



REGIONAL DISTRICT OF CENTRAL KOOTENAY

General Manager Report

Date of Report: July 12, 2019
Date & Type of Meeting: July 18, 2019 Choose Meeting Type Here
Author: Meeri Durand, Senior Project Planner
Subject: DEVELOPMENT PERMIT F1905D - CLAPP
File: 4620-20-DP1905D-03079.095/DP000090

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to consider issuance of a Watercourse Development Permit under Section 30.0 of Electoral Area D Comprehensive Land Use Bylaw No. 2622.

The report recommends issuance of the Watercourse Development Permit subject to required security for the purposes of ensuring recommended mitigation works are completed.

SECTION 2: BACKGROUND / ANALYSIS

GENERAL INFORMATION

Property Owner: Tara Lynne Clapp and John Atwell **Agent:** John Atwell

Property Location: 5560 Highway 31, Mirror Lake

Legal Description: Legally described as Lot B District Lot 819 Kootenay Land District Plan NEP60877 (PID 024-013-234)

Property Size: 0.8 acres

The subject property is a 0.8 acre parcel that fronts Kootenay Lake and Highway 31 in Mirror Lake. Existing development includes a mobile home and two small trailers that serve as guest lodging. The development proposal includes additions to the existing mobile home of a two story workshop and additional living space as well as a free standing deck. The existing mobile home is situated 9.0 metres from the natural boundary of Kootenay Lake. The proposed development on the property is intended to align with the existing development and will not further encroach within the 15.0 to 30.0 metre Streamside Environmental Protection Area (SPEA). The proposed development is also within the 15.0 metre flood setback associated with Kootenay Lake. A concurrent application has been made and is under consideration by the RDCK Board.

The subject property runs narrowly between Highway 31 and Kootenay Lake and does not have sufficient depth to easily accommodate development elsewhere on the parcel. There would be no building envelope available on this portion of the property without a relaxation to Floodplain specifications and consideration of a Development Permit within the 15.0 to 30.0 metre SPEA. Although the property is bisected by Highway 31, the upland portion is covenanted for the purposes of septic disposal limiting development to that portion of the property adjacent to Kootenay Lake.

The riparian report submitted in support of the application has indicated that there is a small patch of young forest comprised of white pine and Douglas fir that will be disturbed by the proposed development, in addition to an area of grassland predominated with introduced and noxious weed species. The proposed

development will result in the removal of eight (8) living trees and three (3) snags within the building footprint and disturbance to approximately 90 square metres of potential riparian habitat within the SPEA.

Recommended mitigation follows the BC Tree Replacement Criteria (MoE, 1996) and includes planting of 20 trees throughout the non-forested area within the SPEA to be completed in the spring or fall and replanting of native riparian shrubs in the area of the proposed deck. Up to 90 plants are recommended.

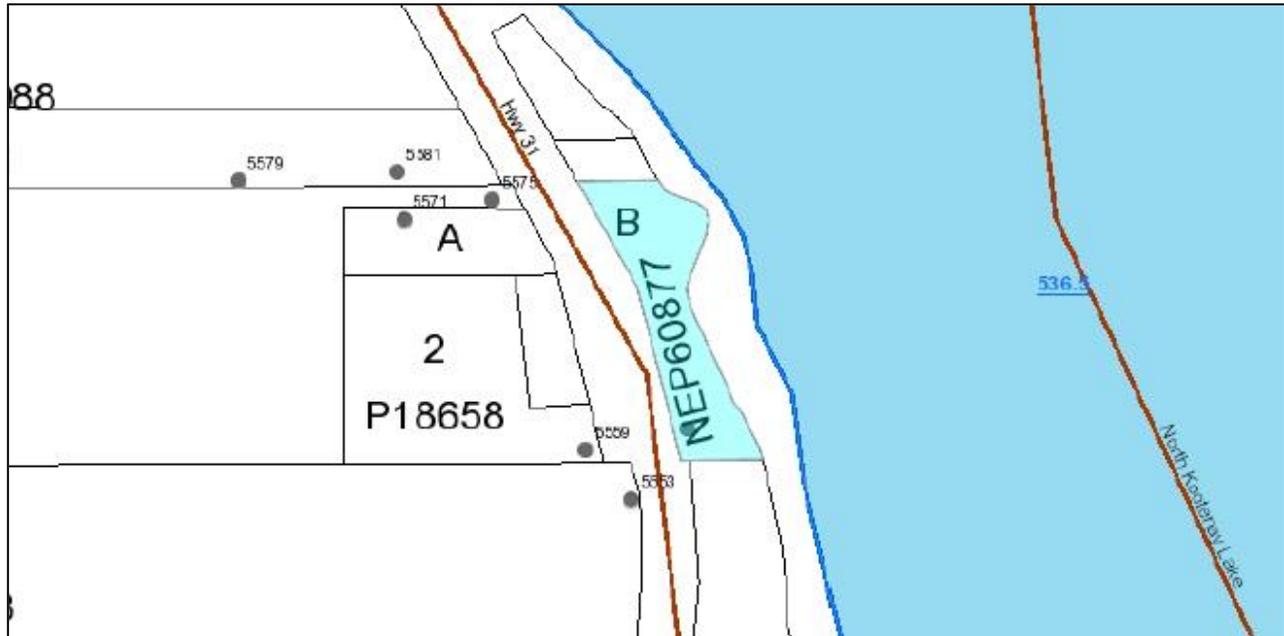


Figure 1: Site Location – 5560 Highway 31, Mirror Lake

Site Visit

A site visit was conducted by Planning Department staff on June 12, 2019. The following observations can be made with regard to the site:

- The existing mobile home is situated well above Kootenay Lake.
- Few trees will require removal due to the proposed additions being within the existing building envelope.
- The foreshore consists of rock outcrops and bounders and has been left in a natural vegetated state further protecting the building site from wave action and possible erosion.
- There is limited space available on the property for alternative building locations due to setback requirements from Highway 31 and site lines required for safe ingress and egress from the property.

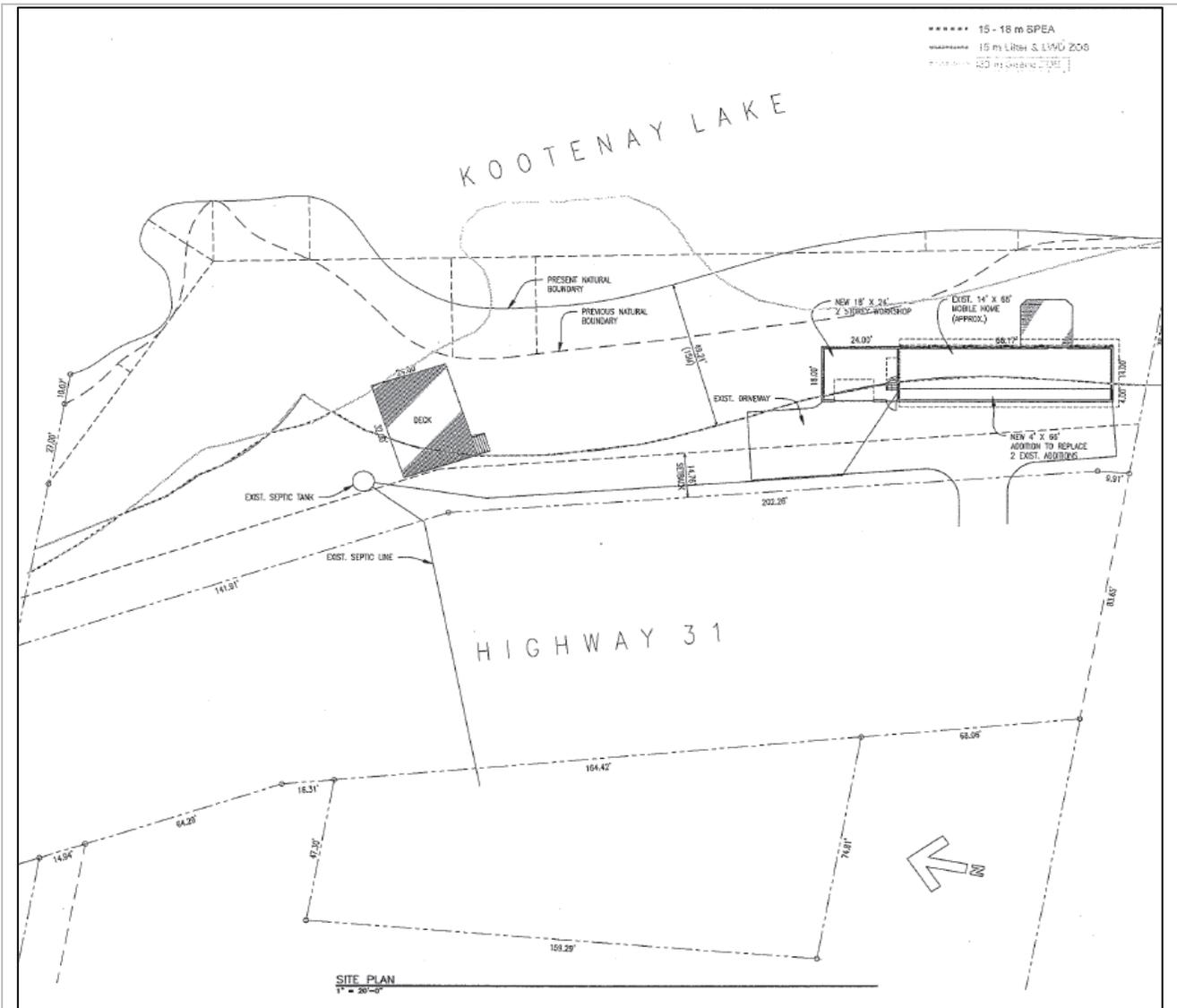


Figure 2: Site Plan



Figure 3: Site Visit Photographs

Kootenay Lake Shoreline Management Guidelines

The foreshore segment fronting the subject property was assigned a moderate fisheries habitat index rating and presence of emergent vegetation. No emergency vegetation was observed in front of the subject property. The foreshore is generally comprised of rocky shoreline with exposed bedrock, boulders and cobbles.

Planning Considerations

The Official Community Plan portion of Electoral Area D Comprehensive Land Use Bylaw No. 2622 directs that development occur in accordance with the following guidelines:

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.

A Riparian Area Regulation (RAR) report, dated May, 2018 was submitted by Iraleigh Anderson, Env. Tech and Sylvie Masse, RPBio of Masse Environmental. The report (Attachment A) recommended development procedures to protect the integrity of the Streamside Protection and Enhancement Area 'SPEA'. The measures include: appropriate scheduling of environmentally sensitive activities, protection of trees and vegetation within the SPEA, sediment and erosion control, construction waste management and invasive plant management.

Mitigation measures include: the planting of up to 20 native tree species and replacement of native shrub and riparian vegetation of up to 90 plants in the disturbed area associated with the proposed development.

Under the Local Government Act, Section 520, the RDCK may require security as a condition of the issuance of a Development Permit. Under RDCK Planning Procedures and Fees Bylaw No. 2167, it states that:

The amount of security will be 125% of an itemized estimate or quote of the cost of works submitted by a Landscape Architect, Qualified Environmental Professional, landscaping company or other professional approved by the General Manager of Development Services.

It is recommended that security be held for a period of up to three (3) years and released in increments following confirmation of the following: phase 1 (completion of works) 40% return, phase 2 (year two survival) 40% return and phase 3 (year three survival) remaining 20% return. The QEP has provided the estimated cost associated with required landscaping works of \$2880 which includes materials, equipment and labour costs at the required 125% of the itemized estimate:

Material Costs	\$650.00
Equipment Costs (1 day)	\$650.00
Labour Costs (1 day)	\$950.00

SECTION 3: DETAILED ANALYSIS

a. Financial Considerations – Cost and Resource Allocations:

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

The applicant paid the \$500 fee for a Development Permit application as per the RDCK Planning Procedures and Fees Bylaw No. 2457, 2015.

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

The applicant has submitted documentation in support of the application and required guidelines.

c. Environmental Considerations:

A Foreshore Assessment has been completed as part of the Watercourse Development Permit Area requirements associated with the property.

d. Social Considerations:

No apparent considerations.

e. Economic Considerations:

No apparent considerations.

f. Communication Considerations:

The proposal was sent on referral for a period of 30 days as per RDCK Planning Procedures and Fees Bylaw No. 2457, 2015.

Development Officer, Ministry of Transportation and Infrastructure, June 23, 2019

MoTI has no objection to this proposal as long as buildings are not located within 4.5 metre property setback from Hwy 31 and no parking permitted within the right of way.

Habitat Biologist, Ministry of Forest, Lands and Natural Resource Operations, June 28, 2019

The Ministry of Forests, Lands and Natural Resource Operations reviewed this Development Permit Application on June 27, 2019. It was determined that as long as mitigation outlined in Masse Environmental Consultants Ltd's Riparian Assessment for 5560 Highway 31, dated May 2018, are implemented, the application will not impact FLNRO's legislated responsibilities.

Environmental Health Officer, Interior Health Authority, June 5, 2019

This office recommends that the applicant provide documentation to support that the proposed construction will not conflict with the existing on-site sewage disposal system and will not affect the daily design flow. If no such documentation is readily available, it is recommended that the applicant retain the services of an Authorized Person under the Sewerage System Regulation to produce evidence that no such conflict will occur. The Sewerage System Standard Practice Manual Version 3 requires that an increase in daily design flow necessitates an "upgrade" to the system meaning that it must meet all standards of the manual.

Staff note that the recommendation stated by the Interior Health Authority is commonly assessed at the time of Building Permit review.

Ktunaxa Nation, July 25, 2019

Ktunaxa Nation has confirmed possible interest in the removal of white pine bark associated with the development proposal which will result in removal of three dead white pine. Arrangements will be made to ensure that access is accommodated.

g. Staffing/Departmental Work Plan Considerations:

Should the Board resolve to grant the request Building Department staff would proceed with issuance of a Building Permit.

h. Board Strategic Plan/Priorities Considerations:

Not applicable.

SECTION 4: OPTIONS & PROS / CONS

The General Manager of Development Services can either proceed with consideration of ISSUANCE of the Watercourse Development Permit or DENIAL of the Watercourse Development Permit.

Option 1: That the General Manager of Development Services ISSUE a Watercourse Development Permit to property located at 5560 Highway 31 and legally described as Lot B District Lot 819 Kootenay District Plan NEP60877 (PID 024-013-234) SUBJECT to registration of the Watercourse Development Permit as a Notice of Permit and associated security of \$2880.00 to be held over a period of three (3) years to ensure that required landscaping is completed in full.

Option 1 would allow the applicant to proceed with the issuance of a Building Permit for the proposed additions to an existing mobile home and other developments in accordance with mitigation recommendations. The applicant has submitted supportive documentation to support issuance of the Development Permit under the required Development Permit Area Guidelines.

Option 2: That the General Manager of Development Services NOT ISSUE a Watercourse Development Permit to property located at 5560 Highway 31 and legally described as Lot B District Lot 819 Kootenay District Plan NEP60877 (PID 024-013-234).

Option 2 would not allow the proposed development to proceed. Alternative building sites are not available on the subject property. There is limited discretion to refuse the issuance of a Development Permit where associated guidelines have been met.

SECTION 5: RECOMMENDATION(S)

That the General Manager of Development Services ISSUE a Watercourse Development Permit to property located at 5560 Highway 31 and legally described as Lot B District Lot 819 Kootenay District Plan NEP60877 (PID 024-013-234) SUBJECT to registration of the Watercourse Development Permit as a Notice of Permit and associated security of \$2880.00 to be held over a period of three (3) years to ensure that required landscaping is completed in full.

Respectfully submitted,



Meeri Durand, MCIP RPP
Senior Project Planner

CONCURRENCE

Initials:

Planning Manager
General Manager of Development Services

ATTACHMENTS:

Attachment A – Riparian Areas Regulation Assessment Report
Attachment B – Development Permit DP1905D

