



REGIONAL DISTRICT OF CENTRAL KOOTENAY

Committee Report

Date of Report: February 28, 2018
Date & Type of Meeting: March 14, 2018 Rural Affairs Committee
Author: Meeri Durand, Planning Manager
Subject: FLOODPLAIN EXEMPTION – BALFOUR WATER SYSTEM
File: 4910-20-F1801E-RDCK-FLD00046

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to consider a relaxation to the required Floodplain Setback for Kootenay Lake as specified by RDCK Floodplain Management Bylaw No. 2080, 2009 from 15.0 meters to 0.0 meters for the installation of an emergency generator for the Balfour Water System at its pump station located on un-surveyed Crown tenure at 8947 Meadow Street in the community of Balfour.

SECTION 2: BACKGROUND / ANALYSIS

GENERAL INFORMATION	
Property Owner: Crown Tenure (RDCK) Province of British Columbia	Agent: Jeff Philips, Project Manager, Regional District of Central Kootenay
Property Location: Crown land at 8947 Meadow Street, Balfour	
Legal Description: Legally described as a portion of un-surveyed land and foreshore covered by the waters of Kootenay Lake under Crown Lands Permit No. 20047	
Property Size: 0.21 acres	
Area of Property Affected: 0.21 acres	

RELEVANT INFORMATION

Development Proposal

The purpose of this exemption request is for the installation of an emergency generator for the Balfour Water System at its pump station. The site currently does not have provisions for back up power in the circumstances of a power outage and is a source of domestic water supply for approximately 326 residences and businesses in the unincorporated community of Balfour within Electoral Area E.

The installation is partially below the natural boundary of Kootenay Lake as surveyed and as such requires an exemption to RDCK Floodplain Management Bylaw No. 2080, 2009 from the required 15.0 m setback to a setback of 0.0 m. The installation is not considered an exempt structure under 'General Exemptions' or Provincial Guidelines. The proposed installation will meet Flood Construction Levels (FCL) requirements and has been engineered to ensure that risk is minimized from extreme flood events and equipment failure. The generator will be serviced by natural gas due to its proximity to the lake. The Regional District of

Central Kootenay (RDCK) has been authorized to apply for the exemption on its Crown Land tenure on behalf of the Province over the area of proposed and existing works associated with its water license for the Balfour Water System.



Figure 1: Site Location – Balfour Water System Pump House

Site Visit

A site visit was not conducted by Planning Department staff due to familiarity of the site and with the water system. The following observations can be made with regard to the site:

- The Crown Land tenure area consists of lands periodically subject to flood impact. The site was not damaged during high water events experienced in the last ten years.
- The Crown Land tenure is primarily cleared foreshore consisting of fine sands and gravels with sparse vegetation consisting of grasses and small shrubs. No further vegetation removal is expected in association with the proposal.
- Meadow Street is a frequented public access point to Kootenay Lake and is often used as an alternative access to Balfour Beach Regional Park.
- The proposed installation does not impact public access interests to the site and is considered an important modification to address the uncertainty posed by climate change and increased flood hazard and weather events on the sustainability of the water system.

Legislative Framework and Applicable Policy

The Floodplain Setback for Kootenay Lake is 15.0 meters from the natural boundary. The installation is

proposed to be partially below the natural boundary of Kootenay Lake and within the 15.0 meter setback requirement. Under Section 524 of the *Local Government Act*, a local government may exempt a person from the application of a floodplain bylaw in relation to a specific building if the local government considers it advisable and either:

- a. Considers that the exemption is consistent with the Provincial Guidelines; or
- b. Has received a report that the land may be used safely for the use intended where such a report is certified by a person who is a professional engineer or geoscientist and experienced in geotechnical engineering.

The Board adopted 'Terms of Reference for Professional Engineers/Geoscientists undertaking Geotechnical Reports/Flood Hazard Assessment Reports' to outline basic information that should be included in such reports.

A **Floodplain Exemption Report** prepared by Kerr Wood Leidal Associates Ltd., dated January 30th, 2018 was submitted in conjunction with the application for an exemption (please see Attachment A). The report verified that design provisions made for the proposed site upgrades that 'the land may be used safely for its intended use'.

The **Provincial Guidelines** or the Flood Hazard Area Land Use Management Guidelines for landowner requests for modification of bylaws provides the following guidance:

Setback requirements should not be reduced unless a serious hardship exists and no other reasonable option is available. A valid hardship should only be recognized where the physical characteristics of the lot (e.g., exposed bedrock, steep slope, the presence of a watercourse, etc.) and size of the lot are such that building development proposals, consistent with land use zoning bylaws, cannot occur unless the requirements are reduced.

In order to avoid setting difficult precedents these site characteristics should be unique to the subject property and environs. The economic circumstances or design and siting preferences of the owner should not be considered as grounds for hardship. Before agreeing to a modification, consideration should be given to other options such as the use of alternate building sites, construction techniques and designs (e.g., constructing an additional storey and thereby reducing the size of the 'building footprint').

Setback requests as they specifically pertain to the foreshore (Kootenay Lake) are determined on a site specific basis and there should be no consideration made toward previous decisions or precedents. The determinant factor for a floodplain relaxation is demonstration of 'hardship' and whether the siting of a building can not be accommodated in any other way due to topographical constraints or servicing capabilities. Siting preference or financial consideration should not be a determining factor.

Planning Considerations

The proposed installation is required to be closer to Kootenay Lake if it is to serve the existing pump house and water system. It will be serviced by an extension of the natural gas line from Meadow Street to reduce risks associated with diesel powering the back up generator and potential for spillage. Planning considerations include the public benefit of securing additional capacity during periods of high water and

power outages to ensure consistency of water supply during emergency events.

The Kootenay Lake Shoreline Guidance Document indicates that the site has potential value for juvenile rearing and a blue heron nesting site and is of high potential for archaeological and cultural values requiring an enhanced level of consultation.

Planning staff recognize that the proposed enhancements are within an already modified site area associated with existing infrastructure and it is not expected that proposed enhancements will result in additional risk to the values identified. It is recommended that the Project Manager communicate with Ktunaxa Nation the intent and scope of the project in detail to ensure that such values are not negatively impacted.



The proposed installation is exempt from the requirements of a Watercourse Development Permit under the *Electoral Area E Official Community Plan Bylaw No. 2260, 2013* as it is considered an extension of a Utility Use.

SECTION 3: DETAILED ANALYSIS

a. Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Financial Plan Amendment: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Debt Bylaw Required: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Public/Gov't Approvals req'd: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

The applicant paid the \$500 fee for a Site Specific Floodplain Exemption application as per the Planning Procedures and Fees Bylaw No. 2457, 2015.

b. Legislative Considerations (Applicable Policies and/or Bylaws):

Section 524 of the Local Government Act provides the authority for local governments to grant exemptions from the requirements of a Floodplain Management Bylaw.

c. Environmental Considerations:

Although the proposed site is of high to moderate value for juvenile rearing and a heron nest has been identified proximate to the site, the proposed improvements will not significantly alter or modify the

foreshore and habitat values in this location beyond existing modifications associated with the Balfour Water System.

d. Social Considerations:

The proposal is of significant value to the 326 residences and businesses connected to the Balfour Water System in that it will increase the resiliency of the community to emergency power outages and flood events.

e. Economic Considerations:

The proposal contributes to a more robust local economy by ensuring a safe drinking water supply to local businesses in times of prolonged power shortages reducing food wastes and requirements for business closures.

f. Communication Considerations:

The proposal was sent on referral for a period of 30 days as per RDCK Planning Procedures and Fees Bylaw No. 2457, 2015. Comments received to date include as follows:

Interior Health Authority, February 13th, 2018

Interior Health appreciates the opportunity to comment on the purposed exemption request for the installation of an emergency generator for the Balfour Water System at its' pump station.

We have no objections to the proposal provided the owner/operator ensures that the installation is done in accordance with the Drinking Water Protection Act and Regulation.

Ministry of Transportation and Infrastructure, February 26th, 2018

MOT has no concerns with this floodplain exemption application.

g. Staffing/Departmental Work Plan Considerations:

Should the Board resolve to grant the request the Project Manager and Building Department staff would proceed with processing the associated Building Permit application and initiate project construction.

h. Board Strategic Plan/Priorities Considerations:

Not Applicable.

SECTION 4: OPTIONS & PROS / CONS

The RDCK Board can either proceed with consideration of Issuance of the Floodplain Exemption or Denial of the Issuance of the Floodplain Exemption.

Option 1: That a Site Specific Exemption from RDCK Floodplain Management Bylaw No. 2080, 2009 to reduce the required setback to Kootenay Lake as specified under Schedule 'C' Floodplain Table from 15.0 meters from the natural boundary of Kootenay Lake to 0.0 meters BE APPROVED for property located at 8947 Meadow Street, Balfour and legally described as a portion of un-surveyed land and foreshore covered by the waters of Kootenay Lake under Crown Lands Permit No. 20047 SUBJECT TO registration of the Site Specific Exemption on Crown Lands Permit No. 20047.

Consideration of Option 1 would allow for the proposed enhancements to the Balfour Water System Pump

House to proceed and increase the resiliency of the water system to emergency events.

Option 2: That a Site Specific Exemption from RDCK Floodplain Management Bylaw No. 2080, 2009 to reduce the required setback to Kootenay Lake as specified under Schedule 'C' Floodplain Table from 15.0 meters from the natural boundary of Kootenay Lake to 0.0 meters BE DENIED for property located at 8947 Meadow Street, Balfour and legally described as a portion of un-surveyed land and foreshore covered by the waters of Kootenay Lake under Crown Lands Permit No. 20047

Consideration of Option 2 would not allow for the proposed enhancements to the Balfour Water System Pump House to proceed and alternatives would need to be investigated at additional cost.

SECTION 5: RECOMMENDATION(S)

That a Site Specific Exemption from RDCK Floodplain Management Bylaw No. 2080, 2009 to reduce the required setback to Kootenay Lake as specified under Schedule 'C' Floodplain Table from 15.0 meters from the natural boundary of Kootenay Lake to 0.0 meters BE APPROVED for property located at 8947 Meadow Street, Balfour and legally described as a portion of un-surveyed land and foreshore covered by the waters of Kootenay Lake under Crown Lands Permit No. 20047 SUBJECT TO the following:

- a. Registration of the Site Specific Exemption on Crown Lands Permit No. 20047; and
- b. Enhanced consultation with the Ktunaxa Nation must be completed.

Respectfully submitted,



Meeri Durand, Planning Manager

CONCURRENCE

Initials:

General Manager of Development Services
Chief Administrative Officer

ATTACHMENTS:

- Attachment A – Engineers Report**
- Attachment B – Site Proposal**