



BOARD REPORT

TO: Chair and Directors

SUBJECT: Electoral Area A: Development Variance Permit No. 680-04A

DESCRIPTION: Report from Ken Gobeil, Senior Planner dated April 4, 2024
828, 842, and 846 AlMBERG Rd, Nicholson.

RECOMMENDATION: THAT: in accordance with Section 498 of the Local Government Act, Development Variance Permit No. 680-04A for The Northwest Quarter of Section 29 Township 26 Range 21 West of the 5th Meridian Kootenay District Except Parts Included in Plans 10028, 11497, 12760, 17229, 18939 and NEP22520 (PID: 010-222-162) to vary Section 9.5 of the Subdivision Servicing Bylaw No. 680 to permit components of a surface water system to be located in shared easements for Surface Water Licenses 117694, 100159, and 100136 as shown on the proposed plan of subdivision dated February 24, 2024 for Ministry of Transportation and Infrastructure Subdivision File No. 2022-001013, be approved, this 18th day of April 2024.

Stakeholder Vote Unweighted (LGA Part 14) Majority

SUMMARY:

The owners of 828, 842, and 846 AlMBERG Rd have applied to subdivide their property into three separate lots. The owners propose to use three existing surface water licenses to serve the proposed subdivision. The water sources are off site, and surface water systems (including water lines) run through easements on other privately owned properties to reach the water source. The waterlines serving Lots 1 and 2 are in a shared trench and shared easements. The Subdivision Servicing Bylaw No. 680 (Bylaw No. 680) requires all components of a surface water system to be in individual 6 m wide easements. This variance application is to permit components of a surface water system (waterlines) to be located in shared easements.

BACKGROUND:

ELECTORAL AREA:

A

LEGAL DESCRIPTION:

The Northwest Quarter of Section 29 Township 26 Range 21 West of the 5th Meridian Kootenay District Except Parts Included in Plans 10028, 11497, 12760, 17229, 18939 and NEP22520

PID:

010-222-162

CIVIC ADDRESS:

828, 842, and 846 AlMBERG Rd Nicholson

SURROUNDING LAND USE PATTERN:

North = Residential

South = Residential

East = Residential

West = Residential

CURRENT USE:

Residential

PROPOSED USE:

Residential Subdivision

PARCEL SIZE:

8.7 ha

PROPOSED PARCEL SIZES:

Lot 1 = 2.05 ha

Lot 2 = 3.35 ha

Lot 3 = 3.3 ha

CURRENT DESIGNATION:

NA

PROPOSED DESIGNATION:

NA

CURRENT ZONING:

NA

PROPOSED ZONING:

NA

AGRICULTURAL LAND RESERVE:

0%

SITE COMMENTS:

The subject property is on a hillside with a lower and upper bench bisected by Almberg Rd. The property is forested. There are currently two dwellings on the Western side of the property.

BYLAW ENFORCEMENT:

No

POLICY:

See "DVP680-04A_Excerpts_BL680.pdf" attached for excerpts of relevant policies and regulations from the [Subdivision Servicing Bylaw No. 680](#) applicable to this application:

- Part 2 Interpretation
- Part 9. Assessment and Demonstration of Potable Water (For Independent On-site Water Systems)
- Table 2: Requirements for Independent On-Site Water Systems

FINANCIAL:

There are no financial implications associated with this application.

KEY ISSUES/CONCEPTS:

Part 9 of Bylaw No. 680 contains the detailed requirements for the demonstration and assessment of on-site water systems for subdivision. Portions of Part 9 of Bylaw No. 680 applicable to this subdivision is generally described as follows:

- All proposed parcels must have an independent water supply.
- The water supply must be capable of supplying 2,000 litres per day (or 500 gallons), 365 days per year.
- A report from a qualified professional confirming water quality and that the water can meet or be treated to meet the Canadian Drinking Water Guidelines.
- Parcels may utilize an off-site surface water supply. However, all components of that water system (e.g. waterlines) must be contained in a 6.0 m wide easement for a single residential dwelling unit (i.e. waterlines to multiple systems cannot be in a shared easement).

The owners are proposing a three-lot subdivision (MOTI Subdivision 2022-01013A). This subdivision would be served by three existing water licenses with off site surface water sources (see, "DVP680-04A_Maps_Plans_Photos.pdf" and "DVP680-04A_Water_Licenses_Consolidated.pdf" attached)

License No. 117694 – To serve proposed Lot 1

- Source: Freud Spring
- Issued November 18, 2002
 - Precedence on August 8, 1978
- Domestic and irrigation purposes:
 - 500 gallons per day for domestic use
 - 1.5 acre feet per annum for irrigation.
 - An acre-foot is the amount of water to cover an acre of land in one foot of water (325,851 gallons).

License No. 100159 – To serve Proposed Lot 2

- Source: Freud Spring
- Issued November 18, 2002
 - Precedence on April 23, 1990
- 1000 gallons per day
- Domestic purposes only

License No. 117177 – To serve proposed Remainder Lot

- Source: McDermot Brook
- Issued November 1, 2002
 - Precedence on July 3, 1984
- 500 gallons per day
- Domestic purposes only

Water lines servicing Surface Water Licenses 117694 and 100159 are in the same trench and easements (Easement Plans NEP84364, and EPP108513). The easements are 6 m width which complies with the Subdivision Servicing Bylaw; however, it contains multiple waterlines serving multiple properties. The owners noted that these waterlines were originally installed in the 1970's as part of a larger subdivision plan, and all water lines were placed in the same trench to save construction costs and reduce the amount of space of easements impacting other properties.

The property to the north, 814 AlMBERG Rd (Lot A Section 29 Township 26 Range 21 West of the 5th Meridian Kootenay District Plan 18938, PID 016-226-330) was subdivided from the subject property in

1990. 814 AlMBERG Rd also utilizes the same surface water source as Lots 1 and 2 (Freud Creek – Water License No. 100136) with a waterline that runs through the same trench and easements. This waterline also carries through subject property (see, "DVP680-04A_Maps_Plans_Photos.pdf" and "DVP680-04A_Water_Licenses_Consolidated.pdf" attached). If this Development Variance Permit is approved, a new easement will be required for the portions of waterlines through proposed Lots 1 and 2.

Staff note that at the time 814 AlMBERG Rd was subdivided from the subject property in 1990, subdivisions were regulated by Subdivision Servicing Bylaw No. 172. In Bylaw No. 172, there was no requirement for independent easements for components of a surface water system.

Analysis

Subdivision servicing bylaws establish minimum technical requirements for subdivisions to ensure the subdivisions are reviewed consistently throughout the CSRD. Water systems that do not meet the technical requirements can still provide the required water for a proposed subdivision. However, a development variance permit must be issued by the CSRD Board of Directors.

At the time the waterlines were initially installed (1970s) consideration for placement of the waterlines was to construction costs of the developer, and not the potential maintenance of a future property owner, and that utilizing one shared trench saves space which allows the affected property owner more use of their lands. However, independent easements allow a property owner to access their own waterline without the potential for impacting another property's water supply during excavation.

Staff also note that at the time the waterlines were installed individual easements was not a requirement for subdivisions serviced by off-site surface water sources. From 1978-1992 subdivision in the CSRD was regulated by Subdivision Servicing Bylaw No. 172 and in that bylaw, there was no requirement for components of a water system to be in separate easements.

When 814 AlMBERG Rd was subdivided, it had a waterline in a shared trench and easements; at that time, shared easements were permitted.

The purpose of individual easements and trenches for waterlines is that a waterline can be repaired or replaced without disrupting other properties and/or water lines. The waterlines which serve proposed lots 1 and 2 were replaced in 2022 and the owner noted there should not be any further work required for several years. The owners' contractor also noted that the waterlines can be easily accessed, and individual waterlines can be independently replaced or serviced in the future if they need to with no impact to the water lines of other properties. However, staff note that with working in a shared trench there will always be a risk of waterlines being impacted when a shared trench is opened.

Staff note that other than the shared easements, the proposed subdivision can meet the other technical servicing requirements of the subdivision, including Part 9 of Subdivision Servicing Bylaw No. 680 which includes a water quality analysis from a qualified professional to ensure the water is potable.

Proposed Remainder Lot

No variances are required for the water source for the Remainder Lot. The surface water source which serves the Proposed Remainder Lot is located in a trench and easements which solely benefit Surface Water License No. 117177 and the proposed Remainder Lot. The easements also meet the 6 m width requirement.

814 AlMBERG Rd

The waterline serving 814 AlMBERG Rd will run through proposed Lots 1 and 2. As part of the subdivision, an easement will be registered on title of the subject property in favour of 814 AlMBERG Rd regarding the placement of that waterline in a shared trench.

Rationale for Recommendation

The owners of the subject property have applied to vary the servicing requirements of Section 9.5 (b) of the Subdivision Servicing Bylaw No. 680 to permit existing waterlines serving the subject property to be within a shared trench and easement. Staff are recommending the Board approve this development variance permit for the following reasons:

1. The waterlines exist in existing easements and the shared easements complied with CSRD Subdivision Servicing bylaw at the time when the adjacent property (814 Almberg Rd) was subdivided in 1990.
2. Although it is not ideal, the waterlines have been able to be accessed and serviced without affecting another waterline in the same trench. The applicant notes that the waterlines were last serviced in 2022.
3. Each lot in the proposed subdivision will have the required water quantity (2,000 litres per day).

IMPLEMENTATION:

If the Board chooses to approve the proposed variance, the applicant will be notified and will need to complete the other requirements of Bylaw No. 680 for the subdivision to move ahead.

COMMUNICATIONS:

Letters were sent to all owners of property lying within 100 m of the subject property advising of this application for Development Variance Permit in accordance with the Local Government Act requirements on April 5, 2024. Written submissions are accepted until 4:00 PM on April 16, 2024 (Tuesday prior to the Board Meeting). Written submissions received regarding this application will be attached to the late agenda.

DESIRED OUTCOMES:

That the Board endorse the staff recommendation.

BOARD'S OPTIONS:

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

Report Approval Details

Document Title:	2024-04-18_Board_DS_DVP680-04A.docx
Attachments:	- DVP680-04A_Permit_redacted.pdf - DVP680-04A_BL680_Excerpts.pdf - DVP680_04A_Water_Licenses_Consolidated.pdf - DVP680-04A_Maps_Plans.pdf
Final Approval Date:	Apr 10, 2024

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



Gerald Christie



Jennifer Sham



John MacLean