



BOARD REPORT

TO:

Chair and Directors

File No: DVP641-31 PL20170000181
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SUBJECT:

Electoral Area E: Development Variance Permit 641-31

DESCRIPTION:

Report from Christine LeFloch, Development Services Assistant, dated March 5, 2018.
5597 Avoca Road, Perry River

**RECOMMENDATION
#1:**

THAT: in accordance with Section 498 of the Local Government Act Development Variance Permit No. 641-31 for Lot 1, Section 31, Township 23, Range 5, West of the 6th Meridian, Kamloops Division Yale District, Plan 7220, Except Plan NEP62093 and EPP37414, varying Subdivision Servicing Bylaw No. 641 as follows:

1. Varying Section 8.3(a) for the Proposed Remainder Lot by waiving the requirement that a surface water source proposed for an Independent On-site Water System must be surface water from an intake that has unrecorded water and is on the List of Eligible Sources, shown in Schedule D of Bylaw No. 641, only for the proposed Remainder as shown on the proposed plan of subdivision; and

2. Varying Section 8.5 for the Proposed Remainder Lot by waiving the requirement that all components, including the intake, for an Independent On-Site Water System must be located on the same parcel as the residential dwelling unit in respect of which they are required or located within easements or rights of way meeting the requirements of Section 9.11 of Subdivision Servicing Bylaw No. 641;

for a proposed subdivision under application No. 2016-03274E;

be approved this 29th day of March, 2018;

AND THAT: issuance of the permit be subject to the following conditions:

1. Registration of an easement over the Proposed Remainder in favour of Lot 3, Plan NEP62093 to allow access for maintenance of the water line servicing the proponents' residence property; and
2. Registration of a suitably worded Section 219 covenant on the title of the Proposed Remainder to advise future property owners regarding the shared responsibility for maintenance of the intake and water line.

SHORT SUMMARY:

The applicant has applied for a subdivision to create one (1) new lot plus remainder (File: 2016-03274E). These lots are 4.04 ha and 28.95 ha in size. The Proposed Remainder is proposed to be serviced via a

water license on Sweet Creek, however this source of water is not included on Schedule D - List of Eligible Sources of Subdivision Servicing Bylaw No. 641 and is not located on the subject parcel. The applicant has applied for a Development Variance Permit (DVP) to allow (1) the use of an off-site surface water source that is not on the List of Eligible Sources as the source of water to service the Remainder parcel and (2) to vary the requirement that all components, including the intake, for an Independent On-Site Water System must be located on the same parcel as the residential dwelling unit in respect of which they are required or located within easements or rights of way meeting the requirements of Bylaw No. 641.

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

BACKGROUND:

REGISTERED OWNERS:

Rudy and Louise Bowolin

APPLICANTS:

Rudy and Louise Bowolin

ELECTORAL AREA:

E (Perry River)

LEGAL DESCRIPTION:

Lot 1, Section 31, Township 23, Range 5, West of the 6th Meridian, Kamloops Division Yale District, Plan 7220, Except Plan NEP62093 and EPP37414

PID:

013-984-951

CIVIC ADDRESS:

5597 Avoca Road

SURROUNDING LAND USE PATTERN:

North: Crown

South: rural residential, Eagle River, Crown

East: Crown, rural and resource

West: gravel pit, Perry River, North Fork Wild Park

CURRENT USE:

gravel pit, sawmill, rural resource

PROPOSED USE:

2 lot subdivision to create Proposed Lot 1 (a separate title for the area occupied by the sawmill), DVP is required for the Proposed Remainder Lot

PARCEL SIZE:

32.86 Ha

PROPOSED PARCEL SIZES:

Proposed Lot 1: ~4.04 Ha

Proposed Remainder Lot: ~28.95 Ha

OCP DESIGNATION:

N/A

ZONE:

N/A

AGRICULTURAL LAND RESERVE:

0%

SITE COMMENTS:

The subject property is situated in the Perry River area of Electoral Area E. The proposed new lot will be accessed from the East Perry Forest Service Road.

The property is divided by Avoca Road with the larger portion located north of the road and a smaller portion located on the south side of the road. Slopes on the property are mainly gentle, becoming steeper toward the northerly portions of the lot. The portion of the property north of Avoca Road is primarily forested with a few cleared areas. The portion of the property south of Avoca Road is primarily wetland/pond. Current development on the property consists of the Rock Empire gravel pit located in the southwest corner of the portion of the property north of Avoca Road. An area of land north of the gravel pit is leased to a company that has established a sawmill operation there. There are no dwellings on either proposed parcel.

PROPOSAL:

The owners propose to subdivide the subject property to create a separate title for the 4.04 ha area currently being leased to the sawmill company. Proposed Lot 1 will be serviced by a new well. The remainder parcel is proposed to be serviced by a surface water source known as Sweet Creek. Variances are required to allow the use of a surface water source that is not on the List of Eligible Sources and which is not located on the parcel for which it is required or located within easements or rights of way meeting the requirements of Bylaw No. 641.

POLICY:

This property is in an area that is not subject to an Official Community Plan or a Zoning Bylaw.

Subdivision Servicing Bylaw No. 641Independent On-Site Water System

8.2 Where no Water Supply System is available, all new Parcels created by subdivision must be provided with an Independent On-site Water System.

8.3 The water source for an Independent On-site Water System must be:

- a) 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 for subdivision.
- b) Groundwater from a Drilled Well; or
- c) Groundwater from a Shallow Well.

8.5 All components, including the intake, for Independent On-site Water System using surface water sources must be:

- a) located on the same Parcel as the residential Dwelling Unit in respect of which they are required; or
- b) located within easements or rights of way meeting the requirements of Section 9.11, provided that the delivery system from the surface water source to the Dwelling Unit is only for a single residential Dwelling Unit.

8.8 Each Independent On-site Water System must be capable of providing, year round, at least 2,275 litres of Potable Water per day for each Parcel that includes, or can be reasonably expected in future to include, a residential Dwelling Unit.

8.9 Each Independent On-site Water System must meet each of the water quantity and water quality requirements for the relevant subdivision type set out in Table 1.

Professional Directed Approach (Qualified Professional)

8.14 The Owner shall engage a Qualified Professional to manage all aspects of developing an Independent On-site Water System (this approach is called the "Professional Directed Approach") if any of the following conditions apply:

- f) the proposed water source is surface water.

FINANCIAL:

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

KEY ISSUES/CONCEPTS:

The owners applied for a 2 lot subdivision of the subject property in 2016. They are proposing to use a drilled well for Proposed Lot 1 and would like to continue to use an existing water license for the Proposed Remainder parcel.

The applicant is the holder of water license No. C38198 which allows the use of water from Sweet Creek. This license has been in place since 1971. Sweet Creek is located on Crown Land adjacent to the Remainder parcel. The license currently allocates the use of water from Sweet Creek to service the subject property for irrigation purposes, as well as Lot 3, Plan NEP62093 which contains the owner's residence. The license allows them to use 506,900 L per day for irrigation between April 1 and September 30 and the domestic portion of the license is for 3785 L per day for the full year.

As there is no irrigation use occurring on the property, the owners have applied to the Water Licensing Branch to have the irrigation portion of the license reallocated for industrial use for fire suppression and washing gravel at the existing quarry on the proposed Remainder. They would also retain the domestic allocation for their separate residential property. A copy of the application to the Water Licensing Branch

has been provided to the CSRD as part of this application. Staff note that the application for reallocation does not include an allocation for domestic use on the Proposed Remainder. As noted above there are no dwellings on the subject property and there are no dwellings intended to be constructed on the subject property at this time. Discussions with staff from the Water Licensing Branch indicate that they would not allocate domestic water until needed for a residence. As the amount of water allocated to the proposed parcel exceeds bylaw requirements staff do not have concerns regarding allocation for domestic use when required. A new license will not be issued until the subdivision is approved and new legal descriptions are finalized.

Section 8.3 of Bylaw No. 641 requires that a surface water source for an Independent On-site Water System "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 for subdivision". Section 8.5 of Bylaw No. 641 states that "all components, including the intake for an Independent On-site Water System using surface water sources must be located on the same parcel as the residential Dwelling Unit in respect of which they are required, or within easements or rights of way meeting the requirements of Section 9.11 of Bylaw No. 641". The applicants are requesting a variance to this provision. As Sweet Creek is located on Crown land, registration of an easement or right of way is not possible.

The owners have provided the results of potability testing along with a Water Licensing and Water Quality Assessment from Ryan Rhodes, P. Geo of Western Water Associates Ltd. The report indicates that the water exceeds health based Maximum Allowable Concentrations with respect to the Canadian Drinking Water Quality Guidelines for total coliform and that appropriate treatment is recommended. The report also recommends that the water license application which currently proposes that the allocation for the Remainder lot be updated to include an allocation of 2275 L/day for domestic use. As noted above, staff from FLNRO have noted that they will not allocate water for domestic use until it is required.

Finally, as the water intake currently serves both the subject property and the owner's residence which is located on a separate parcel, Mr. Rhodes recommends a Joint Works Agreement as per the provisions of the Water Sustainability Act should the ownership of one of the properties change in the future. Joint Works Agreements are an informal agreement between owners that is not registered on title. They are sometimes used by the Water Management Branch, however the Branch has not required one in this case. Staff feel that this type of agreement may not be effective in communicating information to future property owners as they are not registered on title.

Alternatively, staff recommend that an easement should be registered over the Proposed Remainder in favour of Lot 3, Plan NEP62093 (Proponents' Residence Property) to protect the water line servicing Lot 3, and that this should be completed as a condition of issuance of the Development Variance Permit. Staff also recommend that a covenant be registered on the title of the Remainder parcel to alert future property owners to the source of water for the property along with the shared intake and lines. The owners may wish to have this registered over Lot 3, Plan NEP62093 as well for the same reasons. The covenant would inform future owners that maintenance of the intake and water lines is the shared responsibility of both property owners using the intake and any treatment to improve water quality is the responsibility of each property owner.

SUMMARY:

The property owners have applied for a Development Variance Permit to waive the requirement that the surface water source for one of the lots in the proposed subdivision must be listed in Schedule D – List of Eligible Sources, and that all components of the Independent On-site Water System, including

the intake must be located on the same parcel as the residential dwelling unit for which they are required, or within easements or statutory rights of way meeting the requirements of Section 9.11 of Bylaw No. 641.

Staff are recommending approval of the Development Variance Permit subject to conditions for the following reasons:

- the owners have a Ministry approved water license for the proposed surface water source, and the Ministry has confirmed that reallocation of the license for the new uses on the Proposed Remainder Lot will occur following completion of the subdivision;
- the owners have provided results of potability testing completed by a qualified professional indicating that with appropriate treatment the water will meet Canadian Drinking Water Guidelines for potability;
- the intake and a portion of the line for the proposed water source are located on Crown land, therefore easements and statutory rights of way cannot be registered on title; and
- an easement will be required to be registered on title of the Proposed Remainder Lot to allow access to the Proposed Remainder Lot for maintenance purposes for the owners of Lot 3, Plan NEP62093; and
- a covenant will be required to be registered on title of the Proposed Remainder Lot to alert future property owners regarding the shared intake and water line along with the shared responsibility for maintenance.

IMPLEMENTATION:

If the Development Variance Permit is approved, the owners will be required to register a suitably worded Section 219 water quality covenant on the title of the Proposed Remainder Lot, and will also be required to register an access easement on the titles of the Proposed Remainder Lot and Lot 3, Plan NEP62093 for maintenance of the water line. It is suggested that this easement be a minimum of 6 m wide in accordance with the standards outlined in Section 9.11 of Bylaw No. 641. Alternately, a blanket easement would also be acceptable. Once these conditions are fulfilled a Notice of Permit will be sent to the Land Titles and Survey Authority to be registered on title.

COMMUNICATIONS:

Notice of the proposed Development Variance Permit was sent to all owners of property lying within 100 m of the subject property in accordance with Section 499 of the Local Government Act advising of the opportunity to comment on the proposed variances.

At this time there is no Advisory Planning Commission for Electoral Area E.

DESIRED OUTCOMES:

That the Board support the staff recommendation to approve issuance of DVP641-31 subject to conditions.

BOARD'S OPTIONS:

1. *Endorse the Recommendation.*
2. *Deny the Recommendation.*

3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

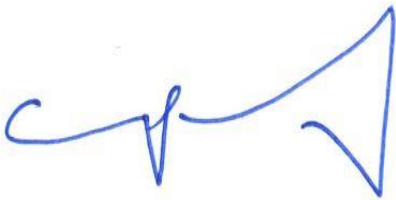
LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Subdivision Servicing Bylaw No. 641

Report Approval Details

Document Title:	2018-03-29_Board_DS_DVP641-31_Bowolin.docx
Attachments:	- DVP641-31.pdf - WWAL_SurfaceWaterLetter_2017-12-18_DVP641-31.pdf - Maps_Plans_Photos_DVP641-31.pdf
Final Approval Date:	Mar 19, 2018

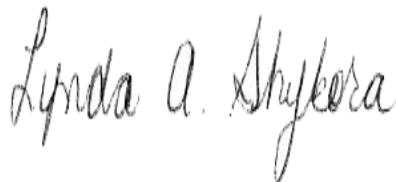
This report and all of its attachments were approved and signed as outlined below:



Corey Paiement - Mar 15, 2018 - 11:58 AM



Gerald Christie - Mar 15, 2018 - 5:57 PM



Lynda Shykora - Mar 19, 2018 - 12:14 PM



Charles Hamilton - Mar 19, 2018 - 1:19 PM