



COLUMBIA SHUSWAP REGIONAL DISTRICT

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November 9, 2015

VP 701-32
BE 701-36

Owners

Re: Capri Cabins – Lots 1 to 6, Plan EPS162, Sec. 15, Tp. 22, Rge. 11, W6M, K.D.Y.D., Located at 1541 Blind Bay Road –Development Variance Permit No. 701-32

Development Variance Permit No. 701-32 was issued by the CSR D August 21, 2008. The Development Variance Permit (DVP) recognized some of the setbacks of the Capri Cabins development existing at that time which were non-compliant. The DVP also contemplated some minor additions. At some point in 2009, rather than proceed with the additions as represented to the Regional District, the existing 7 units on the site were demolished and 6 new units were constructed and subsequently subdivided into separate strata-titled building units. In most cases the new units were not constructed to the same setbacks as those that had been demolished. In some cases this has led to encroachments onto the Ministry of Transportation and Infrastructure (MoT) Right-of-Way known as Robertson Road causing issues with compliance. Where the bylaw setback has already been relaxed by issuance of a DVP, and the new construction is closer to and even over the property lines, both the bylaw and the DVP relaxed setbacks have been violated.

Additionally, the rezoning amendment bylaw which allowed the density on the site by special regulation Subsection 14.3.12, and which preceded issuance of the DVP, and the DVP itself, were based on a report, dated May 14, 2007 from Mr. Alan Bates, P.Eng., of Streamworks Unlimited that provided a flood risk assessment of the site for the existing development. Unfortunately since the report was written for the existing development, as soon as that was demolished and a new development constructed in its place closer to the natural boundary of the lake, the report became irrelevant to the new units. This means that the new units were constructed in violation of the South Shuswap Zoning Bylaw No. 701 (Bylaw No. 701) Floodplain Specifications.

CSR D staff have previously forwarded a letter dated November 12, 2010, outlining these issues and also raising the question of compliance with Zoning Bylaw parcel coverage and building height regulations.

Recently, I met with Mr. Lindblad in my office, after it had been noted that works were being done to the dock. As a result of that meeting I agreed to provide you with this letter re-iterating the areas of non-compliance and what options are available to you to achieve compliance for the Capri Cabins development. The following are the areas of non-compliance:

1. The subject property is currently zoned CH2 – Cluster Housing 2, in accordance with South Shuswap Zoning Bylaw No. 701 (Bylaw No. 701). The CH2 zone contains regulations for setbacks in Subsection 14.2.3, as follows;

Front parcel line	5.0 m
Exterior side parcel line	4.5 m
Interior side parcel line	2.0 m

ELECTORAL AREAS

A GOLDEN-COLUMBIA
B REVELSTOKE-COLUMBIA

C SOUTH SHUSWAP
D FALKLAND-SALMON VALLEY

E SICAMOUS-MALAKWA
F NORTH SHUSWAP-SEYMOUR ARM

MUNICIPALITIES

GOLDEN
REVELSTOKE

SALMON ARM
SICAMOUS

Rear parcel line

5.0 m

On August 21, 2008, by resolution No. 2008-832 the Board of the CSRD authorized issuance of DVP 701-32, which reduced the exterior side parcel line setback from 4.5 m to 0.71 m for the existing cabins on the site.

A more recent building location certificate, dated August 9, 2010, showing the new units indicates that strata lot 2 is located as close as 0.68 m; strata lot 3 is located as close as 0.67 m; and strata lot 4 is located as close as 0.66 m from the exterior side parcel line. Additionally all 3 of these units have concrete pads which encroach into the Robertson Road Right-of-Way by 0.24 m.

2. The building location certificate also indicates that eave lines for strata lots 2, 3, and 4 are located at or on the exterior side parcel line. Subsection 3.6.8 of Bylaw No. 701, allows eaves to be located in an area of setback provided they are not closer than 1.0 m from any parcel line.
3. Subsection 14.2.2 regulates the maximum height for buildings as 10.0 m. The building location certificate shows that strata lot 2 is 10.35 m high and strata lot 3 is 10.07 m high.
4. Subsection 14.3.12.2 regulates the maximum parcel coverage at 23%. In reviewing both the building location certificate and the strata plan EPS162, CSRD staff have computed the total area of all buildings on site to be 531 m² on a parcel size of 0.2 ha. which appears to indicate a parcel coverage of 26.55%. It is suggested that the strata owners confirm the parcel coverage with the surveyor that provided the building location certificate.
5. Section 3.16 designates floodplains, and Subsection 3.17.1 establishes the flood construction level as 351.0 m for land adjacent to Shuswap Lake. Strata Plan EPS162 shows that every strata lot has a basement. The building location certificate indicates that all main floor elevations comply with the flood construction level. However, the top of lower floor elevation for every strata lot except strata lot 1 is below this flood construction level. Subsection 3.18.2 requires that any space used for dwelling purposes or storage of goods, susceptible to flood damage must be above the flood construction level.
6. Subsection 3.17.2 establishes a floodplain setback of 15.0 m from the 348.3 m contour for buildings adjacent to Shuswap Lake. DVP 701-32, as issued relaxed the floodplain setback for the existing development, but was specific to the cabins named in Schedule B attached to and forming part of DVP 701-32. Whereas, strata lot 4 is located as close as 10.33 m, strata lot 5 is located as close as 13.62 m, and strata lot 6 is located as close as 10.02 m; from the 348.3 m contour.

Setback violations for buildings and eaves, as well as building height can be dealt with by applying for and having issued by the Board a new DVP for the new structures. The DVP would be subject to the strata corporation obtaining a permit to encroach onto the Robertson Road Right-of-Way from the Ministry of Transportation and Infrastructure (MoT). Also, the strata corporation would be required to obtain a waiver from MoT to the Provincial Setback area, of 4.5 m, as established in Provincial Public Undertakings Regulation No. 513/2004 under Section 12, in regard to the proximity of strata lots 2, 3, and 4 from Robertson Road. I understand that there was a permit issued February 1, 2006 from MoT that permitted the previous buildings to be situated within 0.16 m of the Robertson Road Right-of-Way. This permit will need to be re-issued to the strata corporation reflecting the construction of the new units on the site.

Maximum parcel coverage cannot be varied by a DVP. Parcel coverage is a measure of density and therefore, in accordance with Section 922 (2)(a) of the *Local Government Act*, a DVP cannot vary either use or density. The only means available to you to allow a parcel coverage of 26.55% is to apply for a rezoning amendment which would amend the site specific regulation for the property under Subsection 14.3.12.2 in the CH2 zone.

Similarly, Section 922(2)(b) of the *Local Government Act*, limits the ability of a DVP to vary a floodplain specification, under Section 910(2) of the *Local Government Act*. Rather the matter of the violation of the floodplain specifications, for both the flood construction level and the floodplain setback would require the CSRD to process and issue an exemption to the floodplain specifications, as contemplated under Section 910(5) of the *Local Government Act*. In accordance with this section a report from a professional engineer or geoscientist experienced in geotechnical engineering would be required to be submitted to support the exemption application.

As an alternative to separate DVP, rezoning amendment and exemption from floodplain specification applications, the CSRD would like to suggest that an application for a rezoning amendment alone could be made to deal with all of the compliance issues.

To summarize, the development on the property is non-compliant with DVP 701-32 and Bylaw No. 701. The issues remain unresolved. In order to avoid further action being taken by the CSRD, you must seek to resolve these issues by following an option provided you in this letter.

If you have any questions with regard to the information in this letter, or any other issue, please call me directly, or email me at dpassmore@csrd.bc.ca.

Sincerely

Dan Passmore
Senior Planner

/dgp

cc: Electoral Area 'C' Director, Paul Demenok