



BOARD REPORT

TO: Chair and Directors

File No: DVP641-34

SUBJECT: Electoral Area F: Development Variance Permit 641-34 (Karl and Neil Bischoff)

DESCRIPTION: Report from Christine LeFloch, Development Services Assistant, dated March 7, 2019.
2703 Bischoff Road, Magna Bay

RECOMMENDATION #1: THAT: in accordance with Section 498 of the Local Government Act Development Variance Permit No. 641-34 for The SW ¼ of Section 23, Township 23, Range 10, West of the 6th Meridian, Kamloops Division Yale District, varying Section 8.3(a) Subdivision Servicing Bylaw No. 641 to allow the use of surface water from Jack Creek which is not on the List of Eligible Sources of the Ministry of Natural Resource Operations and Rural Development, as the source of domestic water for the Proposed Remainder lot, for a proposed subdivision under application No. 2017-00161F;
be approved this 21st day of March, 2019.

SHORT SUMMARY:

The applicant has applied for a subdivision to create two new lots (File: 2017-00161F). Proposed Lot 1 is 34.8 ha and the Proposed Remainder is 29.9 ha. The applicant is proposing to use an existing water system which draws surface water from Jack Creek as the source of domestic water for the Proposed Remainder. As Jack Creek is not on the List of Eligible Sources of the Ministry of Natural Resource Operations and Rural Development a Development Variance Permit is required.

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:
Karl Bischoff and Neil Bischoff

ELECTORAL AREA:
F

LEGAL DESCRIPTION:
The SW ¼ of Section 23, Township 23, Range 10, West of the 6th Meridian, Kamloops Division Yale District

PID:
014-165-503

CIVIC ADDRESS:

2703 Bischoff Road, Magna Bay

SURROUNDING LAND USE PATTERN:

North = Agriculture

South = Country Residential

East = Agriculture

West = Rural

CURRENT USE:

Agriculture, 1 single family dwelling

PROPOSED USE:

2 lot subdivision

PARCEL SIZE:

64.74 ha

PROPOSED PARCEL SIZES:

Proposed Lot 1 – 34.8 ha

Proposed Remainder – 29.9 ha

DESIGNATION:

Electoral Area F Official Community Plan Bylaw No. 830

AG - Agriculture

ZONE:

Magna Bay Zoning Bylaw No. 800

A – Agriculture Zone

AGRICULTURAL LAND RESERVE:

50%

SITE COMMENTS:

The parcel is situated on a benched area above Shuswap Lake and below Crowfoot Mountain. Approximately 50% of the property is located within the Agricultural Land Reserve. The subject property is divided by Bischoff Creek which flows from the east and Jack Creek which flows from the north joining Bischoff Creek approximately halfway across the property. Bischoff Creek flows through a deep ravine on the western portion of the property which creates a significant natural division between the proposed two parcels. This differs from the east side of the parcel where the creek banks are less steep.

POLICY:

Relevant excerpts from Subdivision Servicing Bylaw No. 641 are attached. Please see Bylaw641_Excerpts_DVP641-34.pdf.

FINANCIAL:

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

KEY ISSUES/CONCEPTS:

The subject property is co-owned by two brothers who have applied to subdivide the property under Section 514 of the Local Government Act to create a title for each owner. The proposed subdivision boundary is Bischoff Creek which divides the property roughly in half. The owners have completed the majority of the subdivision requirements which included an application to the ALC for subdivision of the property, a second application to the ALC to include a portion of Proposed Lot 1 into the ALR which was a condition of approval of the ALC for the first application, a Riparian Areas Regulation Development Permit, and the standard subdivision approval criteria including documentation of adequate area for sewerage disposal systems, and proof of water for Proposed Lot 1. The final item required for completion of the CSRD's requirements for subdivision is proof of water for the Proposed Remainder lot. The Owner Directed Approach is applicable for this subdivision in accordance with Section 8.14 of Bylaw No. 641. As such a Qualified Professional is not required. (Please see Bylaw641_Excerpts_DVP641-34.pdf for applicable regulations).

The Proposed Remainder contains an existing single family dwelling which is serviced by an intake and water line which draws surface water from Jack Creek which runs from the north through Proposed Lot 1 and joins Bischoff Creek. The owner has been issued Water License No. 105601 by the Water Management Branch which authorizes the diversion of 500 gallons (2273 L) per day for use by one single family dwelling on the subject property only. The intake and a portion of the water line are located on the NW ¼ of Section 23, Twp 23, Rge 10, W6M, KDYD, Except Plan KAP53459, located immediately to the north of the subject property. The owner did not previously have an easement in place protecting this infrastructure, but was able to obtain one last year through the court system and it is now registered on title. Easement CA7234779 is registered on title granting the owners of the subject property access to the area identified on Easement Plan EPP82369 for the purpose of servicing the water line and intake. As such, the water source meets the requirements of Section 8.5(b) of Bylaw No. 641 which requires that if a surface water source is not located on the property is intended to serve it must be protected by easement.

Section 8.3(a) of Subdivision Servicing Bylaw No. 641 requires that if the water source for an Independent On-site Water System is surface water, then it must be surface water from an intake in a water source that has unrecorded water and is listed on the List of Eligible Sources of the Ministry of Natural Resource Operations that is current as of the date of application. Jack Creek is not listed on the List of Eligible Sources, therefore a variance to this section of the bylaw is required.

As the applicant has been issued a water license for the volume of water required by the bylaw staff are recommending approval of the requested variance. The applicant has provided water quality test results from ALS Global dated October 31, 2018. The test results indicate that the water has elevated e-coli and coliform bacteria which is not unusual for surface water sources. Staff note that as a condition of subdivision, a Section 219 water quality covenant is required to be registered on title of the Proposed Remainder to alert future property owners of the requirement for a water treatment system and to advise that periodic water testing and maintenance of the water treatment system are the responsibility of the property owner.

SUMMARY:

Staff recommend that DVP641-34 be approved for the following reasons:

- A water license has been granted by the Provincial Water Management Branch authorizing diversion of a volume of water meeting the requirements of the CSRD's Subdivision Servicing Bylaw No. 641 for the use of the existing dwelling on the subject property; and
- Concerns regarding water quality will be addressed through registration of a Section 219 water quality covenant on the title of the proposed lot as a condition of subdivision approval.

IMPLEMENTATION:

If the Board endorses the staff recommendation the applicant will be advised of the decision and staff will prepare the Development Variance Permit for issuance. The owners will need to have a Section 219 water quality covenant prepared by their notary for registration on title of the Proposed Remainder. As a matter of procedure staff are able to accept a Letter of Undertaking from the solicitor committing to register the covenant concurrently with the Plan of Subdivision in order to issue the permit.

COMMUNICATIONS:

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. This notice was also posted on the CSRD website.

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
2. Water Quality Test Results by ALS Global, dated October 31, 2018

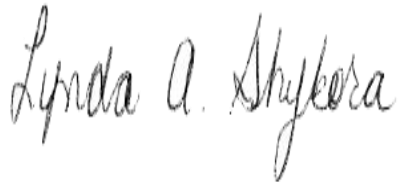
Report Approval Details

Document Title:	2019-03-21_Board_DS_DVP641-34_Bischoff.docx
Attachments:	<ul style="list-style-type: none">- DVP641-34.pdf- BL641_Excerpts_DVP641-34.pdf- Maps_Plans_DVP641-34.pdf
Final Approval Date:	Mar 12, 2019

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

No Signature found

Gerald Christie - Mar 12, 2019 - 12:44 PM



Lynda Shykora - Mar 12, 2019 - 1:49 PM

No Signature - Task assigned to Charles Hamilton was completed by assistant Lynda Shykora

Charles Hamilton - Mar 12, 2019 - 4:23 PM