

To: Electoral Area Services Committee

Date: 2020-06-09

From: Julie Mundy, Planner 1

File No: 3090-20 2020-06

**Subject: Development Variance Permit application to reduce the exterior lot line setback at 43802 Loch Road, Area C**

## RECOMMENDATION

**THAT** the Fraser Valley Regional District Board issue Development Variance Permit 2020-06 for 43802 Loch Road, Electoral Area C, to reduce the exterior lot line setback from 6.0 metres to 1.5 metres clear to sky, to facilitate the construction of a single-family residence, subject to consideration of comments or concerns raised by the public.

## STRATEGIC AREA(S) OF FOCUS

Provide Responsive & Effective Public Services

## BACKGROUND

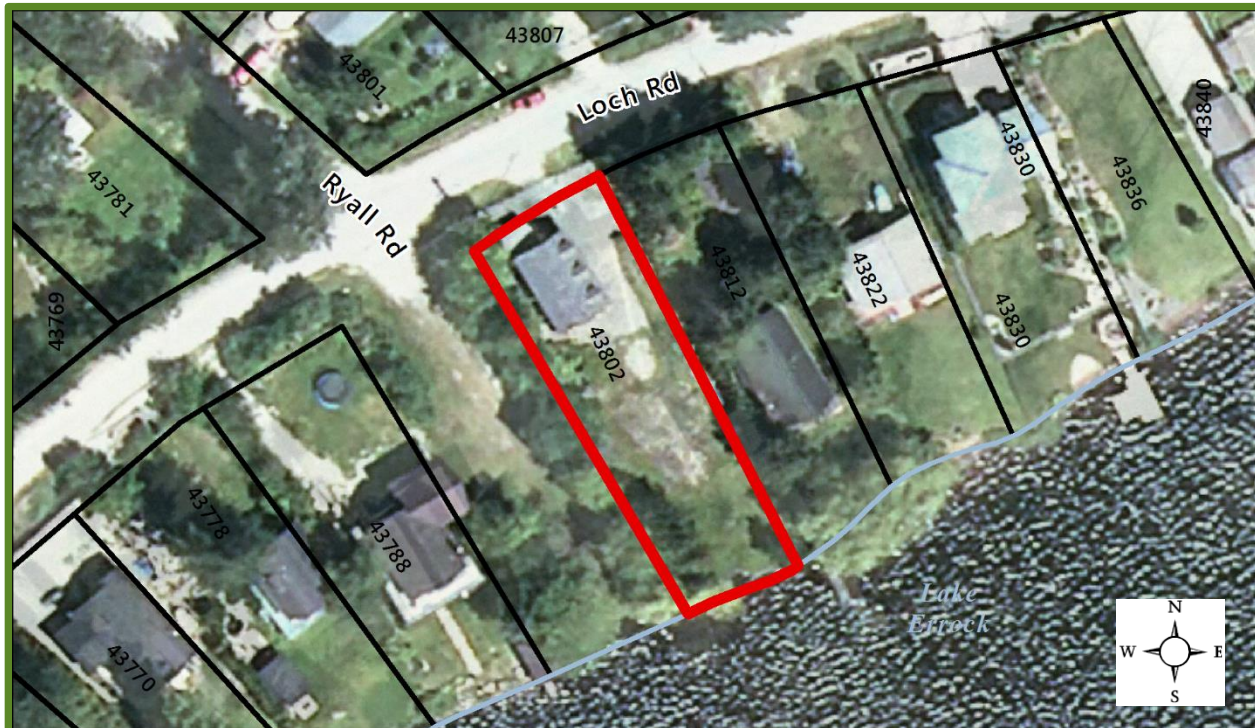
The property owners of 43802 Loch Road have applied for a Development Variance Permit (DVP) to reduce the exterior lot line setback for a single-family dwelling as outlined in *Dewdney-Alouette Regional District Land Use and Subdivision Regulation Bylaw No. 559-1992*. The property owners applied for the same variance in 2013, which has subsequently expired.

PROPERTY DETAILS			
Electoral Area	C		
Address	43802 Loch Road		
PID	006-746-225		
Folio	775.03727.427		
Lot Size	10790 square feet (.247 acres)		
Owner	Chris and Tamie Hardy	Agent	Barrie Dyck Construction
Current Zoning	Rural Residential (RS-1)	Current Use	Residential
Current OCP	Resort Residential (RR)		
Development Permit Areas	3-C – Riparian Areas		
Hazards	Holachten Creek Alluvial Fan		
Agricultural Land Reserve	No		

### ADJACENT ZONING & LAND USES

North	^	Rural Residential (RS-1); Loch Rd, Single-family Residence
East	>	Rural Residential (RS-1); Single-family Residence
West	<	Rural Residential (RS-1); Ryall Rd, Single-family Residence
South	v	Rural 4 (R-4); Lake Errock

### NEIGHBOURHOOD & PROPERTY MAPS



## DISCUSSION

43802 Loch Road is located on the shoreline of Lake Errock. The property is accessed from Loch Road, and is flanked by Ryall Road to the west. Ryall Road terminates in an unconstructed road right of way, which provides access to the lake.



The property is located within a development permit area for protection of riparian areas and is within a geotechnical hazard (alluvial fan area). The only structure on the property is a double garage with a dwelling unit on an upper floor.

### Property History

In 2013 the property owners intended to construct a garage with a temporary dwelling space above it and a new single-family residence. All necessary approvals, including a DVP to reduce the exterior lot line setback, were obtained to facilitate the plan. The garage and dwelling were constructed; however, no work was started on the house. Since 2013, the issued DVP for siting the buildings has expired. A new DVP is required for construction to occur as previously planned.

A DVP, MOTI approval, riparian area assessment, and registration of several covenants were requirements to build on the site. These elements are being reassessed with the proposed building.

### Proposed Development

The proposed development includes starting construction of a new single-family residence with a footprint of approx. 2180 sq ft, converting the existing dwelling above the new garage into storage/recreation space, and completing occupancy of the new home.

### Requested Variance 2020-06

The applicant is seeking to reduce the exterior lot line setback from Ryall Road from 6.0 metres to 1.5 metres. 1.5 metres is the setback required for residential construction from an interior lot line.



Exterior Lot Line Setback	
Required (zoning)	6.0 metres (19.7 feet)
Proposed	1.5 metres (4.9 feet)
<b>Requested Variance</b>	<b>4.5 metres (14.8 feet)</b>

#### Applicant Rationale

The applicant provides the following rationale for the variance:

1. The same DVP request was approved in 2013,
2. The house will be aligned with previous construction on the property, and
3. It would be impossible to build to preferred house without the variance.

The building plans show a 4-foot wrap around porch on all sides of the house. See Appendix B. The applicant states the deck will enable the property owners to move about the outdoor space with greater ease as their mobility declines. The porch also contributes to the enjoyment of the view from the rear of the house.

The magnitude of the variance could be reduced by removing the wrap-around-porch from the sides of the house. If the variance is not granted, the property owners could design a smaller house; however, the footprint would be limited to approximately 900-950 sq ft, including any exterior decks.

#### Ministry of Transportation & Infrastructure Requirements

Approval from MOTI is required for the proposed construction as it encroaches into the provincially-required setback from a highway. MOTI has issued a Highway Encroachment permit to allow the property owner to construct the proposed dwelling, pending approval from FVRD. See Appendix C. The permit was originally issued in 2013 and was reissued in May 2020 to include a new site plan.

#### Riparian Area Requirements

The property is within Development Permit Area 3-C for protection of riparian areas; there is a watercourse along the western property line which drains into Lake Errock. In 2013 the property owners obtained a Riparian Area Regulation report and a 'varied' riparian area resulting from an undue hardship application related to riparian area requirements. The Department of Fisheries and Oceans approved the proposed development layout, and the varied riparian area was established by reference plan and registered to the property title by covenant. DPA 3-C includes the following exemption:

- 9.3.2. (f) development in accordance with a registered covenant or approved development permit that pertains directly and explicitly to riparian habitat protection, which: i. is registered in favour of the Fraser Valley Regional District and/or Provincial or Federal interests; and ii. establishes a riparian buffer.

No further environmental study is required for the proposed development.

## Hazard Assessment

The property is located within the Holachten Creek Alluvial Fan. FVRD is in possession of a geohazard assessment study for the Lake Errock area that can be used to address hazards for the property. The report includes recommendations for flood and scour protection that will be reviewed as part of the building permit application process. The hazard assessment will be registered to the property title.

## **Neighbourhood Notification and Input**

All property owners within 30 metres of the property will be notified by FVRD of the Development Variance Permit application and will be given the opportunity to provide written comments on the proposal. FVRD staff have encouraged the applicant to advise neighbouring property owners and residents of the requested variance in advance of the mail-out notification. To date, no letters of support or objection have been submitted.

## **COST**

The application fee of \$1300 has been paid by the applicant.

## **CONCLUSION**

Staff recommend the FVRD Board issue DVP 2020-06 to reduce the exterior-side setback for a residence at 43802 Loch Road. The variance is not anticipated to negatively affect surrounding properties, MOTI has provided the necessary approvals, and environmental protection regulations are being met.

### **Option 1 – Issue (Staff Recommendation)**

MOTION: THAT the FVRD Board issue Development Variance Permit 2020-06 for 43802 Loch Road, Electoral Area C to reduce the exterior setback from 6 metres to 1.5 metres, for a single-family residence, subject to consideration of any comments or concerns raised by the public.

### **Option 2 – Refuse**

MOTION: THAT the Fraser Valley Regional District Board refuse Development Variance Permit 2020-06 for the property at 43802 Loch Road, Electoral Area C.

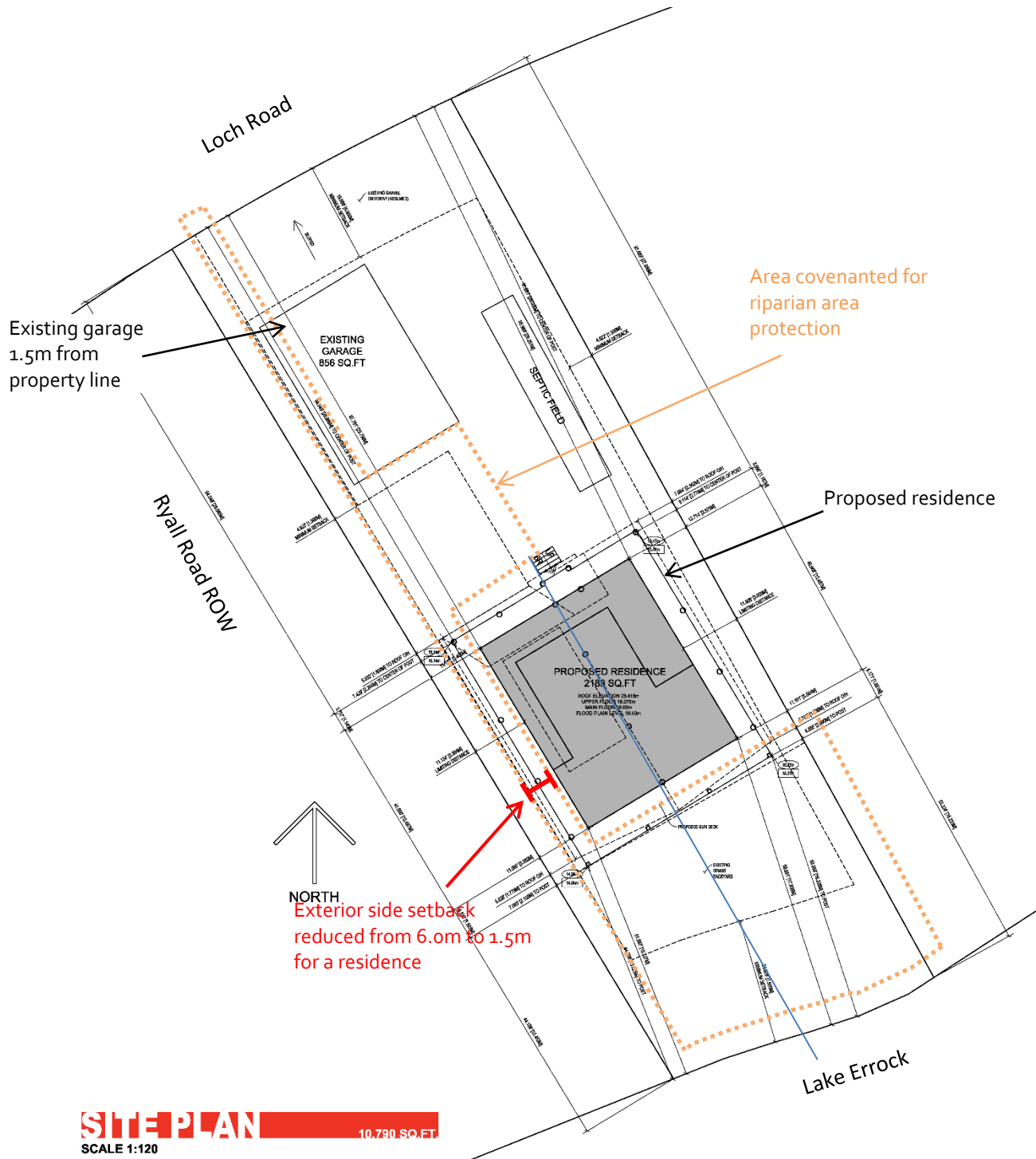
## **COMMENTS BY:**

**Graham Daneluz, Director of Planning & Development:** Reviewed and supported

**Kristy Hodson, Acting Director of Financial Services:** Reviewed and supported.

**Jennifer Kinneman, Chief Administrative Officer:** Reviewed and supported.

## Appendix A – Site Plan

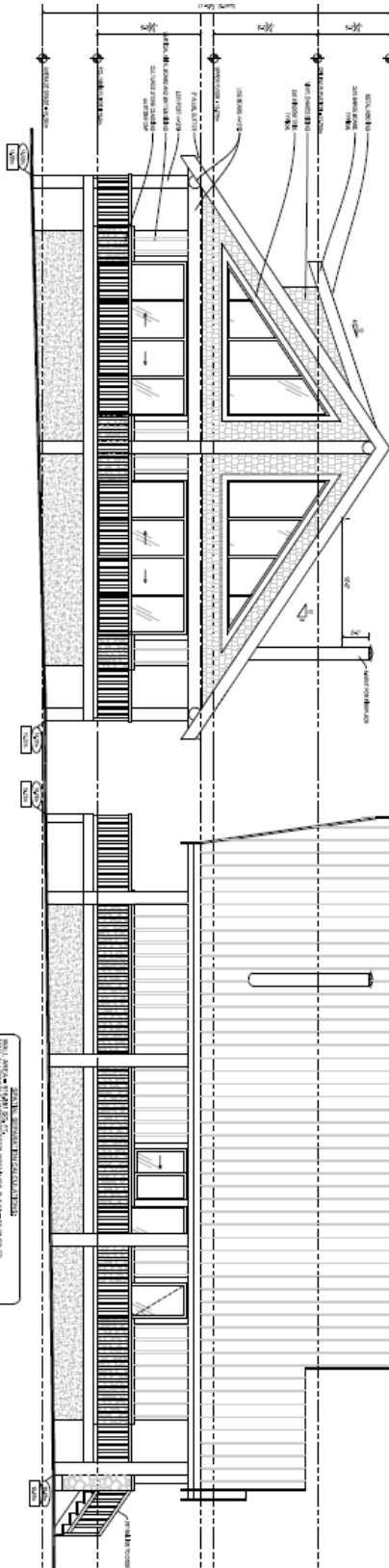


**RIGHT SIDE ELEVATION**  
SCALE: 1/4"=1'-0"

SCALE: 1/4"=1'-0"



**SPECIAL REPORT ON THE FUTURE OF**



**ELEVATION**  
SCALE: 1/4"=1'-0"

SCALE: 1/4"=1'-0"

2241 W. GREENSBORO RD. CHICAGO, IL 60647  
 MAIL AREA - 914.811.5271  
 FAX - 800.441.1111  
 WWW - WWW.DIRECTOR.COM  
 PHONE - 800.441.1111  
 FAX - 800.441.1111  
 WWW - WWW.DIRECTOR.COM





## Appendix C – MOTI Permit



BRITISH  
COLUMBIA

Ministry of  
Transportation

Permit/File Number: 2013-02541

Office: Chilliwack Area Office

### PERMIT TO REDUCE BUILDING SETBACK LESS THAN 4.5 METRES FROM THE PROPERTY LINE FRONTING A PROVINCIAL PUBLIC HIGHWAY

#### PURSUANT TO TRANSPORTATION ACT AND/OR THE INDUSTRIAL ROADS ACT AND/OR THE MOTOR VEHICLE ACT AND/OR AS DEFINED IN THE NISGA'A FINAL AGREEMENT AND THE NISGA'A FINAL AGREEMENT ACT.

**BETWEEN:**

The Minister of Transportation and Infrastructure

Chilliwack Area Office  
45890 Victoria Avenue  
Chilliwack, BC V2P 2T1  
Canada

("The Minister")

**AND:**

Chris & Tammy Hardy  
43802 Loch Road  
Lake Errock, British Columbia  
Canada

("The Permittee")

**WHEREAS:**

- A. The Minister has the authority to grant permits for the auxiliary use of highway right of way, which authority is pursuant to both the Transportation Act and the Industrial Roads Act, the Motor Vehicle Act, as defined in the Nisga'a Final Agreement and the Nisga'a Final Agreement Act;
- B. The Permittee has requested the Minister to issue a permit pursuant to this authority for the following purpose:  
  
The construction of a building, the location of which does not conform with British Columbia Regulation 513/04 made pursuant to section 90 of the Transportation Act, S.B.C. 2004, also to allow 1.5 meter setback to allow for the construction of a new septic field within 4.5m setback from , located at 43802 Loch Rd , as shown on drawing attached .
- C. The Minister is prepared to issue a permit on certain terms and conditions;

ACCORDINGLY, the Minister hereby grants to the Permittee a permit for the Use (as hereinafter defined) of highway right of way on the following terms and conditions:

- 1. This permit may be terminated at any time at the discretion of the Minister of Transportation and Infrastructure, and that the termination of this permit shall not give rise to any cause of action or claim of any nature whatsoever.
- 2. This permit in no way relieves the owner or occupier of the responsibility of adhering to all other legislation, including zoning, and other land use bylaws of a municipality or regional district.
- 3. The Permittee shall indemnify and save harmless the Ministry, its agents and employees, from and against all claims, liabilities, demands, losses, damages, costs and expenses, fines, penalties, assessments and levies made against or incurred, suffered or sustained by the Ministry, its agents and employees, or any of them at any time or times, whether before or after the expiration or termination of this permit, where the same or any of them are based upon or arise out of or from anything done or omitted to be done by the Permittee, its employees, agents or Subcontractors, in connection with the permit.
- 4. Permittee must be in compliance with the Fraser Valley Regional District's bylaws and policies or this permit will be considered void.



BRITISH  
COLUMBIA

Ministry of  
Transportation

Permit/File Number: 2013-02541

Office: Chilliwack Area Office

The rights granted to the Permittee in this permit are to be exercised only for the purpose as defined in Recital B on page 1.

Dated at Chilliwack, British Columbia, this 14 day of May, 2020

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

On Behalf of the Minister