



STAFF REPORT TO COMMITTEE

DATE OF REPORT April 12, 2022
MEETING TYPE & DATE Electoral Area Services Committee Meeting of May 4, 2022
FROM: Development Services Division
Land Use Services Department
SUBJECT: Application No. DVP22H01 (11916 Allison Way/PID: 000-336-203)
FILE: DVP22H01

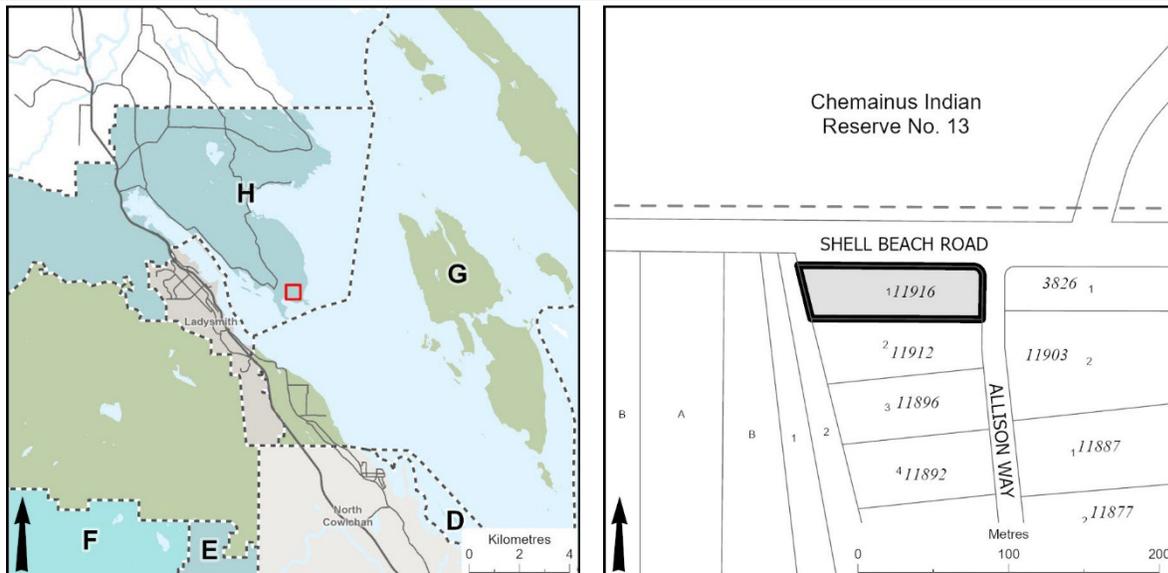
PURPOSE/INTRODUCTION

The purpose of this report is to present a Development Variance Permit application to vary the exterior parcel line setback from 3.0 metres to 0.0 metres to replace an accessory building (shed) at 11916 Allison Way.

RECOMMENDED RESOLUTION

That it be recommended to the Board that Development Variance Permit No. DVP22H01 (11916 Allison Way, PID: 000-336-203), be denied.

LOCATION MAP



BACKGROUND

The subject property is located at 11916 Allison Way in Electoral Area H. The total area of the property is approximately 0.42 hectares (1.03 acres), with road frontage on Allison Way and Shell Beach Road.

There is an existing single family dwelling, garage, a small log building and shed on the subject property. The existing shed is located within the exterior side parcel line setback area, and crosses over the parcel line into the Ministry of Transportation and Infrastructure (MOTI) right-of-way. The applicants have provided a copy of MOTI Permit 2021-05274 that authorizes the replacement of the existing 16' x 18' (26.7 m²) shed with a new 20' x 24' (44.6 m²) shed in the same location, with no further encroachment into the MOTI right-of-way.

Covenant

K21078 is a covenant registered at the time of subdivision between the owner of the subject property and the Province, which stipulates that activity shall occur within an identified area (shown on the covenant) which would cause contamination of the well or the groundwater, and that no domestic animal or use of toxic chemicals, oil or like substance may be used that would drain into and contaminate the well or groundwater.

- Attachment A – Background Table
- Attachment B – Zoning Map
- Attachment C – Orthophoto (2019)
- Attachment D – Site Photos

APPLICATION SUMMARY

The applicant proposes to remove the existing 26.7 m² shed due to its derelict condition and construct a 44.6 m² shed at the same location. The proposed shed would encroach into the exterior parcel line setback and cross over the exterior side parcel line into the MOTI right-of-way. A Development Variance Permit is required because the applicants are proposing to reduce the exterior side parcel line from 3.0 metres to 0.0 metres.

A building permit is required for the proposed shed.

- Attachment E – Plans
- Attachment F – Applicant Rationale
- Attachment G – MOTI Permit to Construct

COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS

Advisory Planning Commission (APC)

Please note that Development Variance Permit (DVP) applications are not routinely referred to the APCs, in accordance with [CVRD Bylaw No. 4267 – Development Application Procedures and Fees Bylaw, 2019](#); under Bylaw No. 4267 the Area Director may request a referral of a DVP application to the appropriate APC.

Public Notice

Letters were mailed out or hand delivered to owners and occupants of parcels located within 60 metres of the subject property, pursuant to Bylaw No. 4267. The notification letter provides a description of the application and instructions for submitting written comments.

OFFICIAL COMMUNITY PLAN/POLICY CONSIDERATIONS

Official Community Plan for the Electoral Areas Bylaw No. 4270

The property is designated Suburban Residential and is within the Riparian Protection (DPA 1) and Wildfire Hazard (DPA 5) Development Permit Areas. The proposal is exempt from the requirement for a development permit.

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

The subject property is zoned Suburban Residential (R-2). In addition to the zone regulations, [Section 8.2\(b\)](#) (Conditions of Use) requires the following side parcel line setback for residential and accessory uses in the R-2 zone:

- *Side (Interior or Exterior) – 3.0 metres from one side parcel line and ten percent of the parcel width from the other parcel line up to a maximum of 3 metres*

Section 5.3(b) permits a 1-metre projection into the setback area for “gutters, cornices, sills, belt courses, bay windows, chimneys, exterior finish, heating or ventilation equipment”.

Section 5.3(c) permits a 1.5-metre projection into the setback area of a side yard for “eaves, unenclosed stairwells or balconies, canopies and sunshades”.

PLANNING ANALYSIS

The existing shed does not currently meet the setback requirement in the zoning bylaw, as it encroaches into the exterior side parcel line setback, and crosses the lot line into the MOTI right-of-way. Given the derelict condition of the existing shed, the applicant proposes to remove it and construct a new shed that would have an increased floor area (approximately 17.9 m² larger), in the same location. A Development Variance Permit is required because the minimum setback from the exterior side parcel line of 3 metres in the R-2 zone will not be met. The applicant is requesting a reduction of 3 metres to 0.0 metres. The applicant has provided supporting rationale for the siting of the proposed shed (Attachment F).

The age of the existing shed is unknown as it was constructed prior to the applicants owning the lot; however, it is believed to have been constructed prior to the Allison Way Subdivision (1981). Staff have reviewed historic building permit files for the lot, none of which were issued for the existing shed. Site plans from historic building permit files do not identify the existing shed.

The applicant has applied for and received a MOTI Permit to Construct in the right-of-way. The MOTI permit allows the construction of a larger shed, provided it does not encroach further into the right-of-way. One condition of the MOTI permit is that it could be cancelled at any time, by 30 days written notice.

It is noted that the MOTI right-of-way at this location is comparatively wider than the adjacent lots directly to the west; however, the right-of-way adjacent to the lots west of Arend Road (Lots 1 and 2 of Plan 63321), is also wider. Staff are not aware of the specifics of the right-of-way at this location, but it is staff's understanding that as part of a subdivision, MOTI may expropriate an area of a parcel to designate as road right-of-way in order to meet MOTI's road standard (20 metres).

Whether the siting of the existing shed meets Section 529 of the *Local Government Act (LGA)* for legal non-conforming structures is not relevant to the removal of the existing shed and construction of a new shed that will be larger in size. Generally, where a non-conforming building or structure meets the end of its life, the construction of a new building or structure provides the opportunity to bring the property into compliance with the current regulations.

This application is for the consideration of the encroachment into the exterior parcel line setback area on the subject property only. Beyond the parcel line the CVRD may not issue a permit for the portion of the proposed shed that would project into the MOTI right-of-way.

At the time of this report, staff have received four letters of support from neighbouring property owners.

The orthophoto (Attachment C) and site photos show an open lawn area that would require no tree removal to site the proposed shed within the parcel lines. The existing septic system is located elsewhere on the lot, and the area protected by covenant K21078 allows the construction of buildings or structures so long as the activity would not cause contamination of the well or the groundwater. Given that there appears to be no physical impediment to site the proposed shed within the setback area, staff are recommending Option 1.

- Attachment H – Draft Development Variance Permit

- Attachment I – Public Correspondence

OPTIONS

Option 1:

That it be recommended to the Board that Development Variance Permit No. DVP22H01 (11916 Allison Way, PID: 000-336-203), be denied.

Option 2:

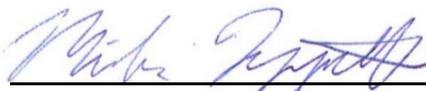
That it be recommended to the Board that Development Variance Permit No. DVP22H01 (11916 Allison Way, PID: 000-336-203), be issued.

Prepared by:



Jaime Dubyna
Planner II

Reviewed by:



Mike Tippett, RPP, MCIP
Manager



Ann Kjerulf, 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 – Background Table
- Attachment B – Zoning Map
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