



REGIONAL DISTRICT OF CENTRAL KOOTENAY

DEVELOPMENT PERMIT REPORT

DATE OF REPORT: June 10, 2016
DATE & TYPE OF MEETING: 10/06/2016 Choose Meeting Type Here
AUTHOR: Meeri Durand, Planning Manager
SUBJECT: DEVELOPMENT PERMIT (WALKERS LANDING)
FILE: 4260-20-DP1603A-04730.500

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to recommend the issuance of a Residential Cluster and Environmentally Sensitive Development Permit as required under the *Electoral Area A Comprehensive Land Use Bylaw No. 2315* for a property located at Walkers Landing Road and legally described as Lot A District Lot 4595 Kootenay District Plan NEP81179 Except Plan NES3371 (PID 026-707-977) south of Riondel.

SECTION 2: BACKGROUND / ANALYSIS

Owner: Crawford Bay Recreation and Development Ltd. (Chris Noakes, Owner Representative)

Applicant: Muirhead Land Development Solutions Ltd. (Peter Muirhead, Agent)

Location: Walkers Landing Road, South of Riondel

Electoral Area: A

Legal Description: Lot A District Lot 4595 Kootenay Land District Plan NEP81179 Except Plan NES3371, PID 026-707-977

Property Size: 4.47 hectares (11.05 acres)

Floodplain: Kootenay Lake, Setback 15 m, Flood Construction Level 536.3 meters GSC

Zoning: Not Applicable

OCP Designation: Suburban Residential (R1) under *Electoral Area A Comprehensive Land Use Bylaw No. 2315, 2013*

Development Permit: Residential Cluster Development Permit (RCDP) and Environmentally Sensitive Development Permit (ESDP) under *Electoral Area A Comprehensive Land Use Bylaw No. 2315, 2013*

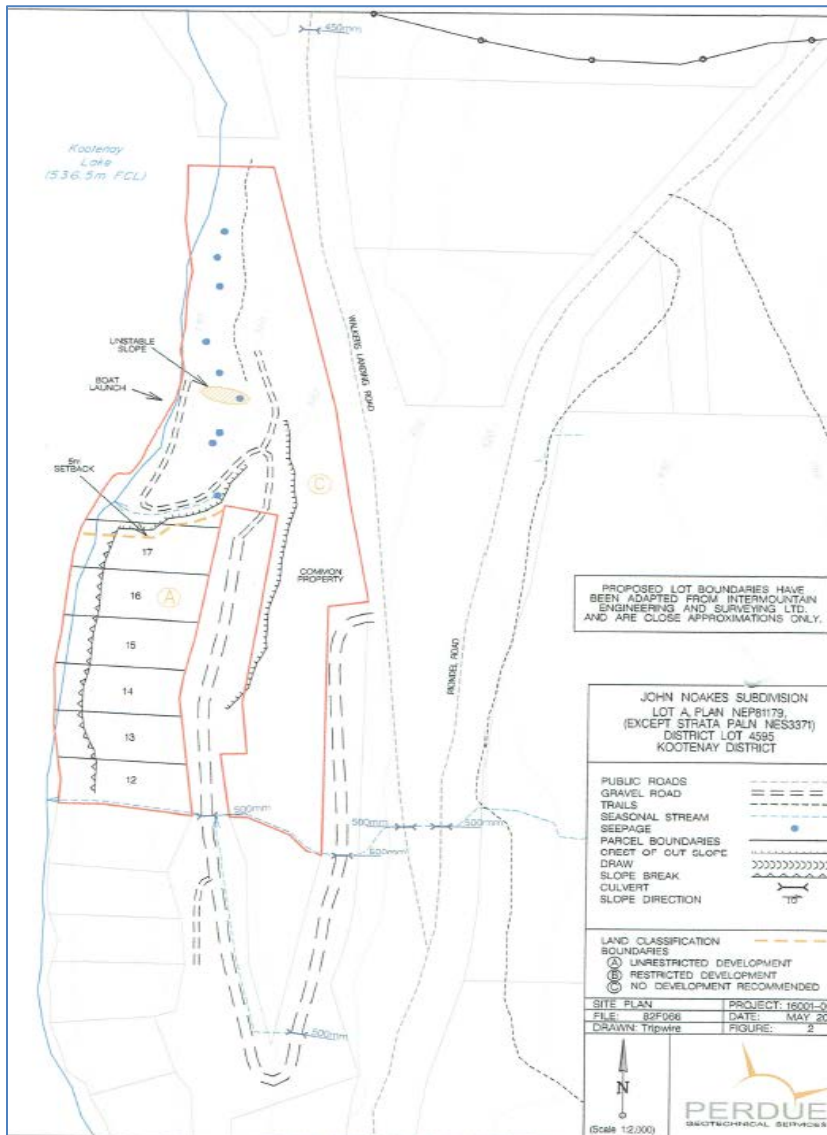
Site Summary/Background:

The proposed use of the property is the approval of a proposed phase 2 six lot strata subdivision and boat launch area within the 15.0 meter Environmentally Sensitive Development Permit (ESDP) Area of *Electoral Area A Comprehensive Land Use Bylaw No. 2315, 2013*. The proposal involves the creation of more than five (5) residential strata lots (less than one hectare in size) and has also triggered the requirements of the Residential Cluster Development Permit (RCDP) under *Electoral Area A Comprehensive Land Use Bylaw No. 2315, 2013*.

A report has been prepared by Masse Environmental Consultants Ltd. dated May 2016 in support of the application; in addition to submission of the *Declaration of Building Scheme* that was registered to the property during phase 1 of the proposed development in 2007.

The subject property is located on Walkers Landing Road on the east shore of Kootenay Lake, just south of

Riondel in Electoral Area A. The initial phase in the proposed development created eleven (11) lots to the south of the proposed phase 2 of the development; which will create an additional six (6) lots.



The initial phase for the proposed development required the registration of a *Phased Strata Plan Declaration*, which sets out the phasing and proposed layout of each phase. For this reason, there is a lack of flexibility as to application of the Guidelines of the Residential Cluster Development Permit Area. Internal roads and common property were predetermined during phase 1 of the development proposal as approved in 2007 prior to land use regulation in this area of the RDCK.

The application of the Environmentally Sensitive Development Permit Area was triggered by a subsequent application to authorize already constructed works on the property along the foreshore. An application has been made with the Province for a *Specific Permission* for a boat launch. Approval of the application is pending successful completion of the DPA Guidelines.

Development Permit Area Guidelines (Residential Cluster)

Development shall be in accordance with the following guidelines:

1. Riparian zones should remain free of development and restoration of the riparian zone undertaken as part of the new development, if the vegetation is not intact and healthy (diversity of native shrubs and trees).
2. Total impervious cover of the site should minimize the impact on receiving aquatic environments. Consideration should be given to reducing impervious cover through reduction in building footprint and paved areas and use of on-site filtration.
3. Building profiles should reflect the character of surrounding development with special attention to the height of new buildings in relationship to surrounding buildings on adjoining properties.
4. As many of the existing trees, as practicable, should be retained as part of the overall landscape

design.

5. Site design should incorporate, where appropriate, design elements to protect and enhance riparian areas, watercourses and sensitive eco-system elements.
6. Retention of green space and common lands in strata subdivisions shall be covenanted against further subdivision.

Proposed Mitigation

The applicant has submitted an Environmental Assessment in alignment with the Guidelines required under the parallel ESDP application and as prepared by Masse Environmental Consultants Ltd. The subject property is located adjacent to Kootenay Lake and no development is proposed within the 15.0 meter Environmentally Sensitive Development Permit (ESDP) Area, with the exception of the existing boat launch (under application with the Province), pedestrian trails and stairs. In addition to the required setbacks from Kootenay Lake, an ephemeral stream on the property has been placed under a 'no-build' covenant to prohibit development by the proponent.

The *Declaration of Building Scheme* contains requirements for development plans to include drainage control specifications, exterior finishing to include natural materials and earth tone colours to ensure uniformity in the development, and a prohibition on fencing to not restrict wildlife movement throughout the development site. These restrictions contribute to maintaining a specific character within the development that incorporates design elements that encourage a natural look and character. The prohibition of fencing will allow for unrestricted wildlife movement on the property and encourage continued access to the water from upland areas. Wildlife trails were observed throughout the property.

The Environmental Assessment that was submitted indicates that the majority of the property has historically been harvested for timber and a significant portion of the property was cleared in 2005 for the purposes of future development. The foreshore or riparian area associated with Kootenay Lake, however, has remained largely intact with the exception of the beach access road and boat ramp area. Some selective tree removal has occurred on lots 12 to 18 between the 20.0 meter and 30.0 meter setback from the lake¹.

The Environmental Assessment also investigated wildlife values, drainage, soil stability and natural habitat features of significance. These features have been proposed to be conserved through inclusion in the common property and area proposed for parkland dedication by the proponent.

A landscape design was not submitted as part of this application. However, the recommendations within the Environmental Assessment prepared by Masse Environmental Consultants Ltd. include maintenance of a 30.0 meter riparian buffer in which vegetation removal or modifications will be limited to foreshore access in addition to re-vegetation of exposed soils where there are slope stability and erosion risks. Removal of invasive weed species and retention of identified wildlife trees were also included in that assessment.

It is staff's opinion that due to the phasing of the proposed development having been approved several years prior to land use regulation being adopted in the area, that the site layout and *Declaration of Building Scheme* address the Guidelines under the Residential Cluster Development Permit Area. Despite the previous development not being subject to the regulations; building sites have been developed in such a

¹ Masse Environmental Consultants Ltd. (2016) 245 Walkers Landing Subdivision – Environmental Assessment Staff Report

manner as to maintain foreshore and riparian values. Impervious areas have been minimized throughout the development and drainage control plans that are a requirement of building approval. In addition, there are several common areas within the development plan, that provide green space and intact forest cover for wildlife.

Development Permit Area Guidelines (Environmentally Sensitive)

Development shall be in accordance with the following guidelines:

1. All development proposals subject to this permit will be assessed by a Qualified Environmental Practitioner (QEP) or Registered Professional Biologist (RP Bio) in accordance with the Riparian Areas Regulation established by the Provincial and/or Federal governments as used elsewhere in the Province;
2. An ESDP shall not be issued prior to the RDCK ensuring that a QEP or RP Bio has submitted a report certifying that they are qualified to carry out the assessment, that the assessment methods have been followed, and provides in their professional opinion that a lesser setback will not negatively affect the functioning of a watercourse or riparian area and that the criteria listed in the Riparian Areas Regulation has been fulfilled, and;
3. The Riparian Areas Regulation implemented through the ESDP does not supersede other Federal, Provincial and or local government requirements, including that of other development permit areas, building permits, flood covenants, Federal or Provincial authorization. Land subject to more than one development permit area designation must ensure consistency with the guidelines of each development permit area, to provide comprehensive stewardship of both fish and wildlife habitat.

Proposed Mitigation

The applicant has submitted an Environmental Assessment in alignment with ESDP Guidelines and as prepared by Masse Environmental Consultants Ltd., dated May 2016. The report was prepared using the assessment methods as set out by the *Riparian Areas Regulation* used elsewhere in the Province. Zones of Sensitivity (ZOS) were established as 15.0 meters for Lots 12 to 17 and up to 20.0 meters for Lot 18.

The subject property is situated along the east shore of Kootenay Lake. A small ephemeral stream was also observed on the property. The stream does not have sufficient size as to trigger the requirements of floodplain management regulations or the ESDP; however the proponent has placed a 6.0 meter wide covenant to buffer the stream from further disturbance due to considerations under the *Water Act*.

The foreshore area along Kootenay Lake has been maintained in its natural state, with the exception of the boat ramp area, beach access road and selective land clearing on Lots 12 to 18 outside of the established Zone of Sensitivity (ZOS). The boat ramp and parking lot area were constructed between 2009 and 2013 with portions of the boat ramp being located below the natural boundary of the lake on Crown land.

Historic mining exploration was observed within proposed Lots 17 and 18, though the impact was minimal and limited to two small trenches and fractured rock. In 2005, a sewage disposal field was constructed to provide service to both phase 1 and phase 2 of the development, which resulted in a large section of the embankment un-vegetated and prone to erosion. This area is outside of the established Zones of Sensitivity (ZOS).

The foreshore area consists of rocky shoreline and a small beach area located to the north in front of the proposed common lot area and proposed park land dedication. The rocky shoreline provides good rearing and cover habitat for juvenile fish, though there was limited aquatic vegetation in this area. The beach area

was also characteristically cobbled with some sand and emergent vegetation that provides habitat for fry and juveniles. Directly to the north is ‘Powerline Beach’ which is a large expanse of white sand beach.

Due to the riparian area being left largely intact, the forested areas include potential wildlife values associated with wildlife trees, rock out crops and a small cave which may provide bat habitat. Wildlife trees provide habitat for cavity nesters as well as perches for raptors.

Slope stability concerns were noted within proposed common lot 19 and a geotechnical assessment of the area was recommended. This assessment has been commissioned by the proponent.

A 30.0 meter riparian buffer was recommended to be maintained as a no construction zone with the exception of foreshore access and water works associated with domestic water supply. The boat ramp is a common facility already established and will reduce the potential for independent moorage facilities. Piping intended to provide water supply to each property from Kootenay Lake are typically less than 3 inches in diameter and have fish screens placed to prevent fish from entering.

Revegetation of exposed soils with native species and implementation and maintenance of erosion and sediment control plans during construction was also recommended as a mitigation measure to reduce erosion and drainage issues on the site. Removal of invasive weed species throughout the site should also be undertaken.

Wildlife habitat recommendations included leaving a buffer of undisturbed vegetation around the rock outcrop on proposed Lot 13 and reducing human access to the immediate area around this feature; in addition to retaining both live and dead trees over 30.0 centimeters diameter at breast height (DBH) unless considered a hazard. Design of foreshore access should be in a manner as to allow for wildlife movement and elevated above ground to allow light penetration and promote vegetation growth.

Referral Comments

This application was sent on a 30 day referral period in accordance with the RDCK Planning Procedures and Fees Bylaw No. 2457, 2015. The following responses were received:

| Agency | Referral Comments | Planning Staff Response |
|--|---|--|
| <p>Interior Health Authority John Beaupre, Environmental Health Officer June 7th, 2016</p> | <p>This office recommends that issuance of the DP be conditional on an ‘authorized person’ as defined by the Sewerage System Regulation performing a “Compliance Inspection” as per Appendix G – Onsite Wastewater Registration Program Policy – ASTTBC Standard Practice Guidelines for the Inspection of Onsite Wastewater Registration Section 18.0 and providing a written report confirming the existing sewerage dispersal system is in compliance and suitable for its intended use.</p> | <p>The subject property is located within a strata development with community servicing provided. A revised sewerage report was provided as part of the subdivision process.</p> |

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| <p>Ministry of Transportation and Infrastructure</p> <p>Catherine Littlewood, District Development Technician</p> <p>June 7th, 2016</p> | <p>From the perspective of the Ministry of Transportation and Infrastructure, there are no concerns about the Environmentally Sensitive Development Permit and Residential Cluster Development Permit being issued, providing the recommendations of the Environmental Assessment prepared by Masse Environmental Consultants, dated May 2016 are followed.</p> | <p>The DP will be drafted to include the recommendations as contained within the report.</p> |
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Staff Analysis

The applicant has retained a qualified professional (QP) to assess the impact to riparian values along the foreshore of Kootenay Lake. Recommendations made within the report provide guidance for mitigation of assessed impacts. The Environmental Assessment meets the required guidelines for the Environmentally Sensitive Development Permit Area. A submitted *Declaration of Building Scheme* for the proposed development includes parameters for meeting the guidelines of the Residential Cluster Development Permit.

Section 502 of the *Local Government Act* enables the RDCK to require an applicant to provide securities for the purpose of ensuring the terms of the Development Permit are met. The amount must be stated in the permit, and the applicant may choose either to provide an irrevocable letter of credit or a deposit of securities in a form satisfactory to the local government. There is no requirement for landscaping or re-vegetation on the subject property beyond retention of the existing riparian area and high value wildlife values. As such, there is no associated requirement for securities to be collected at this time.

SECTION 3: DETAILED ANALYSIS

a. Financial Considerations – Cost and Resource Allocations:

The \$500 fee for the Development Permit application has been received.

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

Local Government Act Section 490 and 491 provides that “An official community plan may designate development permit areas for...protection of the natural environment, its ecosystems and biological diversity and the form and character of high density residential development” prior to approval of a subdivision.

The DP application has been submitted in accordance with the requirements and guidelines found under the Environmentally Sensitive and Residential Cluster Development Permit Areas under *Electoral Area A Comprehensive Land Use Bylaw No. 2315*.

This application was reviewed in accordance with the Planning Procedures and Fees Bylaw No. 2457, 2015. The bylaw delegates the authority for consideration of DPs to the General Manager of Development Services (GMDS).

c. Environmental Considerations:

The Development Permit provides detailed recommendations as to mitigation and compensation to address the potential impacts of the development proposal.

d. Social Considerations:

None anticipated.

e. Economic Considerations:

None anticipated.

f. Communication Considerations:

Should the GMDS approve the permit, staff would proceed with subsequent procedures under the bylaw, including informing the applicant of the 14-day ‘Appeal Period’ and option to waive the appeal.

g. Staffing/Departmental Work plan Considerations:

Should the GMDS approve the permit, staff would issue the permit and register notice on title. Planning staff would follow up on the terms of the development permit and finalize approximately two years after the subdivision approval phase is completed.

SECTION 4: OPTIONS & PROS / CONS

Option 1: Approve the Development Permit as proposed.

Option 2: Deny the Development Permit as proposed. Staff has not identified any authority for the GMDS to deny the proposed permit.

SECTION 5: RECOMMENDATION(S) TO THE GENERAL MANAGER OF DEVELOPMENT SERVICES

That the General Manager of Development Services APPROVE the issuance of Development Permit 4360-20-DP1603A-04730.500 for the property located at Walkers Landing Road and legally described as Lot A District Lot 4595 Kootenay District Plan NEP81179 Except Plan NES3371 (PID 026-707-977) south of Riodel.

Respectfully submitted,

Signature:



Name:

Meeri Durand, Planning Manager

CONCURRENCE

Initials:

General Manager of Development Services

ATTACHMENTS:

Attachment A – DRAFT Development Permit (Crawford Bay Recreation and Development Limited)