

BOARD REPORT

TO: Chair and Directors

File No: DVP2000-73
PL20180017

SUBJECT: Electoral Area E: Development Variance Permit No. 2000-73 (Landers)

DESCRIPTION: Report from Dan Passmore, Senior Planner, dated March 19, 2018.
#19 1249 Bernie Road, Annis Bay.

RECOMMENDATION: THAT: in accordance with Section 498 of the Local Government Act Development Variance Permit No. 2000-73 for Share 19 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 6th Meridian, Kamloops Division Yale District, varying Rural Sicamous Land Use Bylaw No. 2000 as follows:

1. Section 2.14(2)(b) Minimum interior side parcel line setback from the Present Natural Boundary of Shuswap Lake from 2.0 m to 0.02 m; and,
 2. Section 2.14(2)(b) Minimum interior side parcel boundary setback from the Canadian Pacific Railway Right-of-Way from 2.0 m to 1.62 m,
- for the re-constructed single family dwelling be approved for issuance this 19th day of April, 2018.

SHORT SUMMARY:

The applicant demolished an existing structure and re-constructed a new single family dwelling in its place on the subject property. The reconstructed single family was situated on the property too close to the Natural Boundary of Shuswap Lake and therefore does not comply with the interior side parcel boundary setback of 2.0 m, so the owner has applied to vary this setback from the Present Natural Boundary of Shuswap Lake and the Canadian Pacific Railway (CPR) Right-of-Way (RoW).

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

BACKGROUND:

REGISTERED OWNER:
Gary and Mary Landers

APPLICANT:
Browne Johnson Land Surveyors, c/o Joe Johnson

ELECTORAL AREA:

E

LEGAL DESCRIPTION:

Share 19 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 6th Meridian, Kamloops Division Yale District

PID:

001-832-786

CIVIC ADDRESS:

#19, 1249 Bernie Road

SURROUNDING LAND USE PATTERN:

North: Annis Bay of Shuswap Lake

South: CPR RoW

East: Cabins

West: Cabins

CURRENT USE:

Single Family Dwelling (Summer cabin)

DESIGNATION:

MD – Medium Density Residential

ZONE:

MSR - Multi-Single Family Residential Zone

POLICY:**Rural Sicamous Land Use Bylaw No. 2000 – OCP Policies****General Form and Character of Development**

The Medium Density Residential OCP designation is applied where it does not appear feasible to subdivide the land so that there is one single family dwelling per parcel. Determining feasibility will take into consideration the location of the single family dwellings on the parcel, the topography of the land, on-site sewage disposal, on site water supply and any other factors having a bearing on feasibility of subdividing the land.

Rural Sicamous Land Use Bylaw No. 2000 – Zoning

The subject property is zoned MSR - Multi-Single Family Residential Zone. The permitted uses in the R1 zone are single family dwelling; home business; place of religious worship; and accessory use.

Minimum Setback from:

Front parcel line: 4.5 m

Exterior side parcel line: 4.5 m

Interior side parcel line: 2 m

Rear parcel line: 4.5 m

Maximum height for:

Principal buildings and structures: 11.5 m

Accessory buildings: 6 m

The subject property does not currently front on a highway, and therefore the interior parcel line setback of 2.0 m applies to all property boundaries. The proposed development meets the permitted uses and regulations set out in the MSR zone.

Rural Sicamous Land Use Bylaw No. 2000 - Floodplain Specifications

Sections 2.3.4 (2) and (3) Bylaw No. 2000 establish the floodplain setbacks and flood construction levels. The owner has applied for an exemption to the floodplain setback requirements of Bylaw No. 2000, decreasing the floodplain setback from 15.0 metres from the mean annual high water mark of Shuswap Lake defined as 348.3 metres Geodetic Survey of Canada Datum, as follows;

1. 15.0 metres to 4.07 metres from the mean annual high water mark.

FINANCIAL:

The Development Variance Permit (DVP) application is the result of a bylaw enforcement action. If the Board does not issue the DVP, and the owner does not bring the property into compliance by removing the single family dwelling, 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:

Existing Site Development

The former cabin on the subject property was constructed straddling the property line and encroaching into Shuswap Lake. This cabin rested on masonry block foundations which were only marginally raised above the bed of Shuswap Lake and were sited partially within Shuswap Lake. The new cabin does not encroach into Shuswap Lake, but does not comply with the 15.0 metre floodplain setback. The applicant reconstructed the new cabin as close as 4.07 metres from the 348.3 m contour.

The applicant demolished the existing buildings, and received permission from the CPR to reroute the access road at the rear of his site, closer to the CPR RoW, to try to move the new cabin back further onto the site. It was while these works were ongoing that Bylaw Enforcement became aware of the works.

Exemption to Floodplain Setback Requirements

In support of the Owner's exemption application process, a floodplain assessment report was provided. The report, dated June 13, 2014, was completed by Jayme Franklin, P.Eng. of Franklin Engineering Ltd. In the report, Mr. Franklin advises that the former cinder block foundation was removed and the new structure is now supported, above the flood construction level, on pilings, which render the structure

safe from wave action. The Engineer advises that the new structure is safe to use for the intended purpose.

The Manager of Development Services has been delegated the authority to consider and approve floodplain exemptions.

Riparian Areas Regulations Development Permit Area

A RAAR report has been completed by Mr. Jeremy Ayotte, RPBio, dated March 10, 2014 and submitted to the Ministry of Environment.

The report notes that the Streamside Protection and Enhancement Area (SPEA) for Shuswap Lake in this area is 30.0 m and that the proposed works fall entirely within the SPEA. The report indicates that although the new building has been setback 4.0 m from the 348.3 m contour, the footprint has been increased 44 m², from 67 m² to 111 m².

The QEP recommends that he has followed the protocol by mitigating the further encroachment (44 m²) with a riparian re-vegetation area of 88 m². Further where 2 mature Douglas Fir trees were removed to make way for the development, he is recommending that 12 Douglas Fir trees be re-planted. Although a replanting plan has not been developed for the property, the QEP has advised that when it is completed it will be appended to the RAAR. The QEP has indicated that it is likely the plan would involve other areas of the shared interest development, as the Landers portion is too small to accommodate all of it.

The report indicates that should the measures outlined in the RAAR be followed a Harmful Alteration Disruption or Destruction of Fish Habitat (HADD) would not occur with regard to the proposed development.

The Manager of Development Services has been delegated the authority to consider and approve Riparian Areas Regulations Development Permits.

Development Variance Permit

This application proposes to vary the minimum interior side parcel boundary setback required from 2.0 m to 0.02 m from the Present Natural Boundary of Shuswap Lake and from 2.0 m to 1.62 m from the CPR RoW.

SUMMARY:

Development Services staff are recommending that Development Variance Permit No. 2000-73 be approved for issuance. Staff are recommending approval for the following reasons:

- The re-constructed home would comply with the setback from the legal boundary of the property, but due to the natural boundary of Shuswap Lake changing, as indicated on the Building Location Certificate prepared by a BC Land Surveyor, does not now comply; and,
- The re-constructed home setback from the CPR RoW is to an eave line, the structure itself other than the eave line would comply with the required setback.

IMPLEMENTATION:

If the Board approves the requested variance, the owner will be notified and notice of a Development Variance Permit will be registered on the title of the property. The Manager of Development Services will issue the exemption from the floodplain specifications.

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 comments regarding this application prior to the Board meeting.

DESIRED OUTCOMES:

That the Board endorse the staff recommendation.

BOARD'S OPTIONS:

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

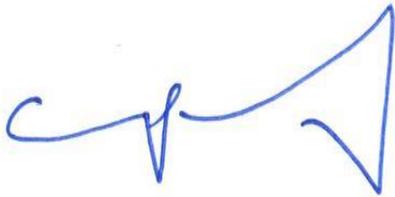
LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Rural Sicamous Land Use Bylaw No. 2000
2. RAAR by Mr. Jeremy Ayotte, RPBio, dated March 10, 2014.
3. Floodplain Assessment report, dated June 13, 2014 by Jayme Franklin, P.Eng. of Franklin Engineering Ltd.

Report Approval Details

Document Title:	2018-04-19_Board_DS_DVP2000-73_Landers.docx
Attachments:	- DVP_2000_73.pdf - Maps_Plans_Photos_DVP2000-73.pdf
Final Approval Date:	Apr 10, 2018

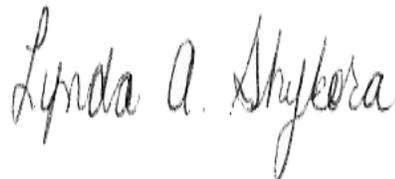
This report and all of its attachments were approved and signed as outlined below:



Corey Paiement - Apr 9, 2018 - 3:29 PM



Gerald Christie - Apr 9, 2018 - 3:36 PM



Lynda Shykora - Apr 9, 2018 - 4:09 PM

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

Charles Hamilton - Apr 10, 2018 - 8:21 AM