



# REGIONAL DISTRICT OF CENTRAL KOOTENAY Committee Report

**Date of Report:** September 29, 2017  
**Date & Type of Meeting:** October 18, 2017 Rural Affairs Committee  
**Author:** Meeri Durand, Planning Manager  
**Subject:** DEVELOPMENT PERMIT AND VARIANCE – MOUNTAIN SHORES RESORT AND MARINA COOPERATIVE ASSOCIATION  
**File:** 9-4260-20-DP1705A-01306.000

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to consider the issuance of a Residential Cluster Development Permit (RCDP) with minor variance to the front lot setback for Mountain Shores Resort and Marina Cooperative Association.

## SECTION 2: BACKGROUND / ANALYSIS

<b>Owner:</b>	Mountain Shores Resort and Marina Cooperative Association	<b>Parcel size:</b>	2.13 ha (5.26 acres)
<b>Address:</b>	13485 Highway 3A	<b>Agent:</b>	Kim Cook, Applicant
<b>OCP:</b>	Multi-Family Residential (RMU)	<b>Zoning:</b>	Multi-Family Residential (R6)

### RELEVANT INFORMATION

The subject property is both designated and zoned 'Multi-Family Residential' under Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315. The cooperative development at Mountain Shores Resort and Marina was initiated in 2007 prior to Electoral Area 'A' adopting land use regulation in the area. The development is located at 13485 Highway 3A south of Gray Creek along the shores of Kootenay Lake and LaFrance Creek. The subject property is a shared interest development consisting of 34 cooperative interest parcels of which 32 are used for seasonal residential use, beach area, marina and a pool. Several of the lots have already been developed, but several vacant lots exist along the Highway 3A corridor and along the frontage on Kootenay Lake. Adjacent land uses are residential.

Proposed additional development on the site has triggered the requirement for a 'Residential Cluster



Development Permit’ in accordance with Section 16.0 of Electoral Area ‘A’ Comprehensive Land Use Bylaw No. 2315. In addition to the RCDP requirement, the applicants are seeking a setback variance for the front property line from 3.0 metres to 0.0 metres as identified under Section 18 (18) of Electoral Area ‘A’; Comprehensive Land Use Bylaw No. 2315.

Under Section 490 of the *Local Government Act*, a development permit must be issued if the proposal is compliant with the applicable guidelines specified under the Official Community Plan (OCP). The following list of guidelines pertains to the proposal.

**Residential Cluster Development Permit Area Guidelines and Staff Comments**

GUIDELINES (as per Bylaw No. 2315)	COMMENT
<b>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).</b>	The cooperative was established in 2007. During approvals for subsequent fee simple subdivision of lands above Highway 3A, a flood mitigation plan was developed to address potential hazards associated with the LaFrance Creek. Development has not occurred within the riparian area of LaFrance Creek but modification of the Kootenay Lake foreshore was conducted for marina improvements.
<b>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.</b>	Development of the property took place prior to Development Permit Area guidelines being established. Lands above Highway 3A and along the foreshore of Kootenay Lake remain as green space or recreational space.
<b>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.</b>	Developments have met the standards as set out by the cooperative as established in 2007.
<b>As many of the existing trees, as practicable, should be retained as part of the overall landscape design.</b>	Many of the existing trees have been maintained within the development and on the common lands above Highway 3A.
<b>Site design should incorporate, where appropriate, design elements to protect and enhance riparian areas, watercourses and sensitive eco-system elements.</b>	Lands adjacent to LaFrance Creek have been maintained as green space. No further developments can be located in the area due to the flood hazard risk associated with the creek.
<b>Retention of green space and common lands in strata subdivisions shall be covenanted against further subdivision.</b>	Common lands have already been protected from further development.

Security:

Section 502 of the *Local Government Act* enables the Board to compel an applicant to provide security for ensuring the performance of the terms of the permit (i.e. to satisfy a landscaping condition). 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. Security is not being requested as there are no further requirements for the applicant to meet due to the pre-existing nature of the development.

The development meets the guidelines under the Residential Cluster Development Permit Guidelines in that there is common area along the foreshore where the marina is located and north of Highway 3A where the land has been maintained as greenspace with the exception of some storage facilities. The riparian area along LaFrance Creek has been maintained due to flood mitigation works along its length that were required as part of the initial development approvals for the property. Several internal lots are also maintained as green space; including lot A and lands fronting lots H, I and J.

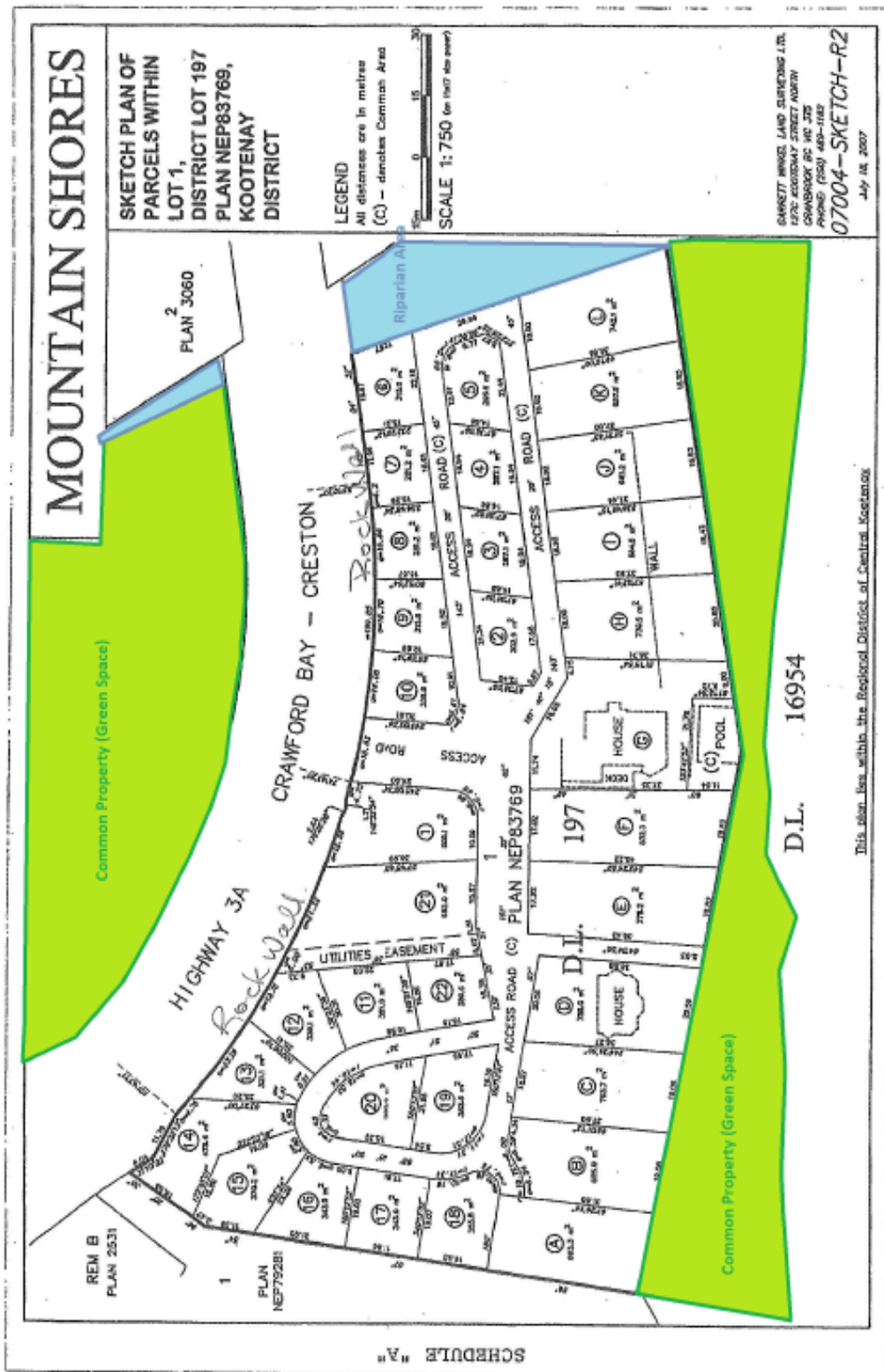
Variance:

The lots along the Highway 3A corridor require a variance to the setback requirements under Electoral Area A Comprehensive Land Use Bylaw No. 2315 from 3.0 metres to 0.0 metres to coincide with approvals from the Ministry of Transportation and Infrastructure and the development scheme associated with the property. The frontage along the highway corridor is separated by a rock wall and fence that follows the property lines and is situated a fair distance from the developed and maintained portion of the highway. Due to the requirement for a 'Development Variance' as part of the Development Permit process, this application is required to be considered by the Regional District Board prior to issuance.



During a site visit conducted on September 26<sup>th</sup>, 2017, staff observed that there was no apparent issue with the setback variance as requested due to the distance from the maintained portion of the highway corridor and property line. There were no adjacent property owner comments received in support or opposition to the proposed variance and the development has already received a setback permit from the Ministry of Transportation and Infrastructure dated 2008.

Due to the configuration of several of the internal lots, development potential would be constrained on several of the undeveloped lots without the setback variance being obtained. Development has not yet occurred on internal lots 6 and 7, 21 and 14. Lots 6 and 7 are being developed in conjunction with a residential use already established on lot 8 and lot 14 is being developed in conjunction with a residential use already established on lot 13. These lots are intended for accessory structures. Lot 21 has not submitted development plans but is a deeper lot.





**SECTION 3: DETAILED ANALYSIS**

**a. Financial Considerations – Cost and Resource Allocations:**

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

The required \$600 fee for a Development Permit and Variance was paid in full at the time of application.

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

The application was processed in accordance with RDCK Planning Procedures and Fees Bylaw No. 2457. The application required a setback permit from the Ministry of Transportation and Infrastructure that was issued in 2008.

**c. Environmental Considerations:**

The application includes retention of greenspace and riparian area. A berm runs the length of LaFrance Creek in this location. The foreshore of Kootenay Lake was modified by a marina development approved by the Province in 2008.

**d. Social Considerations:**

No comments from neighbours were received in response to the Development Permit referral.

**e. Economic Considerations:**

None anticipated.

**f. Communication Considerations:**

The application was referred to twenty-two adjacent property owners and relevant agencies for comment on September 7<sup>th</sup>, 2017. One letter of support was received on behalf of the Mountain Shores Resort and Marina Cooperative Association. Comments received to date are as follows:

RDCK Building Department, dated September 14<sup>th</sup>, 2017  
*Building construction to comply to British Columbia Building Code 2012.*

Mountain Shores Resort and Marina Cooperative Association, dated September 21<sup>st</sup>, 2017  
*Mountain Shores Resort and Marina Co-operative Association is fully supportive of the subject application as it meets all internal setback guidelines that have governed all previous projects. The application has been approved internally by the Co-op Board of Directors.*

Ministry of Transportation and Infrastructure, dated September 27<sup>th</sup>, 2017  
*The setback variance permit issued to the applicants in 2008 is still valid for this development whereby permission was given to build right up to the existing fence on the property line along Hwy 3A.*

**g. Staffing/Departmental Work Plan Considerations:**

Board approval would mean that the Building Inspector may proceed with processing the associated Building Permit application.

**h. Board Strategic Plan/Priorities Considerations:**

None anticipated.

**SECTION 4: OPTIONS & PROS / CONS**

**Option 1:**

Consider issuance of the Development Permit and associated variance as proposed.

**Option 2:**

Consider issuance of the Development Permit without the associated variance as proposed.

**Option 3:**

Refuse issuance of the Development Permit.

**SECTION 5: RECOMMENDATION(S)**

That the Regional District of Central Kootenay Board APPROVE the issuance of a Residential Cluster Development Permit DP1705A for property located at 13485 Highway 3A and legally described as Lot 1 District Lot 197 Kootenay District Plan NEP83769 (PID 027-082-326) with the following variance:

1. Section 18(18) of Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315 is varied by reducing the required setback for lands on the Kootenay Lake side of Highway 3A from the permitted 3.0 metre setback from front or exterior side lot line to 0.0 metres subject to approval by the Ministry of Transportation and Infrastructure.

Respectfully submitted,

Signature:



Name: Meeri Durand, Planning Manager

**CONCURRENCE**

**Initials:**

General Manager of Development Services  
Chief Administrative Officer

**ATTACHMENTS:**

**Attachment A – Draft Development Permit DP1705A**