

Date: October 31, 2013

File No.: SS-DVP- 2013.6
SS-SUB-2006.12
X-Ref.: SS-DP-2013.5

To: Salt Spring Island Local Trust Committee for Meeting of November 14, 2013

From: Caitlin Brownrigg, Planner 1, Local Planning Services
Kelly Gesner, Contract Planner

CC: Brent Taylor

Re: Development Variance Permit Application

Owner: Skywater Capital Corp and Robert and Chandra Hershey-Lear
Applicant: Polaris Land Surveying
Location: 344 Anna's Drive, 1611 Musgrave Road, Mount Tuam Road
The Southeast 1/4 of Section 44, The South 1/2 of the Southwest 1/4 of Section 43, The Remainder of the Southeast 1/4 of Section 43 and the Northeast 1/4 of Section 37, All of South Salt Spring Island, Cowichan District

THE PROPOSAL:

The subdivision proposal associated with application SS-SUB-2006.12 will create three split zoned lots and therefore requires that LTC grant a Development Variance Permit.

SITE CONTEXT:

Subdivision application SS-SUB-2006.12 is a 27 lot bare land strata subdivision proposal. There are four parent lots totaling 222.561 hectares (63.967 ha + 32.118 ha + 63.062 ha + 63.414 ha). Three of the lots are zoned Forestry 1 and one lot is zoned Rural Upland 1. There are a number of significant wetlands on the subject properties. The subject properties border the Mount Tuam Ecological Reserve to the south, the Alvin Indridson Nature reserve to the west, and the Hope Hill Crown lands to the north. Mount Tuam Strata is to the south. Musgrave Road runs across the western corner of one of the parent parcels. The applicant has submitted an application for a Development Permit (SS-DP-2013.5) to address Development Permit Area 4 and intends to apply for an exemption for Development Permit Area 6 based on a report from a Geotechnical Engineer.

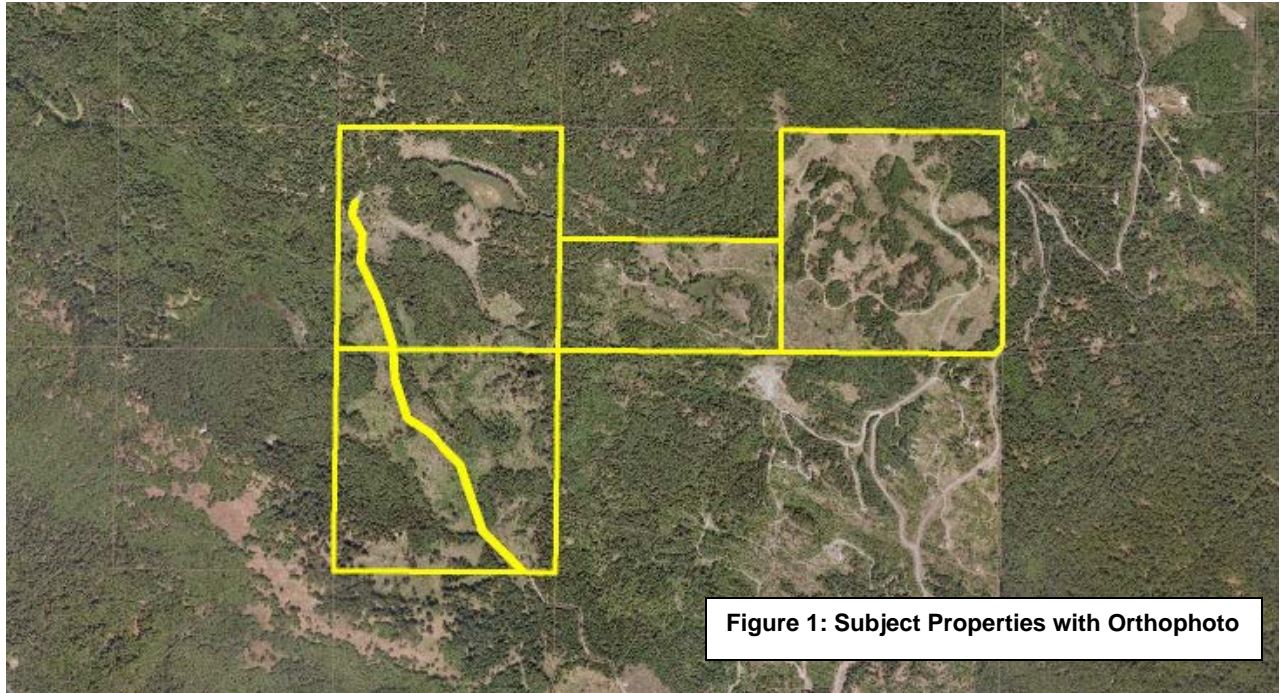


Figure 1: Subject Properties with Orthophoto

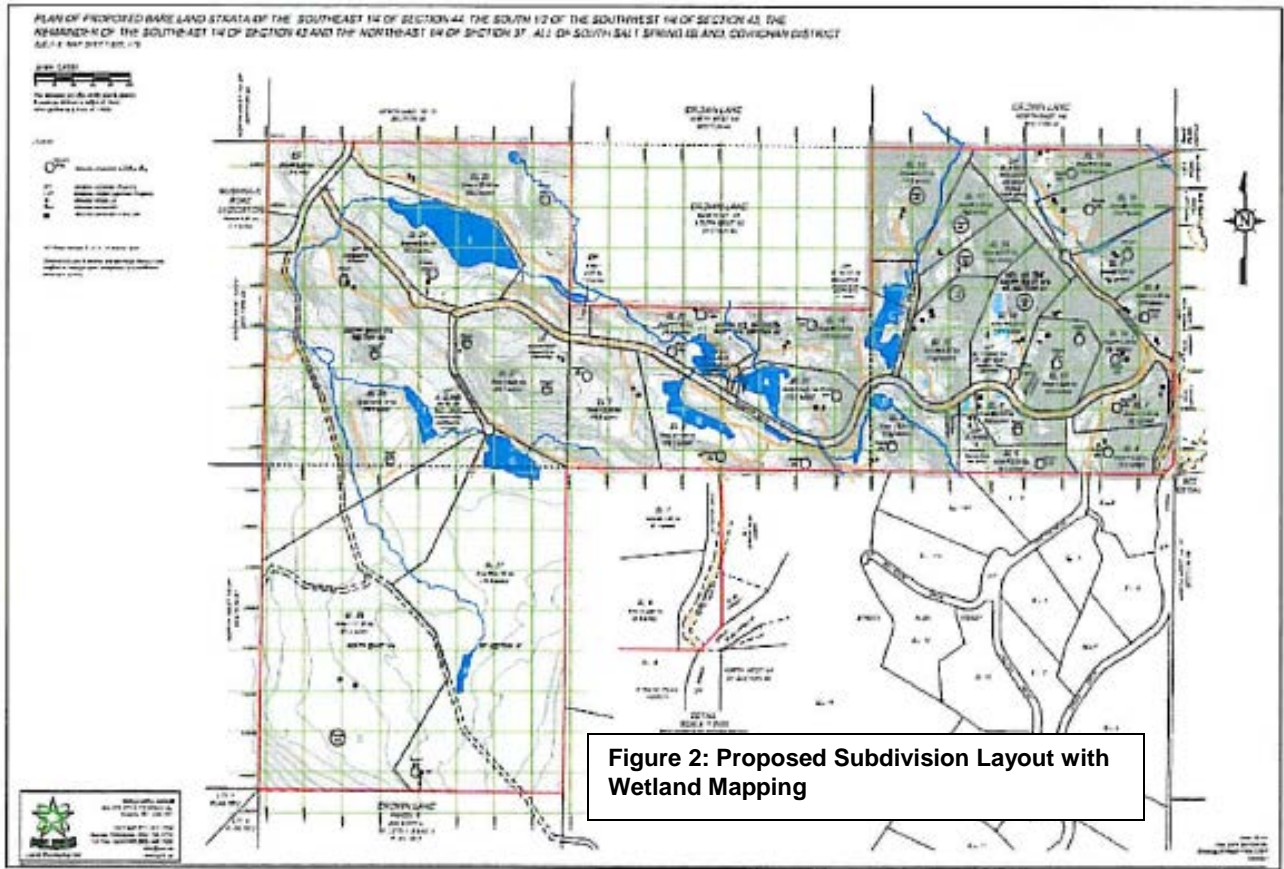


Figure 2: Proposed Subdivision Layout with Wetland Mapping

CURRENT PLANNING STATUS OF SUBJECT LANDS

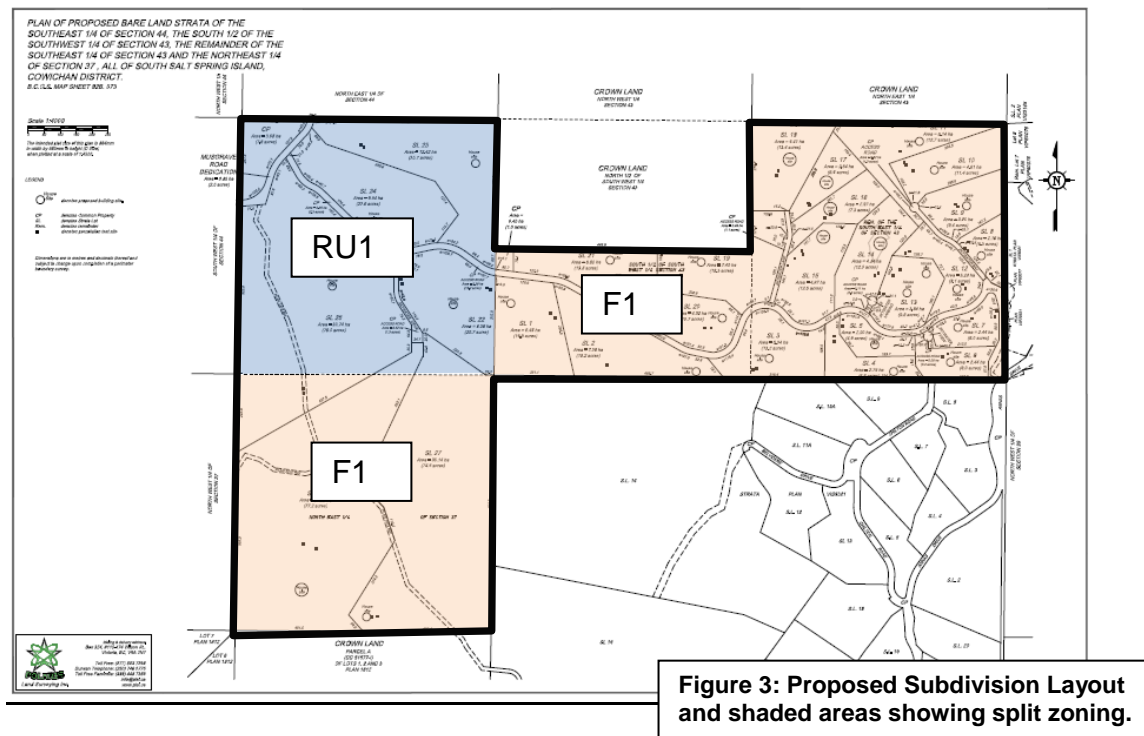
Official Community Plan

The subject properties are in:

- Development Permit Area 4: Lakes, Streams, and Wetlands
- Development Permit Area 6: High Soil Erosion Hazard

Land Use Bylaw

Three of the subject properties are zoned Forestry 1 (F1) and one is Rural Uplands 1 (RU1) (Figure 3). The density and lot configuration proposed by subdivision application SS-SUB-2006.12 is permitted by zoning and is in compliance with the other regulations of the Land Use Bylaw.



The variance is required to address the following section of the LUB:

5.10 LOTS DIVIDED BY A ZONE BOUNDARY

5.10.1 If a *lot* proposed to be subdivided is divided by a *zone* boundary, a separate calculation of the number of *lots* permitted must be made for each *zone*, and no *lot* may be created that is smaller than the minimum average *lot area* permitted for the *zone* in which it is located.

5.10.2 The creation of a *lot* lying within two or more *zones* is to be avoided wherever possible. If *lots* lying within two or more *zones* are subdivided, *lot boundaries* are to correspond with *zone boundaries* wherever possible.

The proposed subdivision layout, as seen in Figure 3, would create three lots with split zoning. The rationale for permitting this variance is discussed under Staff Comments below.

Islands Trust Fund:

The subject properties are not adjacent to any Islands Trust Fund properties.

Sensitive Ecosystems and Hazard Areas:

Portions of the subject properties have been identified as sensitive ecosystems by the Islands Trust Sensitive Ecosystem mapping. The subject properties are in Development Permit Area 4 and Development Permit Area 6. The applicant has indicated that they will seek an exemption for Development Permit Area 6 requirements by submitting a report from a qualified Geotechnical Engineer. The applicant has applied for a Development Permit for the proposed subdivision (application SS-DP-2013.5).

Riparian Areas Regulation:

A Riparian Areas Regulation Assessment was completed and has been submitted to the Ministry of the Environment. . In this report, the Qualified Environmental Professional provides her professional opinion that:

a) If the development is implemented as proposed by the development proposal there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area in which the development is proposed, OR

b) If the streamside protection and enhancement areas identified in this Assessment Report are protected from the development proposed by the development proposal and the measures identified in this Assessment Report as necessary to protect the integrity of those areas from the effects of the development are implemented by the developer, there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area in which the development is proposed.

Archaeological Sites:

Based on the data provided by the Provincial Remote Access to Archaeological Data, there are no known archaeological sites or areas of significant potential to contain unknown but protected archaeological sites on the subject property.

Covenants:

There are several easements and statutory rights of way registered on the subject properties, none held with Islands Trust or affected by the proposed variance.

Bylaw Enforcement:

There are no current Bylaw Enforcement files on the subject property.

RESULTS OF CIRCULATION

Statutory notice of the variance was distributed on October 27, 2013 to the tenants in occupation of properties and owners (as shown on the assessment roll) within 100m (328 feet) of the subject parcel boundaries (in accordance with the requirements of Section 8 in SSI LTC Bylaw No. 304 - Development Procedures).

At the time of writing this report, staff had not received any correspondence concerning the application. In the past, neighbours have indicated concerns with road access and watercourse protection, but not with the nature of the application for a variance.

STAFF COMMENTS:

1. *The applicant's stated rationale for the application* - The applicant is requesting the variance for the following reasons:
 - The proposed lot configuration was developed to ensure that each wetland remained on a single lot
 - The proposed lot configuration will require less road construction
 - To fulfill conditions of subdivision application SS-SUB-2006.12 to create 27 Bare land strata lots

2. *The impact that granting the variance might have on adjacent and other properties* – No impact on neighbouring properties is anticipated as a result of the variance. Development variance applications must be considered on the basis of the applicable Land Use Bylaw regulations being varied, rather than on concerns that the neighbours have regarding other issues.

3. *The overall intent of the regulations being varied* – The proposed Development Variance Permit would vary the following sections of the Salt Spring Island Land Use Bylaw No. 355:
 - Section 5.10.2 directs staff to avoid creating a lot lying in two or more zones. This reduces uncertainty with regard to what uses are permitted on the lot. In this case, proposed Strata Lot 25, 26 and 27 will split zoned. The two zones permit a similar range of uses. All three lots are very large, so the confusion regarding uses permitted in different zones will be mitigated. Proposed Strata Lot 25 is 30.76 hectares in size, proposed Strata Lot 26 is 31.16 hectares in size, and proposed Strata Lot 27 is 30.08 hectares in size.

4. *Any expectations that may be created in approving the variance* – Granting a Development Variance Permit does not set a precedent. Although granting a variance may potentially create an expectation in the community with regard to future applications, due to the particular circumstances of the proposal, approval of the application is not anticipated to create undue expectations.

RECOMMENDATIONS:

THAT the Salt Spring Island Local Trust Committee approve issuance of Development Variance Permit SS-DVP-2013.6 for the Southeast 1/4 of Section 44, The South 1/2 of the Southwest 1/4 of Section 43, The Remainder of the Southeast 1/4 of Section 43 and the Northeast 1/4 of Section 37, All of South Salt Spring Island, Cowichan District (Polaris Land Surveying, Anna's Drive, Musgrave Road, Mount Tuam).

Prepared and Submitted by:

Kelly Gesner (on behalf of
Caitlin Brownrigg)

Date

Concurred in by:

Leah Hartley

Date

Attachment 1: Proposed Development Variance Permit



PROPOSED

Item 14.1
Attachment 1

SALT SPRING ISLAND LOCAL TRUST COMMITTEE DEVELOPMENT VARIANCE PERMIT SS-DVP-2013.6

TO: Skywater Capital Corp and Robert and Chandra Hershey-Lear

1. This Permit (the "Permit") applies to land described below and all buildings, structures and other developments therein:

The Southeast 1/4 of Section 44, The South 1/2 of the Southwest 1/4 of Section 43, The Remainder of the Southeast 1/4 of Section 43 and the Northeast 1/4 of Section 37, All of South Salt Spring Island, Cowichan District

2. Land Use Bylaw No. 355, being the Land Use Bylaw for Salt Spring Island, is varied as follows:

1. Section 5.10.2 – Lots Divided by a Zone Boundary

The requirement in Section 5.10.2 is varied to permit the proposed subdivision layout as shown on Plan No. 1.

All in accordance with Plan No. 1, attached to and forming part of this Permit, as signed and dated by the Deputy Secretary of the Islands Trust.

3. This is not a Building Permit, nor does it relieve the Permittee from the need to secure all other approvals necessary for completion of the proposed development.

AUTHORIZING RESOLUTION FOR THE ISSUANCE OF THIS DEVELOPMENT PERMIT PASSED BY THE SALT SPRING ISLAND LOCAL TRUST COMMITTEE THIS __ DAY OF __, 2013.

DEPUTY SECRETARY, ISLANDS TRUST

DATE OF ISSUANCE

IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE __TH DAY OF ____, 2015 THIS PERMIT AUTOMATICALLY LAPSES.

