



# STAFF REPORT TO COMMITTEE

**DATE OF REPORT** October 2, 2024

**MEETING TYPE & DATE** Electoral Area Services Committee Meeting of October 16, 2024

**FROM:** Development Services Division  
Land Use Services Department

**SUBJECT:** Application Nos. DVP24H03 and SA23H02 (12421 Rocky Creek Road/PID: 000-372-650)

**FILE:** DVP24H03; SA23H02

## **PURPOSE/INTRODUCTION**

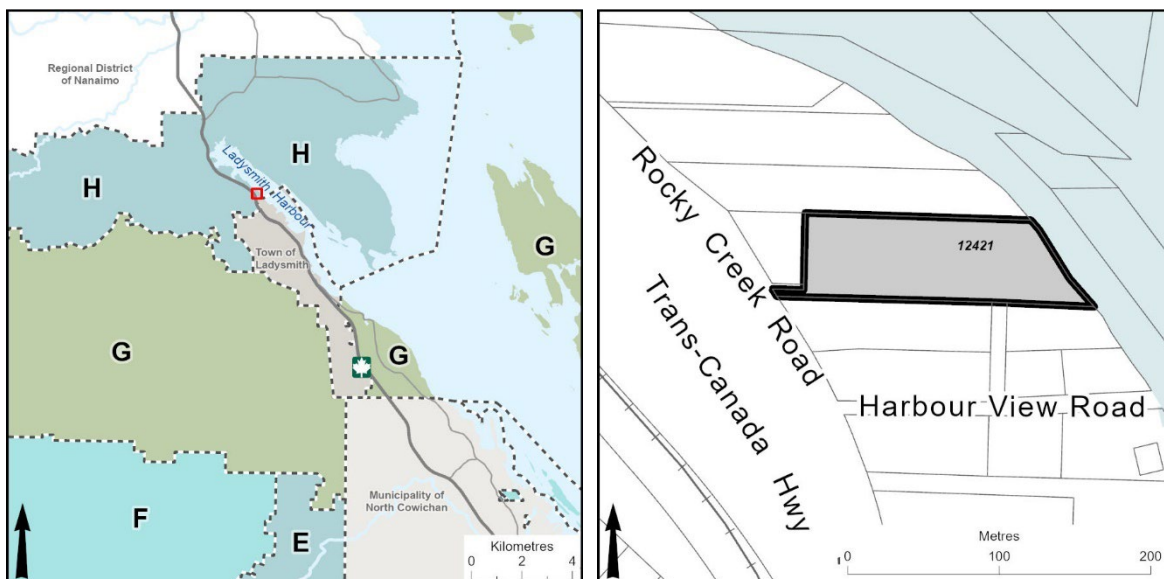
The purpose of this report is to present a Development Variance Permit (DVP) application and minimum lot frontage exemption request to allow for a two (2) lot subdivision at 12421 Rocky Creek Road.

## **RECOMMENDED RESOLUTION**

That it be recommended to the Board:

1. That Proposed Lot 1 and Remainder District Lot 78 in Subdivision Application No. SA23H02 (12421 Rocky Creek Road/PID: 000-372-650), be exempted from the minimum parcel frontage requirement in accordance with Section 512 of the *Local Government Act*; and
2. That Development Variance Permit No. DVP24H03 (12421 Rocky Creek Road/PID: 000-372-650), be issued.

## **LOCATION MAP**



## **BACKGROUND**

The subject property is a waterfront property on the west side of the Ladysmith Harbour, with a total area of approximately 1.0 hectare (ha). The panhandle access fronts onto Rocky Creek Road; the second access is off Inkster Road, off of Harbour View Road. Current access to the property is by way of an existing driveway from Inkster Road. Existing buildings are a single detached dwelling, detached suite with carport and one accessory building (garage) that will be sited on the Proposed Remainder District Lot 78 ("Remainder"), and one accessory building (shop) on Proposed Lot 1.

Surrounding properties are residential parcels.

An application has been submitted to the Ministry of Transportation and Infrastructure (MOTI) to subdivide the subject property into 2 lots: Proposed Lot 1 with 0.4 ha parcel area and the Proposed Remainder with  $\pm 0.5$  ha parcel area. MOTI requires road dedication as part of the subdivision application as shown on the proposed plan (Attachment C). The properties are proposed to be connected to Diamond Improvement District community water system and have onsite septic systems.

Under Section 512 of the *Local Government Act (LGA)*, where a parcel being created by subdivision fronts on a highway, the minimum frontage on the highway must be the greater of 10% of the perimeter of the lot, and the minimum frontage required by a local government bylaw, unless exempted by a local government.

The applicant is requesting several variances including increasing the permitted floor area of a detached suite and legalizing the siting of existing buildings in the context of new proposed parcel lines with subdivision. The proposed subdivision layout will shift the front parcel line to Inkster Road for the Proposed Remainder and the road dedication required by MOTI will move the front parcel line further into Proposed Lot 1. A summary of the variances is as follows:

- A variance to increase the floor area of an existing detached suite from 60 m<sup>2</sup> to 68 m<sup>2</sup> on the Proposed Remainder;
- A variance to reduce the front parcel line setback from 7.5 m to 7.1 m for an existing detached suite with carport on the Proposed Remainder;
- A variance to reduce the rear parcel line setback from 4.5 m to 1.6 m for an existing accessory building (garage) on the Proposed Remainder; and
- A variance to reduce the front parcel line from 7.5 m to 2.6 m for an existing accessory building (shop) on Proposed Lot 1.

MOTI setback permits are required for buildings and structures sited within the 4.5 m setback from a highway right-of-way. The applicant has obtained a Ministry of Transportation and Infrastructure (MOTI) setback permit (2024-04437) to use and maintain the accessory building located 2.6 m from the new road dedication on Proposed Lot 1.

## **OFFICIAL COMMUNITY PLAN / POLICY CONSIDERATIONS**

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

The subject property is designated Residential regionally and Suburban Residential locally, and is not within a Growth Containment Boundary (GCB).

The subject property is within Development Permit Area (DPA) 1 Riparian Areas Protection, DPA 4 Aquifer Protection and DPA 5 Wildfire Hazard. A Development Permit application has been submitted, as required for subdivision and will be processed subject to approval of the DVP.

Electoral Area H – North Oyster/Diamond Zoning Bylaw No. 1020:

The property is zoned R-2 Suburban Residential in Bylaw No. 1020. Permitted uses in the R-2 zone include one single detached dwelling and either a detached or attached suite, subject to the regulations in Section 5.19 and 5.20.

The minimum parcel size for the R-2 zone is as follows:

- No community services – 2 ha
- With community water – 0.4 ha
- With community water and sewer – 0.4 ha

Section 5.20.4 provides, “*The maximum floor area of a detached suite shall not exceed 60 m<sup>2</sup> for a parcel of land smaller than 0.8 hectare, and shall not exceed 74 m<sup>2</sup> for a parcel of land that is 0.8 hectare or greater in area*”.

Section 8.2(b) requires the following setbacks for residential and accessory uses:

Type of Parcel Line	Setback Requirement (m)
Front	7.5 m
Side (interior or exterior)	3.0 m from one side parcel line and ten percent of the parcel width from the other parcel line up to a maximum of 3 m
Rear	4.5 m

The following definitions are provided in Bylaw No. 1020:

***“front parcel line”*** means a parcel boundary common to a parcel and a highway other than a lane, provided that where a parcel is contiguous to the intersection of two highways, the front parcel line is the shortest parcel boundary contiguous to a highway other than a lane;

***“interior side parcel line”*** means a parcel boundary between two parcels other than a front, rear or exterior side parcel line;

***“rear parcel line”*** means the parcel boundary which lies the most opposite to and is not connected to the front parcel line;

Section 13.6 requires a minimum frontage of a parcel of ten (10) percent of the perimeter of the parcel.

**COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS**

Advisory Planning Commission (APC):

Under the [Development Application Referrals Policy](#), minor applications will proceed directly to the EASC unless first referred to an APC by the Electoral Area Director. DVP applications are generally considered to be minor applications under the Policy.

Public Notice:

In accordance with Section 36(e) of the [CVRD Bylaw No. 4483 – Development Application Procedures Bylaw](#), applicants are required to post a sign on the parcel subject of the application not less than 10 days prior to a Committee meeting to consider issuance of a DVP. A sign was posted at the driveway entrance to the subject property to comply with Bylaw No. 4483.

Letters were mailed out or hand delivered to owners and occupants of parcels located within 100 metres of the subject property, on October 2, 2024. The notification letter provides a description of the application and instructions for submitting written comments.

Staff have received one copy of correspondence (Attachment E). Correspondence received prior to the agenda being published are attached to the staff report. Any correspondence received after the agenda is published will be forwarded to the EASC.

## **PLANNING ANALYSIS**

### Frontage Exemption:

A subdivision application has been submitted to MOTI for a 2-lot subdivision, as permitted under the R-2 zone regulations. Both proposed lots require a frontage exemption:

Lot	Required frontage (m)	Proposed frontage (m)	Percent frontage (%)
1	25.22	11.4	~4.5%
Rem.	33	10.1	~3%

MOTI's [Guide to Rural Subdivision Approvals](#) states that 10% is "a good rule of thumb for avoiding parcel shapes that would be too small for a building envelope (building site, access, and so on) and for any further development of the parcel". When the Provincial Approving Officer (PAO) retains authority for decisions regarding minimum frontage, the PAO will consider the following:

- Is the current parcel frontage adequate?
- Is the terrain suitable where the frontage has been provided?
- Does the lot contain adequate building envelope?
- Does the proposed parcel have further subdivision potential that will not be realized because of the limited frontage?

These considerations can also guide the planning analysis and the Board's decision.

Staff consider the frontage for the proposed lots to be adequate, as driveway access will remain unchanged for the Proposed Remainder and the road dedication will increase frontage for Proposed Lot 1. The terrain is suitable for driveway construction and both lots will have sufficient buildable area. Neither proposed lot can be subdivided further under the current minimum parcel size for the R-2 zone.

### Development Variance Permit:

The zoning bylaw definition of "front parcel line" applied to the current parcel dimensions means Rocky Creek Road is considered the front parcel line, whereas Inkster Road is considered the exterior parcel line. There are no CVRD building records for the existing buildings; however, BC Assessment indicates the dwellings were constructed in 1965, which pre-dates the original CVRD Electoral Area H Zoning Bylaw No. 110, adopted in 1973.

With the proposed 2-lot subdivision, the front parcel line will shift to Inkster Road for the Proposed Remainder. The existing detached suite with carport will encroach 0.4 m into the 7.5 m front parcel line setback and the existing garage will encroach 2.9 m into the 4.5 m rear parcel line setback. As well, the front parcel line will change on Proposed Lot 1, resulting in the existing shop encroaching 4.9 m into the 7.5 m front parcel line setback.

While the existing detached suite was built prior to CVRD bylaws, the subdivision would reduce the size of the Proposed Remainder to 0.5 ha, which results in the existing building exceeding the

maximum floor area requirement in Section 5.20.4 by 8 m<sup>2</sup>. The applicant is requesting an increase in floor area to 68 m<sup>2</sup> for the existing detached suite on the Proposed Remainder.

Recommendation:

The proposed lots appear to be sufficient in size to accommodate residential development, and there appears to be adequate access, as the Proposed Remainder would continue to utilize its existing access and the new road dedication would provide access to Proposed Lot 1. Therefore, staff are supportive of the parcel frontage exemption.

Staff consider the variance requests to be reasonable. The proposed subdivision reduces the parcel size of the Proposed Remainder, thus requiring a variance to increase the maximum floor area for the existing detached suite from 60 m<sup>2</sup> to 68 m<sup>2</sup>. The buildings have existed on the property for years without concern, and staff do not consider the proposed variance to the future parcel lines to negatively impact the community. Therefore, staff are recommending issuance of the DVP.

**OPTIONS**

Option 1: *(recommended, approve issuance of variance and frontage exemption)*

That it be recommended to the Board:

1. That Proposed Lot 1 and Remainder District Lot 78 in Subdivision Application No. SA23H02 (12421 Rocky Creek Road/PID: 000-372-650), be exempted from the minimum parcel frontage requirement in accordance with Section 512 of the *Local Government Act*; and
2. That Development Variance Permit No. DVP24H03 (12421 Rocky Creek Road/PID: 000-372-650), be issued.

Option 2: *(not approve issuance of variance and frontage exemption)*

That it be recommended to the Board:

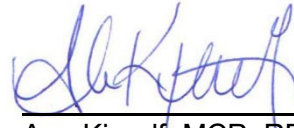
1. That Proposed Lot 1 and Remainder District Lot 78 in Subdivision Application No. SA23H02 (12421 Rocky Creek Road/PID: 000-372-650), not be exempted from the minimum parcel frontage requirement in accordance with Section 512 of the *Local Government Act*; and
2. That Development Variance Permit No. DVP24H03 (12421 Rocky Creek Road/PID: 000-372-650), for variances to setback requirements for existing buildings and to increase the floor area of a detached suite, to allow the proposed subdivision, be denied.

Prepared by:

  
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Jaime Dubyna,  
Planner III

Reviewed by:

  
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Michelle Pressman, RPP, MCIP, MPlan  
Manager, Development Services Division



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Ann Kjerulf, MCP, RPP, MCIP  
General Manager, Land Use Services

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

Resolution:

☒ Corporate Officer

Financial Considerations:

☒ Chief Financial Officer

**ATTACHMENTS:**

Attachment A – Background Table

Attachment B – Context Maps

Attachment C – Plan and Site Photos

Attachment D – Applicant Rationale

Attachment E – Public Correspondence

Attachment F – Draft Development Variance Permit with Attachments