



# BOARD REPORT

**TO:**

Chair and Directors

<b>File No:</b> DV701-84 PL20180205
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**SUBJECT:**

Electoral Area C: Development Variance Permit No. 701-84 (Clark)

**DESCRIPTION:**

Report from Laura Gibson, Planner I, dated March 26, 2019.  
711 Viel Road, Cruikshank Point

**RECOMMENDATION:**

THAT: in accordance with Section 498 of the Local Government Act, Development Variance Permit No. 701-84 for Lot 10, Section 19, Township 22, Range 11, West of the 6<sup>th</sup> Meridian, Kamloops Division Yale District, Plan 14328, varying South Shuswap Zoning Bylaw No. 701 as follows:

Section 11.2.4 Minimum setback from:

- the north interior side parcel line (adjacent to Shuswap Lake) from 2 m to 0 m only for the retaining wall and to 1.71 m only for the terrace;
- the west interior side parcel line from 2 m to 0 m only for the retaining wall and to 1.63 m only for the single family dwelling;
- the rear (east) parcel line from 5 m to 0.18 m only for the retaining wall, to 0.92 m only for the sleep out shed, and to 0.48 m only for the garage; and,
- the south interior side parcel line from 2 m to 0.26 m only for the garage with attached covered area.

be approved for issuance this 18<sup>th</sup> day of April, 2019.

**SHORT SUMMARY:**

The subject property is located at 711 Viel Road in the Cruikshank Point area of Sorrento, in Electoral Area C, and is waterfront to Shuswap Lake. The owners have replaced the previously existing masonry and gabion retaining walls with an engineered rock retaining wall. Retaining structures that are 1.2 m or greater in height are required to meet the zoning bylaw setback requirements. The new retaining wall is up to 1.92 m in height and requires a variance from the rear and interior side parcel line setbacks. A terrace was also reconstructed within the north interior side parcel line setback and requires a variance. Additionally, the owners are proposing to recognize the location of the other pre-existing buildings and structures on the property, including the single family dwelling with attached carport and deck, the sleep out shed, and the garage with attached covered area, which are located within various parcel line setbacks but are currently considered lawful non-conforming as they predate the South Shuswap Zoning Bylaw No. 701.

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**VOTING:**

Unweighted  
Corporate

☐

LGA Part 14  
(Unweighted)

☒

Weighted  
Corporate

☐

Stakeholder  
(Weighted)

☐

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**BACKGROUND:**

REGISTERED OWNERS:

Frederick and Eleanor Clark

ELECTORAL AREA:  
C

LEGAL DESCRIPTION:

Lot 10, Section 19, Township 22, Range 11, West of the 6<sup>th</sup> Meridian, Kamloops Division Yale District, Plan 14328

PID:  
009-034-129

CIVIC ADDRESS:  
711 Viel Road

SURROUNDING LAND USE PATTERN:

North: Shuswap Lake  
South: Residential/Agriculture  
East: Residential  
West: Residential

CURRENT USE:

Single family dwelling with attached carport and upper deck, terrace, detached garage with attached covered area, sleep out shed, and a rock retaining structure along foreshore.

PROPOSED USE:

To recognize the location of the new retaining wall within the rear and interior side parcel line setbacks, the location of the new terrace within the north interior side parcel line setback, and the locations of the pre-existing development, including: the single family dwelling, the detached garage with covered area, and the sleep out shed, which are also located within various parcel line setbacks but are currently considered lawful non-conforming as they predate the South Shuswap Zoning Bylaw No. 701.

PARCEL SIZE:  
0.185 ha (0.47 acres)

DESIGNATION:  
Electoral Area C Official Community Plan Bylaw No. 725  
RR2 - Rural Residential 2

ZONE:  
South Shuswap Zoning Bylaw No. 701 (Bylaw No. 701)  
RR1 – Rural Residential

SITE COMMENTS:  
See "Maps\_Plans\_Photos\_DVP701-84.pdf" attached.

The subject property is at the end of Viel Road, near Cruikshank Point in Sorrento, and is adjacent to Shuswap Lake. The property is relatively flat with no slopes over 30% grade.

**SERVICING:**

Sorrento Water System (located in Waverly Park Water Upgrade area).  
On-site sewage disposal system.

**ACCESS:**

Viel Road.

See "Maps\_Plans\_Photos\_DVP701-84.pdf" attached.

**POLICY:****South Shuswap Zoning Bylaw No. 701**Section 1 - Definitions

SETBACK means the required minimum distance between a structure, building or use and each of the respective property lines.

STRUCTURE means any construction fixed to, supported by or sunk into land or water but not concrete or asphalt paving or similar surfacing.

Section 7.2 – RR1 – Rural Residential Regulations

.5 Minimum Setback from:

Front parcel line	5 m
Exterior side parcel line	4.5 m
<b>Interior side parcel line</b>	<b>2.0 m</b>
<b>Rear parcel line</b>	<b>5 m</b>

**FINANCIAL:**

If DVP701-84 is not approved by the Board, the CSRD will have to consider what bylaw enforcement action to take to correct the infractions as the retaining wall and terrace have already been reconstructed.

**KEY ISSUES/CONCEPTS:**Parcel Lines

See "Maps\_Plans\_Photos\_DVP701-84.pdf" attached.

Often for waterfront properties, the rear parcel line is the parcel line adjacent to the lake. However, the subject property's front parcel line is the west parcel line providing access from Viel Road, and as the rear parcel line is defined as the boundary which lies the most opposite to and is not connected to the front parcel line, the rear parcel line is the east parcel line. Subsequently, the parcel line adjacent to Shuswap Lake is an interior side parcel line, with a setback of 2.0 m rather than 5.0 m, and the east parcel line, which would typically be an interior side parcel line with a setback of only 2.0 m, has a

setback of 5.0 m. All other parcel lines for the subject property are side parcel lines with setbacks of 2.0 m.

#### Development Variance Permit

Retaining structures that are 1.2 m or greater in height are required to meet the zoning bylaw setback requirements. The new retaining wall varies in height from 1.23 m to 1.92 m. The applicant has applied for variances to the setbacks from the rear and interior side parcel lines to the proposed retaining wall. Additionally, the terrace was reconstructed within the rear parcel line setback and requires a variance. The terrace is a wood platform that is built into the gentle slope to the south and raised 0.61 m off the ground to the north.

As part of this application, the owners are also proposing to recognize the pre-existing development, which is located within various parcel line setbacks, including the single family dwelling, the sleep out shed, and the garage with attached covered area.

The applicant is proposing to vary Section 7.2.5 of Bylaw No. 701:

- Minimum setback from the north interior side parcel line (adjacent to Shuswap Lake) from 2 m to 0 m only for the retaining wall and to 1.71 m only for the terrace;
- Minimum setback from the west interior side parcel line from 2 m to 0 m only for the retaining wall and to 1.63 m only for the single family dwelling;
- Minimum setback from the rear (east) parcel line from 5 m to 0.18 m only for the retaining wall, to 0.92 m only for the sleep out shed, and to 0.48 m only for the garage; and,
- Minimum setback from the south interior side parcel line from 2 m to 0.26 m only for the garage with attached covered area.

#### BC Building Code

Staff note that the existing buildings located within 2.4 m of the parcel lines may not meet current BC Building Code requirements for spatial separation. However, these buildings are existing and were constructed prior to the requirement of Building Permits by the CSRD. If in the future the property owners propose to rebuild in the same location, there will be specific requirements for any portions of the buildings within 2.4 m of a parcel line. This will be confirmed through Building Permits as Building Regulation Bylaw No. 660 is now in effect in Electoral Area C.

#### Floodplain Exemption

Bylaw No. 701 establishes floodplain regulations, including the Flood Construction Level, defined as 351.0 metres Geodetic Survey of Canada Datum (GSC Datum) for the land adjacent to Shuswap Lake, and the Floodplain Setback, defined as 15 metres from the mean annual high water mark of Shuswap Lake. A floodplain exemption is required as the new retaining wall and terrace are constructed within the floodplain setback and the terrace is constructed below the flood construction level. The floodplain exemption application also includes the existing house with attached carport and the attached upper deck and staircases. If approved, the floodplain exemption will decrease the Flood Construction Level from 351.0 metres GSC Datum to:

- 350.59 m GSC Datum, only for the existing terrace;
- 350.13 m GSC Datum, only for the existing single family dwelling; and,
- 350.01 m GSC Datum, only for the footings of the existing upper deck and the attached stairs.

If approved, the floodplain exemption will decrease the Floodplain Setback from 15 metres from the high water mark of Shuswap Lake to:

- 0 m from the mean annual high water mark of Shuswap Lake, only for the existing retaining wall and attached stairs;
- 1.71 m from the mean annual high water mark of Shuswap Lake, only for the existing terrace;
- 7.63 m from the mean annual high water mark of Shuswap Lake, only for the existing single family dwelling; and,
- 5.31 m from the mean annual high water mark of Shuswap Lake, only for the footings of the existing upper deck and the attached stairs.

Staff are in receipt of a flood hazard assessment by Onsite Engineering Ltd. (OEL), dated March 13, 2018, which addresses the floodplain regulation and exemption requirements in Bylaw No. 701. OEL's report concludes that provided the retaining wall is constructed as per the design parameters outlined in their report, it is their determination that the retaining wall will be safe for its intended use with respect to the flood hazards presented by Shuswap Lake. OEL's report also states that the existing house, upper deck and staircases and the reconstructed lower deck (terrace) are safe for their intended uses with respect to flood hazards presented by Shuswap Lake.

Staff are processing the floodplain exemption concurrently with the Development Variance Permit. Approval of technical permits such as these has been delegated to the Manager of Development Services. If the development variance permit is approved by the Board, the Manager will be able to consider issuing the floodplain exemption.

#### Development Permit

A Riparian Area Regulation (RAR) Development Permit is required as the development is within 30 m of the high water mark of Shuswap Lake. Staff are processing the RAR Development Permit application concurrently with the Development Variance Permit. Approval of this technical permit has been delegated to the Manager of Development Services.

Staff are in receipt of a Riparian Areas Assessment completed by Qualified Environmental Professional (QEP), Bill Rublee, R.P. Bio, of Triton Environmental Consultants Ltd., dated July 24, 2018. In their report, the QEP recognizes that all work has been completed, but based on the work done, there is no evidence of environmental harm associated with the completed works. The QEP includes planting recommendations in their report. If the development variance permit is approved by the Board, the Manager will be able to consider issuing the development permit.

#### **SUMMARY:**

The owners of the subject property have reconstructed the retaining wall and terrace on the property. These new structures require a Development Variance Permit. This variance permit also proposes to recognize the locations of the pre-existing buildings and structures, including the single family dwelling, the shed, and the detached garage.

Development Services Staff are recommending that the Board consider issuance of Development Variance Permit No. 701-84 for the following reasons:

1. Staff are in receipt of a flood hazard assessment by Onsite Engineering Ltd., which states that significant scour was observed below part of the original retaining wall and the retained yard behind another portion of the wall had been undermined. The report states that the new retaining wall has been set back from the original wall's position in some locations, and the new design accounts for the potential impacts from wave action and flooding that could occur during a future high water event on Shuswap Lake;

2. The flood hazard assessment indicates that all of the newly constructed and pre-existing buildings and structures on the property will be safe for their intended use with respect to the flooding hazard presented by Shuswap Lake;
3. The new terrace is a relatively minor structure, as it is built into the slope at the south end and is a maximum height of 0.61 m at the north end. Additionally, the terrace is only 0.29 m closer to the parcel line than what is currently permitted by Bylaw No. 701, the variance for the terrace is for a parcel line adjacent to the lake, and therefore will not impact another property owner, and the new terrace location is set back further from the lake and parcel line than the old terrace was.
4. The other setback variances should have minimal impact on the surrounding properties, as the existing buildings have been present for many years, there are no nearby structures on adjacent properties.

**IMPLEMENTATION:**

If Development Variance Permit 701-84 is approved by the Board, staff will prepare a notice to be sent to the Land Title and Survey Authority of British Columbia (LTSA) for registration on title. The Manager of Development Services will be able to consider issuance of the RAR Development Permit and the Floodplain Exemption.

**COMMUNICATIONS:**

Property owners and tenants in occupation within 100 m of the subject property will be given notification a minimum of 10 days prior to the CSRD Board of Directors considering this application. All interested parties will have the opportunity to provide written comments regarding this application prior to the Board Meeting. Copies of the written submissions are provided to the Board of Directors.

The Electoral Area C Advisory Planning Commission reviewed the application at their March 25, 2019 meeting and passed a resolution in support of the application.

**DESIRED OUTCOMES:**

That the Board support the staff recommendation to approve issuance of DVP 701-84.

**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:**

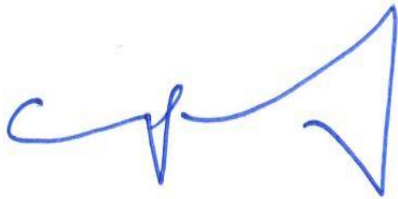
1. South Shuswap Zoning Bylaw No. 701
2. Electoral Area C Official Community Plan Bylaw No. 725

3. Electoral Area C Advisory Planning Commission Minutes March 25, 2019

**Report Approval Details**

Document Title:	2019-04-18_Board_DS_DVP701-84_Clark.docx
Attachments:	- DVP701-84.pdf - Maps_Plans_Photos_DVP701-84.pdf
Final Approval Date:	Apr 5, 2019

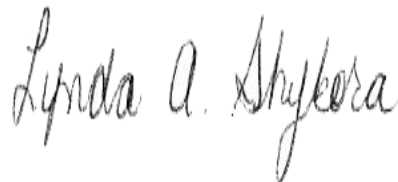
This report and all of its attachments were approved and signed as outlined below:



**Corey Paiement - Apr 2, 2019 - 12:20 PM**



**Gerald Christie - Apr 4, 2019 - 10:30 AM**



**Lynda Shykora - Apr 5, 2019 - 3:44 PM**



**Charles Hamilton - Apr 5, 2019 - 3:50 PM**