

DATE OF MEETING | April 1, 2019 |

AUTHORED BY | DAVE STEWART, PLANNER, CURRENT PLANNING |

SUBJECT | **DEVELOPMENT PERMIT APPLICATION NO. DP1121 –  
25 SPYGLASS LOOKOUT** |

## **OVERVIEW**

### **Purpose of Report**

To present for Council's consideration, a development permit application to allow for the construction and servicing of a cabin within the watercourse setback. |

### **Recommendation**

That Council issue Development Permit No. DP1121 at 25 Spyglass Lookout with the following variances:

- reduce the watercourse setback measured from the natural boundary of the sea from 15m to 6.4m for the proposed cabin;
- reduce the watercourse setback as measured from the natural boundary of the sea from 15m to 0m for services to accommodate the cabin; and
- reduce the required number of off-street parking spaces for the property from 2 to 0 parking spaces. |

## **BACKGROUND**

A development permit application, DP1121, was received from Alfredo Tura (property owner) for the construction of a new single residential dwelling (cabin) to be located within the watercourse setback area.

A previous development permit application for the subject property was denied by Council on 2004-NOV-01. The application was submitted by a previous property owner with a different cabin design and site servicing proposal. The cabin location is the same for both proposals.

### **Subject Property**

<i>Zoning</i>	R3- Island Residential
<i>Location</i>	The subject property is technically an island off the western shoreline of Protection Island. The property is connected to Protection Island by a tidal neck.
<i>Total Area</i>	2,401m <sup>2</sup>
<i>Official Community Plan</i>	Map 1 - Future Land Use Designation - Neighbourhood Map 2 - Development Permit Area No. 2 - Environmentally Sensitive Areas

The subject property is privately owned and is uniquely shaped and sited. The portion of the property above the natural boundary of the sea is connected to Protection Island by a narrow strip of land that is below the high-tide line.

This feature is also referred to as a “Tombolo” (deposition land form attached to the mainland or an island). The narrow tidal neck includes salt marsh vegetation and is used to access the property during lower tides. The remainder of the property forms an island in the shape of a backwards ‘C’ and is less than 30m in width at all points. The island portion of the property includes a Garry oak ecosystem and a grassy meadow. Garry oak ecosystems are home to many rare and endangered plant and animal species and are among the most endangered ecosystems in Canada. Less than 5% of these ecosystems remain in near-natural condition due to exotic species invasion and land development.

## **DISCUSSION**

The applicant is proposing to construct a 50m<sup>2</sup> single residential dwelling, to be used as a seasonal cabin, on the subject property. The cabin will be located within the small grassy meadow, outside of the Garry oak trees, on the southernmost portion of the property. The cabin will be elevated on piles in order to meet the flood elevation requirement and account for storm surges and sea level rise.

The British Columbia Building Code requires that the cabin be serviced with potable water. Once a lot is serviced with municipal water, a kitchen sink, lavatory, and toilet are required that must be connected to the municipal sewer system. Municipal services are available at the end of Spyglass Lookout near the subject property line. The applicant has worked with the City and the Nanaimo Port Authority to resolve the environmental and engineering challenges associated site servicing.

Several options were considered to service the subject property, including constructing an elevated walkway across the tidal neck and Garry oak meadow with services strapped and/or buried beneath the walkway. However, to minimize any environmental impact, the applicant’s qualified environmental professional (QEP) recommends trenching the services under the shallow mud bay directly underwater towards the cabin. The applicant is proposing to proceed with this servicing option. Services above and below the waterline will be piped within a single conduit, encased in concrete.

A water lot lease from the Nanaimo Port Authority (NPA) will be required for the services. The NPA is aware of the applicant’s proposal and has no concerns with the proposed alignment.

Avoiding an elevated walkway will minimize the impact of the proposed development on the sensitive Garry oak forest community. Access to the property can be provided by boat or by following the existing series of “defined & worn” pathways that the public have used to access and explore the property.

The applicant’s QEP made of a number of recommendations to be observed during construction. The following recommendations will be included as conditions of use of the development permit, if approved:

- A rare plant survey is to be conducted on the property and submitted to the City in late spring/early summer, prior to the issuance of a building permit, to confirm the absence or presence of rare plants.
- Foundation designs for the cabin should consider measures to limit the amount of soil disturbance (i.e., excavations) as much as possible.

- All concrete works for the development shall include containment of concrete mixing and use (including concrete-laden waste water). Because of its alkaline toxicity, no concrete waste water shall be allowed to spill onto the ground or drain to the ocean. All concrete waste shall be properly disposed of off-site. The project should avoid any exposure of uncured concrete to tidal inundation.
- Limit the use of heavy equipment onsite, including mini-excavators and bobcats. Any equipment used should be clean and free of oil or hydraulic leaks and have a fully stocked spill kit on board.
- Waste materials are to be removed from the site as soon as possible.
- Final foundation works and construction works should include inspection by a professional biologist.
- No restoration planting is recommended due to the existing natural state of the subject property.

See Attachments for more information.

## **Proposed Variances**

### *Minimum Watercourse Setback*

The required watercourse setback is 15m as measured from the natural boundary of the sea. The proposed setback is 6.4m for the cabin and 0m for the services; proposed variances of 8.6m and 15m respectively.

Given the limited width of the subject property, there is no space on the subject property for the applicant to build outside of the 15m watercourse setback. The applicant and his environmental consultant have worked with Staff since September 2018 to explore options to permit construction on the property while minimizing disturbance to the Garry oak forest and aquatic ecosystem. The proposed underwater servicing alignment avoids disturbance to the Garry oak forest and minimizes overall site disturbance.

Staff support the proposed watercourse setback variances based on the Site Survey and Site Service Plan provided by the applicant as shown in Attachments C and D.

### *Off-Street Parking*

The City of Nanaimo “Off-street Parking Regulations Bylaw 2018 No. 7266” requires two off-street parking spaces for a single residential dwelling. Given the subject property is an island connected to another island by a tidal neck, providing parking on the property is not practical for a number of reasons:

- Requiring parking on the subject property will result in unnecessary disturbance to aquatic ecosystem;
- There is no regularly scheduled vehicle connection from Protection Island to Vancouver Island. Vehicles need to be barged to the island;
- On-street parking space is available at the end of Spyglass Lookout adjacent to the subject property and will be available to the applicant if he chooses to leave a vehicle on the Island;

- The cabin is proposed to be used seasonally as a vacation home. The applicant will access the cabin by boat or passenger ferry; and
- The Protection Island community is walkable, and with the exception of the Dingy Dock Pub, does not include any commercial services.

Staff support the proposed parking variance.

### **SUMMARY POINTS**

- Development Permit Application No. DP1121 proposes that the watercourse setback be reduced from 15m to 6.4m for the cabin and 0m for the required service conduit.
- The subject property is unique in terms of shape and its location, and is a privately owned lot.
- There is not sufficient space on the property to construct a dwelling outside of the 15m watercourse setback.
- The proposed cabin siting and underwater service conduit will result in minimal site disturbance.

### **ATTACHMENTS**

ATTACHMENT A: Permit Terms and Conditions  
ATTACHMENT B: Location Plan  
ATTACHMENT C: Site Survey  
ATTACHMENT D: Site Service Plan  
ATTACHMENT E: Aerial Photo

#### **Submitted by:**

L. Rowett  
Manager, Current Planning

#### **Concurrence by:**

D. Lindsay  
Director, Community Development