



# REGIONAL DISTRICT OF CENTRAL KOOTENAY

## Committee Report

**Date of Report:** June 23, 2020  
**Date & Type of Meeting:** July 15, 2020 Rural Affairs Committee  
**Author:** Tamara Dale  
**Subject:** DEVELOPMENT VARIANCE PERMIT - RAYNOR  
**File:** V2007F-03573.000-RAYNOR-DVP000189

### SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Board to consider a Development Variance Permit application to vary the setback of a manufactured home and addition from the front and side lot lines, and the setback between the manufactured home and the neighbouring homes to the east and west. It is also proposed to reduce the setback of an existing shed from the rear lot line. In addition, as the deck includes a roof, it would not meet the definition of “deck” within the bylaw. A variance to the percentage area of all additions to the manufactured home is therefore also proposed to facilitate this addition.

The subject property (#20) is located at 2714 Lower Six Mile Rd, and is located within an existing Manufactured Home Park. The property comprises a manufactured home, partially constructed covered deck addition, and ancillary detached buildings.

Staff recommend approval of the Development Variance Permit.

### SECTION 2: BACKGROUND / ANALYSIS

#### GENERAL INFORMATION

|                           |  |
|---------------------------|--|
| <b>Property Owners:</b>   | Aqua Properties Ltd  |
| <b>Property Location:</b> | 20-2714 Lower Six Mile Rd, Nelson, BC, V1L 6L4   |
| <b>Legal Description:</b> | LOT A PLAN NEP76973 DISTRICT LOT 787 KOOTENAY LAND DISTRICT FOR REF TO BONAVENTURE MHP BAYS SEE FOLIOS 70034.010 ET AL FOR OCCUPIED CROWN FORESHORE SEE 03573.001, LOT B, PLAN NEP76973, DISTRICT LOT 787, KOOTENAY LAND DISTRICT (PID: 026-160-536) |
| <b>Property Size:</b>     | 3.1 hectares (7.67 acres)  |

#### SITE CONTEXT

The subject property comprises a manufactured home within a Manufactured Home Park located to the south of Lower Six Mile, and directly adjacent to the West Arm of Kootenay Lake. The property is designated as High Density Residential (HR) within the Electoral Area F Official Community Plan Bylaw No. 2214, 2012, and zoned as Manufactured Home Park (R5) under the Electoral Areas F, I, J and K Zoning Bylaw No. 1675, 2004. The property is accessed from Lower Six Mile Rd to the north, and comprises a manufactured home with partially constructed deck and detached accessory buildings.

Land uses adjoining the site are as follows:

| ORIENTATION | ZONING                | LAND USE            |
|-------------|-----------------------|---------------------|
| North       | Light Industrial (M1) | Industrial Building |

|       |                            |   |
|-------|----------------------------|---|
| East  | Suburban Residential (R1F) | Single Family Dwelling and Accessory Building |
| South | Open Space (OS)            | Kootenay Lake                                 |
| West  | Suburban Residential (R1F) | Single Family Dwelling                        |



**Figure 1: Location of site**

#### DEVELOPMENT PROPOSAL

The Applicant seeks a Development Variance Permit to vary the setbacks for the existing manufactured home and the proposed replacement addition as follows:

- Reduce setback from eastern side lot line from 1.5 metres to 0 metres (Section 9.5(2)(b));
- Reduce setback of existing shed from rear lot line from 1.5 metres to 0 metres (Section 9.5(2)(B));
- Reduce setback between subject manufactured home and neighbouring manufactured home to east (#19) from 4.5 metres to 2.74 metres (Section 9.5(1));
- Reduce setback between subject manufactured home and neighbouring manufactured home to west (#33) from 4.5 metres to 3.65 metres (Section 9.5(1));
- Reduce setback from internal access road from 2 metres to 1.5 metres (Section 9.5(2)(a));
- Enlarge the percentage addition to the manufactured home from 50% to 56% (Section 9.6(1)).

When submitted, the application also sought a reduction to the setback from the western side property line due to the presence of a historic property line. This property line has now been cancelled, proof of which was submitted by the Applicant. A setback variance for the western side property line is therefore no longer required.

The Variance relates to the existing manufactured home, as well as an addition which has been partially reconstructed. A Stop Work Notice has been posted on the site, and no further works have been undertaken.

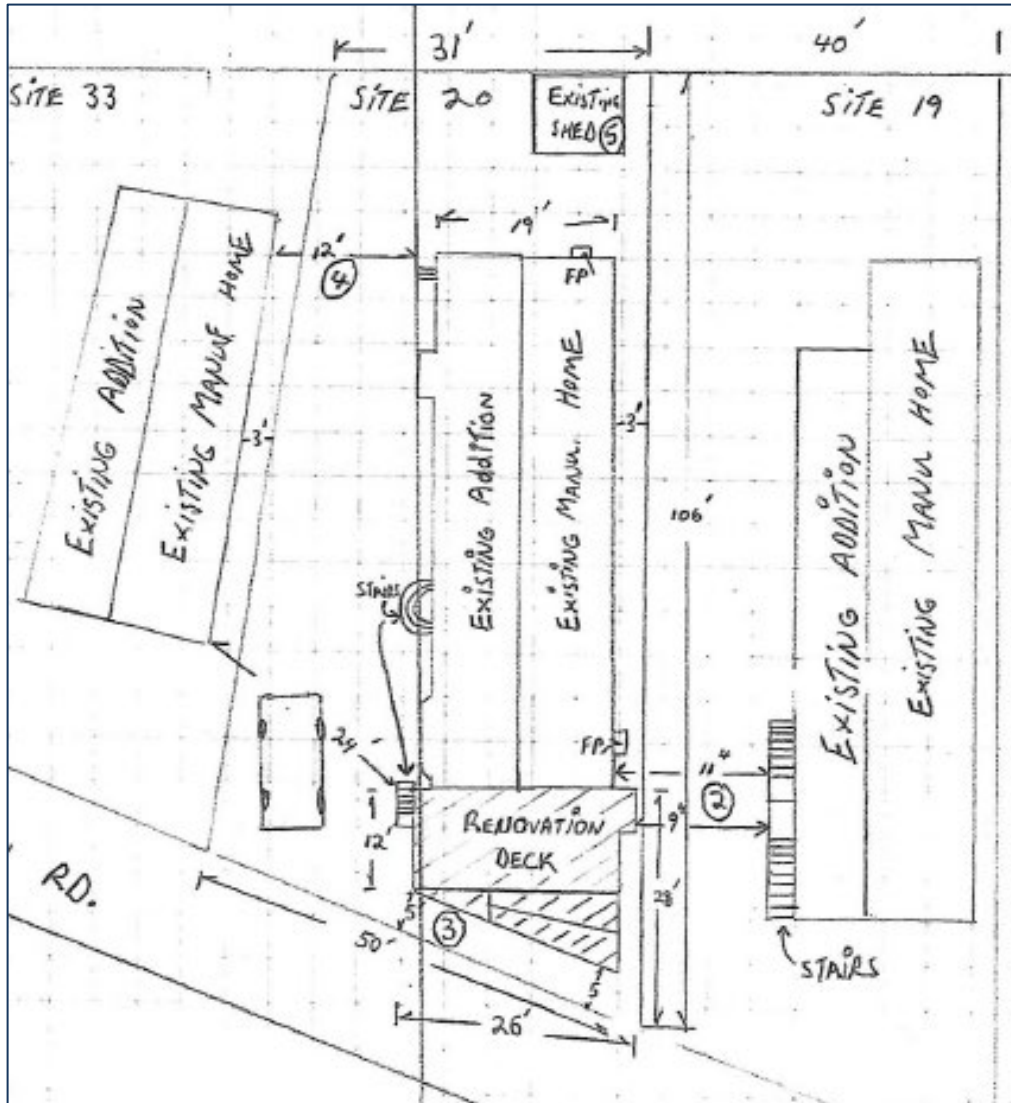


Figure 2: Site Plan

Development Regulations: Electoral Areas F, I, J and K Bylaw No. 1675, 2004

*Manufactured Home Park (R5)*

2101.1 Manufactured Home Park shall comply with all applicable regulations in any applicable Mobile Home Park bylaw or Manufactured Home Park Bylaw adopted by the Board.

2101.2 Landscaping shall be provided in accordance with sections 621 and 622.

Development Regulations: Manufactured Homes Parks Bylaw No. 1082, 1995

The following table identifies the Development Regulations outlined in subsection 9.5 of the Bylaw.

| DEVELOPMENT REGULATION   | MAXIMUM ALLOWABLE | PROPOSED                    |
|--|-------------------|-----------------------------|
| Setback between manufactured home or addition and adjacent manufactured home   | 4.5m              | 2.74 (east)<br>3.65m (west) |
| Setback between manufactured home or addition to it and internal access road   | 2m                | 1.5m                        |
| Setback between manufactured home or addition to it and rear of side lot lines | 1.5m              | 0m                          |
| Setback between addition and internal access road right of way                 | 2m                | 1.5m                        |
| Percentage area of additions to manufactured home                              | 50%               | 56%                         |

Electoral Area F Official Community Plan Bylaw No. 2214, 2012

*General Residential Policies:*

11.3.3 Will assess and evaluate proposed residential development based on the following criteria, in addition to the criteria found in the corresponding Residential policies where appropriate:

- c. capability of the natural environment to support the proposed development, and its impact on important habitat and riparian areas.
- d. susceptibility to natural hazards including but not limited to flooding, slope instability and wildfire risks.
- e. compatibility with adjacent land uses and designations, and how its form and character enhances the character of the rural area.
- g. mitigation of visual impacts where development is proposed on hillsides and other visually sensitive areas.

*High Density Residential Policies:*

11.5.6 When a proposal for High Density Residential is considered, the proposal should clearly articulate the need for it, analyse its impact on the rural community, and demonstrate how it will respect the character of the area.

KOOTENAY LAKE SHORELINE GUIDANCE

The property is located on the West Arm of Kootenay Lake, with the application site located directly adjacent to the shoreline. The Kootenay Lake Shoreline Management Guidelines are intended to clarify and streamline land use decision-making processes between different agencies, proponents, and stakeholders as they relate to riparian, fish, and fish habitat. Common development activities that affect these habitats include, among other things, land development within 30 metres of the natural boundary.

The Aquatic Habitat Index (AHI) describes the relative habitat value of the Kootenay Lake shoreline. The Aquatic Habitat Index rating for the property is High, where development within 30 metres of the shoreline has potential to impact riparian and fish habitat.

While recognized that the proposal has the potential to impact upon the shoreline, given the established nature of the site and the building construction utilized for the addition, it is not considered that the resulting impact would be so severe to justify a reason for refusal.



SITE VISIT

A site visit was undertaken on June 4<sup>th</sup> 2020.



**Figure 3: Manufactured Home and Deck as seen the south**



**Figure 4: View of property from south-east, showing setback from front and side property lines**





Figure 5: View of area of proposed deck as seen from the south-west



Figure 6: View of property as seen from south-west, showing separation between subject manufactured home and neighbour



Figure 7: Existing shed located to rear of manufactured home

### 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 type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |

The \$500 fee for a Development Variance Permit was paid pursuant to RDCK Planning Procedures and Fees Bylaw No. 2457, 2015.

#### b. Legislative Considerations:

Under Section 498 of the Local Government Act, the Board has the authority to vary provisions of a zoning bylaw (other than use or density) through a Development Variance Permit.

#### c. Environmental Considerations:

The property is located along the shoreline of Kootenay Lake. A review of the Aquatic Habitat Index Rating indicates a High potential for impact.

While it is recognized that development along this shoreline could impact upon the riparian area and habitat, the proposed development is considered to be relatively minor in nature and scale, and would not directly impact the shoreline. In considering the Kootenay Lake Shoreline Guidance document, no concern is raised in this regard.

**d. Social Considerations:**

No negative social impacts are anticipated.

**e. Economic Considerations:**

None anticipated.

**f. Communication Considerations:**

As per the requirements of the Local Government Act and the Planning Procedures and Fees Bylaw No. 2457, 2015, notices were mailed to surrounding neighbours within a 100 metre radius of the subject property on May 25<sup>th</sup> 2020. No responses were received.

A referral was sent to internal RDCK departments and external agencies. The following comments were received:

Ministry of Transportation and Infrastructure

No concerns with the proposal

Interior Health

No response received

RDCK Fire Services

No response received

RDCK Building Services

After initial review of the proposed deck renovation/addition regarding File: V2007F; the proposed structure is code compliant provided the structure is built to be no more than 1m above ground level.

If the structure is built to be more than 1m above the ground; I can then only speak to the proximity to the adjacent building which would not be permitted to be any closer than 2.4m (7' 10½") to another building on the same property [9.10.15.5.5. excerpt below]

5) Except as provided in Sentence (6), *combustible* projections on the exterior of a wall that are more than 1 m above ground level and that could expose an adjacent *building* to fire spread shall not be permitted within

a) 1.2 m of a property line or the centre line of a *public way*, or

b) 2.4 m of a *combustible* projection on another *building* on the same property.

**g. Staffing/Departmental Workplan Considerations:**

Should the Board grant the Variance, Staff would issue the Permit and register Notice of Permit on the Land Title.

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

This application falls under the operational role of Planning Services.

**SECTION 4: OPTIONS**



The property is designated as High Density Residential (HR) under Electoral Area F Official Community Plan Bylaw No. 2214, 2012.

Objectives for land within this designation include protecting the existing quality of life and character of existing neighbourhoods; and encouraging high quality design, building, development and landscaping standards that improve energy efficiency and maintain and enhance rural character.

#### PLANNING DISCUSSION

The application seeks to vary the setback regulations to permit the siting of the existing manufactured home and shed, as well as the construction of a covered deck to the front of the building.

The subject property is located within an existing manufactured home park, sited to the south of Lower Six Mile Rd. The wider area is characterized by manufactured homes of similar size to the subject building, most of which include decks similar in scale and form as proposed. The manufactured homes are uniformly spaced, and laid out in a staggered grain following the internal access road, with examples of carports, decks, and accessory buildings within the designated lots.

The subject property fronts the internal access road, and is located directly adjacent to Kootenay Lake, albeit separated by the internal access road. The subject property benefits from a greater site area than a number of the surrounding lots, and particularly when compared to those to the north and west. This creates greater spacing between the existing manufactured home and the neighbouring buildings, and allows a greater sense of spaciousness.

The application seeks to regularize the non-compliant manufactured home as existing and a proposed addition, and seeks to reduce the setbacks from the front, rear and eastern property lines, and also reduce the spacing between the subject building and the neighbouring manufactured homes to the east and west.

#### *Setback reduction from eastern side lot line*

It is proposed to reduce the setback from the eastern lot line from 1.5m to 0m to regularize the siting of the manufactured home (which is located approximately 1 metre from the lot line) and facilitate the construction of an addition (which would extend up to the lot line).

it is recognized that a number of manufactured homes within the Park are sited to a similar setback as that proposed, with the manufactured homes to the far-east of the site in particular, located to a similar side setback as proposed.

The lot line is not physically defined, with the boundary currently open between the subject building and the neighbouring manufactured home. The neighbouring manufactured home is located directly adjacent to its eastern lot line, which has the consequence of creating greater spacing to the west. While this does have some benefit in the perceived spacing of the buildings, it is recognized that the tapered nature of the two lots causes the manufactured homes to sit in closer proximity along the frontage. It is this area where the setback reduction would therefore be the most apparent. As such, consideration needs to be given to the impact this would have on the visual amenity and character of the street scene, and the amenity of the neighbouring property.

It is recognized that the layout and arrangement of the properties necessitates a mutual degree of overlooking, which is generally anticipated and accepted in higher density development. The staggered nature of the manufactured homes mitigates this to a degree, with the spacing between each of the manufactured homes also seeking to limit any potential conflict.

The proposed setback reduction would bring the built form closer to the neighbouring property, further enclosing the area and impacting on natural light, as well as bringing residential activity closer to the neighbouring property. It is however recognized that the manufactured home itself would remain approximately 1m from the lot line, which would reduce the perception of a hard edge, with only the proposed covered deck extending up to the lot line. The lightweight nature of this structure would still allow passing glances and light through, and this would help to mitigate some of the impact in regard to loss of light and dominance when experienced from the neighbouring property. On this basis, while the proposed setback is not ideal, given the nature of the structure, it is not considered that it would result in sufficient harm to justify a refusal on amenity grounds.

In addition, while acknowledged that the proposed addition would encourage and concentrate activity along the frontage, it is likely that any activity would be residential in nature and generally anticipated within such an area. It is not therefore considered that potential activity arising from the development would be comparatively different to if the area were used as a front yard. Furthermore, the staggered relationship between the properties is considered to mitigate some of the direct impact, and given the general character of the area, which includes similar features, it is not therefore considered that the proposal would result in demonstrable harm.

The 0 metre setback reduction is considered acceptable on the basis of the proposed addition alone, which given its lightweight structure, is considered to have limited impact on the neighbouring occupant. It would not be considered appropriate for the manufactured home or an addition of a more solid nature, to be located along the shared boundary. The variance is therefore recommended only on the basis of the nature and construction of the proposed addition, and the Permit would be subject of such specification.

*Setback reduction between subject building and neighbouring manufactured homes*

It is proposed to reduce the setback between the subject building and the manufactured homes to the east and west from 4.5 metres to 2.74 metres and 3.65 metres respectively.

The layout of the site comprises manufactured homes at various angles and setbacks from each other, with the open spaces between buildings utilized as parking or amenity spaces. These spaces are important features that provide separation between the buildings and help to reduce the concentration and prominence of development.

In respect of the subject property, it is noted that the manufactured home is located within close proximity to the eastern side lot line, with the parking area located to the west. This results in a greater degree of openness and separation to the west, with the gap between the subject property and the neighbouring property to the east appearing much smaller. This is further exaggerated by the narrowness of the neighbouring lot which limits the gap further.

Given this spatial context, the proposed setback reduction to the west would not be readily apparent, and it is not therefore considered that this reduction would compromise the character or visual amenities of the street scene, or the amenity of the neighbouring occupant.

It is however recognized that the spacing to the east is already limited by the arrangement of the subject property and the neighbouring lot, and this would be further affected by the proposed setback reduction. The reduction to the eastern side lot line is two-fold, as it comprises a reduced setback from the manufactured home, and a further reduction caused by the proposed addition. While these two elements comprise one building, the impact of the lightweight addition would be comparatively different to the impact of the manufactured home. The manufactured home appears as a hard edge, while the addition (designed using an open-sided frame) appears more lightweight, which enables views through the

structure. This has the result of reducing the prominence of the structure not only when seen from along the frontage, but also when considered against the neighbouring property.

On this basis, while the proposed setback reduction does bring the manufactured homes closer together, reducing the openness and separation between the buildings, it is considered that sufficient spacing would be retained. Furthermore, it is recognized that a number of properties within the Manufactured Home Park have gained approval for similar reductions. It is therefore considered that the proposed setback reduction between the manufactured homes would be acceptable.

*Setback reduction from internal access road*

It is proposed to reduce the setback from the internal access from 2.5 metres to 1.5 metres to facilitate the construction of a covered deck addition.

It is noted that a number of the manufactured homes within the wider site include decks of similar size and expanse to that proposed, with a number of examples located at a similar setback to that proposed. Given the nature of the addition, which is relatively lightweight in form and appearance, it is not considered that the structure would appear overtly dominant within the context of the subject property; with the setback reflective of similar examples within the surroundings. In addition, it is not considered that the proposal would impact on highway safety, with the proposed setback ensuring that the built form would not affect existing sight lines along the internal access road.

It is therefore considered that the proposed setback reduction to 1.5m between the building and the internal access road is acceptable.

*Setback reduction between existing shed and rear lot line*

It is proposed to reduce the setback between an existing accessory building and the rear lot line from 1.5 metres to 0 metres.

The existing shed is located to the rear of the property, and directly adjacent to an amenity area that is open to all of the surrounding properties. Given this context, there is no clear definition of the property line, with the area absent of vegetation or fencing which would otherwise define the boundary.

While the building would be located on the lot line, given that the surrounding area is relatively open, it is not considered that the setback reduction would be overtly recognizable. Furthermore, it is not considered that the siting of this building would compromise the open and spatial character of the area, or result in harm to the visual amenities of the site and surroundings. It is therefore considered that the proposed setback reduction to 0 metres is acceptable.

*Percentage enlargement of additions to manufactured home*

While the proposal would appear as a deck along the frontage of the building, given the inclusion of a roof, the structure would not meet the definition of "deck" within the relevant bylaw. As such, a Variance to increase the percentage area of additions to the manufactured home is required. The Variance seeks to increase the percentage addition from 50% to 56%, which would encompass the existing addition to the manufactured home, and the covered deck.

It is noted that a number of properties within the Manufactured Home Park include decks along the frontage, with some examples of covered decks within the wider surroundings. It is not therefore considered that the roofed deck would appear out of character or detract from the visual amenity of the area. In particular, the proposed form of the covered deck is considered to appropriately reflect the features and form of the existing manufactured home, with the addition appearing as a continuous



extension to the building. It is not therefore considered that the extent of the additions would be readily apparent, with the reflective form allowing the manufactured home and its additions to be read as one.

Furthermore, while there would be a percentage increase over that usually permitted, it is recognized that the subject property benefits from a greater area than the surrounding lots. The proposal is therefore considered to surmount to a modest increase, with the proposed addition considered to be acceptable in scale and size. Given this context, it is not considered that the cumulative impact of the existing and proposed additions would result in harm.

#### Conclusion

Overall, the proposed setback reductions are considered acceptable. While the reduced setbacks would bring the built form closer to the property lines and reduce the spacing between the subject building and the neighbouring manufactured homes, it is considered that sufficient spacing would be retained. On this basis, it is not considered that the proposed reductions would have an adverse impact on the character or visual amenities of the property and wider site, or the amenity and enjoyment of the neighbouring properties. The proposed Variances are therefore considered acceptable for the following reasons:

- a) A sufficient degree of openness and spaciousness would be retained between the built form of the subject property and the surrounding properties;
- b) The proposed built form would reflect the character and appearance of similar development within the wider Manufactured Home site;
- c) The proposal would not result in harm to the amenity or enjoyment of neighbouring properties; and
- d) The proposed setback reductions would not adversely impact upon the accessibility of the subject property or neighbouring properties, or sight lines from the internal access road.

It should be noted that the proposed setback reductions have been considered on the basis of the subject property and its spatial context. While the proposed variances are considered acceptable for the subject property, similar variances to other manufactured homes within the site would need to be assessed on their own individual merit, with particular consideration to the siting and spatial context of each property. It is not therefore considered that the approval of this variance would create a precedent for similar setback reductions elsewhere.

For the reasons listed above, Staff therefore recommend that the Variance to the setback requirements be APPROVED, as per Option 1.

#### OPTION 1

That the Board APPROVE the issuance of Development Variance Permit V2007F-03573.000-Raynor-DVP000189 to Rocky Raynor for the property located at 20-2714 Lower Six Mile Rd. and legally described as LOT A PLAN NEP76973 DISTRICT LOT 787 KOOTENAY LAND DISTRICT FOR REF TO BONAVENTURE MHP BAYS SEE FOLIOS 70034.010 ET AL FOR OCCUPIED CROWN FORESHORE SEE 03573.001, LOT B, PLAN NEP76973, DISTRICT LOT 787, KOOTENAY LAND DISTRICT (PID: 026-160-536) to vary:

Section 9.5(1) of *Manufactured Home Parks Bylaw No. 1082, 1995*

FROM: 4.5 metres

TO: 2.7 metres to the east and 3.6 metres to the west

Section 9.5(2)(a) of *Manufactured Home Parks Bylaw No. 1082, 1995*

FROM: 2 metres

TO: 1.5 metres

Section 9.5(2)(b) of *Manufactured Home Parks Bylaw No. 1082, 1995*

FROM: 1.5 metres

TO: 0 metres to the eastern lot line and 0 metres to rear lot line

Section 9.6(1) of *Manufactured Home Parks Bylaw No. 1082, 1995*

FROM: 50 percent

TO: 56 percent

#### OPTION 2

That the Board NOT APPROVE the issuance of Development Variance Permit V2007F-03573.000-Raynor-DVP000189 to Rocky Raynor for the property located at 20-2714 Lower Six Mile Rd, and legally described as LOT A PLAN NEP76973 DISTRICT LOT 787 KOOTENAY LAND DISTRICT FOR REF TO BONAVENTURE MHP BAYS SEE FOLIOS 70034.010 ET AL FOR OCCUPIED CROWN FORESHORE SEE 03573.001, LOT B, PLAN NEP76973, DISTRICT LOT 787, KOOTENAY LAND DISTRICT (PID: 026-160-536).

#### **SECTION 5: RECOMMENDATION(S)**

That That the Board APPROVE the issuance of Development Variance Permit V2007F-03573.000-Raynor-DVP000189 to Rocky Raynor for the property located at 20-2714 Lower Six Mile Rd. and legally described as LOT A PLAN NEP76973 DISTRICT LOT 787 KOOTENAY LAND DISTRICT FOR REF TO BONAVENTURE MHP BAYS SEE FOLIOS 70034.010 ET AL FOR OCCUPIED CROWN FORESHORE SEE 03573.001, LOT B, PLAN NEP76973, DISTRICT LOT 787, KOOTENAY LAND DISTRICT (PID: 026-160-536) to vary:

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FROM: 2 metres

TO: 1.5 metres

Section 9.5(2)(b) of *Manufactured Home Parks Bylaw No. 1082, 1995*

FROM: 1.5 metres

TO: 0 metres to the eastern lot line and 0 metres to rear lot line

Section 9.6(1) of *Manufactured Home Parks Bylaw No. 1082, 1995*

FROM: 50 percent

TO: 56 percent

Respectfully submitted,



Tamara Dale  
Planner

**CONCURRENCE**

**Initials:**

Choose an item.  
Choose an item.  
Choose an item.

**ATTACHMENTS:**

**Attachment A – Draft Development Variance Permit**  
**Attachment B – Building Plans**