



THE CORPORATION OF THE DISTRICT OF SUMMERLAND COUNCIL REPORT

DATE: August 24, 2017 File: 2016-1787
TO: Linda Tynan, Chief Administrative Officer
FROM: Dean Strachan, MCIP, RPP, Director of Development Services
SUBJECT: OCP Amendment and Rezoning – 13610 Banks Crescent - Update

STAFF RECOMMENDATION:

That Council pass the following resolution:

THAT the update report dated August 24, 2017 from the Director of Development Services in relation to the OCP Amendment and Rezoning for 13610 Banks Crescent be received.

PURPOSE:

To receive an update on review and study components for the proposed OCP Amendment and Rezoning of 13610 Banks Crescent.

BACKGROUND and DISCUSSION:

1. At the August 14, 2017 Council Meeting, the Freshwater Fisheries Society of BC was granted an audience with Council to provide an updated statement regarding the subject application. Representatives provided a written statement following their verbal statement which is attached to the report for reference. In their presentation and letter, the Freshwater Fisheries Society of BC stated their opposition to the subject applications as they currently stand.

Staff followed up with the Freshwater Fisheries Society of BC on Tuesday August 15, 2017 to confirm they continue to be willing to discuss and consider options related to the water needs for their facility. It was confirmed that they would review and respond to information and options presented by the Applicant in attempts to address their concerns.

The option letter, submitted by the Lark Group to the District on August 14, 2017 was introduced to council at the meeting and was sent to Freshwater Fisheries Society of BC the following day for review and response.

E-mail correspondence and phone conversations confirmed their receipt of the proposed option and Fisheries Society representatives indicated a response would be provided to the District this week.

District staff communicated their willingness to facilitate the review if required and answer any questions or seek any additional information required. In follow up correspondence on August 24, 2017, the Society indicated a response was being

prepared and would be sent to the District prior to the August 28, 2017 Council meeting. The response letter was not received as of the date of this report, but, will be added when received. Staff continue to communicate to the Society their willingness to assist in communication with the applicants and facilitate additional meetings between the parties.

2. The Lark Group submitted two letters on August 14, 2017. As they were received on the afternoon of the meeting day they were not included as a part of the Council Meeting agenda. Staff referenced the letters in their discussion and following the meeting distributed the letters to Council. Both letters are attached to this report for reference.
3. The first of the two letters submitted by the Lark Group is in reference to the concerns expressed by the Freshwater Fisheries Society of BC on potential impacts to their water source Shaughnessy Springs. The letter presents an additional option to the alternate water source for the Hatchery Facility being explored, currently focusing on an Okanagan Lake deep water source.

The alternative presented included further study of the potential impacts of the proposed construction on the aquifer, specifically around potential vibration induced turbidity. Attached to the letter are two letters from professionals indicating that soil vibration from the proposed development would not threaten the aquifer. The letter also notes additional monitoring plans. As noted, this alternative has been presented to the Freshwater Fisheries Society of BC and they have indicated that they are reviewing it and will be responding. If this alternate option is supported and is to form a part of the development approval conditions it would be recommended that an independent third-party professional be brought in to review the reports, letters and data and confirm the findings presented.

4. The second letter submitted by the Lark Group provides an update on their efforts to engage residents and businesses in support of the proposed project.
5. District staff continue to review and correspond with the applicants professionals on the infrastructure components with the current completion and report to Council scheduled for October 10, 2017.
6. Items that have been identified as requiring additional study and review include the infrastructure items that continue to be under review and information gathering remains incomplete. It continues to be recommended to Council that the process for completing the study and review continue and a Public Hearing not be scheduled until this process is complete: If Council were to bring forward a resolution to schedule a Public Hearing prior to the study and review being completed it is recommended that the resolution not include a specific date and time but request staff to schedule a time and date when statutory notification requirements can be met and suitable facilities are available. Such a resolution would read:

That staff be directed to schedule a Public Hearing for the Banks Crescent Bylaws as soon as possible at a time and date when suitable facilities are available and statutory notification requirements can be met.

7. As previously noted, additional areas of review and study may be identified through the information gathering process. Once the study and review is completed a summary report will be prepared including a summary of the community

consultation comments and questions received with responses and answers provided where possible and/or applicable. It is anticipated that the additional information gathered would likely result in more detailed additional and/or alternate amenity provisions being recommended.

8. As noted under Legislation and Policy, with the Development Agreement a 219 Restrictive Covenant is registered which is a no build and no disturb covenant. This covenant is not released on any portion of the property until the detailed design drawings for off-site infrastructure are received and approved for the phase. Each phase agreement must follow the overall Development Agreement. The Development Agreement for each phase would be required to be in place with the required security before a Building Permit could be issued.

LEGISLATION and POLICY:

The Bylaws related to the subject application have received second reading, however, a Public Hearing has not yet been scheduled.

The mechanism proposed to be used for addressing concerns, requirements, conditions and bonding security would be a Development Agreement. The Development Agreement would be completed, presented to Council and would need to be approved in advance of the Rezoning Bylaw being adopted. As the proposed development would not be constructed all at once the Development Agreement would include provisions to be addressed at each construction phase. As part of this process, a No-Build and No-Disturb 219 Restrictive Covenant would be registered prior to adoption of the Rezoning Bylaw. This covenant would only be released for each phase once the detailed designs are approved and/or provisions are completed and bonding security is in place.

FINANCIAL IMPLICATIONS:

There are no financial implications anticipated to result from the subject recommendation.

CONCLUSION:

The study and review continues to progress with the infrastructure review projected to be completed and reported to Council on October 10, 2017.

OPTIONS:

1. Move the motion as recommended by Staff.
2. Request additional information on one or more updates provided.

Submitted by,



Dean Strachan, MCIP, RPP
Director of Development Services

Approved for Agenda



Linda Tynan, CAO



**Freshwater Fisheries
Society of BC**

RECEIVED
AUG 14 2017
DISTRICT OF SUMMERLAND

August 14, 2017

13211 Henry Avenue
Summerland, BC
V0H 1Z0

Attention: District of Summerland Mayor and Council

**Re: Freshwater Fisheries Society of BC
Comments and Statement Regarding Rezoning Application for
13610 Banks Crescent, Summerland, BC**

Mayor and Council:

The Freshwater Fisheries Society of BC is a not-for-profit organization established in 2003 and is funded largely by freshwater fishing licence revenues. The Society operates 6 hatcheries around the province and stocks 8 million fish into more than 600 lakes. The Summerland Trout Hatchery is the oldest hatchery in the province and employs 13 people on a yearly basis. Based on 2010 data, 300,000 freshwater anglers generate \$1 billion in economic activity provincially, with \$100 million being generated in the Okanagan region. Water from the Shaughnessy Spring supports all of the Summerland hatchery's fish production, and it is this production that is largely responsible for supporting this region's recreational fishery and its resulting economic impact.

Since the first water licence for Shaughnessy Spring was issued in 1902, the Spring has played an important role in both Summerland's and British Columbia's history. Over the decades, water from Shaughnessy Spring has been used for domestic supply (1903), electricity production (1907-1921) and fish culture (1927 to present). In 1967, the Summerland Trout Hatchery became the sole user and Water Licence holder for Shaughnessy Spring. In 70 years of operating the Summerland Fish Hatchery, production has never been interrupted due to Shaughnessy Spring water quality or quantity issues.

In September 2016, the District of Summerland's Director of Development Services contacted the Freshwater Fisheries Society of BC's Summerland Hatchery to invite our review of a "Hydrogeological Assessment" report commissioned by the Lark Group in support of their rezoning application for the Banks Crescent property. We accepted that invitation, primarily because the Lark Group report included assessments of potential impacts of the proposed Banks Crescent development on Shaughnessy Springs – the Summerland Hatchery's sole source of water. We provided our review comments to the District in October 2016 and have since reviewed and commented on other Lark Group submissions relating specifically to Summerland Hatchery's unique water needs. In all instances, the Society's responses have been based solely on our mandate and responsibility as operators and managers of the Summerland Hatchery.



Freshwater Fisheries Society of BC

Our October 2016 review of Lark Group's hydrogeological report provided our assessment of potential water quantity impacts and water quality impacts on Shaughnessy Springs. No impacts to Shaughnessy Spring water quantity were identified, subject to Lark Group confirming their project would not withdraw water from or dispose of water into the deeply buried aquifer that discharges into Shaughnessy Springs. Lark Group did provide such confirmation; accordingly, the Society was satisfied that the availability of water from Shaughnessy Springs was not at risk. However, regarding potential water quality impacts, Lark Group's report identified construction vibrations as having potential to increase the turbidity of water discharging into Shaughnessy Springs and we further identified stormwater runoff from the developed property as a potential source of water quality impact. Given the very high consequences associated with frequently high turbidity water and/or urban stormwater entering our Summerland facility, District staff requested we directly consult with Lark Group and their consultants to explore options for effectively reducing these risks.

Multiple discussions and correspondence occurred between the Society and Lark Group and/or their consultants during November 2016 to March 2017. Following an in-person meeting on January 4, 2017, we provided our written opinion that the concepts presented by Lark Group for reducing water quality impacts did not provide adequate assurance that high turbidity water and/or stormwater containing urban pollutants would not impact Shaughnessy Spring. Given the sensitivity of the Summerland Hatchery aquatic environment to turbid and/or polluted water, we further stated that risks to hatchery operations could only be managed by establishing a "Contingency Water Supply" to provide water of suitable quality and quantity to maintain hatchery operations during a water quality impact event.

During the 3-month period of January to March 2017, the required "Contingency Water Supply" became a primary point of discussion between the Society and Lark Group. However, on March 30, 2017, the Lark Group unexpectedly issued a letter to the District that publicly challenged the Society's rationale for the Contingency Water Supply. It was our opinion that the Lark Group letter also included misrepresentations of the Society's positions and motivations and, therefore, completely undermined the on-going consultations. On this basis, the Society issued a letter on April 12, 2017 to Mayor and Council to confirm our withdrawal from any direct communications with Lark Group, to affirm the Society's status as a water stakeholder, and to state, *"We have come to the conclusion that the only means of ensuring the viability of our hatchery and the recreational fisheries it supports is to remain on record as being officially opposed to this development"*.

Since April this year, the District has continued to intermittently approach the Society to provide relevant updates and to solicit comments, and the primary topic has been the requisite Contingency Water Supply. Recent public correspondence indicates that the Lark Group is considering Okanagan Lake as a water source, via an existing District intake and water licence. We respect that the Lark Group's assessment of Okanagan Lake water is on-going; however, our current opinion is that their recent qualitative responses to our queries do not adequately support their position that Okanagan Lake water is suitable for hatchery applications. Recognizing this, and given our existing unaddressed concerns identified during the preceding ten months, our Summerland Hatchery Manager attended a July 24, 2017 Council Meeting to officially state our



Freshwater Fisheries Society of BC

“opposition to the rezoning application, and the proposed amendments to the Official Community Plan, and the development as it currently stands.”.

SUMMARY

We interpret the Lark Group's on-going efforts to assess Okanagan Lake as recognition of the Society's requirement for a permanent Contingency Water Supply to maintain hatchery operations in the event of the development adversely affecting water quality at Shaughnessy Springs. However, insufficient detail has been provided for us to determine how this Contingency Water Supply will meet our facility's stringent water quality and quantity requirements. Without these details, the Society must remain opposed to the proposed development, and any other development that could impact water quality in Shaughnessy Springs, until there is sufficient information that demonstrates the viability of this or any other Contingency Water Supply source.

We understand the Lark Group has committed to implementing state-of-practice administrative controls, which the Society expects should be effective in reducing (but not eliminating) the potential for water quality impacts in Shaughnessy Springs. It has been our long-held position that these administrative controls must be expanded to include construction phase and post-construction monitoring of aquifer and spring water quality, to acquire data that confirms the need to implement the Contingency Water Supply scenario before any affected water enters the hatchery. Without commitments to implement these specific water monitoring programs, the Society cannot support the proposed development.

Regards,

Kyle Girgan, Manager, Summerland Trout Hatchery
Jon Pew, Board Chair, FFSB
Andrew Wilson, President, FFSBC
Tim Yesaki, Vice President of Operations, FFSBC

August 14, 2017

iCasa Resort Living, Summerland BC
at Shaughnessy Green (the "Project")

ATT: Summerland Mayor and Council
RE: Vibration-induced turbidity not a risk to Aquifer

Dear Mayor and Council,

Further to our letter of July 27th issued to development services describing our enhanced aquifer protection plan during construction, we would like to present two consulting engineers' letters that support the position that vibration-induced turbidity will not pose a risk to the underlying aquifer.

Please find attached from Rock Glen Consulting Ltd. of Okanagan Falls a letter relating to the depth at which vibrations from site are expected to dissipate. In addition, please find attached from Piteau Associates Engineering Ltd. of Kelowna a letter with reference to the Rock Glen Consulting letter that states the depth of the aquifer is substantially lower than the lowest level vibrations are expected to occur due to the attenuation quality of the earth.

Both letters, in conjunction with our enhanced protection plan (attached), serve to support the position that vibration-induced turbidity will not pose a risk to the aquifer. Should the turbidity level of the water leaving the construction site ever exceed the baseline and pre-construction levels, work will be stopped immediately. As required by municipal engineering and construction standards, our water quality monitoring plan and sedimentation and erosion control plan will continue to be in place before, during and after construction to support continued monitoring and data collection from the aquifer.

Sincerely,



Lark Enterprises Ltd.
Malek Tawashy,
Development Project Manager

Attachments (3):

Rock Glen Consulting Ltd. re: Vibratory Attenuation dated August 3rd
Piteau Associates Engineering Ltd. re: Aquifer Depth and monitoring plan dated August 14th
Lark Enterprises Ltd letter to Development Services re: Enhanced Aquifer Protection Plan

ROCK GLEN CONSULTING LTD.
P.O. Box 36, Okanagan Falls, BC V0H 1R0
Tel: (250) 497-8290, Fax: (250) 497-8291
rockglen@shaw.ca

August 3, 2017

Lark Group
Suite 1500, 13737 96th Avenue
Surrey, BC
V3V 0C6

Our File: RGC-1839

Attention: Myron Dirks

**Subject: Geotechnical Engineering Review of Potential Groundwater Impacts:
Proposed ICASA Resort Living Development
13610 Banks Crescent, Summerland, BC**

Dear Mr. Dirks:

In response to your request, we are presenting our professional opinion on the potential impacts to the Shaughnessy Spring of proposed construction at 13610 Banks Crescent.

Rock Glen Consulting is retained as the geotechnical engineers for this project. As such, we have been involved in site investigations and review of construction plans for the project. We are well informed regarding the potential impacts of construction on the underlying aquifer.

Test pit excavations and test drilling did not encounter groundwater within planned construction depths. Soils associated with planned excavations and building construction include typical Okanagan glaciolacustrine silts as well as fluvial sands and gravels.

Our experience indicates that potential issues of concern are: slope stability, construction vibrations, and stormwater management.

Slope stability issues will be managed with conventional geotechnical construction methodologies. Construction excavation stability will be undertaken by experienced contractors under the direction of qualified geotechnical engineers.

Temporary excavation slopes will be designed and monitored to protect workers on the site, and also to ensure the long-term stability of those slopes once the construction is completed and all the buildings are backfilled. Proper drainage around those buildings for the foundations will ensure ongoing stability as well.

Slope stability outside of building areas will be monitored as construction proceeds and setbacks for construction of roadways, buildings, and other structures on the sites will ensure that the

construction activities do not contribute to changes in the stability of those slopes. In particular, sufficient setbacks and runoff erosion protection measures will be implemented to maintain a low risk of any slope instability issues in the area above the Shaughnessy Spring.

Excess water into the ground on a project such as this is normally associated with stormwater runoff from roof areas, parking areas, and other hard surfaces on the site. Stormwater runoff will be managed by following the Construction Erosion and Sedimentation Control Plan prepared by CTQ. Stormwater runoff will be collected for discharge offsite to eliminate the potential for onsite disposal of stormwater runoff having an impact on either buildings or the underlying aquifer.

Vibrations during construction include vibrations from excavation, backfilling and foundation preparation activities. Vibrations from excavation work are typically minimal – some of the soil materials and the gravels will create vibrations of a minor nature as they are excavated and these will attenuate at shallow depths in the surrounding soil.

Requirements for structural fill either as foundations under buildings, structural backfill behind retaining walls or building foundations as well as sub-base and base course materials for roadways will be vibratory-packed and these activities will also generate vibrations. The attenuation of these vibrations from even the largest vibratory compactors is expected to attenuate within 5-10 m below where the compaction effort is being applied. On this site, that is estimated to be a maximum of 12 to 15 m below the current ground surface.

RGC is satisfied that the vibrations generated by the excavation and compaction work required to construct the ICASA Resort Living Development will not impact the underlying aquifer, and that the CTQ surface water management plan provides assurance that stormwater runoff from the ICASA site will also not impact the underlying aquifer.

Further, both short-term and long-term slope stability will be managed by adequate setbacks from slopes, including those above the Shaughnessy Spring area, and through construction monitoring by qualified profession engineers.

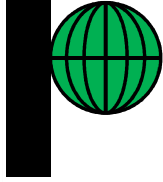
RGC is confident that construction and operation of the ICASA Resort Living Development represents a very low risk to the aquifer underlying the site and to the water discharged from the Shaughnessy Spring.

Sincerely,

A circular professional engineer stamp for P.K. Glen, #22954, British Columbia. The stamp is partially obscured by a handwritten signature in blue ink that reads "Paul Glen". To the right of the stamp, the date "Aug. 3, 2017" is handwritten in blue ink.

Paul Glen, P. Eng.

Rock Glen Consulting Ltd.



PITEAU ASSOCIATES
GEOTECHNICAL AND
WATER MANAGEMENT CONSULTANTS

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Our File: 3583-M003

August 14, 2017

Lark Enterprises Ltd.
Suite 1500
13737 – 96th Avenue
Surrey, BC V3V 0C6

Attention: Mr. Myron Dirks, Project Manager

Dear Sirs:

Re: Hydrogeological Update
Proposed ICASA Development at 13610 Banks Crescent, Summerland, BC

Further to your request, we provide the following comments regarding specific issues relating to the proposed ICASSA seniors housing project in Summerland. This letter is further to our original technical memo issued in July 2016 (3583-M001), and a hydrogeological update in January 2017 (3583-M002).

With respect to the August 3, 2017 RockGlen report, this report provides a geotechnical engineering review of potential groundwater impacts at the proposed development. We concur that the potential for vibration induced turbidity to migrate within the aquifer and impact the turbidity in Shaughnessy Springs is negligible. This conclusion is supported by the estimated maximum depth of 10 m to 12 m for the dissipation of vibration generated at ground surface, whereas the most shallow depth to groundwater at the east end of the site is in the order of 20 m. In this regard, we refer to the same technical reference as RockGlen, which is a 2000 paper by Kim & Lee entitled, "Propagation and Attenuation Characteristics of Various Ground Vibrations", derived from the journal Soil Dynamics and Earthquake Engineering.

Other construction activities are not expected to impact the aquifer in any way, however, our understanding is that the groundwater monitoring plan proposed by Piteau will be used during construction to alert the construction team if there are groundwater issues and allow for cessation of work should turbidity levels exceed a high-risk threshold. The monitoring plan provides for baseline (pre-construction) and ongoing water level and water quality monitoring in two dedicated monitoring wells on site during the construction phase of the project. The groundwater monitoring will proceed in conjunction with the erosion and sediment control plan (ESP), which will manage surface runoff quantity and quality during construction.



Lark Enterprises Ltd.
Attention: Mr. Myron Dirks

- 2 -

August 14, 2017

I trust that these comments are useful for your dialogue with the District of Summerland and the Freshwater Fisheries Society.

Yours truly,

PITEAU ASSOCIATES ENGINEERING LTD.

Remi J. Allard, M.Eng., P.Eng.
Principal Hydrogeologist

RJA/skn

REFERENCES

- Kim & Lee. 2000. Propagation and Attenuation Characteristics of Various Ground Vibrations. Journal Soil Dynamics and Earthquake Engineering. V19 (2000).
- RockGlen Consulting Ltd. August 2017. Geotechnical Engineering Review of Potential Groundwater Impacts, Proposed ICASSA Resort Living Development, 13610 Banks Crescent, Summerland, BC.
- D. 2002. Identifying and Quantifying Urban Recharge: A review. Hydrogeology Journal Volume 10, Issue 1, pp 143-152.
- Piteau Associates Engineering. July 2016. Hydrogeological Assessment 13610 Banks Crescent, Summerland, BC. Technical Memo 3583-M001.
- Piteau Associates Engineering. January 2017. Hydrogeological Update (January 4, 2017 Meeting Summary) Technical Memo 3583-M002.

July 27, 2017

iCasa Resort Living, Summerland BC
at Shaughnessy Green (the "Project")

ATT: Dean Strachan, Director of Development Services, Summerland BC
RE: Alternative to Contingency Water Supply

Dear Mr. Strachan,

Subsequent to hearing from the Freshwater Fisheries Society of BC (FFSBC) at the July 24th, 2017 Council Meeting we would like to present an alternative option for addressing the concerns of the FFSBC. We understand the FFSBC is concerned about construction induced turbidity of the local aquifer that is used by the Hatchery and portions of which may run below the Project site.

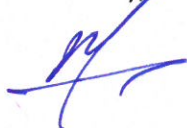
As background information, the previously proposed contingency water supply option would have been provided to the District who in turn would have supplied water to the FFSBC for the Hatchery's use. The revised plan presented below provides enhanced protective measures of the aquifer during construction and does not include the provision of a water supply to the District.

The basis of the enhanced protection plan we are working includes the following:

1. Install permanent water monitoring wells on site
2. Begin baseline water quality testing as soon as practicably possible
3. Prior to commencing construction publish the pre-construction turbidity levels and the publically available high-risk turbidity levels that impact fish production
4. During construction provide ongoing water quality monitoring for turbidity with stop-work notifications being issued should the turbidity levels exceed the published high-risk threshold
5. Once work is stopped, and turbidity levels have reduced to acceptable levels, proceed with an approved alternative work method confirmed to reduce vibration-induced turbidity
6. Continue with alternative method until works in the affected area are complete
7. Leave the monitoring wells in place for future hydrology research and data collection

In addition to the above alternative protection measures, all sedimentation and erosion control measures as previously outlined in our erosion and sedimentation control plan will be in place.

Sincerely,



Lark Enterprises Ltd.
Malek Tawashy,
Development Project Manager

August 14, 2017

iCasa Resort Living, Summerland BC
at Shaughnessy Green (the "Project")

ATT: Mayor and Council

RE: iCasa Community Support Campaign Update

Dear Mayor and Council,

We write to provide an update regarding the recent Community Support Campaign that our team has had underway since July 18, 2017. Not only have the responses been overwhelmingly positive as per the attached summary, but the opportunity to discuss the project with all members of the community has been an incredibly valuable experience; both for us and we hope for the community as well.

The Campaign provided for open and transparent discussion with neighbors of the project, Summerland residents and businesses alike. We valued the opportunity to listen to individuals' excitement for the project, their support for the project, their need for the project (both residents and business) and of course in some cases, their concerns for the project.

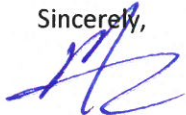
Having participated in the Campaign myself, by far the most rewarding aspect was the opportunity to provide an intimate and confidential opportunity for Summerlanders to share their thoughts and feelings on the Project. When requested of us, a personalized account of the engineered solutions to previous concerns was provided. In nearly every single case where an accurate account of the Project facts was provided, there was a noticeable positive shift in disposition and where there was first opposition, very quickly shifted to support. Of course the majority of the individuals we spoke with were an immediate yes, and we value and appreciate those discussions as equally rewarding and exciting as well.

Please find below a breakdown of the Campaign statistics to date:

Total Contacts Made to Date :	1223
Signed support letters	505 (92 by business)
Support without signature	70
Online support	32
Neutral	183
Not Home	381
Opposed	52

Of those who responded either in favor or opposed, 607 (or 92%) were in favour and 52 (or 8%) were opposed. A package including the supporting documents will be submitted in confidence to the District.

Sincerely,



Lark Enterprises Ltd.
Malek Tawashy,
Development Project Manager