

BOARD REPORT

TO: Chair and Directors

File No: BL725-11
PL20170240
BL701-85
PL20160064

SUBJECT: Electoral Area C: Electoral Area C Official Community Plan Amendment (Thompson) Bylaw No. 725-11 and South Shuswap Zoning Amendment (Thompson) Bylaw No. 701-85

DESCRIPTION: Report from Dan Passmore, Senior Planner, dated January 17, 2018. 2009 Eagle Bay Road, Blind Bay.

RECOMMENDATION #1: THAT: "Electoral Area C Official Community Plan Amendment (Thompson) Bylaw No. 725-11" be read a first time this 15th day of February, 2018.

RECOMMENDATION #2: THAT: "South Shuswap Zoning Amendment (Thompson) Bylaw No. 701-85" be read a first time this 15th day of February, 2018.

RECOMMENDATION #3: THAT: the Board utilize the simple consultation process for Bylaw No. 725-11 and Bylaw No. 701-85, and the Bylaws be referred to the following agencies and First Nations:

- Area C Advisory Planning Commission;
- Interior Health Authority;
- Ministry of Transportation and Infrastructure;
- Ministry of Environment;
- Ministry of Finance;
- Ministry of Forests, Lands, Natural Resource Operations and Rural Development – Lands Branch;
- Ministry of Forests, Lands, Natural Resource Operations and Rural Development – Water Rights Branch;
- Ministry of Forests, Lands, Natural Resource Operations and Rural Development – Archaeology Branch;
- CSRD Operations Management;
- CSRD Financial Services Department; and,
- All relevant First Nations.

SHORT SUMMARY:

The owner of the subject property at 2009 Eagle Bay Road has applied for an OCP/Rezoning Amendment to allow a Commercial use of the property. The owner would like to operate the existing single family dwelling on the lakeshore portion of the subject property as a weekly vacation rental and to utilise the area upland of Eagle Bay Road for a printing and retail sales shop, boat storage and for a Recreational vehicle and a Park Model.

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

BACKGROUND:**APPLICANT:**

Tim and Tracy Thompson

ELECTORAL AREA:

C

LEGAL DESCRIPTION:

Amended Lot 24 (C32100F), Section 20, Township 22, Range 10, West of the 6th Meridian, Kamloops Division, Yale District, Plan 6612

CIVIC ADDRESS:

2009 Eagle Bay Road

SURROUNDING LAND USE PATTERN:

North = Single Family Dwellings

South = Finz Resort – Restaurant/Pub, Convenience Store, Campground, Marina

East = Crown Land

West = Shuswap Lake

CURRENT USE:

Single family dwelling, yurt, Accessory Buildings, Recreational Vehicles

PARCEL SIZE:

0.89 ha (2.2 ac)

DESIGNATION:

RR2 – Rural Residential 2

PROPOSED DESIGNATION:

RC – Resort Commercial

ZONE:

RR1 – Rural Residential 1 (0.4 ha)

PROPOSED ZONE:

RR1 – Rural Residential 1 (0.4 ha) – Special Regulation

POLICY:**Electoral Area C Official Community Plan Bylaw No. 725****2.1 Water Quality of Shuswap Lake**

Shuswap Lake remains a relatively healthy aquatic environment. However, as the amount of development around the Lake intensifies, it becomes more susceptible to human contamination. Most properties have on-site septic systems. In proper conditions, these systems can adequately dispose of

sewage; however when inadequate conditions exist, such as failed or saturated tile fields, it can lead to sewage leaching into groundwater or the Lake, causing serious contamination.

The mountains surrounding Shuswap Lake are formed of granite that results in a very low input of nutrients. Historically, Shuswap Lake has been very clear, with a high oxygen content owing to the low amount of organic matter. However, as a result of agricultural and human waste entering the groundwater, and the failure of some community sewer systems that discharge into the Lake, the nutrient levels have been increasing leading to unsightly and potentially hazardous situations. E. Coli has been detected in increasing concentrations in groundwater and levels of chloride, nitrates and sulphate have risen along the foreshore between Sorrento and Blind Bay. With clear evidence of deterioration of the Lake, the CSRD has renewed efforts towards sustainable, acceptable liquid waste management for the South Shuswap.

2.1.1 Objectives

- .1 To protect the water quality of Shuswap Lake and its watershed.
- .2 To maintain healthy aquatic and groundwater environments and protect people from contaminated water.

2.1.2 Policies

- .1 Regardless of the level or type of treatment, the discharge of liquid waste (human, agricultural, industrial) into Shuswap Lake, White Lake and other natural waterbodies is unacceptable. In the event that a sewer system is available, properties within the service area will be required to connect to the system.
- .2 Any new commercial, industrial, and institutional development must connect to a community sewage system. Existing residential development must connect to a community sewage system, when capacity is available.

2.3 Shoreline Environment

2.3.2 Policies

.2 Land owners must not alter the natural habitat and shoreline processes unless specifically authorized. The placement of fill and the dredging of aquatic land are not generally acceptable.

The Regional District will:

.8 Advise and expect property owners to replace older, on-site sewage systems with newer technology to prevent potential contamination of the shoreline;

2.4 Fish and Aquatic Habitat

Some of the most sensitive fish and aquatic habitats are in close proximity to the shoreline. Human activity along the shoreline can have a substantial impact on the health of aquatic habitats.

2.4.1 Objective

- .1 To identify significant fish and aquatic habitat, including spawning habitat and protect these areas from human encroachment.

2.4.2 Policies

The Regional District will:

- .1 Implement the Riparian Areas Regulation guidelines to help protect fish and aquatic habitats.

3.3 Secondary Settlement Areas

3.3.1 Objective

- .1 To allow for predominantly residential development and some neighbourhood commercial development within Blind Bay, Eagle Bay, Sunnybrae and White Lake.

3.3.2 Policies

- .1 This designation applies to areas within the Blind Bay, Eagle Bay, Sunnybrae and White Lake Secondary Settlement Area boundaries, as outlined on Schedules B and C.

Permitted land uses within the Secondary Settlement Areas include: residential, neighbourhood commercial uses, recreational residential, community and health-related services, institutional uses, recreation, arts and cultural activities.

3.4 Residential

3.4.1 Policies

- .1 New residential development will be directed to the Village Centre and Secondary Settlement Areas identified on Schedules B and C. Outside these areas, residential development is discouraged unless co-located with an agricultural use.
- .2 Residential development is subject to the following land use designations, housing forms and maximum densities:

Land Use Designation	Housing Form	Maximum Density
Medium Density (MD)	Detached	5 units/ac (1 unit/0.2 ac) 12 units/ha (1 unit/0.08 ha)
	Semi-detached	8 units/ac (1 unit/0.13 ac) 20 units/ha (1 unit/0.05 ha)
	Townhouse	12 units/ac (1 unit/0.13 ac) 30 units/ha (1 unit/0.03 ha)
Neighbourhood Residential (NR)	Detached, Semi-detached	2 units per 1 acre (1 unit/0.2 ha)
Country Residential (CR)	Detached, Semi-detached	1 unit per 1 acre (0.4 ha)
Rural Residential (RR)	Detached, Semi-detached	1 unit per 2.5 acres (1 ha)
Rural Residential 2 (RR2)	Detached, Semi-detached	1 unit per 5 acres (2 ha)
Small Holdings (SH)	Detached, Semi-detached	1 unit per 10 acres (4 ha)
Medium Holdings (MH)	Detached, Semi-detached	1 unit per 20 acres (8 ha)
Large Holdings (LH)	Detached, Semi-detached	1 unit per 25 acres (10 ha)
Rural Holdings (RH)	Detached, Semi-detached	1 unit per 148 acres (60 ha)

- .3 Cluster forms of development are encouraged within the Sorrento Village Centre and Secondary Settlement Areas to reduce the amount of land affected by residential growth when the permitted number of units is clustered on part of the site, and the remaining area is protected in a natural state. Where cluster developments are located near natural features, such as waterbodies, the cluster development should be directed away from the natural features. Areas near the features should be protected common or public areas.

3.8 Commercial

3.8.1 Objective

- .1 To recognize existing commercial uses and provide for future commercial opportunities within the Secondary Settlement Areas.

3.8.2 Policies

- .1 Commercial development that is incompatible with the community, or would have unmitigated negative impacts on the environment, is not acceptable anywhere in the South Shuswap.
- .2 Large scale commercial development is not acceptable in the Secondary Settlement Areas or rural areas of the South Shuswap. Such development is directed to the Village Centre.
- .3 The Village Centre (VC) designation encompasses a broad range of commercial uses, including retail, food services, offices, business and personal services, community and health-related services, public and institutional uses, recreation, arts and cultural activities, highway commercial uses, personal, professional and financial services.
- .4 Neighbourhood Commercial (NC) is acceptable in Secondary Settlement Areas, allowing a limited range of retail, and personal, professional and community services that meet the daily needs of local residents. Housing above grade level commercial is also acceptable.
- .5 Existing Commercial (C), Tourist Commercial (TC) and Resort Commercial (RC) land use designations are recognized on Schedules B and C. New Commercial (C), Tourist Commercial (TC) and Resort Commercial (RC) may be considered in the Secondary Settlement Areas through individual redesignation and rezoning applications.
- .6 Existing Waterfront Commercial (WC) developments are recognized on the Schedules B and C. New Waterfront Commercial (WC) developments are not supported.
- .7 Small-scale Highway Commercial (HC) which caters to the travelling public, is acceptable along the Trans-Canada Highway, but not between the Village Centres.
- .8 Multi-unit residential development is encouraged to locate near major commercial developments within the Sorrento Village Centre, in order to help create a more walkable community and to provide a population base to support businesses.

- .9 All new redesignation and rezoning applications for commercial uses which would require additional sewer or water capacity and which are located in proximity to a community sewer system and a community water system must connect to that system.

South Shuswap Zoning Bylaw No. 701

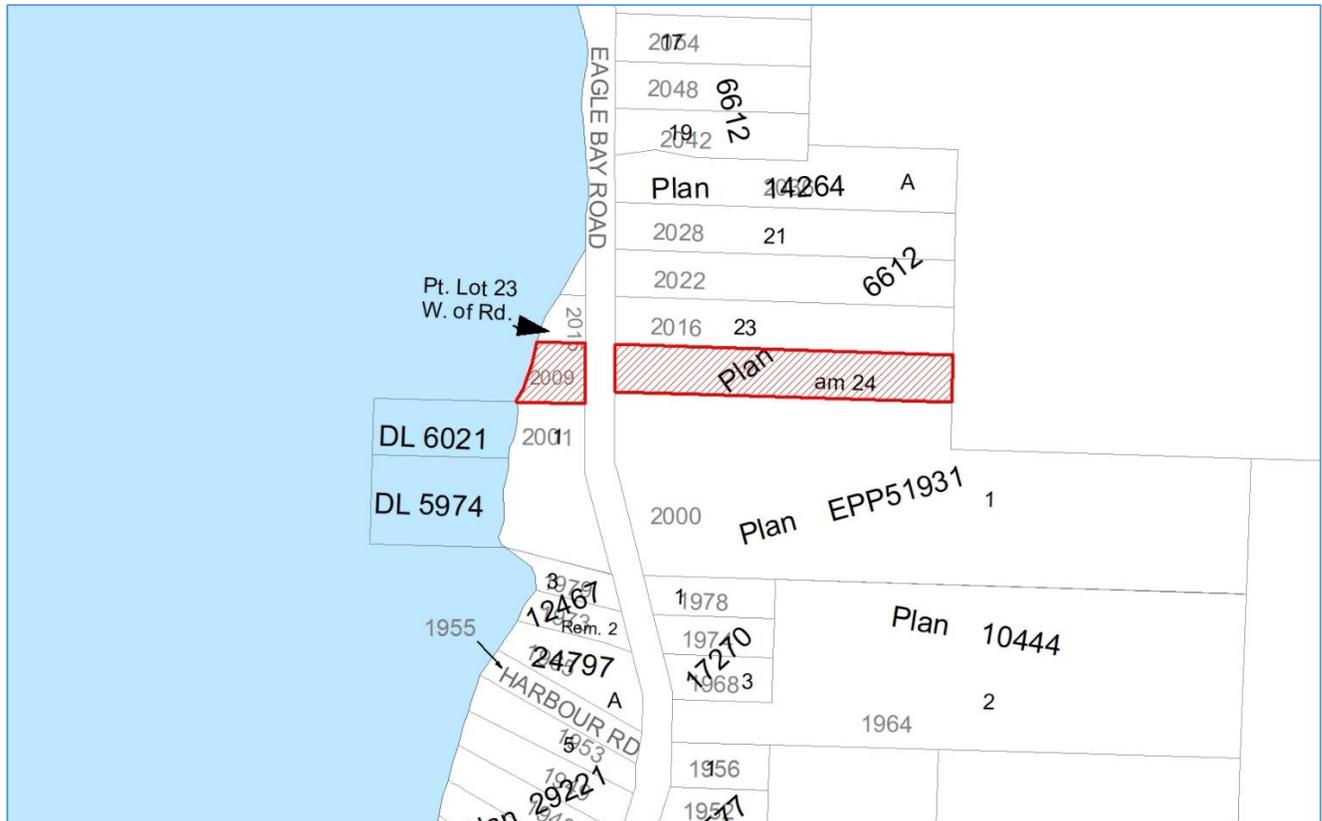
The current RR1 zone allows permitted uses of a single family dwelling, a cottage, bed and breakfast, home business and accessory use. Currently, no special regulations apply to the subject property. The owner of the property has attempted to categorize his weekly vacation rental use of the single family dwelling on the lakeshore portion of the subject property as a Bed and Breakfast operation, but is renting out the entire building without maintaining it as a single family dwelling. Similarly he categorizes his graphic business as a home business. The property is also used for boat storage and there is a recreational vehicle, as well as a Park Model that seem to be used for residential purposes. The RR1 zone currently includes 50 site specific regulations allowing a variety of uses and densities within the RR1 zone on specific properties.

Proposed Amendments Bylaw No. 701

Staff are proposing the following additional specific regulation to apply to the subject property only:

7.3.51 This special regulation applies to Amended Lot 24 (C32100F), Section 20, Township 22, Range 10, West of the 6th Meridian, Kamloops Division, Yale District, Plan 6612, (PID: 008-586-144), which property is shown hatched on the map below.

- .1 Notwithstanding Section 7.1, the permitted use on the property includes weekly vacation rentals of the existing single family dwelling only, a craft and gift shop, a campground consisting of one (1) recreational vehicle, one (1) park model for residential or vacation rental purposes, and boat storage.



FINANCIAL:

The rezoning is the result of bylaw enforcement action. If the Board does not adopt the proposed amending bylaw, the Board may then wish to direct staff to seek a legal opinion regarding possible court action. Costs for the legal opinion and possible court action, although partially recoverable through Court, could nonetheless be substantial. Staff involvement in legal action is not recoverable.

KEY ISSUES/CONCEPTS:

Bylaw No. 701-32

Bylaw No. 701-32 was denied by the Board at their July 21, 2005 regular meeting. The application was to rezone the property to C-6 Waterfront Commercial in order to support a Marina, 7 commercial lodging units, an office building, retail sales, a single family dwelling and accessory buildings. The Marina proposed a total of 20 berths, 8 of which were to be reserved for houseboats. The Board denied the rezoning because of concerns that another waterfront commercial development was not appropriate for Blind Bay and would negatively impact Blind Bay water quality and quality of life. More particularly the potential for houseboat rentals occurring on the property concerned the Board.

DP 725-26

A Lakes 100 m /Riparian Area Regulation Development Permit was issued to the owner of the subject property on April 18, 2017 to replace an existing Type I septic system on the subject property. The previous septic system on the property had failed. The septic system was designed to support a 3 bedroom residence on the site only. The report provided on the system by Chad Meier, P.Eng. of

Clartech Consulting Ltd. includes a recommendation that facilities such as additional bedrooms or guest accommodations not be added to the system, such that anticipated flows do not exceed 1,341 L/day.

RAR Issues

As part of DP 725-26, a Qualified Environmental Professional reviewed the property. Carly Blashyn, RPBio., QEP, of Forsite Forest Management Specialists reviewed the site and concluded that a RAR Assessment is not applicable where construction has already occurred and the replacement septic infrastructure is in the same location as the former infrastructure. The QEP advised that the proposed works would not constitute a Harmful Alteration, Disruption or Destruction (HADD) of fish habitat as there was little to no fish habitat present due to previous development activities on the site.

The Riparian Areas Regulation Resource Specialist with the Ministry of Forests, Lands, Natural Resource Operations and Rural Development advised CSRD staff that it would be acceptable for the CSRD to exempt the proposed works from RAR. Of note is the official's assertion that RAR standards are simply not applicable where the review for RAR compliance is being undertaken retroactive to site development.

Current Vacation Rental Use

The property is currently advertised as a vacation rental on VRBO (<https://www.vrbo.com/711081>). It is advertised as a 1,900 ft² home with 4 bedrooms. The RR1 zone does not permit commercial rental of a single family dwelling to the travelling public.

Other Current and Proposed Uses

The property owner currently operates a graphics business where he transfers photographic images onto canvas. The owner would like to be able to operate this business as a gallery/studio type business on the property. The property is also used for boat storage and there is a recreational vehicle, as well as a Park Model that seem to be used for residential purposes, but may also be vacation rentals.

The current RR1 zone does not permit a gallery/studio business operation, although if it is run as a home business, in accordance with the general regulations in the Bylaw, it could be run under the current zoning. Boat storage for commercial purposes and vacation rental of the RVs and a campground are not permitted uses.

The proposed rezoning amendment does not, as written, place restrictions on the area of or amount of boats allowed to be stored on the site. Staff would need to obtain more information from the owner about this use to suggest amendments to the proposed bylaw at second reading to button this down more firmly.

Also, staff would be concerned about whether visual screening between the boat storage and neighbouring residential property would be required, depending on the extent of boat storage allowed on the property.

Sewerage System

The replacement sewerage system for the single family dwelling was authorized by a filing with the Interior Health Authority (IHA). Authorization for construction was given in April, 2015. The filing indicates that the system was designed for a 3 bedroom single family dwelling only at a flow of 1,341 L/day.

There are currently a Yurt, a Park Model and a Recreational Vehicle on the subject property east of Eagle Bay Road. The RV units both have effluent pipes leading underground, and the property owner has previously provided the information to staff in relation to an attempt to subdivide the lakeshore

portion of the property from the remainder, that effluent from these units is treated and dispersed to ground on the neighbouring lot to the South (Finz Resort). Although no documentation has been provided to staff regarding any agreements with the neighbouring property owner, or whether that system's approval from IHA includes these units. Staff are concerned that these units, or the yurt may be connected to the existing septic system, overloading its design potential. As the home appears to be a 4 bedroom home, rather than a 3 bedroom home as indicated in the IHA construction permit filing, this is an even greater concern.

Staff are unwilling to recommend that the Board consider second reading of the Bylaws until such time as the owner has supplied information on how all commercial uses proposed on the property are proposed to be serviced on the site.

Easement KW38851

An easement was registered against the title of the subject property in 2004. The easement is described in reference Plan KAP75331, which has been included in the Maps and Plans attachment with this report. The easement reserves an area consisting of 0.139 ha, being a strip 15.24 m wide extending from Eagle Bay Road some 91.44 m deep into the property on its northern side.

The easement protects this area for the owner of the property to the north to install a septic tank and drain field and was entered into by a previous owner of the subject property.. The easement restricts the subject property owner from constructing any buildings structures or foundations or plant any growth on the easement area. The yurt and accessory buildings are currently located in whole or in part on the easement area.

The easement is between the 2 property owners, and the CSRD has no involvement. Rather, it would be a matter for Interior Health Authority if structures and uses are taking place on an area used for septic dispersal fields. OCP Bylaw No. 725 requires issuance of a Lakes 100 m Development Permit for works involving installation or repair of a septic system within 100 m of Shuswap Lake.

Water Supply

Information obtained from DP 725-26 indicates that drinking water for the site is obtained by an intake situated 60 m out from the property in Shuswap Lake. At the time of issuance of the Development Permit, it was unknown whether the owner had obtained the necessary license from the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (MFLNRORD) – Water Rights Branch for this water source. Staff are unaware if the Owner followed through on this recommendation.

Use of the subject property for commercial purposes, as proposed in this bylaw, will require that any license granted by the Province reflect the proposed use(s). Also, because the proposed uses are commercial in nature a permit to operate a water supply system for this purpose will need to be obtained by the property owner from the Interior Health Authority (IHA).

Staff are unwilling to recommend that the Board consider second reading of the Bylaws until such time as the owner has supplied information on how all commercial uses on the property are proposed to be serviced.

Ministry of Transportation and Infrastructure – Commercial Access Permit Requirement

As the property is proposing to transition from residential use to commercial use, the Owner will need to apply for a commercial access permit from MoT. In order for the permit to be issued, the owner will be required to meet MoT off-street parking requirements for the various commercial uses proposed.

Bylaw No. 701 – Parking Requirements

In addition to meeting the conditions of the MoT as noted above, the owner will be required to provide information indicating that the site development complies with Parking Requirements within Bylaw No. 701 for all of the proposed new commercial uses. Such information would be required prior to second reading of the Bylaws.

Foreshore Development

Bylaw Enforcement staff noted that a dock had been constructed into Blind Bay for this property. It was noted to the Property Owner that the dock appeared to be in excess of the 24 m² allowed in Lakes Zoning Bylaw No. 900 in the FR1 zone. A website advertising the vacation rental in the single family dwelling indicates that the dock is 130' long. Such a dock may require a specific permission from the Province.

This dock may have been installed prior to the adoption of Lakes Zoning Bylaw No. 900 in 2012, and may therefore be legally non-conforming. However, the owner has not supplied staff with information in the form of a specific permission from the Province or other evidence that the dock was in place prior to August 2012. Staff would require such information before second reading of the Bylaws.

In addition there appear to have been retaining walls placed on the foreshore area. Staff are unaware of any approvals granted by the Province for this construction.

Floodplain Issues

The single family dwelling located on the lakeshore portion of the subject property appears not to comply with Bylaw No. 701 floodplain setback requirements. Staff have no information regarding compliance with the flood construction level. Should the single family dwelling not comply with the floodplain specifications, staff would not be able to recommend that the Board authorise any change in use, unless the Owner can fulfill the requirements of having a Qualified Professional provide a report that the building is safe to use for the proposed vacation rental use.

SUMMARY:

The owner has applied for commercial zoning for the subject property. Staff reviewing the application do not feel that Bylaw No. 701 has a commercial zone that necessarily fits what the owner is requesting in terms of uses, without allowing a wider variety of uses that would perhaps be inappropriate for the site given the many unanswered questions regarding site servicing, and more simply without access to community sewer and water services. Rather, staff have prepared the zoning amendment bylaw to include some additional permitted uses within the RR1 zone which would be specific to the subject property only.

In order to support the commercial uses on the subject property, an OCP amendment Bylaw is also required. The proposed amendment would re-designate the property to a Resort Commercial designation outside of the Secondary Settlement Area.

Staff are recommending that the Board consider the Bylaws for first reading, and consider directing staff to forward the bylaw and background information to referral agencies and First Nations. In consideration of Staff's reluctance to recommend proceeding further without significant information to support the proposal, staff will advise the applicant of the shortcomings and not forward the Bylaws for further consideration until this information has been provided.

IMPLEMENTATION:

As per CSRD Policy No. P-18 regarding Consultation Processes-Bylaws, staff recommends the simple consultation process. Neighbouring property owners will first become aware of the application for zoning amendments when a notice of development sign is posted on the property.

Referral Process

The following list of referral agencies is recommended:

- Area C Advisory Planning Commission;
- Interior Health Authority;
- Ministry of Transportation and Infrastructure;
- Ministry of Environment;
- Ministry of Finance;
- Ministry of Forests, Lands, Natural Resource Operations and Rural Development – Lands Branch;
- Ministry of Forests, Lands, Natural Resource Operations and Rural Development – Water Rights Branch;
- Ministry of Forests, Lands, Natural Resource Operations and Rural Development – Archaeology Branch;
- CSRD Operations Management;
- CSRD Financial Services Department; and,
- All relevant First Nations
 - Adams Lake Indian Band
 - Little Shuswap Indian Band
 - Neskonlith Indian Band

COMMUNICATIONS:

If the bylaw is given first reading it will be forwarded to the referral agencies. Agency comments will be provided with a future Board report. The applicant will be required to post a Notice of Development sign on the subject property in accordance with Development Services Procedures Bylaw No. 4001.

DESIRED OUTCOMES:

That the Board endorse staff recommendations.

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. Electoral Area C Official Community Plan Bylaw No. 725.
2. South Shuswap Zoning Bylaw No. 701.
3. DP 725-26 Permit and Report
4. BL 701-32 Report

Report Approval Details

Document Title:	2018-02-15_Board_DS_BL725-11_BL701-85_Thompson.docx
Attachments:	- BL725-11_First.pdf - BL701-85_First.pdf - Maps_Plans_BL725-11_BL701-85.pdf
Final Approval Date:	Feb 1, 2018

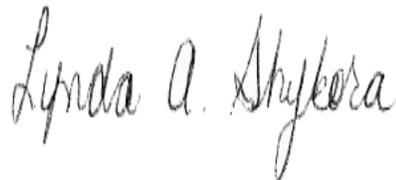
This report and all of its attachments were approved and signed as outlined below:



Corey Paiement - Jan 30, 2018 - 4:40 PM



Gerald Christie - Feb 1, 2018 - 9:22 AM



Lynda Shykora - Feb 1, 2018 - 2:34 PM



Charles Hamilton - Feb 1, 2018 - 3:16 PM