



REGIONAL DISTRICT OF CENTRAL KOOTENAY

**Memo to General Manger of
Development and Community
Sustainability Services**

Date of Memo: February 11, 2022
Author: Eileen Senyk, Planner
Subject: DEVELOPMENT PERMIT Bevan May – 10377 Highway 3A, Gray Creek, BC
File: DP2115A-05146.000-May-DP000120

Owner	Bevan & Rhonda May
Civic Address	10377 Highway 3A, Gray Creek, BC
Legal Description	LOT 2 DISTRICT LOT 4595 KOOTENAY DISTRICT PLAN 4523
PID	(PID 010-421-874)
Lot Size	0.46 hectares (currently being accreted)

PROPOSAL:

The proposal is to construct a ‘funicular’ (which is an inclined elevator) to provide access between the upper and lower portions of the subject property. The property is 0.46 hectares in size and currently has preliminary approval for an accretion. The property is divided by a cliff, approximately 30m high, which separates the upper and lower portions of the property.

A two-storey house on a concrete foundation currently exists on the upper portion of the subject property, immediately west of Highway 3A. The house was constructed in 1963. The lower portion of the property is currently being accreted. There are some structures there which are old and constructed on crown land by previous owners. Currently, a wooden staircase connects the upper and lower portions of the property. The staircase is old and falling into a state of disrepair. The owners wish to install the funicular in order to improve access to the water.

Electoral Area	A
Development Permit Area	Environmentally Sensitive Development Permit

Guidelines	Meets?	Comments
All development proposals subject to this permit will be assessed by a Qualified Environmental	Yes	Assessed by Jessica Lowey, MSc, PAg March 18, 2021 In the report, the author states that:

<p>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><i>'The assessment followed the Simple Assessment methodology as described in the Riparian Areas Protection Regulation (BC Reg. 178/2019). The Simple Assessment establishes Streamside Protection and Enhancement Area (SPEA) widths based on certain stream characteristics – fish-bearing status, nature of stream flows, and the status of streamside vegetation. These widths have been established for the protection of fish habitat while taking into consideration existing development (i.e., permanent structures).'</i></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>Original report provided to the RDCK on 10/09/2021. Revisions requested including a mitigation plan and cost estimate.</p> <p>Revised report received 01/13/2022. Staff confirm that the report meets the Terms of Reference.</p> <p>A Riparian Area Management Plan dated January 24, 2022 has also been provided which provides direction on how to conduct the work and ensure no adverse effects to the terrestrial or aquatic habitat, or drinking water quality.</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 has been working with staff at MFLNRORD to ensure that approvals under the Water Sustainability Act are met.</p>

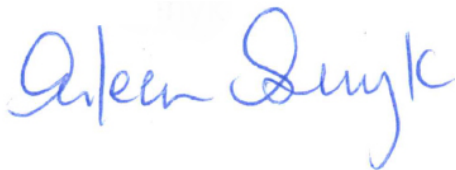
Zoning	Country Residential (R2)
OCP	Country Residential (CR)
ALR	Not applicable
Floodplain	15m setback from Kootenay Lake. FCL 536.5m GSC datum
NSFEA	Not applicable
Geohazard	Not applicable
Archeology Sites	Site DiQe-2 is located approximately 800m south of the subject property on Crown land. This is a precontact, ceremonial/religious feature (rock art/pictograph).
Within RDCK Water System	Not applicable
Relevant Covenants and Reports	A riparian assessment was provided as part of this application.
Review Title for Miscellaneous Charges	Completed

KOOTENAY LAKE SHORELINE INVENTORY:	
Aquatic Habitat Index Rating	Moderate
Erosion	Moderate
Vegetation	N/A – presumably due to bedrock
Site Sensitivity	Environment (E)
Enhanced Engagement	No
Critical White Sturgeon Habitat	No
Archeological Values	Red Zone (R)

REFERRAL COMMENTS:	
Interior Health Authority	An initial review has been completed and no health impacts associated with this proposal have been identified. As such, <u>our interests are unaffected by this proposal.</u>
MFLRORD – Habitat Biologist	<p>The Ministry of Forests, Lands & Natural Resources – Resource Management Division reviewed the above noted ES Development Permit and associated environmental assessment on October 20, 2021. FLNRORD subsequently provides the following comments and/or recommendations:</p> <ul style="list-style-type: none"> - Any works within or adjacent to a stream are subject to the Provincial Water Sustainability Act. Please review the Kootenay Region’s Terms and Conditions for Instream works and timing windows available through the Kootenay Boundary Region drop down menu at: https://www2.gov.bc.ca/gov/content/environment/air-land-water/water/water-licensing-rights/working-around-water/regional-terms-conditions-timing-windows to ensure that you can abide by these guidelines.

	<ul style="list-style-type: none"> - Any stored material, soil or overburden must be kept a minimum of 15m from all streams, ponds, lakes, wetlands and/or watercourses. - A Wildlife/Danger Tree Assessment should be completed and important wildlife trees and snags should be retained where ever possible. - 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: <table border="1" data-bbox="659 913 1278 1203"> <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, & owls)</td> <td>Aug 15 – Jan 30</td> </tr> <tr> <td>Hérons</td> <td>Aug 15 – Jan 30</td> </tr> <tr> <td>Other Birds</td> <td>Aug 1 – March 31</td> </tr> </tbody> </table>	Species	Least Risk Window	Raptors (eagles, hawks, falcons, & owls)	Aug 15 – Jan 30	Hérons	Aug 15 – Jan 30	Other Birds	Aug 1 – March 31
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Ministry of Transportation and Infrastructure	MOTI has reviewed the proposal for a funicular and a dock and has no concerns. The owners received an access permit for the residence on the subject property in July, 2021. All parking of vehicles, boat trailers, etc. shall be on private property.								

Respectfully submitted,



Signature
 Name : Eileen Senyk

CONCURRENCE	Initials:
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Planning Manager
 General Manager of Development Services

ATTACHMENTS:

Attachment A – Development Permit