



REGIONAL DISTRICT OF CENTRAL KOOTENAY

# Memo to General Manger of Development and Community Sustainability Services

**Date of Memo:** July 6, 2021  
**Author:** Eileen Senyk, Planner  
**Subject:** DEVELOPMENT PERMIT Kay & Mutavdzic 325 Park Avenue, Procter  
**File:** DP2104E-02256.123-Kay\_&\_Mutavdzic-DP000109

<b>Owner</b>	Sabina Kay & Goran Mutavdzic
<b>Civic Address</b>	325 Park Ave, Procter
<b>Legal Description</b>	STRATA LOT 23 DISTRICT LOT 873 KOOTENAY DISTRICT STRATA PLAN NES3286 TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V
<b>PID</b>	027-785-033
<b>Lot Size</b>	0.1 hectares

## PROPOSAL:

The proposal is to re-construct a retaining wall that provides erosion protection to an existing single family dwelling on 0.1 hectare lot in the Kootenay Lake Village development in the un-incorporated community of Procter, Electoral Area 'E'.

The subject property is part of Strata Plan NES3286. The property line (natural boundary) on the strata plan is significantly lower in elevation than the High Water Mark Stream Boundary identified in the Environmental Assessment provided by Masse Environmental. As a result, the house was constructed very close to Kootenay Lake and the retaining wall has been damaged by wave action over time. A stand of four cottonwood trees located close to the house have broken windows during wind events. The proponent would like to replace the retaining wall and remove the four cottonwood trees. A mitigation plan for the proposed work is provided in the Environmental Assessment Report. The mitigation plan proposes replacement of exotic plan species with native species as well as a re-design of the retaining structure and addition of boulders to create fish habitat during high water.

<b>Electoral Area</b>	E
<b>Development Permit Area</b>	Watercourse Development Permit

Guidelines	Meets?	Comments
<p>All development proposals subject to this permit will be assessed by a Qualified Environmental Practitioner (QEP) in accordance with the Riparian Areas Regulation established by the Provincial and/or Federal governments as used elsewhere in the Province</p>	<p>Yes</p>	<p>The Environmental Assessment provided by Masse Environmental meets all of the requirements of this guideline.</p>
<p>A WDP shall not be issued prior to the RDCK ensuring that a QEP 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.</p>	<p>Yes</p>	<p>In the Environmental Assessment Report, the QP has identified that the entire property is within the SPEA and that the original development of the property prior to adoption of Electoral Area 'E' Official Community Plan Bylaw No. 2260, 2013 created a net loss of habitat. In the assessment, the QP identifies that if mitigation recommendations, including revegetation with native species (section 7) are followed, then proposed works on the rock armour could provide a net positive impact for aquatic habitat.</p> <p>The removal of four cottonwood trees within the SPEA can decrease riparian vegetation functions which maintain the health and productivity of the Kootenay Lake aquatic ecosystem. Impacts include loss of large woody debris, decreased nutrient input from litter fall, decreased shade during high waters and decreased input of terrestrial insects which support aquatic food webs. Further loss of riparian function will occur if cottonwood regeneration is prevented along the beach within and adjacent to the subject</p>

		<p>property. Section 7.1.2 of the Environmental Assessment identifies mitigation measures which shall be implemented to minimize impacts, restore function, and offset for losses of the proposed removal of cottonwood trees.</p>
<p>The Riparian Areas Regulation implemented through the WDP 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.</p>	<p>Yes</p>	<p>The applicant proposes to replace a retaining structure that is situated between the existing dwelling and Kootenay Lake. The existing and proposed retaining structure is &lt; 1.5 metres high and is therefore exempt from the requirement of a design plan and field review report pursuant to RDCK Building Bylaw No. 2200, 2010.</p> <p>The surveyed natural boundary (2009) differs from the High Water Mark Stream Boundary identified by Masse Environmental in the Environmental Assessment. The construction of the house was permitted by the RDCK without a requirement for a Site Specific Exemption from the Floodplain Management Bylaw in 2013, likely due to the location of the property line as identified on Strata Plan NEP3286.</p> <p>The current proposal is considered 'landscaping' and so does not trigger an application for exemption to the Floodplain Management Bylaw.</p>

<b>Zoning</b>	Not applicable
<b>OCP</b>	Electoral Area 'E' Official Community Plan
<b>ALR</b>	Not applicable
<b>Floodplain</b>	Within 15 m of the natural boundary of Kootenay Lake
<b>NSFEA</b>	N/A
<b>Geohazard</b>	N/A

<b>Archeology Sites</b>	N/A
<b>Within RDCK Water System</b>	N/A
<b>Relevant Covenants and Reports</b>	Environmental Assessment Received
<b>Review Title for Miscellaneous Charges</b>	Complete

<b>KOOTENAY LAKE SHORELINE INVENTORY:</b>	
<b>Aquatic Habitat Index Rating</b>	High
<b>Erosion</b>	Moderate
<b>Vegetation</b>	Sparse Emergent Vegetation (SEV)
<b>Site Sensitivity</b>	Aquatic (A)
<b>Enhanced Engagement</b>	Yes
<b>Critical White Sturgeon Habitat</b>	No
<b>Archeological Values</b>	Yellow Zone (Y)

<b>REFERRAL COMMENTS:</b>					
Ministry of Forests Lands Natural Resource Operations and Rural Development – Habitat Biologist	<ul style="list-style-type: none"> <li>- The Ministry of Forests, Lands, Natural Resource Operations &amp; Rural Development – Habitat Division - has reviewed this Watercourse Development Permit and has determined that this project should not create significant adverse environmental impacts as long as the Mitigation outlined in Section 7 of Masse Environmental Consultants 325 PARK AVENUE PROCTER, BC Riparian Assessment, dated January 28, 2021 are completed.</li> <li>- Vegetation clearing should adhere to the least risk timing windows for nesting birds (i.e. construction activities should occur only during least risk period). Nesting birds and some nests are protected by the Provincial <i>Wildlife Act</i> Sec.34 and Federal Migratory Bird Act. Nesting periods can be identified by a qualified professional. General least risk windows for bird species are designed to avoid the nesting period. If nests are present at this site or adjacent to it and will be impacted by the works, the following work windows apply:</li> </ul> <table border="1" style="margin-left: 40px;"> <thead> <tr> <th style="background-color: #cccccc;">Species</th> <th style="background-color: #cccccc;">Least Risk Window</th> </tr> </thead> <tbody> <tr> <td>Raptors (eagles, hawks, falcons, &amp; owls)</td> <td style="background-color: #ffffcc;">Aug 15 – Jan 30</td> </tr> </tbody> </table>	Species	Least Risk Window	Raptors (eagles, hawks, falcons, & owls)	Aug 15 – Jan 30
Species	Least Risk Window				
Raptors (eagles, hawks, falcons, & owls)	Aug 15 – Jan 30				

	Herons	Aug 15 – Jan 30	
	Other Birds	Aug 1 – March 31	

Respectfully submitted,

Signature



Name: Eileen Senyk

**CONCURRENCE**

**Initials:**

Planning Manager  
General Manager of Development Services

**ATTACHMENTS:**

Attachment A – Development Permit

Attachment B- Itemized quote and additional requests