



STAFF REPORT TO COMMITTEE

DATE OF REPORT April 11, 2022

MEETING TYPE & DATE Electoral Area Services Committee Meeting of May 4, 2022

FROM: Development Services Division
Land Use Services Department

SUBJECT: Application No. DVP22E01 (4461 Riverside Road/PID: 009-533-141)

FILE: DVP22E01

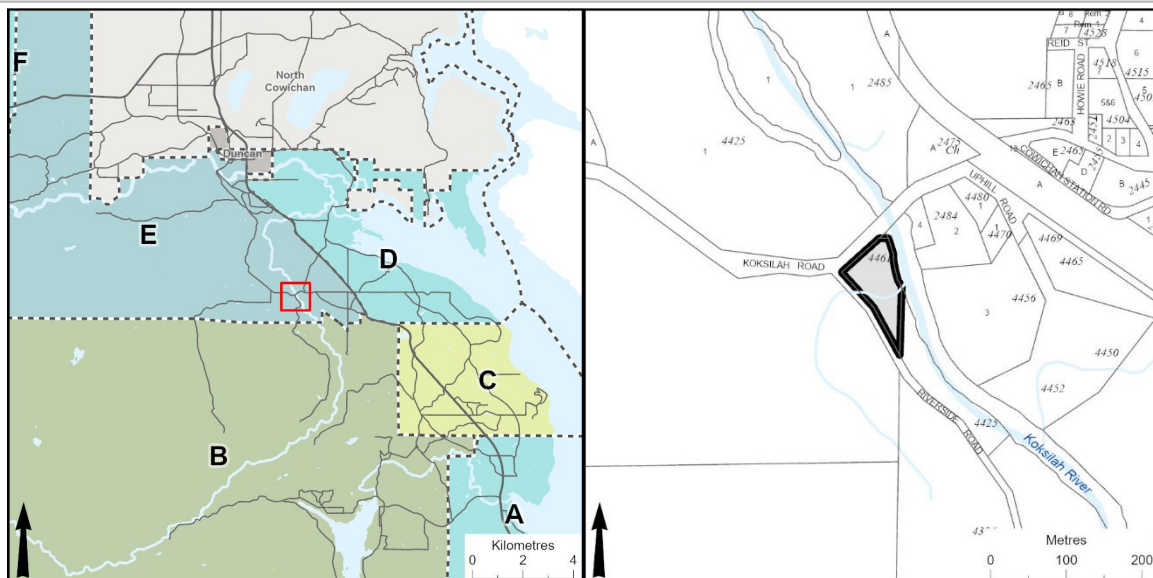
PURPOSE/INTRODUCTION

The purpose of this report is to present a development variance permit application for renovations and an addition to a single-family dwelling located at 4461 Riverside Road (PID: 009-533-141). The location of the single-family dwelling is within the 30 m watercourse setback from the Koksilah River; however, the dwelling was constructed in the early 1900s and is considered lawfully non-conforming with respect to siting. As the renovations and addition are considered by Development Services staff to increase the non-conformity of the dwelling, a variance is required to legalize the current siting, proposed renovations and addition.

RECOMMENDED RESOLUTION

That it be recommended to the Board Development Variance Permit No. DVP22E01 (4461 Riverside Road, PID: 009-533-141), be issued.

LOCATION MAP



BACKGROUND

The 0.6 ha property with address 4461 Riverside Road is located within Electoral Area E, in the community of Cowichan Station within the Koksilah watershed. The property is bounded to the northeast by the Koksilah River, to the northwest by Koksilah Road, and to the southwest by Riverside Road. The property is split topographically into two portions: a higher elevation southern portion, and lower elevation northern portion. The southern portion is at grade level with Riverside Road.

A single-family dwelling, shed, garden and graded lawn are located on the higher elevation. At its shortest distance, the single-family dwelling is 3.0 m from the top of bank of the Koksilah River, but this is at the opposite side of the house where the addition is proposed.

The house was constructed over 100 years ago¹, prior to the existence of zoning in Electoral Area E, and is considered lawfully non-conforming with respect to siting. There is a steep bank drop-off towards Koksilah River, vegetated with mature Douglas fir trees and native shrubs. The lower portion of the property is a pasture, and has been mostly cleared of trees. It is covered by tall grasses and small shrubs. Farm tracks connect the northern and southern portions of the property, including one that runs parallel to the Koksilah River.

The property is zoned A-1 – Primary Agricultural, within the Electoral Area E zoning bylaw, and designated Renewable Resource – Agriculture in the Official Community Plan for the Electoral Areas. The property falls within two development permit areas: DPA 1 – Riparian Protection, and DPA 4 – Aquifer Protection. The single-family dwelling is serviced by a private well and private septic system. An easement, CA2653255, is located on the property in favour of the neighbouring property to the south, allowing for use of the farm tracks.

- See Attachment A – Background Table
- See Attachment B – Orthophoto
- See Attachment C – Site Photos

APPLICATION SUMMARY

The applicant proposes renovations to the existing foundation to meet *BC Building Code*, and the construction of a second-floor addition. The foundation renovations include repairs and the creation of additional crawl space within existing foundations under a utility room. Interior renovations include relocating the existing kitchen to the utility room and altering the location of the staircase. A second-floor addition is proposed above the utility room, connecting to the existing second-floor on the main portion of the dwelling. The second-floor addition above the utility room will be 16.6m from the top of bank of the Koksilah River and 6.96m from the rear property line.

- See Attachment D – Site Plan
- See Attachment E – Building Plans

COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS

Based on a site visit, April 7, 2022, the CVRD Chief Building/Plumbing Official, offers the following opinion:

“The existing house has obviously passed the test of time and isn’t showing any obvious signs of stress or fatigue. In addition, the landscape appears to be in relatively good condition considering the atmospheric river experienced last November. Bearing in mind that the scope of work is a small addition to an existing structure, Building will not be requesting that a comprehensive Geotechnical study be performed.

Our new flood mapping shows the existing building to be above projected high water, and that was verified on site today.

Building may require the services of a geotechnical engineer when it comes time to review the foundation units to be placed under the addition, but we anticipate the subgrades to be of solid rock as was consistently evident throughout the

¹ BC Assessment estimates the house construction in 1909, and the applicants estimate two years earlier (1907).

remainder of the property. This presence of a solid rock sub grade has likely contributed to the overall longevity of the main dwelling and adjacent property.”

OFFICIAL COMMUNITY PLAN/POLICY CONSIDERATIONS

Electoral Area E Zoning Bylaw No. 1840: The property is zoned A-1 Zone – Primary Agricultural, which permits one single-family dwelling as a principal use. The maximum parcel coverage for all buildings and structures is 30%, and the maximum height is 10 metres. Section 5.18 Setback from a Watercourse and Streamside Protection and Enhancement Area: (a) No building, structure, lane or highway, nor driveway shall be located within 30 m of the top of bank of the Cowichan, Chemainus or Koksilah Rivers. The setbacks for residential and accessory structures in the A-1 Zone is 7.5 metres from the front and rear parcel line.

Local Government Act (LGA): Section 529 (1) If the use and density of buildings and other structures conforms to a land use regulation, but (a) the siting, size or dimensions of a building or other structure constructed before the bylaw was adopted does not conform with the bylaw, the building or other structure may be maintained, extended or altered to the extent authorized by subsection (2). Section 529 (2) A building or other structure to which subsection (1) applies may be maintained, extended or altered only to the extent that (a) the repair, extension or alteration would, when completed, involve no further contravention of the bylaw than that existing at the time the repair, extension or alteration was started.

Official Community Plan for the Electoral Areas Bylaw No. 4270 – Schedule C: Development Permit Areas: The property is designated Rural Resource – Agriculture within the Official Community Plan for the Electoral Areas (OCP). The property bounds the Koksilah River. Development within 30 m of the Koksilah River, the riparian assessment area, is subject to the Riparian Protection Development Permit Area (DPA 1). Please note that construction of, addition to or alteration of a single detached dwelling including accessory structures is exempted from the requirements of DPA 4 – Aquifer Protection.

PLANNING ANALYSIS

Zoning bylaw and Local Government Act (LGA) considerations: The entire building is located within the required 30 m watercourse and streamside protection and enhancement area setback from the top of the bank of the Koksilah River (Section 5.18). At the shortest distance, the northeastern building corner is located 3.0 m from the top of bank. The single-family dwelling was originally constructed in the early 1900's, and is considered lawfully non-conforming with regards to siting according to the LGA, with respect to the current zoning bylaw. The use of the property and density of one single-family dwelling conforms to the zoning bylaw, as does the height and parcel coverage.

The LGA allows for buildings to be maintained, extended or altered only to the extent that the repair, extension or alteration would involve no further contravention of the bylaw than that existing prior to the repair, extension or alteration. Staff consider that the addition of a second story over the utility room, the renovations to the foundation under the utility room, and the overhang addition to the second floor would constitute an increase in the non-conformity, and further contravention of the zoning bylaw; and so, the applicants are required to apply for a variance to allow for the renovations and addition as proposed.

The second-floor addition is 16.6 m from the bank of Koksilah River and 6.96 m from the rear parcel line. Staff recommend that, as the dwelling is at its shortest distance 3.0 m from the top of bank, and 6.0 m from the rear parcel line, the development variance permit would reduce the watercourse setback from 30 m from the bank of the Koksilah River to 3.0 m and reduce the rear parcel line setback from 7.5 m to 6.0 m. The development variance permit would then legalize the siting of the building and the renovations and addition as proposed.

DPA and RAPR considerations: The proposed development is subject to DPA RP1 – Riparian Protection. The applicant has submitted a corresponding development permit application no. DP22E01. Approval of the development permit is required before the applicant can start work on the proposed development. The authority for approval of this development permit has been delegated to the General Manager; however, a summary of relevant material is provided for information purposes.

A report by a qualified environmental professional (QEP) has been submitted in support of the application. The QEP provides assurance that the activities required for the proposed renovations are limited to historically developed footprint of human disturbance; therefore, no vegetation clearing, disturbance, nor increased soil compaction will occur in the Koksilah River riparian areas. The QEP recommends mitigation measures, including implementation of erosion and sediment control measures and protection of native vegetation, which will be made requirements of the development permit. The QEP assures that the activities required to complete this renovation and addition will not cause negative impacts to fish or fish habitat if the appropriate mitigation measures specified are implemented.

Conclusion: Staff do not consider the proposed development to negatively impact the surrounding neighbours, or pose any risk of natural hazard or negative impact to the riparian area. The internal renovations do not increase the non-conformity. The second story addition, and renovations to the foundation under the utility room, while considered to increase the non-conformity, are both greater than 15 m from the top of bank of the Koksilah, and within an area of existing human disturbance.

Development Services staff recommend approval of Development Variance Permit Application No. DVP22E01. The single-family dwelling was in existence long before the current zoning bylaw, and staff consider the request for a variance to legalize the siting reasonable. The proposed renovations and addition will be contained within the area of existing human disturbance, and a QEP has provided confirmation that no harm to fish or fish habitat will occur with appropriate mitigation measures, which will be assured through the development permit process. The development variance permit will legalize the siting of the single-family dwelling which allows for clarity in moving forward with the development permit and building permit.

- See Attachment F – QEP Report
- See Attachment G – Draft DVP

OPTIONS

Option 1: That it be recommended to the Board Development Variance Permit No. DVP22E01 (4461 Riverside Road, PID: 009-533-141), be issued.

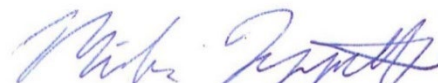
Option 2: That it be recommended to the Board that Development Variance Permit No. DVP22E01 (4461 Riverside Road, PID: 009-533-141), be denied.

Prepared by:

Reviewed by:



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Planner III



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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 – Orthophoto

Attachment C – Site Photos

Attachment D – Site Plan

Attachment E – Building Plans

Attachment F – QEP Report

Attachment G – Draft DVP