



BOARD REPORT

TO: Chair and Directors

File No: DVP 800-29
PL20180000025

SUBJECT: Electoral Area F: Development Variance Permit No. 800-29 (Huhn)

DESCRIPTION: Report from Candice Benner, Development Services Assistant, dated April 23, 2018.
6729 Magna Bay Drive, Magna Bay

RECOMMENDATION: THAT: in accordance with Section 498 of the Local Government Act, Development Variance Permit No. 800-29 for Lot 17, Section 19, Township 23, Range 9, W6M, KDYD, Plan 29300, varying Magna Bay Zoning Bylaw No. 800, as follows:

Section 5.4(2)(g) Maximum gross floor area of an accessory building from 55 sq. m. (592.02 sq. ft.) to 167.22 sq. m. (1800 sq. ft.) for each of the two new accessory buildings,

be approved for issuance this 17th day of May, 2018.

SHORT SUMMARY:

The subject property is located in Magna Bay of Electoral Area F. The owner has applied for an 'After the Fact' Development Variance Permit for two new accessory buildings located on the property. Each of the new accessory buildings has a gross floor area of 167.22 sq² which is larger in area than the maximum 55 m² area permitted for each building in the zoning bylaw.

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

BACKGROUND:

PROPERTY OWNER:
Richard Huhn

AGENT:
Brian Sweet

ELECTORAL AREA:
F

CIVIC ADDRESS:
6729 Magna Bay Drive

LEGAL DESCRIPTION:
Lot 17 Section19 Township 23 Range 9 W6M Kamloops Division Yale District Plan 29300

PID:
001-555-723

SIZE OF PROPERTY:
2.481 ha

DESIGNATION:
Rural Residential -RR

CURRENT ZONE:
Country Residential -CR

SURROUNDING LAND
USE PATTERN:
North: CR zone, vacant
South: CR zone, vacant
East: CR zone, Underwood Road, residential
West: R zone, vacant

CURRENT USE:
Single family dwelling, accessory use

PROPOSED USE:
Single family dwelling, home industry, and accessory use

SITE COMMENTS: There is currently a single family dwelling and detached garage located near the rear (north) of the property, the two new accessory buildings (subject of this DVP) are located near the front (south) of the property; there is a long driveway accessed from Magna Bay Drive that spans the length of the property. The accessory buildings are located in a densely treed area that act as a buffer to the adjacent Magna Bay Road to the south and Underwood Road and subsequently the nearest neighbouring single family dwelling to the east.

The parcel is surrounded by a mix of residential and vacant properties.

POLICY:

Electoral Area F Official Community Plan Bylaw No. 830

11.9 Rural Residential (RR)

Policy 1

The Rural Residential land use designation is established on Schedules B & C. Detached dwellings are acceptable within the Rural Residential designation, provided they comply with the requirements of the zoning bylaw.

Policy 2

The maximum density permitted in the Rural Residential designation is 1 unit per hectare (0.4 units per acre).

Policy 3

Residential development in rural areas will provide the Regional District with the appropriate technical information about on-site sewage disposal and water servicing.

Magna Bay Zoning Bylaw No. 800

1.0 Definitions

ACCESSORY BUILDING is a detached building or structure that is customarily incidental to, subordinate to and exclusively devoted to a principal use or a single family dwelling, is not used for human habitation and is used for an accessory use or where permitted, for a home business;

ACCESSORY USE is the use of land, buildings and structures that is customarily incidental to, subordinate to, and exclusively devoted to the principal use or a single family dwelling. An accessory use does not include human habitation;

GROSS FLOOR AREA is the total area of all floors in a building measured to the outside face of exterior walls. Where the context requires it, gross floor area is the total area of all floors in a portion of a building in a particular use, measured to the outside face of the walls of the area of the use.

HOME INDUSTRY is an occupation, profession or craft that is a use on the same parcel as a single family dwelling

General Regulations

3.7 ACCESSORY BUILDING An accessory building must be located on the same parcel as the principal use or single family dwelling and be used for an accessory use or a home business, provided a home business or accessory use is a permitted use in the zone where the accessory building is located.

3.8 ACCESSORY USE An accessory use must be located on the same parcel as the principal use or single family dwelling to which it relates.

3.15 HOME INDUSTRY

A home industry must comply with the following regulations:

- (a) a home industry must be on the same parcel as a single family dwelling;
- (b) a home industry is not permitted within a single family dwelling;
- (c) a home industry must be fully enclosed by a roof, walls and foundation within a building;
- (d) there must be no outside storage or operation of the home industry with the exception of required home industry off street parking spaces;
- (e) the maximum total gross floor area of all home industries on a parcel is 200 m² (2152.8 sq. ft.);
- (f) Where a home business and a home industry are permitted, the sum of the gross floor areas of both uses must not exceed the maximum gross floor area for home industry.
- (g) a home industry must be operated by a permanent resident of the single family dwelling to which the home industry relates;
- (h) a maximum of two people who are not residents of the single family dwelling to which the home industry relates may be on the parcel at any one time to assist a resident in the operation of the home industries on the parcel;

- (i) the area used for the display and sale of retail and wholesale goods on a parcel is limited to 20 percent of the floor area used for the home industry and must be auxiliary and incidental to the home industry;
- (j) One sign not exceeding one square metre (10.76 sq. ft.) may be located on a parcel for the purpose of advertising the home industries on that parcel;
- (k) a home industry does not include:
- (i) a bed and breakfast, boarding house or any similar kind of accommodation to the public;
 - (ii) vehicle or equipment repair or maintenance of any kind;
 - (iii) vehicle or equipment wrecking;
 - (iv) metal fabrication;
 - (v) a kennel;
 - (vi) a restaurant or similar use involving the serving of prepared food or drink; or
 - (vii) a sawmill.

5.4 Zone: Country Residential –CR

Permitted Uses:

- (a) Single family dwelling
- (b) Bed and Breakfast, permitted on a parcel 1 ha (2.47 ac.) or larger
- (c) Guest accommodation, permitted on a parcel 1 ha (2.47 ac.) or larger
- (d) Home business
- (e) Home industry, permitted on a parcel 4000 m² (0.99 ac.) or larger
- (f) Residential campsite
- (g) Standalone residential campsite
- (h) Accessory use

Regulations:

- (c) Maximum parcel coverage: 25 percent
- (e) Maximum height for:
- Principal buildings and structures: 11.5 m (37.73 ft.)
 - Accessory buildings: 6 m (19.69 ft.)
- (f) Minimum setback of a building containing a home industry from each parcel boundary: 10 m (32.81 ft.)
- Minimum setback for all other uses from:
- front parcel boundary 4.5 m (14.76 ft.)
 - interior side parcel boundary for an accessory building, 3 m (9.84 ft.)
for a principal building or structure, 4.5 m (14.76 ft.)
 - exterior side parcel boundary 4.5 m (14.76 ft.)
 - rear parcel boundary for an accessory building, 3 m (9.84 ft.)
for a principal building or structure, 6 m (19.69 ft.)
- (g) Maximum gross floor area of an accessory building: 55 m² (592.02 sq. ft.)

Development Variance Permit

The applicant is proposing to vary:

Section 5.4(2)(g) Maximum gross floor area of an accessory building from 55 sq. m. (592.02 sq. ft.) to 167.22 sq. m. (1800 sq. ft.) for each of the two new accessory buildings.

FINANCIAL:

This DVP application is the result of bylaw enforcement action. If the Board decides not to approve the proposed variances the CSRD would have to consider what action to take to correct the infractions as the two accessory buildings have already been constructed.

KEY ISSUES/CONCEPTS:

When in the area conducting inspections, the Building Inspector noted new construction on the subject property and informed the owner that the two new accessory buildings being constructed required a building permit. Upon receipt of the site plan, staff noted the gross floor area of the new accessory buildings are larger in area than what is permitted in the CR zone. The owner applied for a DVP to seek approval for the oversize accessory buildings. The accessory buildings are 5.18 m in height which is within the 6 m maximum height for accessory buildings in the zoning bylaw.

The owner has indicated that one of the new accessory buildings will be for personal storage use while the other is for storage for a home industry. The owner indicates that he will store mining equipment in one of the buildings. The maximum total gross floor area for home industry on a parcel is 200 m²; the accessory building to be used for the home industry use is 167.22 m² and fits within the gross floor area regulation for home industry in Bylaw No. 800; the gross floor area for each of the accessory buildings is also less than the gross floor area for the single family dwelling which is 2352 m².

The new accessory buildings are both sited at least 22 m from the nearest property lines; which are well outside the minimum required setback of 10 m for home industry and 4.5 m for accessory buildings in the zoning bylaw. As noted in the site comments above, the accessory buildings have a dense tree buffer between their location and the adjacent Magna Bay Road to the south and Underwood Road and subsequently the nearest neighbouring property to the east.

Development Services staff have identified that a review of the maximum accessory building areas in the CSRD Zoning Bylaws may be proposed as a future project. Staff have discussed increasing the maximum permitted areas of accessory buildings for rural properties, for example, the current regulation limiting accessory buildings to 55 m² in Magna Bay may not be appropriate on rural properties. As comparison, the recently adopted Ranchero/Deep Creek Zoning Bylaw No. 751 permits a maximum gross floor area of 200 m² each for accessory buildings on parcels less than or equal to 2 ha with unlimited accessory building gross floor area on parcels greater than 2 ha. Staff will provide their research and recommendation regarding increasing accessory buildings gross floor area at a future Board meeting.

SUMMARY:

The property owner has applied for a DVP for two new accessory buildings that are over the maximum allowable gross floor area; these buildings have been mostly constructed. One accessory building is for personal use while the other building is for home industry.

Staff are recommending approval of this DVP for the following reasons:

- The accessory building for home industry meets the zoning regulations regarding permitted area used for home industry;
- The accessory buildings are both smaller in total gross floor area than the gross floor area of the single family dwelling principle use;
- The accessory buildings meet the zoning height requirements;
- Both accessory buildings are set well away (at least 22 m) from property lines so that there appears to be minimal to no impact on neighbouring properties; and
- The building areas are in keeping with larger rural properties.

IMPLEMENTATION:

If this DVP is approved, the Building Inspector will be able to issue a building permit for each accessory building.

COMMUNICATIONS:

Notice of the proposed Development Variance Permit was sent to all owners of properties 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 F.

DESIRED OUTCOMES:

That the Board support the staff recommendation to approve issuance of DVP 800-29.

BOARD'S OPTIONS:

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

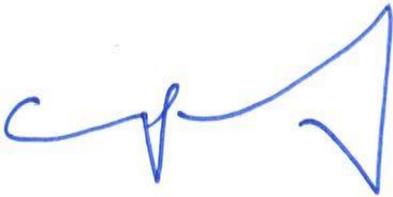
LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Electoral Area F Official Community Plan Bylaw No. 830
2. Magna Bay Zoning Bylaw No. 800

Report Approval Details

Document Title:	2018-05-17_Board_DS_DVP800-29_Huhn.docx
Attachments:	- DVP800-29.pdf - Maps_Plans_Photos_DVP800-29.pdf
Final Approval Date:	May 4, 2018

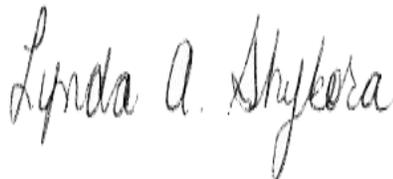
This report and all of its attachments were approved and signed as outlined below:



Corey Paiement - May 4, 2018 - 8:08 AM



Gerald Christie - May 4, 2018 - 10:12 AM



Lynda Shykora - May 4, 2018 - 11:01 AM



Charles Hamilton - May 4, 2018 - 11:38 AM