



BOARD REPORT

TO:

Chair and Directors

File No: DVP641-33 PL20180158

SUBJECT:

Electoral Area A: Development Variance Permit No. 641-33 (Blueberry Hill Land Co. Ltd.)

DESCRIPTION:

Report from Christine LeFloch, Development Services Assistant, dated January 18, 2019.
1962 Palumbo Heights Drive, Nicholson

RECOMMENDATION:

THAT: in accordance with Section 498 of the Local Government Act Development Variance Permit No. 641-33 for Lot 8, Section 35, Township 25, Range 21, West of the 5th Meridian, Kootenay District, Plan NEP66313, varying Subdivision Servicing Bylaw No. 641 as follows:

1. Varying Section 8.2 for Proposed Lot 2 by waiving the requirement that all new lots be provided with an Independent On-site Water System; and
2. Varying Section 8.6 for Proposed Lot 2 by waiving the requirement that a person must not proceed to develop any water source or construct any water system until documentation for all information required under subsections 8.11 through 8.12 has been received and approved by the Manager, Environment and Engineering Services (Operations Management) or his designate; and
3. Varying Section 8.7 for Proposed Lot 2 by waiving the requirement that if the owner is required under the bylaw to engage a Qualified Professional, a person must not commence any work, study or analysis related to the proposed development of an Independent On-site Water System without the involvement of a Qualified Professional; and
4. Varying Section 8.8 for Proposed Lot 2 by waiving the requirement that each Independent On-site Water System must be capable of providing, year round, at least 2,275 litres of potable water per day for each Parcel that includes, or can be reasonably expected in the future to include, a residential Dwelling Unit; and
5. Varying Section 8.9 for Proposed Lot 2 by waiving the requirement that each Independent On-site Water System must meet each of the water quantity and water quality requirements for the relevant subdivision type as set out in Table 1; and
6. Varying Section 8.14(b) for Proposed Lot 2 by waiving the requirement that the Owner shall engage a Qualified Professional to manage all aspects of developing an Independent On-site Water System if the proposed parcels are each less than 2 ha in area; and

7. Varying Section 8.14(c) for Proposed Lot 2 by waiving the requirement that the Owner shall engage a Qualified Professional to manage all aspects of developing an Independent On-site Water System if the proposed subdivision is not located in an area indicated as being within a known aquifer, as identified on the Mapping for Areas of Groundwater Concern;

for a proposed subdivision under application No. 2013-04824A;
be denied this 21st day of February, 2019.

SHORT SUMMARY:

The applicant has applied for a subdivision to create two new lots (File: 2013-04824A). These lots are 1.75 ha and 1.26 ha in size. Both proposed lots contain a primary residence. A second residence was constructed on Proposed Lot 2 prior to subdivision completion along with a water system which services both residences. The applicant has applied for a Development Variance Permit (DVP) to waive a number of requirements in CSRD Subdivision Servicing Bylaw No. 641 related to the new water system on Proposed Lot 2. The applicant has opted not to provide a report by a Qualified Professional in support of these variance requests.

VOTING:	Unweighted Corporate	<input type="checkbox"/>	LGA Part 14 (Unweighted)	<input checked="" type="checkbox"/>	Weighted Corporate	<input type="checkbox"/>	Stakeholder (Weighted)	<input type="checkbox"/>
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BACKGROUND:

REGISTERED OWNERS:

Blueberry Hill Land Co. Ltd. Inc. No. AB#204212682

AGENT:

Brian Comrie

ELECTORAL AREA:

A

LEGAL DESCRIPTION:

Lot 8, Section 35, Township 25, Range 21, West of the 5th Meridian, Kootenay District, Plan NEP66313

PID:

024-730-106

CIVIC ADDRESS:

1962 Palumbo Heights Drive, Nicholson

SURROUNDING LAND USE PATTERN:

North = Rural

South = Rural Residential

East = Rural

West = Rural Residential

CURRENT USE:

Rural Residential (3 dwelling units and associated accessory buildings)

PROPOSED USE:

2 lot subdivision

Proposed Lot 1 – 1 dwelling unit

Proposed Lot 2 – 2 dwelling units

PARCEL SIZE:

3.009 ha

PROPOSED PARCEL SIZES:

Proposed Lot 1 – ~1.75

Proposed Lot 2 - ~1.26 ha

DESIGNATION:

N/A

ZONE:

N/A

AGRICULTURAL LAND RESERVE:

0%

SITE COMMENTS:

The subject property is located on the east side of the Rocky Mountain Trench and is accessed from Palumbo Heights Drive via Mitchell Road off of Highway 95. The property slopes upward gently toward the northeast with slopes becoming steeper toward the north easterly end of the property. Mapping indicates that 11 ½ Mile Creek is located within the boundaries of the subject property and that there is a seasonal tributary to this creek crossing the property. There is one dwelling unit (house) on Proposed Lot 1 and two dwelling units (a house plus a suite above a garage) on Proposed Lot 2.

POLICY:

This property is in an area that is not subject to an Official Community Plan or a zoning bylaw. Relevant excerpts from Subdivision Servicing Bylaw No. 641 are attached. Please see BL641_Excerpts_DVP641-33.pdf, attached.

FINANCIAL:

There are no financial implications for the CSRD as a result of this application.

KEY ISSUES/CONCEPTS:

The subject property is under company ownership. There are currently two families who have shares in this company. The owners applied to subdivide the subject property into two parcels in 2013 for the purpose of estate planning. At the time of application there were two dwelling units on the property,

and one would be located on each proposed parcel. Bylaw No. 641 provides an exemption from proof of water where there is an existing dwelling unit located on a proposed parcel that is connected to and using an existing water system. The subdivision application was not pursued by the agent for a number of years during which time a second dwelling unit (suite above a garage) was constructed on Proposed Lot 2 along with an associated water system, including a new well which serves both dwelling units on the parcel. As a result of this new construction the parcel is no longer exempt from proof of water requirements under Subdivision Servicing Bylaw No. 641.

The subject property is located in an area where there are no known aquifers and the subdivision would create two parcels which are both less than 2 ha in area. Under these circumstances Bylaw No. 641 requires that the owners use the Professional Directed Approach in developing the water system for Proposed Lot 2. This entails hiring a Qualified Professional to oversee development of the water system and provide a report to the Regional District describing the water quantity including well recovery rate, and quality, whether there is any drawdown interference with neighbouring water systems. This report may also include recommendations on future well maintenance. Staff use these reports to determine whether a proposed water system meets the requirements of the Subdivision Servicing Bylaw No. 641. As this was not done at the time of development of the water system staff have advised the owner that a report from a Qualified Professional is required in support of the requested variances. They were also advised that without a Qualified Professional report staff would likely not be able to support the proposed variances.

Proposed Variances:

1. Section 8.2 for Proposed Lot 2 by waiving the requirement that all new lots be provided with an Independent On-site Water System, only for Proposed Lot 2 as shown on the proposed plan of subdivision;
2. Section 8.6 for Proposed Lot 2 by waiving the requirement that a person must not proceed to develop any water source or construct any water system until documentation for all information required under subsections 8.11 through 8.12 has been received and approved by the Manager, Environment and Engineering Services (Operations Management) or his designate;
3. Section 8.7 for Proposed Lot 2 by waiving the requirement that if the owner is required under the bylaw to engage a Qualified Professional, a person must not commence any work, study or analysis related to the proposed development of an Independent On-site Water System without the involvement of a Qualified Professional;
4. Section 8.8 for Proposed Lot 2 by waiving the requirement that each Independent On-site Water System must be capable of providing, year round, at least 2,275 litres of potable water per day for each Parcel that includes, or can be reasonably expected in the future to include, a residential Dwelling Unit;
5. Section 8.9 for Proposed Lot 2 by waiving the requirement that each Independent On-site Water System must meet each of the water quantity and water quality requirements for the relevant subdivision type as set out in Table 1;
6. Section 8.14(b) for Proposed Lot 2 by waiving the requirement that the Owner shall engage a Qualified Professional to manage all aspects of developing an Independent On-site Water System if the proposed parcels are each less than 2 ha in area;
7. Section 8.14(c) for Proposed Lot 2 by waiving the requirement that the Owner shall engage a Qualified Professional to manage all aspects of developing an Independent On-site Water System

if the proposed subdivision is not located in an area indicated as being within a known aquifer, as identified on the Mapping for Areas of Groundwater Concern.

Staff note that the water system on Proposed Lot 2 does not meet the definition of an Independent On-site Water System as it is serving more than one dwelling unit (see BL641_Excerpts_DVP641-33.pdf, attached). The applicant has provided documentation of the water system from Bugaboo Plumbing Co. which describes it as including one shallow well and one deep well, the flows of which have been combined and utilized to service the two dwelling units which are both equipped with cisterns for water storage. According to the site plan provided these two wells are located more than 30 m from the existing septic fields. Water testing results completed by WSH Labs (1992) Ltd. have also been provided. The tests were completed on water samples collected post treatment. The test parameters are limited and do not provide the full range of chemical, radiological and microbiological analysis required to assess whether the samples meet the Canadian Drinking Water Guidelines for potability.

No information has been provided regarding well flow rates, recovery rates, or drawdown interference with neighbouring wells. This information would be included in a report from a Qualified Professional. Without this information staff do not feel there is enough evidence to document long term sustainability of the proposed water system.

SUMMARY:

The staff recommendation suggests that DVP641-33 be denied for the following reasons:

- The applicant has constructed a new well on the subject property and developed a water system utilizing both the new well and an existing well to service 2 dwelling units located on Proposed Lot 2 without the guidance of a Qualified Professional as required under Bylaw No. 641;
- No information has been provided regarding flow rates, well recovery rates and interference with neighbouring wells. Sustainability of the proposed water system and its effect on neighbouring properties is unknown.

IMPLEMENTATION:

If the Board endorses the staff recommendation the applicant will be advised of the decision. If the applicant wishes to pursue completion of the subdivision they would need to engage a Qualified Professional to complete a review of the water system and provide a report to the Regional District which covers all of the criteria outlined in Table 1 of Bylaw No. 641. If the report concludes that the proposed water system can sustainably service the proposed new lot the applicant would need to reapply for a Development Variance Permit which would be brought to the Board for a decision. If approved, staff would be in a position to provide Final Comments to the Approving Officer regarding this subdivision application.

COMMUNICATIONS:

This application was referred to CSRD Utilities for comment. The response indicates that Utilities staff cannot support a variance request without supporting information from a Qualified Professional. Further, they note that "in particular this request is asking for significant variances from Bylaw 641 but is not providing any information which would allow staff to consider support of the request other than two incomplete water sampling results". See Plumbing_WaterQuality_Letter_2018-11-30_DVP641-33.pdf.

Notices regarding this Development Variance Permit were mailed to all owners of property located within 100 m of the subject property in accordance with the provisions of Section 499 of the Local Government Act.

DESIRED OUTCOMES:

That the Board endorse the staff recommendation.

BOARD'S OPTIONS:

1. *Endorse the Recommendation.*
2. *Deny the Recommendation.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Subdivision Servicing Bylaw No. 641

Report Approval Details

Document Title:	2019-02-21_Board_DS_DVP641-33_BlueberryHillLandCo.docx
Attachments:	<ul style="list-style-type: none">- DVP641-33.pdf- BL641_Excerpts_DVP641-33.pdf- Plumbing_WaterQuality_Letter_2018-11-30_DVP641-33.pdf- OwnerLetters_StatDec_DVP641-33.pdf- Agency_Referral_Response_DVP641-33.pdf- Maps_Plans_DVP641-33.pdf
Final Approval Date:	Feb 7, 2019

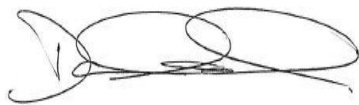
This report and all of its attachments were approved and signed as outlined below:



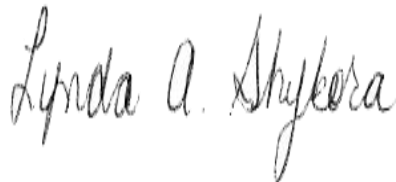
Corey Paiement - Jan 25, 2019 - 3:56 PM



Gerald Christie - Feb 5, 2019 - 3:55 PM



Darcy Mooney - Feb 6, 2019 - 11:14 AM



Lynda Shykora - Feb 7, 2019 - 2:02 PM

A handwritten signature in black ink, appearing to read "C. Hamilton". The signature is stylized with a large, looped "C" and a long, sweeping horizontal stroke at the end.

Charles Hamilton - Feb 7, 2019 - 4:27 PM