

# Report

Date May 15, 2024

File: 3080-20 24.01

Subject Development Variance Permit Application for 3070 Henry Road

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## PURPOSE

To consider a development variance permit (DVP) application to relax the minimum side yard setback from 3.0 metres to 0.91 metres and reduce a two-metre section of the required landscape area width from 1.1 metres to 0.6 metres for a proposed office addition at 3070 Henry Road.

## BACKGROUND

The subject property is a 0.2-hectare commercial lot next to the Chemainus Industrial Park outside the Chemainus Urban Containment Boundary (UCB) (Attachments 1, 2, & 3).

Centurion Lumber purchased the subject property containing a single floor office building in 1995 and completed a renovation shortly after that. Nearly 30 years later, the applicant wishes to construct a 30' by 60' building addition to accommodate their growing business. The applicant has provided a letter of rationale and a BC Land Surveyor's site plan in support of the requested variance depicting the footprint of the proposed office addition (Attachments 4 & 5).

To reduce any risks associated with the development process, the applicant is seeking Council authorization of the proposal prior to finalizing the building plans required for the development permit application. If Council authorizes the proposed variances, the building addition will be reviewed and approved through subsequent development and building permits.

## DISCUSSION

### Official Community Plan (OCP) Bylaw No. 3900, 2022

The OCP's objective for the commercial designation (section 3.2.10) is:

*"A network of commercial centres provides larger sites for the location of stores such as hardware and appliance retailers, garden centres or auto dealerships. By providing opportunities for these regional-scale goods retailers, there is less dependency on travel to larger centres such as Nanaimo or Victoria. However, this form of development is highly auto oriented, and expansion of these areas or the creation of new ones should be proven necessary and limited."*

In addition, the commercial designation identifies the following policies:

3.2.11 The Municipality will strive to:

- a. *Require retail as the primary use, but other complementary commercial, leisure or service uses may also be permitted in this designation.*
- b. *Generally not support residential development in these areas.*
- c. *Discourage expansion of these areas if it facilitates auto-oriented uses or development.*
- d. *Expect a high standard of landscaping, including tree planting and sensitive lighting, to mitigate some of the impacts from large parking areas.*

- e. *Require new commercial buildings to follow form and character guidelines.*

The subject property is a unique commercial lot in that it is located outside the UCB, oddly shaped, and not large enough to support a regional-scale retail operation.

Section 8 of the OCP contains a wide array of objectives and policies that speak to how North Cowichan intends to encourage economic development, such as:

8.3.2 The Municipality will strive to:

- b. *Support the development and retention of local sustainable businesses, including supporting existing businesses in reducing impacts.*
- h. *Promote high quality urban design and make strategic investments in public amenities and the public realm to create healthy, livable, amenity-rich communities that are paramount for attracting desirable, sustainable businesses.*

8.5.2 The Municipality will strive to:

- a. *Encourage infill of existing commercial areas and incentivize the redevelopment or intensification of use on existing commercial sites.*
- c. *Encourage a full range of commercial land uses to serve both the local and regional markets.*

### **Zoning Bylaw No. 2950, 1997**

The subject property is zoned C2 (Commercial General Zone) which permits a variety of commercial uses, including office (Attachment 6). An "office" is defined in the Zoning Bylaw as:

"a place of business where the principal function is intellectual activity and skill usage other than assembling, manufacturing, repairing, or servicing goods. It includes file areas, storage of office supplies, record keeping, financial records, client and account records, space for interviewing clients and similar space use and includes professional offices."

The C2 zone identifies two setback provisions only applicable when the lot is adjacent to an arterial highway and residentially zoned lands. Both setbacks apply to the subject property in this case, considerably restricting the proposed office addition's siting.

As per section 39 of Zoning Bylaw 1997, No. 2950, a 1.1-metre-wide landscaping buffer, and a 2-metre-high fence are required on all commercial sites adjacent to residentially zoned lands. The applicant requests that a 2-metre section of the landscape area have a reduced width of 0.6 metres to allow sufficient room for the proposed addition. Due to the irregular shape of the subject property, both proposed variances are only necessary for a small portion of the side lot line (Attachment 5).

To ensure the proposed office addition does not require additional variances through the development permit process, an initial zoning review was completed using the information provided to date. Staff have concluded that the applicable zoning provisions for off-street parking, loading, garbage enclosures, etc., can be addressed without additional variances through the delegated Development Permit (DP) review process.

## Local Government Act (LGA)

As per section 498 (2)(a) of the LGA, a DVP must not vary *the use or density of the land from that specified in the bylaw*. The proposal doesn't alter the permitted densities, nor does the C2 zone contain any density or gross floor area provisions for consideration.

The following is a summary of considerations and potential implications of the requested variances:

### Land Use:

- The proposal allows for more efficient use of the subject property and solidifies the use of the subject property as an office in the future.
- Authorization of the proposal will decrease the distance and landscaped area between the office building and the adjacent residential lands.
- Development permit guidelines "A.1" identifies several design objectives and guidelines applicable to the proposed addition, many of which are already satisfied with the existing landscaping along the property frontage and wood elements in the façade. That said, the objectives and guidelines cannot be considered in this variance application because the application does not include fully developed design drawings, and the DVP process does not allow the overall design to be secured through the DVP approval.

### Development Considerations:

- Engineering – Frontage improvements may be requested through the DP review process.
- Building – The subject property is outside the 10-minute fire response area, requiring additional fire separation requirements to be demonstrated at the time of the building permit.
- An environmentally sensitive area (mature forest) is identified on the side of the subject property. The proposed addition triggers development permit guidelines "B" consideration, which must be demonstrated through the DP process.
- As mentioned above, bylaw compliance will be reviewed and demonstrated through the DP process.
- The DP process allows Council to authorize variances where they advance and implement development permit objectives and guidelines. Considering the variance request in isolation removes the ability for Council to link the variance approval to OCP design objectives.

### Summary:

- A comprehensive review of bylaw provisions and associated development permit guidelines will be completed through the DP review process. Staff are confident that the proposal can proceed without additional variances.
- Development of the subject property is constrained due to setback provisions imposed by the presence of adjacent residentially zoned lands and the Trans-Canada Highway.
- Due to the lot's irregular shape, the requested variances only apply to a small section of the proposed office building addition.
- The proposed office addition is aligned with OCP policies and associated design objectives, which can be fulfilled through the DP.

## Conclusion

Development of the subject property is heavily constrained leaving very limited alternative siting options for the proposed office building addition. A DP satisfying bylaw provisions and the intentions of the applicable development permit guidelines ("A.1" and "B") will be required prior to construction occurring on the subject property. Furthermore, it is the opinion of staff that the proposed variances are minor and will have a negligible impact on adjacent lands and the form and character of the area.

## Options

### 1. (Recommended Option)

THAT Council authorize the issuance of Development Variance Permit DVP00104 and grant variances to the following sections of Zoning Bylaw, 1997, No. 2950, to facilitate the construction of the proposed office addition at 3070 Henry Road:

1. Section 69 (5)(a) by reducing the minimum side yard setback from 3.0 to 0.91 metres; and
2. Section 39 (2) by relaxing a two-metre section of the required landscaped area width from 1.1 metres to 0.6 metres.

### 2. THAT Council:

1. Deny Development Variance Permit Application DVP00104 for the proposed office addition at 3070 Henry Road.
2. Invite the owner of 3070 Henry Road to submit a Development Permit with Variance application for the proposed office building addition for consideration by Council.

## IMPLICATIONS

Should the proposal be approved by Council, the proponent may proceed through the development permit application process to construct a 30' by 60' addition to Centurion Lumber's Chemainus office building. The DVP would be valid for two years from the date of issuance and would expire if the owner does not substantially commence construction within that period.

If the application is denied, the minimum side yard setback and required landscape area will remain intact, and the applicant would have to amend their plans to align with all municipal bylaws and policies to obtain a development and building permit prior to constructing an addition to the office building at 3070 Henry Road.

## RECOMMENDATION

THAT Council authorize the issuance of Development Variance Permit DVP00104 and grant variances to the following sections of Zoning Bylaw, 1997, No. 2950, to facilitate the construction of the proposed office addition at 3070 Henry Road:

1. Section 69 (5)(a) by reducing the minimum side yard setback from 3.0 to 0.91 metres; and,
2. Section 39 (2) by relaxing a two-metre section of the required landscaped area width from 1.1 metres to 0.6 metres.

Report prepared by:



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Report reviewed by:



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**Approved to be forwarded to Council:**



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Ted Swabey  
Chief Administrative Officer

Attachments:

- (1) Location Map
- (2) Orthophoto
- (3) Zoning Map
- (4) Letter of Rationale
- (5) Site Plan and Survey
- (6) General Commercial – C2 Zone
- (7) Draft Development Variance Permit