



# STAFF REPORT TO COMMITTEE

**DATE OF REPORT** April 20, 2022

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

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

**SUBJECT:** Application No. DVP21H01 (12453 Rocky Creek Road/PID: 009-475-893)

**FILE:** DVP21H01

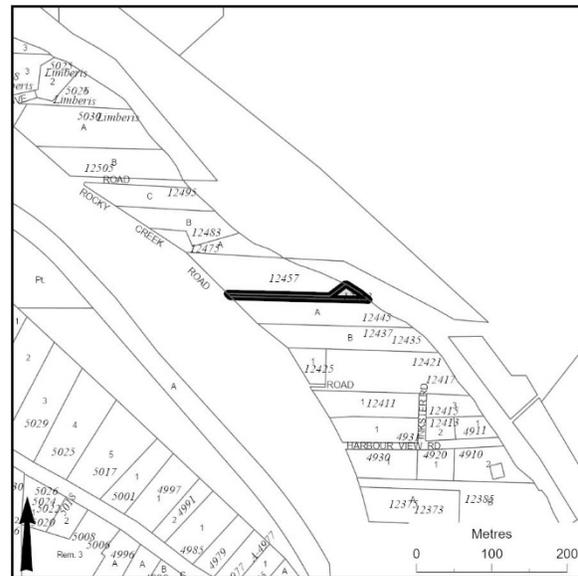
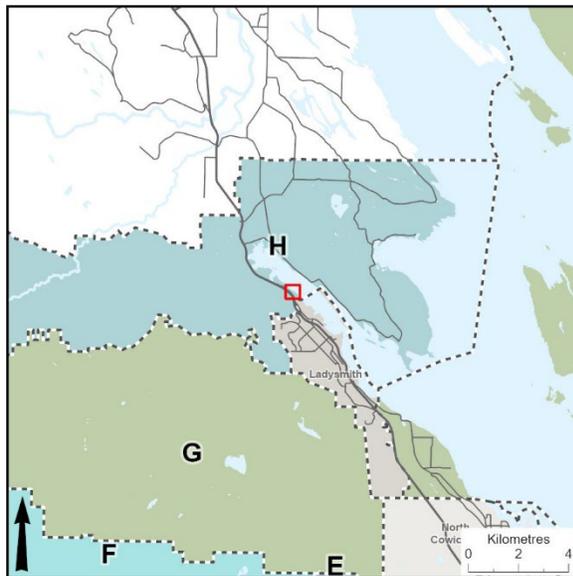
## PURPOSE/INTRODUCTION

The purpose of this report is to present a Development Variance Permit application for the property located at 12453 Rocky Creek Road, for reconsideration as it was previously referred back to staff by the Board.

## RECOMMENDED RESOLUTION

That it be recommended to the Board that Development Variance Permit No. DVP21H01 (12453 Rocky Creek Road, PID: 009-475-893), be issued.

## LOCATION MAP



## BACKGROUND

The subject property is located at 12453 Rocky Creek Road in Electoral Area H. The property has a panhandle configuration, a total area of approximately 1,090 m<sup>2</sup>, and fronts on Ladysmith Harbour. The main area of the lot is triangular in shape. There is currently no safe access to the waterfront, as the foreshore area is a 30-degree slope, 3-4 metres high, and is covered in vegetation. An old shed/boathouse building is located at the bottom of the slope, covered in vegetation, and the property currently contains a small derelict dwelling. Further background information is attached.

- Attachment A – Background Table

- Attachment B – Aerial Photo
- Attachment C – Site Photos
- Attachment D – Zoning Map

#### **APPLICATION SUMMARY**

The applicant proposes to remove the old derelict cabin and construct a new single-family dwelling. The applicant originally requested a watercourse setback variance from 15 metres to 12 metres for the dwelling foundation, and from 15 metres to 8 metres for the attached deck. The Electoral Area Services Committee considered the application at their meeting held November 3, 2021, and subsequently the Board passed the following motion at their meeting held November 10, 2021:

*That Development Variance Permit No. DVP21H01 (12453 Rocky Creek Road, PID: 009-475-893), be referred back to staff for further discussion with the applicant and following that discussion, the DVP application be forwarded to the Electoral Area H – North Oyster/Diamond Advisory Planning Commission for their review and recommendation.*

Since the Electoral Area Services Committee (EASC) and Board meetings, the applicant has revised their application such that the proposed foundation for the dwelling conforms to the 15-metre watercourse setback, however, a variance is still requested for the proposed deck, which results in a variance from 15 metres to 12.47 metres, see attached Site Plan. The majority of the deck projects 1.22 metres into the required watercourse setback, with a smaller portion projecting 2.53 metres.

The revised application package is attached.

- Attachment E – Revised Site Plan
- Attachment F – Updated Applicant Rationale
- Attachment G – Updated Geotechnical Letter
- Attachment H – Updated Environmental Review

#### **COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS**

##### Advisory Planning Commission (APC)

The Electoral Area H Advisory Planning Commission recommended approval of the revised application at their meeting held on April 11, 2022, however, as a subsequent meeting of the APC has not yet been held, the meeting minutes have not yet been approved by the APC.

##### Surrounding Property Owner Notification

Notification to surrounding property owners occurred previously in 2021 in accordance with *CVRD Bylaw No. 4267 – Development Application Procedures and Fees Bylaw, 2019*, that was in effect at the time. The comments received previously have been considered as part of the revised application.

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

##### Electoral Area H Zoning Bylaw No. 1020

The subject property is zoned Suburban Residential (R-2). In addition to the zone regulations, Section 5.13 (a) (Setback from Watercourse) applies to the property, which states:

*Notwithstanding any other provisions of this bylaw, no habitable building shall be located within 15 metres of the high water mark of a watercourse, lake or the sea.*

The applicant is requesting a variance to this section of the bylaw to allow for the deck to be partially located within the setback area.

### PLANNING ANALYSIS

As described above, the applicant has moved the dwelling foundation to meet the 15-metre watercourse setback, however, the proposed deck is still within areas of the setback. As such, a variance from 15 metres to 12.47 metres for the deck is proposed, which is the furthest point of the deck.

At the request of the EASC and Board, the Area H Advisory Planning Commission reviewed the application and has recommended approval.

Staff is recommending that the recommendations as set out in the submitted environmental report also be included as a requirement of the DVP. It is also noted that a geotechnical report and hazard assurance will be required through the building permit process. Staff is also recommending that the geotechnical engineer upon further investigation at the building permit stage, consult with the environmental professional to determine appropriate requirements for the stabilization of the shoreline embankment specifically to address the existing house foundation and collapsed boat house along the shoreline and applicable restoration measures. The above staff recommendations have been reflected within the drafted DVP.

As there are no further concerns, the application is recommended for approval, and the drafted permit is attached.

Option 1 is recommended.

- Attachment I – Development Variance Permit

### OPTIONS

#### Option 1

That it be recommended to the Board that Development Variance Permit No. DVP21H01 (12453 Rocky Creek Road, PID: 009-475-893), be issued.

#### Option 2

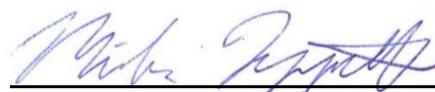
That it be recommended to the Board that Development Variance Permit No. DVP21H01 (12453 Rocky Creek Road, PID: 009-475-893), be denied.

Prepared by:



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Planner III

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 – Aerial Photo

Attachment C – Site Photos

Attachment D – Zoning Map

Attachment E – Revised Site Plan

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Attachment I – Development Variance Permit