

ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: B. Newell, Chief Administrative Officer
DATE: May 5, 2022
RE: Watercourse Development Permit Area Update (X2022.002-ZONE)

Administrative Recommendation:

THAT Bylaw No. 2950, 2022 being a bylaw to amend the Official Community Plan Bylaws to update watercourse development permit area guidelines and exemptions, be read a third time and adopted; and

THAT Bylaw No. 2500.25, 2022 being a bylaw to amend the Development Procedures Bylaw to introduce requirements for retroactive watercourse development permits, be read a third time and adopted.

Purpose:

Amendment Bylaws No. 2500.25 and 2950 are seeking to clarify how retroactive permits for works that occurred within Watercourse Development Permit (WDP) areas may be issued and add a WDP exemption for Crown land.

Background:

On March 9, 2022, a Public Information Meeting (PIM) was held online via WebEx and was attended by approximately two (2) members of the public.

The bylaws were considered by all of the electoral area advisory planning commissions as follows:

APC	Date	Recommendation
"A"	2022-03-14	that the subject development application be approved
"C"	2022-03-15	that the subject development application be denied
"D"	2022-03-08	that the subject development application be approved
"E"	2022-03-14	no quorum
"F"	2022-02-28	that the subject development application be approved
"H"	2022-03-15	that the subject development application be approved
"I"	2022-03-16	that the subject development application be approved

At its meeting of April 7, 2022, the Regional District Board resolved to approve first and second reading of the amendment bylaws and scheduled a public hearing ahead of its meeting of May 5, 2022.

All comments received to date in relation to this application are included with this report.

Approval from the Ministry of Transportation and Infrastructure (MoTI) is not required prior to adoption as the proposed amendments are to official community plan (OCP) bylaws.

Analysis:

In response to the direction being provided by the Ministry, the proposed OCP Bylaw and Development Procedures Bylaw amendments will create an avenue for property owners to obtain a WDP for “retroactive developments”, subject to sign-off by a Qualified Environmental Professional (QEP).

A retroactive Assessment Report does not mean that the development completed will be accepted as is, but should provide a way forward for the property owner and the RDOS. The result of the report could advise anything from complete removal of any development and restoration to the natural environment to acceptance of the structure as is with a reduced streamside protection and enhancement area (SPEA).

Ministry staff have advised the Regional District to accept retroactive Assessment Reports in the absence of their review. The Ministry may amend RAPR in future to formalize retroactive Assessments, at which point the WDP Area designations may require further review.

The option of a retroactive approval may encourage situations where property owners elect to complete a development and then apply for a WDP retroactively to save time and complexity.

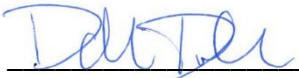
Conversely, the option to not amend the WDP Area designations is available to the Board and would encourage Ministry staff to formalize procedures for retroactive development procedures in the Provincial regulations. Property owners under enforcement for building without a WDP or in contravention of a WDP would remain on hold until the Ministry formalizes an approach.

WDP Exemption - Crown Land:

With regard to the proposed exemption of Crown land from WDP requirements, this is consistent with all other development permit areas in the OCPs. The exemption reflects the challenges of complying with the legislative requirement to register a permit on title when no title exists for Crown land as well as any enforcement that would require action be taken against the relevant minister. Additionally, the Province assesses many requirements to lease Crown land that include ensuring riparian area compliance when it is licensing various uses or development of Crown land.

Alternatives:

1. THAT first and second readings of Bylaw No. 2950, 2022 and Bylaw No. 2500.25, 2022 be rescinded and the bylaws abandoned.

Respectfully submitted:

Danielle DeVries, Planner 1

Endorsed By:

C. Garrish, Planning Manager