the Juan de Fuca Land Use Committee.

Jo Phillips


From: [REDACTED]
To: [jdf info](#)
Subject: Development variance permit for Section 42
Date: Monday, June 20, 2022 9:33:36 AM

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To: Juan de Fuca Community Planning

Regarding: Development variance permit application, Section 42

With respect to the variances requested for proposed lots 3 through 7 (variances a.i – a.vi), I'm inclined to think if there are standard frontages there is no reason for a new development to draft a plan that is going to require five variances. But I don't have experience in this—perhaps this is something that is often done and does not affect safety.

However, from my experience as a life-long horse owner, I do know that you should not make any compromises on road safety for people hauling horse trailers or RVs. Variance (b) for panhandle width is the access to proposed lot 2, which is subject to a zoning request to permit a public campground not only for the general travelling public, but also specifically for people attending equestrian events. This panhandle is not only narrower than standard, the terrain is rough for the length of the driveway. I can't imagine what would happen if two rigs met, one going in and one going out. I would think it reckless to allow Variance (b) for this use.

If campground use was withdrawn from the proposed AG-2 zoning for lot 2, I would support all variances requested. Otherwise I support none of them because I would no longer trust that public safety is the first priority in these negotiations.

Thank you for considering my views.

Sharon Sterling
[REDACTED]
[REDACTED]

Sean Y. Thompson
Erika M. Utitz



June 19, 2022

sent via email only: jdfinfo@crd.bc.ca

Juan de Fuca Community Planning
3-7450 Butler Road
Sooke, BC V9Z 1N1

Re: **DEVELOPMENT VARIANCE PERMIT APPLICATION**
Section 42, Otter District Except That Part Lying 50 feet on Each Side of the
Centre Line of the Right of Way Shown on Plan 121 RW and Except That Part in
Plan EPP63580 (Clark Road & Aythree Way)

We are writing with respect to the above reference variance application, your file VA000155, and further to your letter of June 7, 2022.

We oppose this application to **substantially** reduce the 10% lot frontage requirements set out in Bylaw No. 2040, Schedule A, Part 1, Section 3.10(4) with respect to the subject proposed 7 Lot Subdivision. The application seeks to reduce the frontage for the following Lots from 10% to the following:

Lot 2 from 231 m (758 ft) to 15.7 m (51.5 ft)-a reduction of 706.5 ft 10% to .68%
Lot 3 from 112 m (367.5 ft) to 46 m (151 ft)-a reduction of 216.5 ft 10% to 4.13%
Lot 4 from 116 m (380.6 ft) to 100m (328 ft)-a reduction 52.6 ft 10% to 8.61%
Lot 5 from 134 m (440 ft) to 51.7 m (169.6 ft)-a reduction of 270.4 ft 10% to 3.85%
Lot 6 from 116 m (380.6 ft) to 38.3 m (125.66 ft)-a reduction of 254.94 ft 10% to 3.3%
Lot 7 from 124 m (406.8 ft) to 49.4 m (162 ft)-a reduction of 244.8 ft 10% to 3.99%

With the exception of the variance request for Lot 4, the size of the requested variances is substantial. The variance to Lot 2 changes the setback from almost 760 ft to about 52 ft. Lot's 3, 5, 6, 7, ask to reduce the setbacks by more than half: Lot 3 from about 370 ft to 150 ft. Lot 5 from 440 ft to 170 ft. Lot 6 from 380 ft to 126 ft. And, Lot 7 from 407 ft to 162 ft. These are obviously huge variances.

The Sketch Plan of the proposed subdivision shows the location of the potential home sites for Lot's 3, 4, 5 and 6. Granting the variance will result in these houses being built closer to our home than they would be permitted under the current Land Use Bylaw. Those homes will need Wells and Septic systems. That means we will have more wells drilled and more septic systems closer to our property that would be permitted under the current Land Use Bylaw. Have environmental studies been completed to see what affect allowing these variances will potentially have on neighbouring well water sources?

June 19, 2022

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It would seem that allowing the variance could also increase the fire risk to our property by allowing development with little regard to the protections the setbacks afford neighbouring properties. Reducing the setbacks allows structures to be built in closer proximity to existing structures which clearly increases the risk of fire spreading from building to building.

Reducing the setbacks would also mean neighbouring properties will be exposed to increased noise and sound and other pollution both during the construction phase and afterwards when the proposed dwelling are occupied all to the detriment of neighbouring existing home owners.

The same logic would seem to apply to the request to vary the minimum width of a panhandle lot access strip, Bylaw 2040, Part 1; Section 3.10 (4).

The variances requested for each Lot will change the rural nature of the area by placing new homes closer to the roadways, and closer to the neighbouring residence than would be permitted under existing zoning. The variances will also potentially result in reducing the existing neighbours use and enjoyment of their properties, increase fire risk, potentially deplete existing well water resources and with septic systems closer to neighbouring properties the variances risk the quality of our existing water sources.

We fee the variances will have a significant negative effect on our, and our neighbours, property, and could negatively effect our property values and our use and enjoyment of our property. We urge the committee to deny the variance application.

Sincerely,

Sean Thompson & Erika Utitz

Objection to Development Variance Permit for Section 42, Otter District

I am submitting this letter to express my strong objection to the Development Variance Permit for Section 42, Otter District.

My Objection is based on the following:

1) Political/Ethical Philosophical Thesis:

A large, unmonitored development in a rural area not only has a magnified impact on the low density residents of the rural area, but is also subject to approval via a large number of regulations existing at all levels of government (municipal, provincial, federal), and an even further devolution of regulation and monitoring to separate departments/agencies within those levels of government. This myriad of government regulations, agencies and committees enables the ability of the Developer to gain full approval under specific policies and regulations, while remaining in violation of other specific policies and regulations. Of all levels of government, local (municipal) government should be the most effective, accountable and responsive to local residents – this responsibility certainly cannot be denied simply by acknowledging the math when comparing federal government/38 million residents, provincial government/5 million residents, JDF/4,500 residents. It is also the responsibility of the local government to prioritize the best interests and well-being of the majority of residents over the interests of a single developer, and to faithfully act in the best interests of the majority of residents. Therefore, if local government is aware of other regulatory violations by the developer which exist in other jurisdictions and/or at higher levels of government, it is morally/ethically wrong for local government to approve variance permits or any other aspect of this development until such other regulatory violations have been addressed and resolved with compliance. All approvals via local government should be deferred until these other regulatory violations are addressed and resolved. Such deferment is definitely in the best interests of the majority of residents, as it will act as leverage/incentive for the developer to remedy issues for which local residents have been denied adequate response from other government agencies.

2) The developer is currently in violation of the following bylaw:

The Capital Regional District Bylaw N0. 3441, Section 2, General Prohibition:

No person shall make, cause to be made, or continue to make any noise or sound in the Electoral Area which creates a noise that disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons at or near the source of such noise or sound. No person, being the owner, tenant or occupier of real property, shall allow or permit the real property to be used so that noise which occurs on, or is emitted from, that real property is liable by **its consistent or persistent nature** to disturb the quiet, rest, enjoyment, comfort of convenience of a reasonable person or persons in the neighbourhood or vicinity.

The developer has been running some type of generator or micro hydro turbine unit for the past several months. This unit emits a loud, humming sound. Most days, this unit is running 24 hours a day. The noise is definitely consistent and persistent, disturbing quiet enjoyment, and also disturbing rest, as people cannot sleep at night.

3) The developer is likely in violation of a number of provincial regulations and laws:

The developer is likely operating a micro hydro turbine unit to draw power from King Creek. I am fairly certain this is the type of unit causing the violation of the noise bylaw 24 hours a day. Installation of micro hydro energy systems on private land is subject to a number of regulations. The Riparian Area Regulation (RAR) may limit development around streams and other water bodies for the purpose of protecting fish habitat. Should the developer be engaged in this type of activity, there are a number of regulations applicable:

- Is the developer in compliance with the Riparian Areas Protection Act? This Act clearly states that “A local government must not approve a riparian development to proceed” unless all requirements have been met by the developer.
- Does the Riparian Assessment Report received by local government include plans for micro hydro power units?
- Is operation of micro hydro power units on this development in compliance with the Water Sustainability Act?
- How many micro hydro turbines are planned for this development? Will all lots and buildings rely on this type of power? Certainly, these questions must be addressed prior to any other approvals of these lots.

Via this letter, I have now made local government aware the developer is likely operating micro hydro units on the property. Therefore, it is the responsibility of the local government to confirm whether or not the developer is illegally operating micro hydro units on the property, and the moral obligation of the local government to defer all other approvals until the developer is in compliance with all provincial regulations applicable to this matter. This action would be in the best interests of the majority of residents, and the law also states “A local government must not approve a riparian development to proceed” unless all requirements have been met.

4) [REDACTED]

Last year, the developer had assured me that a proposed cell tower would be for “crest use only”, and that Rogers would not also be providing service via the cell tower. It was later confirmed that Rogers would, in fact, be providing cellular service via the proposed tower. Also last year, the developer assured me that a gas powered generator which was in violation of Bylaw N0. 3441, Section 2 was not located on their property, that it must be operating on another property in the general area. I checked all other properties, none of which was operating a generator. Finally, I “followed the noise” through a vacant lot next to my lot, and when I arrived at the source of the noise, it turned out to be a generator which was being used by construction workers building the developer’s residence. [REDACTED]

[REDACTED] Most recently, my partner phoned the developer to ask about the existing humming sound which is in violation of Bylaw N0. 3441, Section 2 – she explained the humming sound which was emanating from the property 24 hours a day, and asked whether there was a generator or micro hydro unit operating on the property. The developer stated unequivocally that there was no such equipment running on the property. My partner then advised the developer she was going to drive over to the development and try to locate the source of the noise. When she arrived, my partner was confronted by a worker who relayed the following message from the developer: “Get off my property and call a bylaw officer”. Obviously, any attempts to resolve issues amicably, diplomatically, will not bear fruit – this is why action from local government is now much needed.

Summary

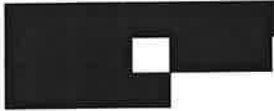
Based on the information and argument I have provided above, I submit the following:

- a) My strong objection to the Development Variance Permit for Section 42, Otter District;
- b) My request that local government act in the best interests of the majority of residents, not a single developer;
- c) That local government address and/or remedy all questions and issues outlined in items 2) and 3) prior to any further approvals of any aspect of this development;
- d) That local government confirm whether the developer is operating micro hydro units on the property and, if so, such operation is fully license and compliant prior to any further approvals of any aspect of this development;
- e) I request that the developer provide a point person and contact details for response to questions and complaints from other residents, and that this person responds honestly, politely and cooperatively; and
- f) Specifically, I request that Juan de Fuca Land Use Committee does not recommend "Alternative 1 – Approval" or "Alternative 2 – Denial" – that the Committee recommends "Alternative 3 – Deferral", and that such deferral is used as leverage to address all other issues I have outlined, and to fully inform other residents of the information and outcomes.

Finally, I am requesting a copy of the Riparian Assessment Report which would have been completed and provided by a biologist or similar professional.

Andrew MacKay

Bruce and Dawn Hobenshield



This email is in regards to the notice of intent to develop permit with variance application for Lot 12, Section 10, Otter District, Plan VIP77477, 2193 Otter Ridge Drive.

We are the property that borders and is adjacent to the south of 2193 Otter Ridge Drive. We have two major concerns about this application for development.

1. The sensitive ecosystem that exists on this property drains into a natural pond on our property. From this pond we need to drain water south to a ditch to prevent the flooding of our property. Draining it is difficult with the elevation and shallow rock that prevents us from digging these ditches any deeper. We have a hobby farm that includes ducks, geese, chickens and dogs that use the pond daily. Any greater amount of water directed to our land, or any contamination from septic fields would have a devastating impact to the water quality on the property.
2. The other concern we have is the change in allowable property frontage. If this is changed to the proposal there would be a convergence of 3 driveways into a 20ft distance which would create a huge collision point.

Please contact us on these points and we would like to meet with the CRD Environmental planner and discuss this sensitive ecosystem that is a part of our property.

June 19, 2022

Re: Development Permit for 2193 Otter Ridge Drive

We are responding to the request for input regarding the proposed subdivision at the above address. We have a concern with regard to the proposal.

It is noted in the Development Permit that the proposed footprint for the building is in a "Sensitive Ecosystems DPA". The Consultant's report identifies two species of risk that are potentially in the proposed development area: Slim Leaf Onion and Seaside Bone Lichen. Our question is: Was the sensitive habitat designation applied solely on the basis of those two species, or were there other considerations that went into the designation, such as the existence of wetland habitat in the "Sensitive Area" and the reliance that a multitude of non-endangered species would have on the existence of such habitats? Wetland habitats are becoming more important as development of forested areas occurs. The CRD should not be allowing development of these wetland habitats without a long term plan in place to ensure that the majority of them are not lost due to continual encroachment of individual development requests.

Sincerely, James Gable and Shelly Loewen Gable
[REDACTED]