



TECHNICAL REVIEW COMMITTEE Development Project Report

Date Issued:	September 9, 2021
Project Name:	DSV #21-01, Cedarbrook Partners DSV
Applicant:	Shane Bajema and Bob Libolt
Property Owner:	Cedarbrook Partners, LLC
Site Address:	131 E Cedar Drive, Lynden
Zoning Designation:	RS-100
Application Type:	Development Standards Variance
Parcel Size:	N/A
Hearing Type:	Quasi-Judicial
Hearing Objective:	The objective of this public hearing is to determine whether the proposed Development Standards Variance meets the criteria found within Section 17.17.040 of the Lynden Municipal Code.
Date application determined complete:	June 4, 2021
Date of Publication:	September 8, 2021
SEPA Determination:	MDNS issued on June 16, 2021
Project Description:	Applicant is requesting a Development Standards Variance requesting to vary the requirement outlined in Section 18.14.020 (A) regarding lot design. The applicant is proposing to create three parcels deeper than 3 times their width.

Standard Requirements:

The applicant has met the minimum submittal requirements and the application was determined to be complete on June 4, 2021. The notice of application was published on September 8, 2021.

The City has received proof of certified mailing and the affidavit of posting in accordance with the City's requirements.

Project Summary

Running concurrently with the request for a Development Standards Variance is a 4-lot Short Plat and a Shoreline Substantial Development permit. This report is specifically for the Development Standards Variance, which will be decided on by the Lynden City Council at a hearing date scheduled for September 20, 2021. The decision on the

Shoreline Substantial Development will be made by the City of Lynden's Hearing Examiner. As per LMC 18.12.010, the decision regarding the Short Plat application is administrative and will be made by the City's Planning Director subsequent to the findings made on the Shoreline Substantial Development permit and the Variance request.

Development Standards Variance The proposal includes the subdivision and site development of the subject property to create three new parcels deeper than 3 times their width. The applicant states that the variance is necessary due to its proximity to the shoreline and critical areas. Running concurrently with the request for a development standards variance is a 4-lot short plat and a shoreline substantial development permit.

LMC Section 18.14.020(A) – Lot Design Guidelines, states that no residential lot shall be created deeper than three times its width unless specifically varied under the provisions of Chapter 17.17 LMC.

LMC 17.17.040 states, where there are unnecessary hardships and practical difficulties which render it difficult to carry out the provisions of the development standards, the City Council shall have power to grant a variance in harmony with the general purpose and intent of the provisions contained therein. Such variances may vary the rules, regulations or provisions of the development standards so that the spirit of those standards will be observed; public safety secured; and substantial justice done. However, the City Council shall not vary any of the rules, regulations or provisions of those development standards unless it shall approve findings that all of the following conditions exist in each case:

- A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity in which the property on behalf of which the application was filed is located;
- B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with rights and privileges permitted to other properties in the vicinity in which the subject property is located;
- C. That the granting of such a variance will not be materially detrimental to the public health, safety and general welfare; and
- D. That the granting of such a variance will not be injurious to the property or improvements in the vicinity and zone in which the subject property is located.
- E. That the variance request is based on sound engineering judgement and includes additional mitigation sufficient to offset adverse impacts to the public interest likely to result from granting the variance."

Conclusions

The Technical Review Committee (TRC) acknowledges that the applicant has provided a response to each of the development standards variance criteria submitted with the

DSV application dated April 30, 2021. The TRC agrees that the site is significantly constrained by critical areas which creates a special circumstance as described by criteria B (listed above). The property could be divided so that the majority of the creek area remains with lot 1 and thus the new lots would meet the proportions outlined in LMC 18.14.020(A). However, consistent with criteria E, the variance allows for a more logical subdivision of property so that each lot owner is responsible for the critical areas within their rear yards and lot 1 is not disproportionately burdened with care of the creek shoreline.

The proposed lot configuration results in lots which are relatively narrow at about 70 feet wide (at the most logical locations for home construction). After the application of side setbacks and avoiding the 150-foot critical area buffer this leaves building envelopes as follows:

Lot 4 building envelope is approximately 43' x 165'

Lot 3 building envelope is approximately 48' x 123'

Lot 2 building envelope is approximately 48' x 105'.

Note that these envelopes apply to living space. Garages and outbuildings can fall outside of this envelope but are also subject to other restrictions.

While these building envelopes are relatively narrow and will likely require architecture that responds specifically to lot dimensions, these lots are not unbuildable or unreasonable dimensions for a single-family home. It is also relevant to note that each lot is over 20,000 square feet in size which is more than twice the minimum size required by the RS-100 zoning category.

The TRC did not identify any aspects of the variance that would be detrimental to the public health, safety and general welfare. It can be noted, however that the general public benefits from the recreational amenity of the Jim Kaemingk Trail which utilizes the subject property and provides public access to the creek's shoreline. Additionally, in association with the subdivision of the property, and outlined in the SEPA findings, the applicant will be required to make life safety improvements on Cedar Drive which will improve traffic flow around two existing tree islands.

Staff recommends approval of the variance under the following conditions and advisory comments listed below:

Recommended Conditions of Approval

1. Shoreline Substantial Development Permit: All conditions associated with the approval of Shoreline Substantial Development Permit #21-01.
2. SEPA Determination: The subdivision of the property is subject to the conditions of SEPA determination issued June 14, 2021. This includes conditions related to critical areas, improvements on Cedar Drive, and trail easement requirements.
3. Critical Area Mitigation Required: Consistent with the SEPA determination, future impacts including, but not limited to home construction, vegetation clearing, streambank modification which are proposed within the 150-foot stream buffer are subject to additional critical area review specific to that proposal. This must be noted on the face of the plat.

The applicant has provided an addendum to the March 9, 2020, Critical Areas Report and Mitigation Plan which was previously provided for the Cedarbrook PRD proposal. This addendum recognizes the proposed changes to the project since the PRD proposal was withdrawn and the short plat submitted.

The addendum identifies 1,100+ square feet of impact (associated with the access easement) to the 150 ft stream buffer and proposes 1:1 ratio of enhancement area on the parcel. Staff considers this addendum preliminary and approved adjustments (off-site improvements, planting location) to the mitigation plan are expected based on the short plat review process.

4. Recreational Trail Easement Required: The Jim Kaemingk Trail runs through the northeast corner of the subject property running across lots 2, 3, and 4 of the proposed short plat configuration. The applicant will be required to record a public access easement in association with the trail. Additionally, this easement must be recorded in such a way as to, in the future, allow the trail to be shifted west and away from the eroding edge of the Fishtrap Creek. This shift will take place on lots 3 and 4. Final easement configuration to be shown on the face of the plat.

Advisory Comments

5. Life Safety Requirements: The Lynden Fire Department does not object to the variance request. Be advised, the final plat configuration must meet life safety requirements. This may include additional hydrants, fire truck turnaround, and visible addressing of future residences. Final comments related to life safety will appear on the findings associated with the short plat
6. Surveying: Be advised, all surveying work and engineering design must be based on the City of Lynden survey control monuments. AutoCAD files for all

improvements must be provided to the City in digital format approved by the City. A copy of the City's control monuments is available to the project consultant for their use.

7. Impact Fees: Be advised, as a condition of the associated short plat approval, the developer will be required to pay transportation mitigation fees, park and fire mitigation fees at the time of development based on proposed impacts. Contact Planning Staff for a fee estimate.
8. Civil Review Deposit Required: Be advised, there is a review deposit of \$400 per lot, \$4,000 minimum, to review the construction plans and a plat construction inspection deposit of \$500 per lot, \$10,000 minimum, due prior to review and construction, respectively.
9. Maintenance Bonding Requirements: *Be advised, a post construction* maintenance bond for infrastructure in the amount of 10% of the construction costs will be required prior to final approval. Bonding requirements also relate to street trees and any required mitigation planting. Bonds are due prior to final plat approval.
10. Agreement: The Public Works Department will require the applicant to submit an Applicant Checklist and Agreement to Construct (Division 2 and 10 of City of Lynden Engineering Design and Development Standards) as part of future application requests.
11. Water: Be advised that future water system improvements shall meet City standards for extension to and through the property.
12. Sewer: Be advised that future sewer system improvements shall meet City standards for extension to and through the property.
13. Stormwater: Be advised, all improvements and development must meet the City of Lynden and current Department of Ecology requirements for stormwater/drainage management
14. Bonding: Be advised, a post construction maintenance bond for 10% of the public facility construction costs will be required prior to final plat approval. A 150% performance bond is required for all work in the City's right-of-way or on city owned property.