



STAFF REPORT TO COMMITTEE

DATE OF REPORT April 25, 2024
MEETING TYPE & DATE Electoral Area Services Committee Meeting of May 15, 2024
FROM: Development Services Division
Land Use Services Department
SUBJECT: Application No. DVP23B03 (1578 Strathcona Heights Road/PID: 029-473-039)
FILE: DVP23B03

PURPOSE/INTRODUCTION

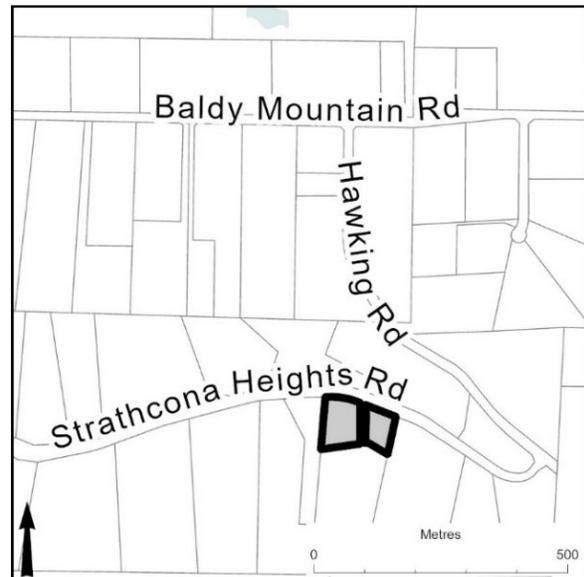
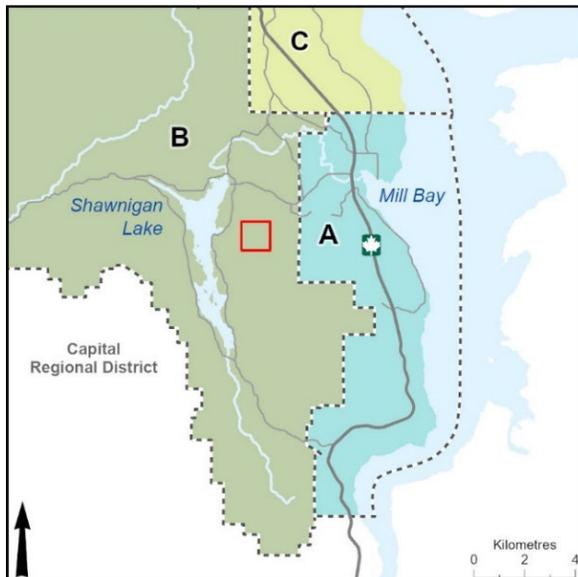
The purpose of this report is to introduce Development Variance Permit Application No. DVP23B03 (1578 Strathcona Heights Road/PID: 029-473-039). The application proposes to vary the size and height of a separate suite.

Staff recommend that the Board refer the preliminary report back to staff to reduce the variances, prior to further consideration.

RECOMMENDED RESOLUTION

That it be recommended to the Board that Application No. DVP23B03 (1578 Strathcona Heights Road/PID: 029-473-039), be referred back to staff, and that the applicant be directed to reduce the floor area of the proposed small suite to a maximum of 95 m² and eliminate the proposed height variance prior to further consideration.

LOCATION MAP



BACKGROUND

The subject property is a 1.08 ha (2.68 acre) parcel within Electoral Area B – Shawnigan Lake. The property is accessed from Strathcona Heights Road and the lands are legally described as Lot 2, Plan EPP44680, District Lot 158, Malahat Land District (PID: 029-473-039). The property currently contains one single detached dwelling and an accessory building (shed).

The property owners propose to construct a detached accessory building with a small suite on a non-contiguous portion of their property. The applicant has submitted a letter of rationale detailing the request.

The applicant is seeking to build a three-bay garage and situate the suite above the garage. The applicant submits that it is challenging to build a residential accessory building (detached garage) separate from the small suite given the topographic constraints on the property, and state that a portion of the garage ($\leq 30 \text{ m}^2$) will be used for a home-based business.

The proposed garage will be 121 m^2 and the suite above will be 108 m^2 , for a combined total of 229 m^2 . The applicants state that a larger living space is required for comfort/accessibility; further, there will be no interior connection between the suite and garage.

In addition to the size of the building, the applicants have requested a height variance from 7.5 m to 10.0 m. They suggest that while the height variance is not necessary to construct a small suite above the garage, the height does not result in additional floor area and is desired for aesthetic reasons and to take advantage of passive solar gain.

OFFICIAL COMMUNITY PLAN / POLICY CONSIDERATIONS

Electoral Area B – Shawnigan Lake Zoning Bylaw No. 985:

The subject property is zoned Rural Residential 2 ([RR-2](#)) in Bylaw No. 985. An accessory dwelling unit (e.g. small suite) is permitted in the zone. The existing RR-2 Zone does not permit further subdivision. A covenant registered on title also prevents further fee-simple subdivision.

The CVRD has consistently interpreted Section 5.18(b) of the zoning bylaw to mean that a small suite cannot have interior connections within an attached residential accessory building

A 108 m^2 small suite is proposed. As there is no internal connection between the suite and the 121 m^2 attached residential accessory building (garage), only 108 m^2 is counted towards to total floor area of the separate suite.

Official Community Plan for the Electoral Areas Bylaw No. 4270 (OCP):

The subject property is designated Residential by the OCP and Rural Residential in the Shawnigan Lake Local Area Plan.

Lands designated Residential provide a wide range of housing and lifestyle options for various stages of life and different community lifestyles, as community demographics continue to change. The plan supports housing for seniors, special needs and affordable housing in all residential lands where appropriate.

Relevant OCP policies include:

- 4.10.2.1** *Encourages innovative housing and subdivision designs such as clustered residential developments, particularly for sloped upland areas; the Regional District will provide flexibility in regulatory bylaws.*

Development Permit Areas (DPA):

There are four DPAs on the subject property: DPA 1 Riparian Protection, DPA 2 Sensitive Ecosystem, DPA 4 Aquifer Protection, and DPA 5 – Wildfire Hazard. It appears that exemptions will be applicable for the DPAs.

Public Notice:

In accordance with [CVRD Bylaw No. 4483](#) – Development Application Procedures Bylaw, applicants for Development Variance Permits are required to post a sign on the parcel subject of the application a minimum of 10 days prior to a Board meeting at which issuance of a development variance permit will be considered, and notices are required to be mailed or hand delivered to owners and occupants of parcels located within 100 m of the subject property.

The Local Government Act requires that Notice must be mailed or otherwise delivered at least 10 days before adoption of the resolution to issue the permit.

The applicant submitted photos on Wednesday March 13, 2024, that show a sign posted at the driveway entrance to the subject property.

COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS

The application was referred to internal divisions, and preliminary comments have been received (Attachment C).

Referral comments were received from the Building Inspection and Community Planning Divisions. Community Planning has indicated that suite sizes, servicing and related matters will be considered in the zoning bylaw review.

The owners indicate in their rationale letter that the purpose of the height variance is to enhance esthetics and increase solar gain. The building official has indicated that additional glazed openings may actually lead to negative overheating rather than positive solar gain when applying *Step Code* metrics. If the Board is considering the proposed variance, Building Inspection recommends that the owners demonstrate *Step Code* compliance prior to DVP issuance (see Option #3).

External Agency Referrals:

Should the Board wish additional feedback, external referrals to the following agencies may be considered:

- BC Hydro
- Island Health (VIHA)
- Shawnigan Lake Fire Department
- Ministry of Transportation & Infrastructure
- Ministry of Water, Land and Resource Stewardship

Advisory Commission Referral:

Advisory Planning Commission (APC)

This application was referred to the February 1, 2024, Electoral Area B – Shawnigan Lake Advisory Planning Commission (APC) meeting. The APC supported approval of DVP23B03, and provided the following comments:

- A. *OCP lacks consideration for aging requirements.*

- **Planner Note:** OCP Policy 3.2.1.4 (3.) ‘Supports provision of housing to people with special needs and seniors, including housing that gives people the ability to age in place’.

B. *Consider increasing the maximum square footage for separate suites.*

- **Planner Note:** Zoning permits an 85 m² small suite or 85 m² secondary suite which is comparable with most CVRD zoning bylaws. Electoral Area F - Cowichan Lake South/Skutz Falls Zoning Bylaw No. 2600 permits a 95 m² small suite, but none allow for a 108 m² suite within a 229 m² detached building.

C. *Lack of clarity around how building height is measured*

- **Planner Note:** The Zoning Bylaw clearly defines how ‘height’ is measured, and the elevation plans by Adapt Design show the proposed building height.

D. *Height variance will end up being minimal.*

- **Planner Note:** The building will appear to be 7.5 m tall when viewed from the upper portion of the slope, and it will appear to be in excess of 10 m tall when viewed from the lower portion of the slope.

E. *Design plans should reflect the bylaws.*

- **Planner Note:** Design plans do not reflect the bylaws. A variance is requested.

PLANNING ANALYSIS

The agent proposes to vary the size limits for a small suite to allow a 108 m² small suite within a 229 m² detached building. This is 23 m² larger than the bylaw permits, and 13 m² larger than the largest small suite size permitted in the region.

Staff note that the CVRD has initiated a [Comprehensive Zoning Bylaw](#) (CZB) modernization project. As the CVRD moves towards consolidating all of its zoning bylaws into a region-wide CZB, it is likely that terminology and regulations for detached suites will be standardized.

Small Suite Standards Per Electoral Area:

Electoral Area	Maximum Size
Area A	85 m ²
Area B	85 m ²
Area C	85 m ²
Area D	90 m ² for parcels 0.4 ha+ 74 m ² for parcels under 0.4 ha
Area E	90 m ²
Area F	95 m ²
Area G	85 m ²
Area H	74 m ² for parcels 0.8 ha+ 60 m ² for parcels under 0.8 ha
Area I	74 m ²

Staff discourage variances over 95 m² as the key difference between a “Small Suite” and an “additional single-detached dwelling” is gross floor area. The Rural Residential 2 ([RR-2](#)) zone does not allow for “One *additional* single-detached dwelling” but does permit a ‘small suite’ within an ‘accessory’ building. By definition “accessory” means ancillary or subordinate to a principal use.

Secondary (attached) suites were previously limited by the *BC Building Code* to 90 m² or 40% of the habitable floor space of a (principal) dwelling (whichever is less); however, effective December 12, 2019, the *Code* was changed and size restrictions for secondary suites were removed (giving more flexibility for local government to allow for larger suites). The Board has not yet considered amendments to maximum floor area of an attached suite or detached suite; and without guidance, variances could impact the character of existing neighbourhoods.

OPTIONS

Option 1 (Recommended: Request additional information):

That it be recommended to the Board that Application No. DVP23B03 (1578 Strathcona Heights Road/PID: 029-473-039), be referred back to staff, and that the applicant be directed to reduce the floor area of the proposed small suite to a maximum of 95 m² and eliminate the proposed height variance prior to further consideration.

Option 2 (Request additional information):

That it be recommended to the Board that the preliminary staff report for DVP23B03 (1578 Strathcona Heights Road/PID: 029-473-039), be referred back to staff for the following information, prior to further consideration.

- a. *[requested information to be provided by the Board]*
- b. That a certified Energy Advisor review and verify that the plans meet the energy performance requirements of the BC Energy Step Code.
- c. That the owner provide written confirmation from a professional engineer (or Registered Onsite Wastewater Practitioner) certifying the sufficiency of existing onsite waste disposal facilities to serve the proposed development;

Option 3 (Deny):

That it be recommended to the Board that Application No. DVP23B03 (1578 Strathcona Heights Road/PID: 029-473-039) be denied, *[specific reasons to be identified by the Board]*.

Option 4 (Approve the variance as requested):

That it be recommended to the Board that Development Variance Permit No. DVP23B03 (1578 Strathcona Heights Road/PID: 029-473-039), be issued to allow an increase to the permitted floor area of a small suite from 85 m² to 108 m² and to increase the permitted height of a small suite from 7.5 m to 10 m.

Prepared by:



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Planner III

Reviewed by:



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Manager



Ann Kjerulf, MCP, RPP, MCIP
General Manager

Reviewed for form and content and approved for submission to the Committee:

Resolution:

Corporate Officer

Financial Considerations:

Chief Financial Officer

ATTACHMENTS:

Attachment A – Proposed Draft Permit
Attachment B – Rationale and Site Photos
Attachment C – Referral Comments
Attachment D – Public Submission