

DATE OF MEETING January 17, 2022

AUTHORED BY CALEB HORN, PLANNER, CURRENT PLANNING

SUBJECT **DEVELOPMENT PERMIT APPLICATION NO. DP001204 –  
25 SPYGLASS LOOKOUT**

## **OVERVIEW**

### **Purpose of Report**

To present for Council's consideration, a development permit application for a single residential dwelling within the aquatic setback at 25 Spyglass Lookout.

### **Recommendation**

That Council issue Development Permit No. DP1204 at 25 Spyglass Lookout with the following variances to:

- reduce the minimum required watercourse setback from the natural boundary of the sea for a single residential dwelling from 15.0m to 6.4m;
- reduce the minimum required watercourse setback from the natural boundary of the sea for above-ground servicing from 15.0m to 0.0m; and
- reduce the minimum required number of off-street parking spaces from 2 to 0.

## **BACKGROUND**

A development permit application, DP1204, was received from Alfredo and Armando Tura to permit a single residential dwelling within the aquatic setback at 25 Spyglass Lookout. This application was previously considered by Council on 2021-DEC-06 and was deferred to a future Council meeting.

An earlier development permit, DP274, for a larger dwelling 0m from the sea was denied by Council in November 2004. A more recent development permit application, DP1121, from the current owners was denied by Council in April 2019. Compared to the 2019 proposal, the current proposal has a consistent setback and comparable building footprint with more sensitive design.

### **Subject Property and Site Context**

<i>Location</i>	The subject property is located on the west side of Protection Island at the end of Spyglass Lookout, a no-exit lane on the west side of Colvilleton Trail.
<i>Lot Area</i>	2,401m <sup>2</sup>
<i>Zoning</i>	R3 – Island Residential
<i>Official Community Plan (OCP)</i>	Map 1 – Future Land Use Designation – Neighbourhood Map 3 – Development Permit Area DPA No. 2 – Environmentally Sensitive Areas

The subject property is currently undeveloped and consists of an islet in the Nanaimo Harbour attached by a sandy spit (a tombolo) to Protection Island. The property is primarily in a natural state with native trees and meadows. The current property boundaries were created when Protection Island was surveyed and subdivided in 1960. A more recent survey (see Attachment D) has established the present natural boundary of the sea and demonstrates the nature of the property as an islet cut off from Protection Island at the highest tides.

Surrounding land uses on Protection Island are existing single residential dwellings with both seasonal and permanent residents, parks (including Captain Morgan Park and Captain Flint Park), and a small number of undeveloped lots.

## **DISCUSSION**

### **Proposed Development**

The applicant is proposing to construct a single-storey residential dwelling approximately 78m<sup>2</sup> in floor area on the lot as a cabin for seasonal use. The proposed dwelling would be located on the height of land (approximately 3m above sea level) on the south portion of the lot to minimize impacts on natural ecosystems and to avoid any tree removal. The dwelling will be elevated on pilings above the height of land in order to account for the future Flood Construction Level (FCL), and the underside of the dwelling will be screened with lattice. Further information through a geotechnical assessment will be required at the detailed design stage to confirm the necessary FCL, and the applicant has demonstrated that the proposed design will follow the Provincial guidelines for sea level rise.

Pedestrian access to the property would be provided by a 1.2m-wide elevated walkway across the bay separating the islet from the end of Spyglass Lookout, and is proposed to connect to an existing footpath on the island that will lead to the proposed dwelling. No access would be provided across the tombolo, which would be left in a natural state. The elevated walkway will require approval from the Nanaimo Port Authority (NPA) for a water lot lease. The application was referred to the NPA and no concerns have been identified. The elevated walkway will function similarly to existing walkways connected to floating docks on Protection Island.

Site servicing (water and sanitary sewer) is required by BC Building Code for the proposed dwelling. A sanitary effluent pump is proposed below the dwelling. All servicing will be provided above ground on pipe supports and attached to the elevated walkway across the bay to connect with existing services at the end of Spyglass Lookout. Preliminary servicing plans have been reviewed and deemed acceptable by City Staff, with the plans to be finalized at the detailed design stage.

The subject property is zoned R3 – Island Residential, which allows a single residential dwelling. Servicing is provided within the Spyglass Lookout road dedication to the eastern property line, and the lot was originally created for the purpose of developing a seasonal dwelling; however, the lot has remained vacant to date. The maximum permitted Floor Area Ratio (FAR) in the R3 zone is 0.55, and the proposed FAR equals 0.03. Notwithstanding the variances identified in the following section of this report, the proposed development meets all other requirements in the R3 zone.

The applicant has identified a number of changes that have been made to the proposal since the previous development concept (DP1121) considered by Council, as summarized in the table below:

	<b>Current Proposal (DP1204)</b>	<b>Previous Proposal (DP1121)</b>
<i>Size of Dwelling</i>	The proposed dwelling has a footprint of 78m <sup>2</sup> and is sited 6.4m from the natural boundary of the sea. The current building plans are more informed and detailed than the previous concept, and a slight increase in footprint will create a viable dwelling unit floor area.	The proposed dwelling had an approximate footprint of 50m <sup>2</sup> and was sited 6.4m from the natural boundary of the sea.
<i>Access</i>	Pedestrian-only access to the property is proposed via a 1.2m-wide elevated walkway. This proposed access is less intrusive on existing natural ecosystems and avoids the tombolo.	Pedestrian-only access to the property was proposed via an at-grade walkway across the tombolo, which could have had localized impacts on vegetation.
<i>Servicing</i>	Site servicing is proposed above ground, with supports spaced 3m apart on the islet, and attached to the side of the elevated walkway. This proposal does not require trenching.	Site servicing was proposed through a trench across the bay from Protection Island and across the islet.
<i>Protected Area</i>	A Section 219 covenant is proposed to protect a portion of the property. The covenant will ensure that no disturbance occurs to the existing natural ecosystems within the +/- 593m <sup>2</sup> area identified on Attachment D.	No additional protected area was proposed.
<i>Vegetation Management</i>	A vegetation management plan will be secured as a condition of the development permit, with bonding held for a three-year maintenance period after construction has completed, during which time natural area restoration will occur.	No vegetation management was proposed.

#### *Development Permit Area for Environmentally Sensitive Areas*

The subject property falls within the Development Permit Area for Environmentally Sensitive Areas (DPA2) and a development permit is required prior to any development on site. In order to address the DPA2 guidelines, an environmental assessment is required to be prepared by a Qualified Environmental Professional (QEP) to identify the environmentally-sensitive areas and determine the appropriate buffers to maintain them. The environmental assessment report submitted in support of this application has been reviewed and accepted by Staff.

The QEP identified two natural ecosystems existing on site: a coastal saltmarsh ecosystem on the tombolo and the northern portion of the lot, and a Garry oak ecosystem in the centre of the

lot (see Attachment G). A previously disturbed area and grass meadow occupy the southern portion of the lot where the dwelling is proposed. To ensure the proposal meets the DPA2 guidelines and does not negatively impact the environmentally-sensitive areas, the QEP provided a number of recommendations that will be secured as conditions of the development permit (see Attachment A). The proposed conditions include a rare plant survey, restrictions on the storage of construction materials, and requirements for construction methods.

In addition to these conditions, the applicant is proposing to protect the northern portion of the lot through a Section 219 covenant registered on title prior to building permit issuance. No disturbance would be permitted in the covenanted area, except for habitat restoration, and this area will be delineated by permanent fencing.

A vegetation management plan prepared by the QEP has also been submitted by the applicant. As a condition of the development permit, the applicant will be required to maintain the property in accordance with the vegetation management plan, including the restoration of natural areas and removal of invasive species. Security will be held for a three-year maintenance period.

## **Proposed Variances**

### *Minimum Watercourse Setback*

The minimum watercourse (aquatic) setback is 15.0m from the natural boundary of the sea. The applicant is proposing to construct a structure 6.4m from the natural boundary of the sea; a requested variance of 8.6m. The applicant is also requesting to provide servicing to the elevated walkway at 0m from the natural boundary of the sea; a requested variance of 15m. No variance is required for the elevated walkway below the present natural boundary of the sea.

Given the irregular shape of the subject property, there is no opportunity for a building envelope outside of the aquatic setback. A number of design measures have been proposed to ensure minimal impacts within the aquatic setback, including but not limited to, limiting the size of the proposed dwelling; raising the floor elevation above the ground to minimize impacts on existing root systems; providing pedestrian-only access via an elevated walkway across the bay to avoid foot traffic walking through natural ecosystems on site; and installing above-ground servicing to minimize soil disturbance on site.

The proposed development addresses the DPA2 guidelines and Staff support the proposed aquatic setback variances with the conditions that the site be developed in accordance with the QEP recommendations. In the two years since the previous development permit proposal, the applicant has worked with the QEP and professional engineer to further minimize impacts within the aquatic setback and disturb only a small portion of the lot (<15%). The current proposal has been determined to be the most sensitive option and would allow limited development of the property under the existing R3 zoning for a dwelling unit with minimal impact.

### *Minimum Required Parking*

The minimum required off-street parking for a single residential dwelling is two parking spaces. The applicant is proposing to provide no off-street parking; a requested variance of two parking spaces.

Private vehicles are not prevalent on Protection Island, and most residents commute on foot or by golf cart around the island, and by boat to access Downtown Nanaimo. Providing parking on site would not be viable given the environmental and physical constraints, and any proposal to provide vehicle parking would have an unnecessary impact on existing natural ecosystems. Parking demand is not anticipated given the size of the dwelling, the intended use for a seasonal cabin, and accessibility of the site by boat. While the property is not easily accessible by private vehicle, off-site parking is also available within the Spyglass Lookout right-of-way.

Staff support the proposed parking variance.

### **OPTIONS**

1. That Council issue Development Permit No. DP1204 at 25 Spyglass Lookout with the following variances to:
  - a) reduce the minimum required watercourse setback from the natural boundary of the sea for a single residential dwelling from 15.0m to 6.4m;
  - b) reduce the minimum required watercourse setback from the natural boundary of the sea for above-ground servicing from 15.0m to 0.0m; and
  - c) reduce the minimum required number of off-street parking spaces from 2 to 0.
    - Advantages: The property owners will be permitted to construct a cabin on the property under the existing R3 zoning while minimizing impacts to the natural environment, and the City will be able to enforce conditions through the development permit.
    - Disadvantages: A small portion of the lot will be developed within the aquatic setback.
2. That Council deny Development Permit Application No. DP1204 for a single residential dwelling at 25 Spyglass Lookout.
  - Advantages: The entire lot will remain undeveloped until such time that another development permit application or another use is proposed.
  - Disadvantages: The property owners will have incurred further expenses for professional assessments of the development potential of their property and will not be permitted to construct a cabin on the property. Any further proposal would require another development permit application before proceeding with realizing the intended use of the lot.

### **SUMMARY POINTS**

- Development Permit Application No. DP1204 is for a single residential dwelling within the aquatic setback at 25 Spyglass Lookout.
- Variances are requested to reduce the minimum required aquatic setback from 15.0m to 6.4m for the proposed dwelling and from 15.0m to 0.0m for the proposed servicing, and to reduce the minimum required parking from 2 to 0 parking spaces.
- The environmental assessment report prepared by a Qualified Environmental Professional and submitted in support of this application has been reviewed and accepted by Staff.
- The current proposal has been determined to be the most sensitive option and would allow limited development of the property under the existing R3 zoning for a dwelling unit with minimal impact.
- Staff support the proposed variances.

### **ATTACHMENTS**

ATTACHMENT A: Permit Terms and Conditions  
ATTACHMENT B: Context Map  
ATTACHMENT C: Location Plan  
ATTACHMENT D: Site Survey  
ATTACHMENT E: Proposed Site Servicing Plan and Sections  
ATTACHMENT F: Biophysical Map  
ATTACHMENT G: Aerial Photo

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#### **Concurrence by:**

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