



# BOARD REPORT

**TO:** Chair and Directors

**File No:** DVP2000-75  
PL2019080

**SUBJECT:** Electoral Area E: Development Variance Permit No. 2000-75 (Adams et al)

**DESCRIPTION:** Report from Erica Hartling, Planner I, dated June 3, 2019.  
#7 1249 Bernie Road, Annis Bay

**RECOMMENDATION:** THAT: in accordance with Section 498 of the Local Government Act Development Variance Permit No. 2000-75 for Share 7 of Covenant Plan 41330 of Those Parts of Legal Subdivision 13 of Section 17, and Legal Subdivision 16 of Section 18 Lying to the South of the South Bank of the Salmon Arm of Shuswap Lake, Township 21, Range 8, West of the 6<sup>th</sup> Meridian, Kamloops Division Yale District, varying Rural Sicamous Land Use Bylaw No. 2000 as follows:

- Section 2.14(2)(b) Minimum setback from the north interior side parcel line (adjacent to Shuswap Lake) from 2 m to 0 m only for the cabin’s attached upper and lower deck and the existing concrete retaining wall with attached stairs;

be approved for issuance this 20<sup>th</sup> day of June, 2019.

## SHORT SUMMARY:

The subject property is located at #7 1249 Bernie Road in the Annis Bay area of Electoral Area E, and is waterfront to Shuswap Lake. The property currently contains a cabin with an upper and lower deck with a set of stairs, as well as an existing concrete retaining wall with attached stairs. The owners are currently replacing the existing deck and stairs. The applicant has applied for a Development Variance Permit to vary the interior side parcel boundary setback of 2.0 m to 0 m for the proposed reconstruction of the upper and lower deck and to recognise the location of the existing retaining wall and stairs.

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**VOTING:** Unweighted  LGA Part 14  Weighted  Stakeholder   
Corporate (Unweighted) Corporate (*Weighted*)

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## BACKGROUND:

REGISTERED OWNER(S):  
Simon Adams, Michael Davis, Amy Johnson, Sarah Lucas

APPLICANT: Simon Adams

ELECTORAL AREA:  
E

LEGAL DESCRIPTION:

Share 7 of Covenant Plan 41330 of Those Parts of Legal Subdivision 13 of Section 17, and Legal Subdivision 16 of Section 18 Lying to the South of the South Bank of the Salmon Arm of Shuswap Lake, Township 21, Range 8, West of the 6<sup>th</sup> Meridian, Kamloops Division Yale District.

PID:  
001-832-786

CIVIC ADDRESS:  
#7, 1249 Bernie Road

SURROUNDING LAND USE PATTERN:  
North: Annis Bay of Shuswap Lake  
South: CPR RoW  
East: Shared interest seasonal cabins  
West: Shared interest seasonal cabins

CURRENT USE:  
Three storey single family dwelling (i.e. seasonal cabin) with attached upper and lower deck with stairs and a concrete retaining wall with stairs along the foreshore.

PROPOSED USE:  
Usage of the property will not change. The owners propose to replace the existing upper and lower deck with a new deck and stairs. As with the old deck, the new deck will sit atop the pre-existing concrete slab, which is located behind a pre-existing poured concrete retaining wall that is adjacent to Shuswap Lake.

PARCEL SIZE:  
Total Shared Lot: 3.65 ha  
Share Interest # 7: Approx. 400 m<sup>2</sup>

DESIGNATION:  
Rural Sicamous Land Use Bylaw No. 2000  
MD – Medium Density Residential

ZONE:  
Rural Sicamous Land Use Bylaw No. 2000  
MSR - Multi-Single Family Residential Zone

SITE COMMENTS:  
See "Maps\_Plans\_Photos\_DVP2000-75.pdf" attached.  
The subject property (Lot 7) is waterfront to Shuswap Lake (Annis Bay) and is located within a shared interest parcel, Lakemount Shuswap Recreation Ltd.. Lot 7 currently contains a seasonal three storey cabin in the central portion of the property. The cabin contains an attached upper and lower deck with a set of stairs that are currently under construction on the north side of the cabin. The owners have since stopped construction of these structures and have applied for the required permits; they are now working on a building permit, development variance permit and floodplain exemption.

There is an existing concrete slab that is located below the proposed lower deck that extends for 3.75 m from the retaining wall on the foreshore of the property to the front foundation wall of the house. Five concrete blocks that are approximately 0.1 m in height are situated on the slab and elevate the joists of the lower deck. The front portion of the upper deck is supported by three wooden posts founded on the surface of the lower deck, while the rear portion of the proposed upper deck is supported by three wooden posts founded on the front foundation wall of the house. The stairs are founded on the surface of the lower deck and provide access to the upper deck. See site photos showing the decks and stairs under construction in the attached "Maps\_Plans\_Photos\_DVP2000-75.pdf".

An existing concrete retaining wall is located along the foreshore of the property, to protect against foreshore erosion and retrogression and to retain the yard. A set of concrete stairs is present in the northwest corner of the deck providing access from the deck to the foreshore. A second Allan block retaining wall is located to the west of the existing cabin and retains the landscaped yard.

**POLICY:****Rural Sicamous Land Use Bylaw No. 2000 (Bylaw No. 2000)**

See "BL2000 \_Excerpts\_DVP2000-75.pdf" attached.

- Multi-Single Family Residential Zone
- Setback Exceptions
- Definitions
- Floodplain Regulations

**Building Regulation Bylaw No. 660**

The proposed deck and stairs require a building permit (after-the-fact), which the applicant has applied for and is actively working on with the CSRD Building Official.

**FINANCIAL:**

The development variance permit application is the result of an enquiry and not Bylaw Enforcement action. Once the owners became aware of the required permits they stopped work and applied for a building permit, development variance permit, and floodplain exemption. There are no financial implications to the CSRD with regard to this application at this time. However, as the proposed development is currently under construction, if the Board does not issue the Development Variance Permit No. 2000-75 and the owners do not bring the proposed upper and lower deck into compliance with the setback regulations, staff will consider initiating Bylaw Enforcement action.

**KEY ISSUES/CONCEPTS:**

See "Maps\_Plans\_Photos\_DVP2000-75.pdf" attached.

The shared interest parcel is zoned MSR in Bylaw No. 2000. The parcel does not currently front on a highway or an access route in a bare land strata, and therefore the interior parcel line setback of 2.0 m applies to all parcel boundaries. The subject property has experienced erosion since the Natural Boundary was recorded in the Land Title Office with Covenant Plan 41330; and, as depicted on the surveyed site plan (See "Maps\_Plans\_Photos\_DVP2000-75.pdf" attached) the Lake Boundary is now at the toe of the concrete retaining wall and where the zoning setbacks are measured from.

The new upper deck and stairs are smaller in size and setback farther away from the lake and side parcel line (completely within the subject property boundaries) than the original structures, the original upper deck was slightly encroaching over the current property line. In addition, the new upper deck has

recently been cut back more than what was initially planned and then resurveyed (see attached photos and site plan). The upper deck is now 0.15 m (6 inches) shorter from what is shown in the attached site photos, as the applicant wanted to be certain that it is fully within their property boundaries.

The subject property's (Lot 7) existing structures (retaining wall and stairs) and proposed development (upper and lower deck) meet the permitted uses in the MSR zone but are sited around 0 – 0.15 m from the north interior side parcel line (adjacent to Shuswap Lake) and require a variance from 2 m to 0 m.

As the subject property (Lot 7) is within a shared interest parcel, the applicant has provided the CSRD with a letter from Lakemount Shuswap Recreation Ltd., who have stated that they are in support of the deck renovation on Share Lot 7. Neighbouring lots within the shared interest parcel and directly adjacent to Lot 7 have similar retaining walls and decks. As the subject property's development fronts Shuswap Lake, the proposed deck should have minimal visual impacts on the surrounding properties.

The applicant has noted that new upper and lower deck and stairs are to replace the original structures that were built in the 1990's, as the old deck and stairs were not built to BC Building Code. The owners are in the process of replacing the original structures as they consider them unsafe for their intended use. As previously noted in this report, the new upper and lower deck and stairs require a building permit to be issued by a CSRD Building Official. The structures will be required to meet the requirements of Building Bylaw No. 660 and the BC Building Code and the Building Official may require further information during the building permit application stage.

### **Floodplain Exemption**

Sections 2.3.4 (2) and (3) Bylaw No. 2000 establish the floodplain setbacks and flood construction levels. The applicant has applied for an exemption to the floodplain setback and construction level requirements of Bylaw No. 2000 for the location of the upper and lower deck with attached stairs and the existing concrete retaining wall with attached stairs.

In support of the exemption application process, a floodplain assessment report was provided. The report, dated March 12, 2019, was completed by Larissa Laderoute, GIT. and Rod Williams, P. Geo. of Onsite Engineering Ltd. In the report, the geoscientists summarize that based on the fact that the upper and lower deck and stairs are protected by the retaining wall (top of wall at 349.2 m asl) and the surface of the lower deck is elevated to 349.64 m asl, it is their opinion that the assessed moderate risk associated with a highwater event occurring on average every ten years overtopping the retaining wall and potentially inundating the upper and lower deck and stairs is likely tolerable. The consequences of a flood event are limited to minor damage (i.e., less than \$10,000) and are not considered life-threatening. As a result of these factors, it is the geoscientists' opinion that the upper and lower deck and stairs that are currently under construction on the property can be considered safe for their intended use with respect to flooding hazards presented by Shuswap Lake.

Staff are processing the floodplain exemption concurrently with the development variance permit. As part of the floodplain exemption application process and approval, the applicant is required to register a Section 219 Covenant on title. The covenant will notify future property owners of the floodplain regulations, flood hazard and assessment, and the issued floodplain exemption. The covenant will also save the CSRD harmless for any damages caused by flooding or erosion to the subject property or to any building, improvement, or other structure built and constructed on the property. 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.

### **Riparian Areas Regulations**

The proposed development is within the Provincial 30 m riparian area measured from the high watermark of Shuswap Lake. Currently, the applicant is not required to apply for a Riparian Area Regulation Development Permit to the CSRD, as an Official Community Plan Bylaw designating Development Permit Areas has not been adopted for Electoral Area E. Further, the applicant has provided the CSRD with a letter completed by Patty Skinner, Qualified Environmental Professional (QEP) of Triton Environmental Consultants Ltd, dated February 13, 2019. The QEP outlines that the Riparian Area Regulation does not apply to the subject development, as it is to be constructed on an existing concrete slab and will not be moved or extended within the riparian area.

**SUMMARY:**

The application proposes to vary Rural Sicamous Land Use Bylaw No. 2000, as follows:

- Section 2.14(2)(b) Minimum setback from the north interior side parcel line (adjacent to Shuswap Lake) from 2 m to 0 m only for the cabin's attached upper and lower deck and the existing concrete retaining wall with attached stairs.

Development Services staff are recommending that the Board consider issuance of Development Variance Permit No. 2000-75, as:

- The location of the new upper deck and stairs are smaller in size and setback farther away from the lake and side parcel line than the original structures;
- The original deck was potentially unsafe and did not meet BC Building Code and the new upper deck requires a building permit and will meet BC Building Code;
- Neighbouring lots within the shared interest parcel have similar retaining walls and decks and the subject property's development fronts Shuswap Lake and should have minimal visual impact on the surrounding properties; and,
- The upper and lower deck and the attached stairs are protected by the existing retaining wall and are considered by Onsite Engineering Ltd. to be safe for their intended use with respect to flooding hazards presented by Shuswap Lake.

**IMPLEMENTATION:**

If Development Variance Permit No. 2000-75 is approved and issued by the Board, staff will prepare a notice to be sent to the Land Title and Survey Authority of British Columbia for registration on title. The Manager of Development Services will be able to consider issuance of the floodplain exemption. As previously noted, the floodplain exemption requires the applicant to register a Section 219 Covenant on title. Once issued and the Section 219 Covenant registered on title, staff will notify the building department and the Building Official will be able to consider issuance of the building permit.

**COMMUNICATIONS:**

In addition to the shared interest property owners of Lakemount Shuswap Recreation Ltd., all property owners and tenants in occupation within 100 m of the shared interest parcel 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.

**DESIRED OUTCOMES:**

That the Board support the staff recommendation to approve issuance of Development Variance Permit No. 2000-75.

**BOARD'S OPTIONS:**

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

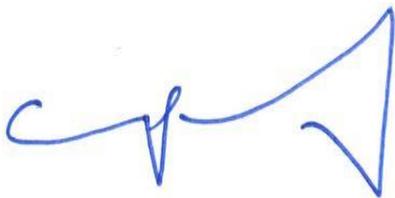
**LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:**

1. Rural Sicamous Land Use Bylaw No. 2000
2. Floodplain Assessment Report, dated March 12, 2019.

**Report Approval Details**

Document Title:	2019-06-20_Board_DS_DVP2000-75_Adams_et_al.docx
Attachments:	- DVP2000-75.pdf - BL2000_Excerpts_DVP2000-75.pdf - Maps_Plans_Photos_DVP2000-75.pdf
Final Approval Date:	Jun 10, 2019

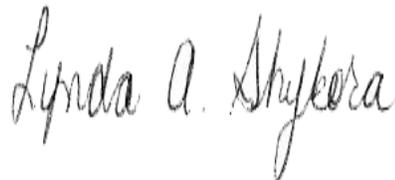
This report and all of its attachments were approved and signed as outlined below:



**Corey Paiement - Jun 7, 2019 - 11:40 AM**



**Gerald Christie - Jun 7, 2019 - 1:25 PM**



**Lynda Shykora - Jun 10, 2019 - 3:18 PM**

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

**Charles Hamilton - Jun 10, 2019 - 3:19 PM**