



REGIONAL DISTRICT OF CENTRAL KOOTENAY

DEVELOPMENT PERMIT REPORT

DATE OF REPORT: August 9, 2016
AUTHOR: Mitchell King, Planner
SUBJECT: COLEMAN WATERCOURSE DEVELOPMENT PERMIT
FILE: 09\4260\20\2016\DP1604E-08267.030-DP000065-Coleman

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to consider the issuance of a Development Permit for cut and fill work within the prescribed Watercourse Development Permit (WDP) Area on properties at 6740 Highway 3A and 6744 Highway 3A and legally known as Lot B Plan NEP22827 District Lot 6498 Kootenay Land District (PID: 023-331-704) and Lot C Plan NEP22827 District Lot 6498 Kootenay Land District Except Plan NEP82752 (PID: 023-331-712).

SECTION 2: BACKGROUND / ANALYSIS

GENERAL INFORMATION

Property Address	6740 Highway 3A	6744 Highway 3A
Property Owner(s)	Gregory Coleman	Coleman Properties Ltd.
Agent	Peter Muirhead, Muirhead Land Development Solutions Ltd.	
Property Size	0.39 hectares (0.96 acres)	0.35 hectares (0.86 acres)
Legal Description	Lot B Plan NEP22827 District Lot 6498 Kootenay Land District (PID: 023-331-704)	Lot C Plan NEP22827 District Lot 6498 Kootenay Land District Except Plan NEP82752 (PID: 023-331-712)
OCP Designation	Multi-Unit Residential (RH)	Multi-Unit Residential (RH)
Zoning Designation	N/A	N/A

BACKGROUND/PROJECT DESCRIPTION

The subject properties are located at 6740 and 6744 Highway 3A in Electoral Area 'E' of the Regional District of Central Kootenay, approximately 1.5 kilometres west of the unincorporated community of Balfour. The properties are approximately 0.39 hectares (6740 Highway 3A) and 0.35 hectares (6744 Highway 3A) in site area and are generally vacant except for a wharf development located in the foreshore area of 6744 Highway 3A. Adjoining land uses to the subject property includes Highway 3A and the Grandview Properties subdivision to the north; various residential uses to the east and west; and Kootenay Lake to the south (see Figure 1).

The property owners are proposing to develop both properties by constructing two dwellings and five temporary RV sites between the two lots, as noted in the site plans submitted by the applicant (refer to Schedule 1 "Attachment A"). The proponents have identified that the development is proposed to be serviced by the Grandview Properties Community Water System (RDCK owned and operated) and the Grandview Properties Community Wastewater System. The Regional District Environmental Services Team have identified that there is capacity in the Grandview Properties Community Water System to service the proposed development, however any approvals will be coordinated through any subsequent phasing of the development.

The applicants are seeking a Watercourse Development Permit (WDP) to be issued by the Regional District of Central Kootenay in accordance with Section 18.0 of the *Electoral Area 'E' Rural Official Community Plan Bylaw No. 2260, 2013* to facilitate the above-mentioned development of the properties. The WDP has been triggered as the applicant has proposed extensive cut and fill works on the properties; some of which is proposed to occur within 15 metres of the natural boundary of Kootenay Lake (see "Attachment A"). The

WDP guidelines require the applicant to commission an assessment of the proposed development by a Qualified Environmental Practitioner (QEP) in accordance with the Provincial Riparian Areas Regulation assessment methods. The proponents for the application commissioned Ryan Durand of Durand Ecological Ltd. to undertake the abovementioned assessment, the findings of which are attached to the draft Development Permit as see Schedule 3 of "Attachment A".

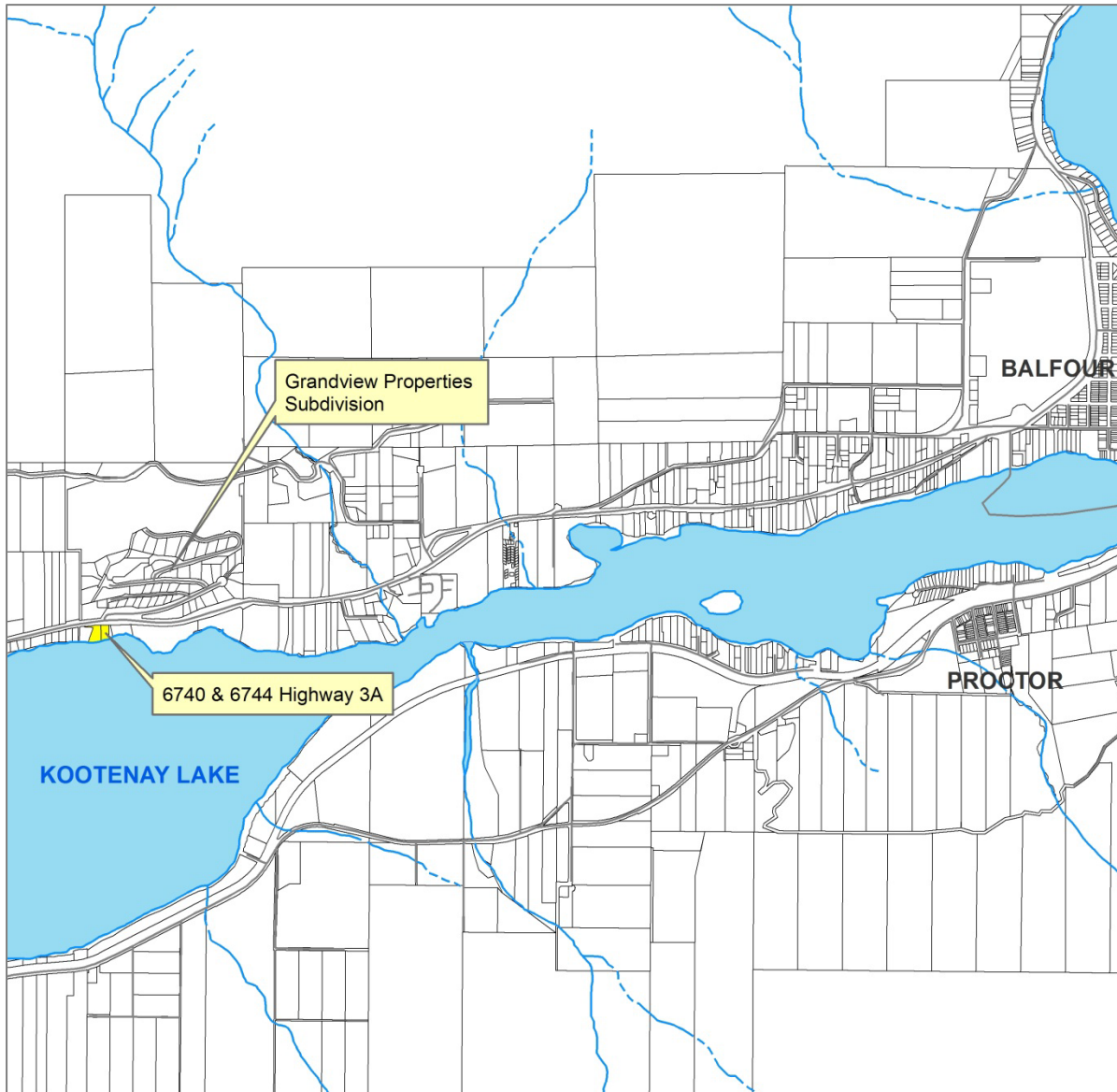


Figure 1: Location Map of Subject Property

SITE VISIT

A site visit was conducted on July 19th, 2016 by Mitchell King, Planner. It was determined that the information presented in the application was true and correct. During the site visit, the following site conditions were observed:

- The subject properties are generally characterised by relatively steep topography, containing a smaller upper bench on 6740 Highway 3A and a larger lower bench on both 6740 and 6744 Highway 3A (see Figures 2 and 3).
- Both properties share the same driveway, which accesses the properties from Highway 3A and runs through adjoining land to the east which is owned by the Regional District of Central Kootenay (see

Figures 4 and 5).

- The subject property is vacant and undeveloped, however at the time of inspection an RV was observed on site which was being utilised by the property owner’s family.
- There is a large marina development on the foreshore fronting 6744 Highway 3A (see Figure 6).
- The whole foreshore area of 6744 Highway 3A is modified and armoured by rip-rap (see Figure 7), whereas the foreshore area of 6740 Highway 3A is generally characterised by invasive weed species and other introduced species (see Figure 8).



Figure 2: View East of Upper Bench on 6740 Highway 3A



Figure 3: View North Towards Lower Bench on 6740 and 6744 Highway 3A



Figure 4: View of Upper Driveway



Figure 5: View of Lower Driveway



Figure 6: View South of Lower Bench and Marina Development



Figure 7: View of Foreshore Area of 6744 Highway 3A



Figure 8: View of Foreshore Area of 6740 Highway 3A

PLANNING COMMENTS

The *Floodplain Management Bylaw No. 2080, 2009* identifies floodplain setbacks and flood construction levels for development within floodplains. The Floodplain Management Bylaw prescribes the following floodplain setbacks and flood construction levels for the proposed development:

FLOODPLAIN MANAGEMENT BYLAW NO. 2080, 2009	
KOOTENAY LAKE	
Floodplain Setback	15.0 metres from the natural boundary of Kootenay Lake
Flood Construction Level (FCL)	535.5 G.S.C

Compliance with the provisions of the *Floodplain Management Bylaw No. 2080, 2009* will be assessed by the RDCK Building Department during siting inspection for any building permit application.

The Environmental Assessment report by Durand Ecological Ltd. (see Schedule 3 of “Attachment A”) proposes a number of recommendations to mitigate adverse impacts associated with the proposed development within the riparian area. The report concludes that should the development be implemented as proposed and follow the mitigation recommendations identified within the report then there ‘will be no harmful alteration, disruption of natural features, functions and conditions that support fish life processes in the riparian assessment area’. Accordingly, these mitigation recommendations have been incorporated into the draft Development Permit, which is attached to this report as “Attachment A”.

Section 502 of the *Local Government Act* enables local government to request security from an applicant to ensure compliance with the terms of a Development Permit. Staff recommends that a \$5,900.00 is required as a condition of issuance of the Development Permit to ensure the successful replanting and hydro-seeding within the riparian area following the proposed cut and fill activities. These provisions have been incorporated into the terms of the draft Development Permit.

Planning Department staff is satisfied that the applicant has adequately addressed the Watercourse Development Permit guidelines identified in Section 18.0 of the *Electoral Area ‘E’ Rural Official Community Plan Bylaw No. 2260, 2013*. Should the terms of the Development Permit be adhered to, the proposed

development will meet the objectives of the Watercourse Development Permit.

SECTION 3: DETAILED ANALYSIS

a. Financial Considerations – Cost and Resource Allocations:

The \$500 fee for the Development Permit application, as designated in 'Schedule B' of the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*, has been received. A security deposit is recommended to guarantee the performance of the proposed development to the terms identified in the permit.

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

Section 488-491 of Division 7 of the *Local Government Act* identifies the Regional District's power to designate development permit areas, and other specific authorities relating to the issuance of development permits.

This Development Permit application has been reviewed and processed in accordance with the Development Permit Procedure identified in 'Schedule E' of the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*. The General Manager of Development Services has delegated authority for the consideration of Development Permits.

c. Environmental Considerations:

The proposed development was assessed by Ryan Durand of Durand Ecological Ltd. in accordance with the guidelines identified in Section 18.0 of the *Electoral Area 'E' Rural Official Community Plan Bylaw No. 2260, 2013*. This assessment is presented in an Environmental Assessment report titled '*Riparian Assessment of 6740 and 6744 Highway 3A, Balfour, BC*', dated May 31, 2016 and attached to the Development Permit as "Schedule 3".

The environmental consultant identified a number of measures to minimise the impact of the proposed development within the riparian area, which have been incorporated into the draft Development Permit attached to this report as "Attachment A". The consultant concluded that should these conditions be followed and development is implemented as proposed, in their professional opinion there will be no harmful alteration, disruption or destruction of environmental values within the riparian area.

d. Social Considerations:

No apparent considerations.

e. Economic Considerations:

No apparent considerations.

f. Communication Considerations:

In accordance with the process identified in 'Schedule E' of the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*, the application was referred to the Director for Electoral Area 'E', the APC for Electoral Area 'E', various internal and Provincial referral agencies, and 12 adjoining property owners located within 100 metres of the proposed development. The following comments were received:

Building Official, Regional District of Central Kootenay:

Building permits will be required for any building constructed on the subject property. Spatial separation regulations will apply between all building on the property and to property lines as prescribed by the Building Code. These requirements do not apply to recreational vehicles. Currently Park Model Z241 structures are prohibited in the Regional District Central Kootenay.

Utility Services Manager, Regional District of Central Kootenay:

Water requirements form uploaded regarding statutory right of way. More information needed from Developer before completing referral. Email to be sent by Jason McDiarmid.

Habitat Biologist, Ministry of Forests, Lands and Natural Resource Operations:

I have no concerns with the acceptance of this Development Permit as long as all recommendations and monitoring plans are followed as outlined in the Riparian Assessment of 6740 and 6744 Highway 3A, Balfour BC, dated May 31, 2016 and completed by Durand Ecological Ltd.

Environmental Health Officer, Interior Health Authority:

Interior Health's interests are primarily unaffected by this proposed development because of the proposed connection to community water and sewer services.

However, for overall protection of drinking water sources, I support Ryan Durand, Registered Professional Biologist's recommendations described in the Monitoring Plan section of "Riparian Assessment of 6740 and 6744 Highway 3A, Balfour, BC" dated May 31, 2016.

A/ District Development Technician, Ministry of Transportation and Infrastructure:

Property owners should apply for an up-to-date Multi-family Residential Access Permit. This page has a link to the application form: <http://www.th.gov.bc.ca/permits/Apply.asp>.

Septic fields should be set back at least 3.0 metres from the property line fronting the Hwy 3A right-of-way

Adjoining Land Owner:

Dear Sir:

I am the owner of the adjacent property to Mr. Coleman's on the Nelson side (6734 Highway 3A). In reply to your letter of June 29, 2016, I am writing to convey to you my strong opposition to the proposed development.

Firstly, I am not opposed to the building of the 2 houses. I am opposed to the 5 RV sites. Grandview Properties has marketed their development as a family oriented rural neighbourhood. On their website, under the Strata Plan-Building Scheme they use the following language...and I quote "RV's and mobile homes not acceptable"; "create a desirable rural community lifestyle"; and "maintain and enhance your property value". Their proposal directly contradicts these statements.

Most importantly, my opposition is for 2 main reasons... fire danger and noise. The thought of having various campers right next to my residence lighting camp fires next to all the trees, scares me a lot. Mix in alcohol and scary things can happen. The noise that comes from loud and impaired campers goes without saying. Who will police this? What if fires are lit when campfire bans are on? What then?

In making your decision on the Subdivision Permit, please consider my concerns. Thank-you.

Adjoining Land Owner:

Dear Mr. King

I am writing to advise receipt of the letter and attachments regarding the above development application.

I wish to lodge my strong objection to this development plan and I will be sending you a written letter with further details on why I object to this.

I would like to know if there are enough landowners who object if this will have any bearing on this

approval. Thanks.

g. Staffing/Departmental Work plan Considerations:

Upon receipt of an application accompanied by the required fees and attachments, Planning Department staff follows the procedures set out in 'Schedule E' of the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*.

SECTION 4: OPTIONS

The General Manager of Development Services can consider the following options for the requested Development Permit:

Option 1: To approve the proposed Development Permit.

Option2: To deny the proposed Development Permit.

SECTION 5: RECOMMENDATION(S)

That the General Manager of Development Services APPROVE the issuance of Development Permit 4260-20-2015-DP1508Hn-02161.100 subject to the conditions as outlined in the attached permit.

Respectfully submitted,



Signature:

Name: Mitchell King, Planner

CONCURRENCE

Initials:

Planning Manager
General Manager of Development Services

ATTACHMENT:

Attachment A – Development Permit DP1604E

Attachment B – Water System Requirements