

Staff Report



To: Joe Fernandez, Chief Administrative Officer

From: James van Hemert, Consulting Planner

Date: October 4, 2022

Re: ***Development Permit Application*** under provisions of the Watercourse and Streamside Protection Development Permit Area (DPA 1) and Natural Hazard Lands Development Permit Area (DPA 2) and a ***Development Variance Permit*** to allow a reduced setback of 15 metres from the natural boundary of Lake Cowichan for property legally described as Lot 2, Section 5, Renfrew District, Plan VIP 68603, with a street address of 256 North Shore Road.

Application Request

The Town is in receipt of two companion applications:

- 1) Development Permit under the provisions of the Watercourse and Streamside Protection Development Permit Area (DPA 1) and Natural Hazard Lands Development Permit Area (DPA 2) for the construction of a single detached dwelling (File # DP 2022-002); and
- 2) Development Variance Permit to allow a reduced setback of 15 metres from the natural boundary of Lake Cowichan in accordance with Subsection 4.3.13 Floodplain Provisions of the Zoning Bylaw, (File# DVP 2022-003).

The two applications may be considered concurrently.

Background

The subject property lies within the riparian area assessment area identified in the Town's Official Community Plan, specifically, the Watercourse and Streamside Protection Development Permit Area (DPA 1) and lies within the Natural Hazard (Floodplain) Lands Development Permit Area (DPA 2).

The applicant proposes a demolition (removal) and rebuild of a single detached dwelling. The existing home was removed from its foundation and moved to Gabriola Island, leaving the foundation available for the rebuild. Habitable floors of the new residential building of 2,230 square feet will be above the 167.3 metre floodplain elevation.

A Riparian Areas Protection Regulations Assessment Report was prepared by a Qualified Environmental Professional, Robert Crandall, on May 11, 2022, in accordance with the Provincial Riparian Protection Regulations. The report identifies a 15 metre SPEA (stream protection and enhancement area) and concludes that the proposed building can be constructed a minimum of 15 metres from the natural boundary of Lake Cowichan and in a manner that satisfies the provincial regulations, subject to specific protection and monitoring measures identified in the professional assessment. These measures fall into the following categories: danger trees, windthrow, slope stability, protection of trees, encroachment, sediment and erosion control, floodplain, and stormwater management.

The Province reviews the assessment report with respect to its satisfaction of identified measures to protect and maintain the Streamside Protection and Enhancement Area (SPEA). To date the Province has not responded to the assessment report submitted last May of 2022.

Development Permit Review

Official Community Plan

Watercourse and Streamside Protection Development Permit Area (DPA 1)

The redevelopment proposal and attendant measures to protect the SPEA is consistent with the goal, objectives, and guidelines of DPA 1.

Natural Hazard (Floodplain) Lands Development Permit Area (DPA 2)

The redevelopment proposal lies within the 200-year floodplain and measures will be taken to reduce the hazard. Specifically, the proposal uses the same building footprint (foundation), and habitable space will be above the Cowichan Lake floodplain elevation of 167.3 metres. It is consistent with the goal, objectives, and guidelines of DPA 2.

Development Variance Permit Review

Zoning Bylaw

Subsection 4.3.13 'Floodplain Provisions' states that:

Notwithstanding any other provisions of this bylaw, no building or any part thereof shall be constructed, reconstructed, moved, or extended nor shall any mobile home or unit, modular home or structure be located:

- a. within 30 metres of the natural boundary of the Cowichan River and Lake Cowichan;*

The proposed redevelopment lies within 15 metres of the natural boundary of Lake Cowichan. Given that the redevelopment is consistent with the goal, objectives, and guidelines of the Natural Hazards (floodplain) Development Permit Area (DPA 2) and does not represent any further development encroachment within the floodplain, a variance of 15 metres is supportable.

Recommended Council Resolutions

I. Development Variance Permit

- a. Vary by 15 metres the 30-metre setback prescribed in Subsection 4.3.13 Floodplain Provisions of the Zoning Bylaw, resulting in a 15-metre setback from the natural boundary of Cowichan Lake for the property legally described as Lot 2, Section 5, Renfrew District, Plan VIP 68603, with a street address of 256 North Shore Road.

II. Development Permit

- a. Approval of a Development Permit under the provisions of the Watercourse and Streamside Protection Development Permit Area (DPA 1) and Natural Hazard Lands Development Permit Area (DPA 2) for the construction of a single detached dwelling for the property legally described as Lot 2, Section 5, Renfrew District, Plan VIP 68603, with a street address of 256 North Shore Road, with the following conditions:
 - i. Development proceeds in accordance with the measures identified in the Riparian Areas Protection Regulation Assessment Report prepared by the Qualified Environmental Professional, dated May 11, 2022;
 - ii. Development shall use the same building footprint as the previous dwelling;
 - iii. Development shall be subject to all existing bylaws and any development permit variances;
 - iv. Placement of a restrictive covenant with respect to Streamside Protection and Enhancement (SPEA) protection and maintenance, and to limit the principal dwelling to the building envelope identified in the Site Plan contained in the Riparian Areas Protection Regulation Assessment Report; and

- v. Development shall adhere to any additional or modified Streamside Protection and Enhancement Area measures that may be required by the Province.



James van Hemert, MCIP, RPP, Consulting Planner