



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall
1229 Esquimalt Road
Esquimalt, B.C. V9A 3P1

Legislation Text

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REQUEST FOR DECISION

DATE: September 24, 2019

Report No. DEV-19-086

TO: Laurie Hurst, Chief Administrative Officer

FROM: Bill Brown, Director of Development Services

SUBJECT:

Height and setback variances for a proposed three-lot residential subdivision at 455 Sturdee Street [Appendix A]

RECOMMENDATION:

That Council resolves that Development Variance Permit No. DVP00094 [Appendix B] allowing for Strata Lot Specific Variances associated with Proposed Strata Lots "B" and "C" for Strata Plan EPS5951 as prepared by Powell & Associates B.C. Land Surveyors, [Appendix C] including the following variances be approved, and staff directed to issue a permit and register the notice on the relevant title(s) at the time of registration.

For proposed Strata Lots "B" and "C", Strata Plan EPS5951:

Zoning Bylaw, 1992, No. 2050, Section 36 (6)(a) - Building Height - Principal Building - that the Building Height of the Principal Buildings be varied from a maximum Height for 7.3 metres to a maximum height of 16.3 metres geodetic (7.3 metres + 9.0 metres Tsunami Hazard Zone) as measured from the 9.0 m geodetic elevation.

For Proposed Lot "B" only, Strata Plan EPS5951:

Zoning Bylaw, 1992, No. 2050, Section 36 (9)(a)(i) - Siting Requirements - Principal Building - Front Setback: a 3.9 metre reduction from 7.5 metres to 3.6 metres.

For Proposed Lot "C" only, for Strata Plan EPS5951

Zoning Bylaw, 1992, No. 2050, Section 36 (9)(a)(iii) - Siting Requirements - Principal Building - Rear Setback: a 6.0 metre reduction from 7.5 metres to 1.5 metres.

RELEVANT POLICY:

Declaration of Climate Emergency

Official Community Plan Bylaw, 2018, No. 2922

Zoning Bylaw, 1992, No 2050

Parking Bylaw, 1992, No. 2011

Development Application Procedures and Fees Bylaw, 2012, No. 2791

Advisory Planning Commission Bylaw, 2012, No. 2792
Subdivision and Development Control Bylaw, 1997, No. 2175
Local Government Act

STRATEGIC RELEVANCE:

The proposed variances are not associated with any strategic priorities or goals.

BACKGROUND:

Appendix A: Key Plan
Appendix B: DP000125
Appendix C: Strata Plan EPS5951
Appendix D: Ryzuk Report
Appendix E: Statutory notice to owners and occupiers within 50 m of the subject site.

Purpose of Application

The proposed three residential lots conform to the Single-Family Waterfront Residential [R-3] zone in terms of minimum area and minimum lot width. However, in order to allow for the efficient development, three variances are proposed:

First, height variances will be required for proposed Strata Lots B and C. This is because the Height is measured from Grade which is defined in the Zoning Bylaw as:

the average of the existing ground (as determined by a BC Land Surveyor) of those points of a polygon having the shortest perimeter that will encompass the outermost walls of a building or structure, provided that localized depressions such as vehicle or pedestrian entrances need not be considered in the determination of the average of existing ground.

The Maximum Height in the Single Family Waterfront Residential [RS-3] Zone for a Principal Building is 7.3 metres. Due to the sloping nature of the site and the fact that there can be no habitable space below 9.0 metres geodetic due to the risk of Tsunamis (See Ryzuk Report in Appendix "D"), the height restriction would constrain the type of dwelling that could be built on Proposed Strata Lots B and C. By establishing a maximum Building Height of 16.3 metres based on setting grade at 9.0 metres and then allowing a Building Height of 7.3 metres, the development potential of the properties are maintained. It should be noted that the 9.0 m geodetic elevation is the same elevation as the strata access road, so the relationship between the floor level elevation of the dwelling unit and the street level elevation will read as a typical street, although much narrower.

Second, the proposed reduction of the Front Yard Setback for proposed Lot B from 7.5 metres to 3.6 metres (See Appendix "A" in the Development Variance Permit attached as Appendix "B" to this report) has a number of advantages.

- a) It allows the building to be moved forward on the lot thereby reducing the portion of the foundation that would have to be built below the 9.0 metre Tsunami elevation.
- b) It allows the building to be moved forward on the lot thereby creating a greater setback from the shoreline.

- c) It allows the building to be moved forward on the lot thereby improving the view cones on adjacent properties.
- d) It allows the building to be moved forward on the lot thereby creating a consistent setback along the Common Property Access Road.

Third, the proposed reduction of the Rear Yard Setback for proposed Lot C (see Appendix "A" in the Development Variance Permit attached as Appendix "B" to this report) is a result of how Front Lot Line is defined in the Zoning Bylaw:

"Lot Line, Front" means the Lot Line(s) common to the Parcel and an abutting Highway or Access Route, but: [Amendment, 2018, Bylaw No. 2938]

(1) Where a Parcel has Lot Lines abutting two or more Highways, or Access Routes, the Lot Line (or combined Lot Lines abutting one Highway) having the shorter length abutting a Highway or Access Route is the Front Lot Line;

Although based on the site layout, the front lot line would intuitively be along the Common Property Access Road similar to proposed Strata Lot B, by definition it is along the undeveloped portion of Sturdee Street. The rear yard is opposite the Front Yard although in this situation the Rear Yard functions as a Side Yard when reviewed in the context of proposed Lot B. Treating it as a Side Yard allows for a more practical building envelope and has no significant impacts on any adjacent properties.

Context

Applicant:	Aaron Flaig
Owner:	Darrel Russell Brown
Property Size:	Proposed Park Area = 115.9 m ² Proposed Strata Lot A = 619.8 m ² Proposed Strata Lot B = 687.3 m ² Proposed Strata Lot C = 767.1 m ² Common Property Access = 293.6 m ² Total Area = 2483.7 m ²
Existing Land Use:	Vacant Residential
Surrounding Land Uses:	
North:	Single detached residential dwelling
South:	Straight of Juan de Fuca
West:	Single detached residential dwelling
East:	Single detached residential dwelling and two-unit dwelling
OCP Proposed Land Use Designation:	Low density residential [No change required]
Zoning:	Single Family Waterfront Residential [RS-3] [No change required]

Timeline

Application Received on August 16, 2019 and presented to the Advisory Planning Commission on August 20, 2019.

Official Community Plan

The Official Community Plan requires that any subdivision application within the Hazardous Conditions Development Permit Area requires a Development Permit for the Protection of Development from Hazardous Conditions. As described in Section 19.3 of the Official Community Plan,

The Township is located in one of the most seismically active areas in Canada. As such, it is imperative that land use and development decisions take into consideration the potential dangers associated with tsunamis. A tsunami is a series of long surge-like waves and is usually caused by an underwater earthquake, landslide, or volcanic eruption. The most dangerous tsunami threat in the Capital Region will follow a major earthquake in the Cascadia subduction zone (CSZ), located about 100 km off Vancouver Island. Such an earthquake will cause ground shaking lasting between one and four minutes and will result in significant damage throughout the region (<https://www.crd.bc.ca/about/news/article/2013/04/19/modelling-tsunami>). These guidelines are justified based on the thousands of people across the globe that have been killed due to tsunamis.

Comments from Other Departments

The subdivision application has been circulated both internally and externally.

- The Engineering Department has been overseeing site servicing.
- The Parks Department has been overseeing tree removal and retention.
- The Fire Department has reviewed the proposed subdivision and had no concerns.

Recommendations from the Advisory Planning Commission

At their August 20, 2019, meeting, the Advisory Planning Commission made the following recommendations:

- 1) That the application for a Development Variance Permit allowing for the future construction of two detached dwellings on Proposed Strata Lots “B” and “C” for Strata Plan EPS5951 as prepared by Powell & Associates B.C. Land Surveyors and stamped “Received August 14, 2019”, including the following variance be forwarded to Council with a recommendation to approve as the 9 metres is the Tsunami Hazard Zone and without it there is a high risk that the area would be insufficient for a reasonable size home.

Zoning Bylaw, 1992, No. 2050, Section 36 (6)(a) - Building Height - Principal Building - that the Building Height of the Principal Buildings be varied from a maximum Height for 7.3 metres to a maximum height of 16.3 metres geodetic (7.3 metres + 9.0 metres Tsunami Hazard Zone).

- 2) That the application for a Development Variance Permit allowing for the future construction of a detached dwelling on Proposed Lot “B”, Strata Plan EPS5951 as prepared by Powell & Associates B.C. Land Surveyors and stamped “Received August 14, 2019”, including the following variance be forwarded to Council with a recommendation to approve, as the setback decreases the impact of the building on the waterfront.

Zoning Bylaw, 1992, No. 2050, Section 36 (9)(a)(i) - Siting Requirements - Principal Building - Front Setback: a 3.9 metre reduction from 7.5 metres to 3.6 metres.

- 3) That the application for a Development Variance Permit allowing for the future construction of a detached dwelling on Proposed Strata Lot "C", Strata Plan EPS5951 as prepared by Powell & Associates B.C. Land Surveyors and stamped "Received August 14, 2019", including the following variances be forwarded to Council with a recommendation to approve as the variance is internal to the site and adequate amenity space is provided.

Zoning Bylaw, 1992, No. 2050, Section 36 (9)(a)(iii) - Siting Requirements - Principal Building - Rear Setback: a 6.0 metre reduction from 7.5 metres to 1.5 metres.

ISSUES:

1. Rationale for Selected Option

The proposed variances allow for a more efficient development of the proposed three-lot subdivision.

2. Organizational Implications

There are no significant organizational implications.

3. Financial Implications

There are no significant financial implications.

4. Sustainability & Environmental Implications

The proposed variances will contribute to a moderate increase in density and more energy efficient homes within the subdivision.

5. Communication & Engagement

As per the requirements of the Local Government Act, notices were sent to each owner and occupant of property within 50 m of the subject site.

ALTERNATIVES:

- 1) Approve the proposed variances as recommended.
- 2) Approve only specific proposed variances.
- 3) Deny all proposed variances.