

Report

Date June 18, 2025

File: DP000371

Subject Development Permit with Variance Application No. DP000371 for 360 Arbutus Avenue

PURPOSE

To consider a development permit with variance application to allow for drainage improvements, landscaping enhancements, and deck alterations within the watercourse setback on 360 Arbutus Avenue.

BACKGROUND

360 Arbutus Avenue is a 0.7539-acre property zoned as Residential Rural (R1) in [Zoning Bylaw 1997 No. 2950](#) and designated as Rural Residential in [Official Community Plan No. 3900, 2022](#) (OCP) (Attachments 1 and 2). The property is abutted by other R1-zoned parcels to the north, east, and west, and Maple Bay (Private Residence Water [W1] Zone) to the south (Attachment 3). The property is located outside of the Urban Containment Boundary and is serviced by municipal water and drainage infrastructure. The property gently slopes from north to south towards Maple Bay. It is located within several development permit areas (DPAs), including DPA 3 – Natural Environment Guidelines, and DPA 4 – High Fire Hazard & Steep Slopes.

The property currently contains a legal non-conforming house with decks that extend into the rear-yard setback, as well as a drainage system that collects runoff in a pipe running beneath the house and discharging at the shoreline. The capacity of the pipes has been exceeded, causing erosion below the building and along the drainage outflow area, as well as flooding in the house (Attachment 4).

Proposal

The applicant has submitted a development permit with variance application to vary section 13(1)(a) of Zoning Bylaw 1997 by reducing the watercourse setback to support the following works within 7.5 metres of the natural boundary of the sea (Attachment 5):

- Upgrade and add new stormwater management drainage systems
- Installation of rip-rap along the stormwater outlet
- Replace existing decks that are currently located within the 7.5m setback
- Landscaping along foreshore area

The applicant has provided a rationale for the proposed Development Permit with Variance in Attachment 6. The proposed Development Permit with Variance is included as Attachment 7. A notice of permit was mailed to property owners within 60 metres of the proposed variance in compliance with section 499 of the *Local Government Act*.

DISCUSSION

DPA-3 (Natural Environment) Analysis

Development within DPA-3 must be reviewed for compliance with "[Natural Environment Development Permit Guidelines B](#)".

1.3.1 Working Within the Development Permit Area – Guidelines Satisfied. Construction of the house occurred before the Development Permit Area was established. Expansion of the building footprint is not within the scope of the proposed works.

2.3.2 Environmentally Sensitive Areas – Guidelines Satisfied. The proposed works are located in the 30-metre environmentally sensitive shoreline area designated on Map 4 of the OCP. The drainage works are necessary to manage flooding issues and shoreline erosion. The drainage design has been reviewed and approved by qualified professionals, as outlined in the environmental and geotechnical reports in Attachments 8 and 9. Invasive species located within 30 metres of the natural boundary of the ocean shall be removed during the landscaping process.

2.3.3 Best Management Practices – Guidelines Satisfied. Applicable best management practices are incorporated into the environmental and geotechnical reports as determined by the Professional Engineer and Environmental Consultant (Attachments 8 and 9).

2.3.4 Vegetation Management, Restoration and Enhancement – Guidelines Satisfied. The proposed deck, drainage, and landscaping works must comply with the environmental protection measures outlined in Attachment 8. Vegetation will be retained or replaced at a 1:1 ratio with native species, and invasive species will be removed.

2.3.5 Rainwater Management Strategies – Guidelines Satisfied. Improvements to the drainage system will be made to reduce erosion, improve drainage outflow, and address flooding issues.

2.4.1 Watercourse Protection Areas – Guidelines Satisfied. The proposed works will reduce erosion and flooding concerns on the property. Works must be conducted in accordance with the erosion and sediment control best practices outlined in Attachment 8. The scope of work has been reduced to exclude the construction of, or upgrades to, beach stairs, gazebo, dock, mooring buoy, or concrete pad.

2.4.2 Terrestrial Habitat and Endangered Species Protection Areas – Guidelines Satisfied. The subject property is located within 500 metres of several known species-at-risk ecosystems and animal habitats; however, Attachment 8 indicates a low likelihood of these ecosystems and animals occurring at the subject property. Vegetation removal is not permitted during the migratory bird window (March 1 to August 31). Given the scope of the proposed works, development is unlikely to have a negative impact on terrestrial habitats or endangered species.

2.4.3 Shoreline Protection Areas – Guidelines Partially Satisfied Based on Professional Recommendation. Development within the shoreline protection area is limited to drainage improvements to reduce erosion, landscaping, and a deck replacement within the boundaries of the existing deck footprint. Development must incorporate erosion and sediment control strategies outlined in Attachment 8, including the use of sediment fencing or a seine net during construction.

While rip-rap structures are discouraged in the development permit guidelines, the geotechnical report does not recommend soft alternatives to rip-rap in the drainage outlet area, as the vegetated areas are likely to be subject to erosion due to the prevalence of bedrock along the shoreline.

Additional rip-rap (referred to as 'armouring' in Attachment 9) along the shoreline is recommended to reduce the rate of slope regression caused by wave action. The use of smaller-sized rip-rap between bedrock slopes may allow for some stabilizing vegetation to become established in these areas. Installation of larger rip-rap may be necessary in the future for long-term maintenance. The proposed shoreline protection plan is supported by the Environmental Report, which is attached as Attachment 8.

2.4.4 Nest Tree Protection Areas – Guidelines Satisfied. Nest trees were not identified on the property; however, vegetation removal is not permitted during the migratory bird window (March 1 to August 31) per Attachment 8.

2.4.5 Aquifer Protection Areas – Not Applicable. The proposed works are located outside of the aquifer vulnerability development permit area.

DPA 4 (Hazard Areas) Analysis

[Hazardous Conditions Development Permit Guidelines "C"](#) must be reviewed to address hazardous conditions such as land slippage, erosion, wildfires, and flooding.

3.3.1 Steep Slope Lands: Guidelines Satisfied. Existing slope erosion and surface run-off problems will be addressed through upgrades to the stormwater management system. Works will include planting new native vegetation on the slope between the house and the shore, installing rip-rap at the stormwater pipe outlet, and upgrading piping.

3.3.2 Fire Hazard Lands: Not Applicable. The proposed works fall under section 3.2.2(b) exemption for a fire hazard development permit.

3.3.3 Floodplain Lands: Not Applicable. The proposed works fall under section 3.2.3(a) exemption for a floodplain development permit.

Development Variance Permit

The proposed drainage works and a portion of the existing decks do not comply with the following sections of Zoning Bylaw 1997:

- Section 13(1)(a) prohibits a building, structure, or fill from being located within 7.5 metres of the natural boundary of the sea.
- Section 56(6) prohibits placing a principal building within 8 metres of the rear yard property line.

Per section 529(1) of the *Local Government Act*, if the use and density of buildings and other structures conform to a land use regulation bylaw but the siting, size or dimensions of a building constructed before the bylaw was adopted does not conform with the bylaw, the building may be maintained, extended or altered as long as the repair, extension or alteration would, when completed, involve no further contravention of the bylaw than that existing at the time the repair, extension or alteration was started.

A variance is required for section 13(1)(a) of the Zoning Bylaw to allow for the proposed drainage works (including piping and rip-rap) and deck alterations to be constructed within 7.5 metres of the natural boundary of the sea. A variance is not required for the proposed alterations to the portion of the existing deck located in the rear yard setback.

Analysis

Staff support the proposed Development Permit with Variance for the following reasons:

1. Minimal impact on surrounding properties: The proposed deck maintenance works are small in scale and will not result in an increase in building footprint. The geotechnical report and memo indicate that the rip-rap will reduce the rate of erosion on the subject property and will not cause erosion on neighbouring properties.
2. Minimal impact on environment and habitat: The proposed drainage improvements and landscaping are unlikely to have a negative impact on the environment or animal habitats. The works must be completed in accordance with the design and management recommendations in the associated environmental and geotechnical reports (Attachments 8 and 9).
3. Safety considerations – slope stability and flooding: The proposed site works will reduce ongoing erosion and flooding issues on the property.
4. Compliance with Zoning Bylaw and OCP: The proposed works align with Zoning Bylaw regulations in the R1 zone. The application includes a variance to section 13(1)(a) to permit works within the 7.5 metre watercourse setback. The *Local Government Act* permits alterations and maintenance to legal non-conforming structures as long as the works do not lead to further contravention of the Zoning Bylaw. A variance to section 56(6) is therefore not required.

While section 6.1.2(b) of the OCP states that the municipality strives to prohibit the disturbance of environmentally sensitive areas, it is recognized that some works will occur within these areas. The following sections of the OCP support the works as proposed:

- Section 6.1.3(c) – Prioritize avoiding negative environmental impacts, followed by minimizing or mitigating impacts, restoration, and compensation as a last resort approach.
- Section 6.1.3(e) – Leave nesting birds undisturbed by development during the nesting season (or as directed by advice from a qualified environmental professional to understand when a nesting bird will finish nesting or how to manage development near bird nests).

- Section 6.1.3(g) – Hire (or fund) qualified environmental professionals to monitor work close to environmentally sensitive areas.
- 6.2.3 The Municipality will ask developers and landowners to: a. Utilize best practices to mitigate surface water run-off entering natural surface and groundwater from projects requiring municipal approval and prohibit discharge of unmanaged rainwater into watercourses. Measures will include the use of green infrastructure.

In addition, the planting of trees, shrubs, or ground cover for slope and soil stabilization, habitat improvement, erosion control, and beautification is exempt from requiring a development permit.

OPTIONS

1. **(Recommended Option)** THAT Council authorizes the issuance of Development Permit with Variance No. DP000371 to vary section 13(1)(a) of Zoning Bylaw 1997, to allow for drainage improvements, landscaping enhancements, and deck alterations within the watercourse setback on 360 Arbutus Avenue.
2. THAT Council deny the Development Permit with Variance application No. DP000371 to vary section 13(1)(a) of Zoning Bylaw 1997.

IMPLICATIONS

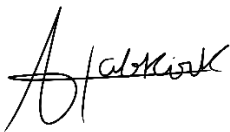
If Council supports the issuance of the development permit with variance, the applicant will proceed with drainage improvements, landscaping, and deck alterations strictly as outlined in Attachment 7.

If Council denies issuance of the application, the applicant would not be able to upgrade any portion of the drainage system within 7.5 metres of the natural boundary of the sea. If drainage upgrades are not made, there is a risk of further erosion and flooding issues on the property.

RECOMMENDATION

THAT Council authorizes the issuance of Development Permit with Variance No. DP000371 to vary section 13(1)(a) of Zoning Bylaw 1997, to allow for drainage improvements, landscaping enhancements, and deck alterations within the watercourse setback on 360 Arbutus Avenue.

Report prepared by:



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Report reviewed by:

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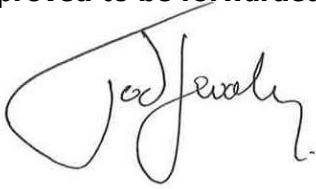
Pablo Golob
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Report reviewed by:



George Farkas
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Approved to be forwarded to Council:



Ted Swabey
Chief Administrative Officer

Attachments:

- (1) Location Map
- (2) Orthophoto
- (3) Zoning Map
- (4) Site Plan
- (5) Drawing of Proposed Works
- (6) Letter of Rationale
- (7) Development Permit with Variance No. DP000371
- (8) Environmental & Marine Biophysical Assessment by Corvidae Environmental Consulting Inc.
- (9) Geotechnical Drainage Assessment and Memo by Ryzuk Geotechnical