

Permittee: Cindy and James Sawatsky

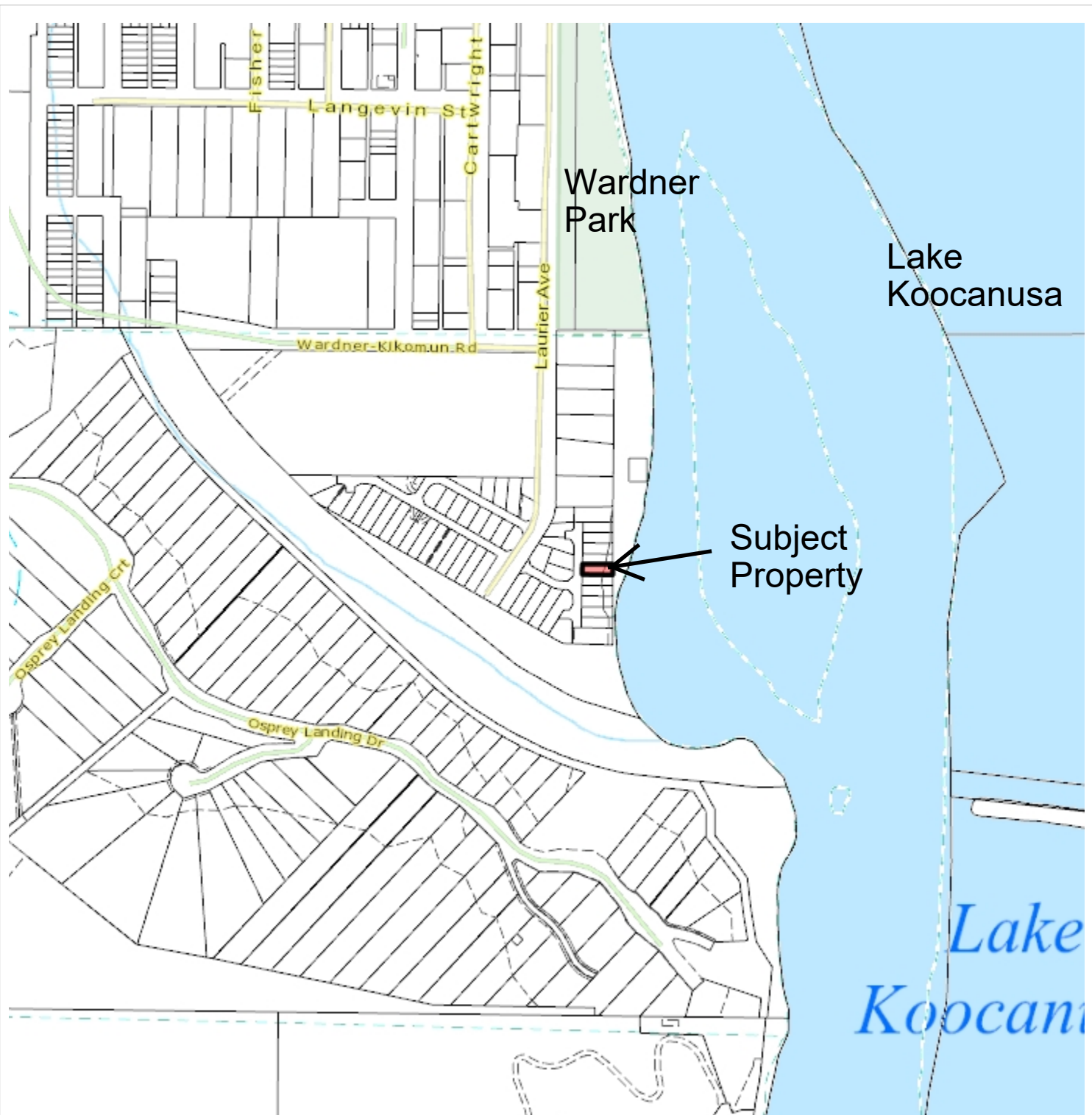
1. This Development Variance Permit is issued subject to compliance with all RDEK bylaws applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Permit applies to and only to those lands described below:

Strata Lot 7, District Lot 2374, Kootenay District, Strata Plan NES3720 together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on form V
(PID: 028-029-372)
3. Regional District of East Kootenay – Steeples Zoning & Floodplain Management Bylaw No. 2615, 2015, Section 4.7 (3)(d) which requires a maximum parcel coverage of 35% is varied to increase the maximum parcel coverage from 35% to 44.5%, to allow for construction of a single family dwelling.
4. The lands described herein shall be developed strictly in accordance with the terms and conditions of this Permit and in substantial compliance with the information submitted in the Development Variance Permit application received on February 11, 2022.
5. This permit is subject to the proposal complying with all other bylaw requirements.
6. This Permit shall come into force on the date of an authorizing resolution passed by the RDEK.
7. This Permit is not a building permit.
8. If development authorized by this Permit does not commence within two years of the issue date of this Permit, the Permit shall lapse.
9. A notice pursuant to Section 503(1) of the *Local Government Act* shall be filed in the Land Title Office and the Registrar shall make a note of the filing against the title of the land affected.
10. It is understood and agreed that the RDEK has made no representations, covenants, warranties, guarantees, promises, or agreement (verbal or otherwise) with the developer other than those in this Permit.
11. This Permit shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

Authorizing Resolution No. **adopted by the Board of the Regional District of East Kootenay on the day of , 2022.**

Tina Hlushak
Corporate Officer

Location Map



Notes:

250 0 125 250 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 2-23-2022 12:00 PM

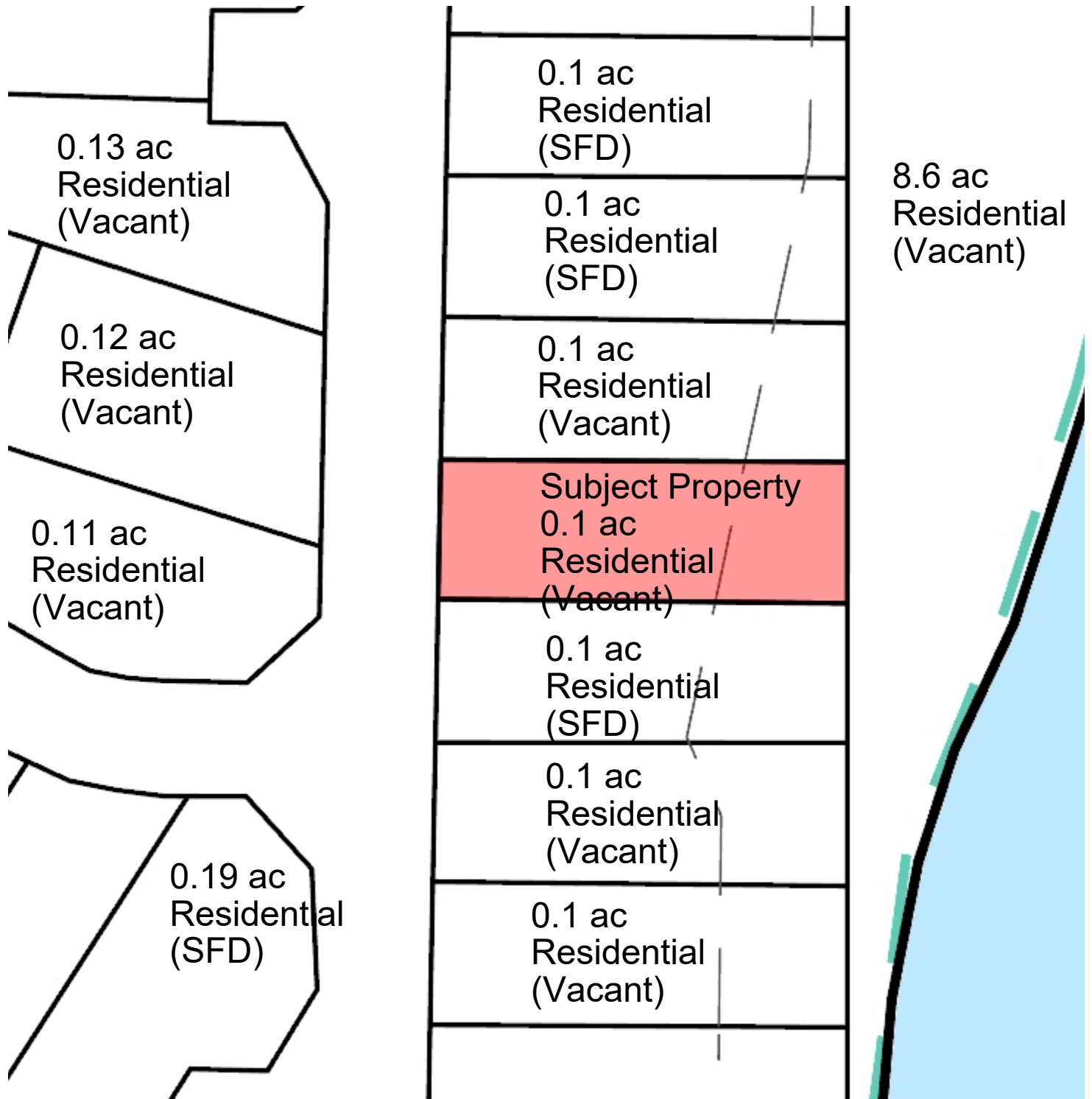
Scale = 1: 10,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Land Use Map



Notes:

19 0 9 19 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 2-23-2022 12:02 PM

Scale = 1: 750



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

February 11, 2022

To whom it may concern:

Hello, my name is Jim Sawatsky, my wife (Cindy) and I own lot 7, 6324 Laurier Rd in Wardner BC.

We respectfully request you consider allowing a waiver of the lot coverage bylaw of 35% by 10% to allow us to extend our deck by approximately 8 ½ feet and construct a front landing to our main entrance that follows more with the style of the home (an increase to 44.5%).

We have been in the process of planning this home for 3 years now and had planned construction last year but delayed due to supply issues. We had submitted the plans for a development permit in October 2020 and our architect was in contact with the planning commission during and after our plan development but reconsidered when Covid supply issues were rampant. Whether it was from miscommunication, oversight or lack of experience with BC regulations, or all the above, we ended up designing a home that covered 34.5% of the lot without the full deck and front landing included. Alberta regulations do not include deck structures as part of the lot coverage calculation is what I am told.

Needless to say, we tried to be proactive and avoid delays by entering contracts to supply the necessary building materials (trusses, windows, doors, deck railings, kitchen cabinets, etc.) in the summer of 2021.

Now with the revelation of our home being oversized I am looking at major costs to redesign the plans, scrap existing produced products waiting for installation, and time delays ordering new products at increased price points to accommodate a decrease in lot coverage or construct our home without much of a deck to fall within guidelines. We have chosen to apply for a building permit with decreased deck size with the hopes of a waiver since any more delays would adversely affect our schedule with the contractors lined up to start construction and possibly postpone our project up to 1 ½ years due to the hot building market in the area and the difficulty lining up our contractors again.

We are a large family and did look at decreasing the size of the home but our children are young adults and their families will do nothing but grow in the future and we highly value being able to gather as a family during various times of the year to keep community and connection with each other. There is simply no spaces that can be reduced without compromising the ability to gather as a group in the residence. The values of the Steeples OCP follow suit with this as well as the beauty and opportunity of activities suited to a healthy lifestyle for all ages available here in Wardner. As you may know, an exterior deck is usually the prime and natural gathering point of family activities in a recreational development as Koocanusa Landing and we covet these memories for our family. A deck large enough to accommodate our family for outdoor BBQs and warm summer night conversation, relaxation would be deeply appreciated.

The extra deck size would in no way hinder the enjoyment of our neighboring residents or their view as it would be consistent with the deck sizes already in existence and the location on the lot would be similar due to the covenant restriction and would therefore not cause undue restriction of their view of the lake or surrounding areas.

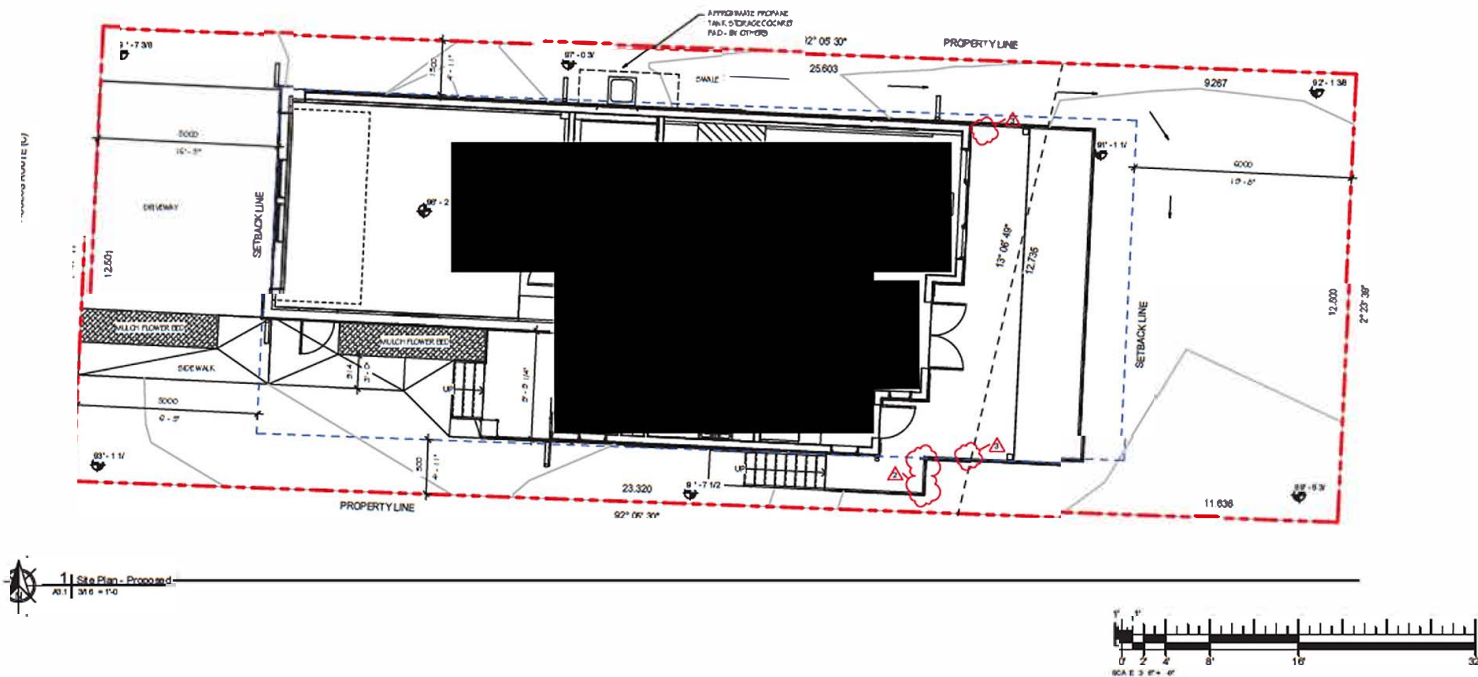
We have submitted drawings of what the deck needs to be to fall into the 35% rule with our General Building Permit Application on Feb 10, 2022 and I will attach the plans showing the proposed decks at 44.5% to this letter.

I understand that this issue is ultimately our problem and our fault, but I humbly ask for your understanding and grace in allowing this variance.

Sincerely,

Jim Sawatsky

Personal information has been withheld in accordance with section 22(1) of the *Freedom of Information and Protection of Privacy Act*.



NOT PLAN
LEGAL DESCRIPTION
LOT 1
DISTRICT LOT 1-237
PLAN N55728
MUNICIPAL ADDRESS:
XXXX
WARDNER, BRITISH COLUMBIA, TH XXX

CLIENT INFORMATION:

3	Deck Foot Location	2021 01 07
2	Deck and Footing Adjustment	2021 01 07
1	Description	Date

Revision Schedule

CORRELATION LOG:

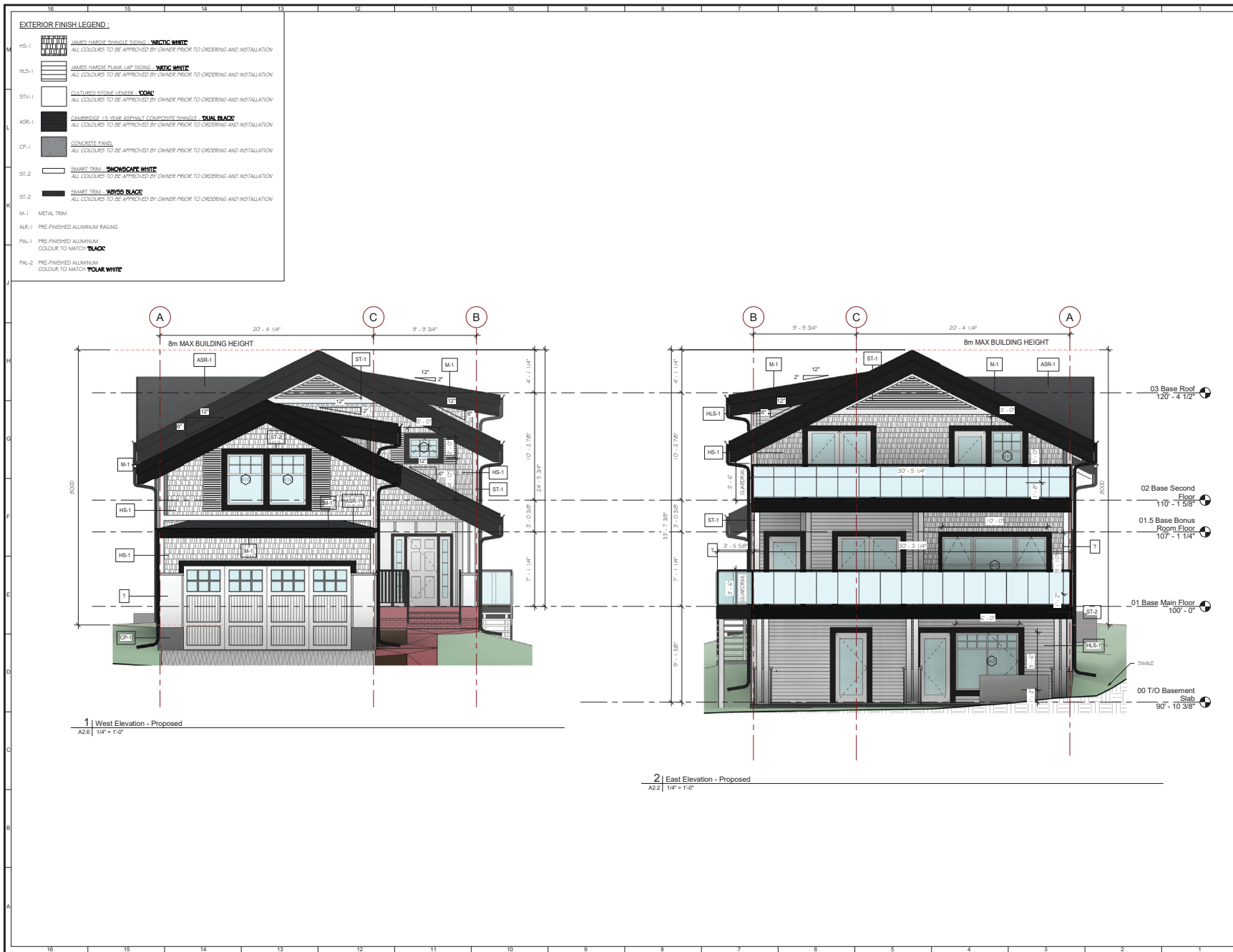
2	GO	DATE	OFF	BY	2021 01 07
1	GO	DATE	OFF	BY	2021 01 07
1	AT				

Not Noted Coach House
810 8000 1 Range Road 212
Lethbridge County, Alberta
T1B 3B6
www.notnoted.ca
ph (403) 320-8100
Fax (403) 320-3373
gen@notnoted.ca

ARCHITECT

PROFESSIONAL SEAL:

PROJECT
Sawatsky Kookanusa House Plan
LOCATION:
WARDNER, BRITISH COLUMBIA
DRAWING TITLE:
Proposed Site Plan
DRAWN BY
TV
CHECKED BY
GO
SCALE
3/16" = 1'-0"
PROJ NO
186-1-10380
DATE
DP / BP
ISSUE DATE
2021 01 25
REV NO
3
DATE
A1.1



KEY PLAN

LEGAL DESCRIPTION
LOT 7
DISTRICT LOT-2374
PLAN N53725

MUNICIPAL ADDRESS
XXXX
WARDNER, BRITISH COLUMBIA, TH XXX

CLIENT INFORMATION

#	Description	Date
1	ISSUE FOR CONSULTANT REVIEW	2020 09 15
2	ISSUE FOR DP / BP	2020 10 28

CONSULTANT LOGO

ALVIN REINHARD FRITZ
ARCHITECT
INC.

PROFESSIONAL SEAL

DRAWING TITLE:
East & West
Elevation

DRAWN BY:
TV

CHECKED BY:
GO

SCALE: 1/4" = 1'-0"

PROJECT: 19941 KSHD

ISSUE FOR:
DP / BP

ISSUE DATE:
2021 01 25

REV. NO.
A3.1



April 22, 2022

RE: File No: P 722 320

Reference: DVP 9-22

To whom it may concern;

As owners within the Koocanusa Landing Subdivision, we are writing to file our objection to the proposed land use bylaw of Regional District of East Kootenay – Steeples Zoning & Floodplain Management Bylaw No. 2615, 2015, Section 4.7 (3)(d) which requires a maximum parcel coverage of 35% to be increased to 44.5% on Lot 7 6324 Laurier Ave Wardner, BC.

After reading the attached letter to the application for variance by Jim and Cindy Sawatsky some concerns have been noted. Our community is comprised of small lots, owned primarily by Albertans. **ALL** of whom needed to know the rules and restrictions **BEFORE** they built. We believe that the owners of Lot 7 have put the cart before the horse, in their letter; *“Needless to say, we tried to be proactive and avoid delays by entering contracts to supply the necessary building materials (trusses, windows, doors, deck railings, kitchen cabinets, etc.) in the summer of 2021”* All in, a rather poorly executed way of saying if we start then they HAVE TO let us do it.

Looking further into their large home plan that was provided with the variance application and doing the math, using the measurements provided, I believe that this build is already at or close to 35% of the allotted land use, as well as crossing the Geotechnical Setback. So, no deck should be permitted.

An amendment to the Geotechnical Setback was also included with the variance application. It is our belief that this too should be **rejected** by the RDEK. Granting this amendment would jeopardize the integrity of the bank, which in turn could cause other properties to be exposed to damage when a covenant is in place to prevent risk. It would then send a false message that rules do not to be followed and future builds and current build expansions could also lead to issues.

While building on our property came with compromises due to the size and nature of the lot, we found that altering our needs was really not that hard, it **IS** possible to build a well laid out family oriented cabin/home on the footprint provided.

Thank you for the opportunity to be an active voice in our community.

Regards,

Dave and Wendi Legge

KOOCANUSA LANDING STRATA COUNCIL, NES 3720
6324 Laurier Avenue, Wardner, BC
E: nes3720stratacouncil@gmail.com

April 25, 2022

Regional District of East Kootenay Board of Directors
ATTN: Andrew McLeod, Development Services Manager
19 – 24 Avenue South, Cranbrook, BC V1C 3H8
E: info@rdek.bc.ca

**KOOCANUSA LANDING STRATA COUNCIL (NES 3720) RESPONSE TO NOTICE OF INTENT,
DEVELOPMENT VARIANCE PERMIT NO. 9-22, STRATA LOT 7**

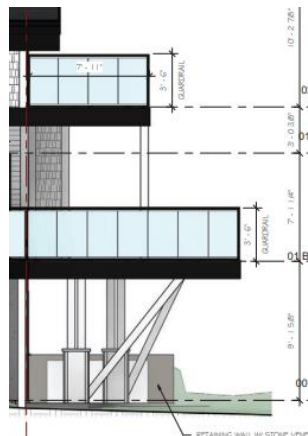
Thank you for the opportunity to respond to the application submitted by Cindy and James Sawatsky (the “Sawatskys”) to vary the Steeples Zoning Bylaw for their property located at Lot#7, 6324 Laurier Avenue in Wardner, BC. The application is to increase the maximum parcel coverage from 35% to 44.5% (approximately 440’sq more) AND to allow for the construction of a single-family dwelling with a deck over a covenant area (a geotechnical setback) under Section 219 of the Land Title Act.

For your consideration, please be advised that the **Koocanusa Landing Strata Council (NES 3720) objects to the approval for this Development Variance Permit No. 9-22, and requests that RDEK deny the application.**

We ask that RDEK ensure that any construction already completed on Lot#7 within the covenant area, or outside the 35% parcel coverage or outside the building setbacks be remediated prior to construction continuing.

In the Site Plan and elevation drawings provided (copy attached), it appears that both the upper deck and the lower deck (shaded green) would both be built well within/over the covenant area (blue dotted line).

It also appears to have the sono tubes used for the deck posts installed in the covenant area, which is a **major concern requiring further geotechnical study.**



Unless the Covenant LB339881 under Section 219 of the *Land Title Act* is removed and is no longer required as a condition to the entire covenant area (Lot A District Lot 2374 Kootenay District Plan NEP 89767) and is no longer registered as a charge against the title in respect to the use of the land for all affected; **we ask that RDEK disregard the Geotech Engineering Ltd. Desktop Study, *Geohazard Assessment Report*, dated March 23, 2022 and any recommendations it offers.**

We ask that RDEK continue to enforce the geotechnical setback conditions of Covenant Area LB339881, to help ensure environmental protection, to consider barriers to wildlife corridors and seasonal patterns, to protect the interests of all neighboring properties and to protect the openness and our small neighbourhood. Again, we ask that RDEK disregard the geotechnical desk assessment (report) presented by the Sawatskys to support their application.

Allowing an increase of parcel coverage from 35% to 44.5% for a house and deck for one or more, is beyond reason for our community. Allowing one variance of this magnitude will open the door for potentially many other variance requests in the community. Although our community consists of small lots, all other homes built on this street have adhered to the covenant area condition, to regional authority's parcel coverage maximum of 35%, as well as the strata's design and building guidelines. Before building a new home at Koocanusa Landing; **it is expected that all home builders, owners, owner/builders, and general contractors take responsibility for and be familiar with RDEK's Steeples Zoning Bylaws and regulations** (including parcel coverage maximums, building codes and all setbacks), and applicable strata design and building guidelines ***before starting construction.***

Koocanusa Landing design and building guidelines ask that the site and house layout should promote privacy and avoid overlooking or overshadowing of neighbouring properties.

Increasing building and structure coverage from 35% to 44.5% in a small lot community also reduces mountain and lake views for others, reduces visibility on the roadside due to additional vehicles being parked restricts ability to safely watch for children playing and people walking, it reduces areas to safely back up a boat or snowmobile trailer, and it may restrict access for snow clearing or emergency responder vehicles.

We fear that **approving this application will result in a significant change to our community and set a very poor precedent for the development.** Allowing this variance may prompt some neighbours to request the same allowance, asking for extensions of their structures, including decks and houses. It will be difficult for both the regional authority as well as our strata council to enforce similar regulations and covenants in future.

We thank you again for the opportunity to respond with our concerns. Should you have any questions we ask that you please contact the Strata Council by email at: nes3720stratacouncil@gmail.com.

Sincerely,
Koocanusa Landing Strata Council, NES 3720

c.c. Rob Gay, Chair, RDEK Board of Directors (director.gay@rdek.bc.ca)

Figure 2
Site Map

Project:
Geohazard Assessment
Proposed Sawatsky Residence
7-6324 Laurier Avenue
Wardner, BC

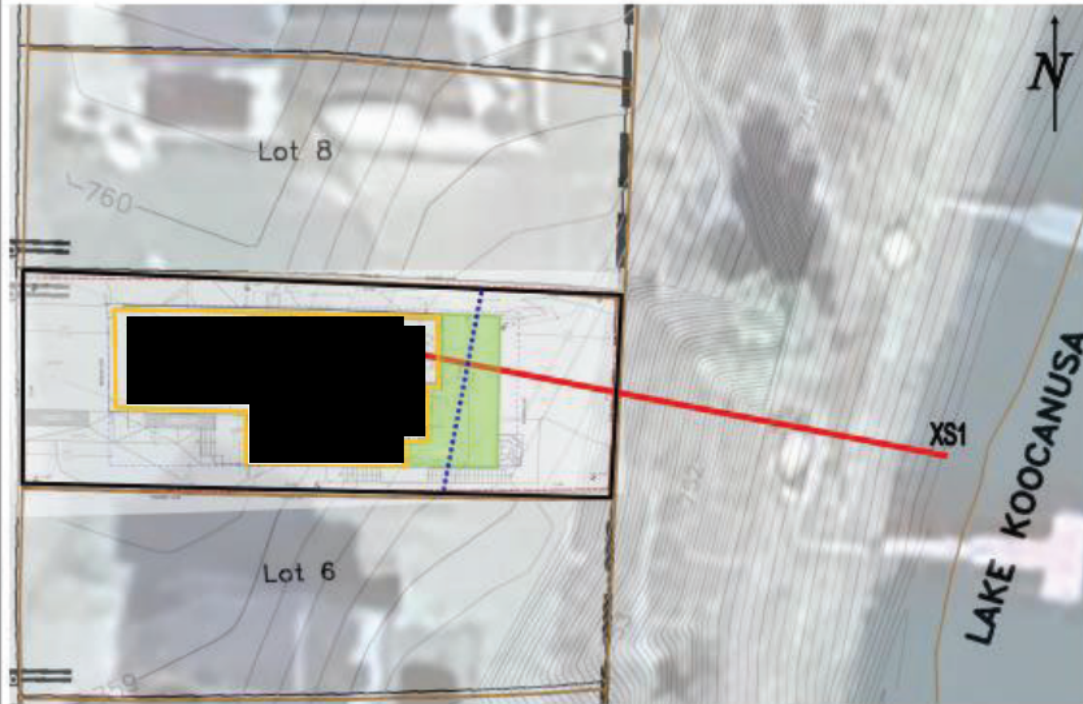
Legend:

- Approximate location of cross-section: — XS1
- Approximate location of proposed residence: [Yellow outline]
- Approximate location of proposed deck: [Green outline]
- Approximate location of covenant line: [Dotted blue line]

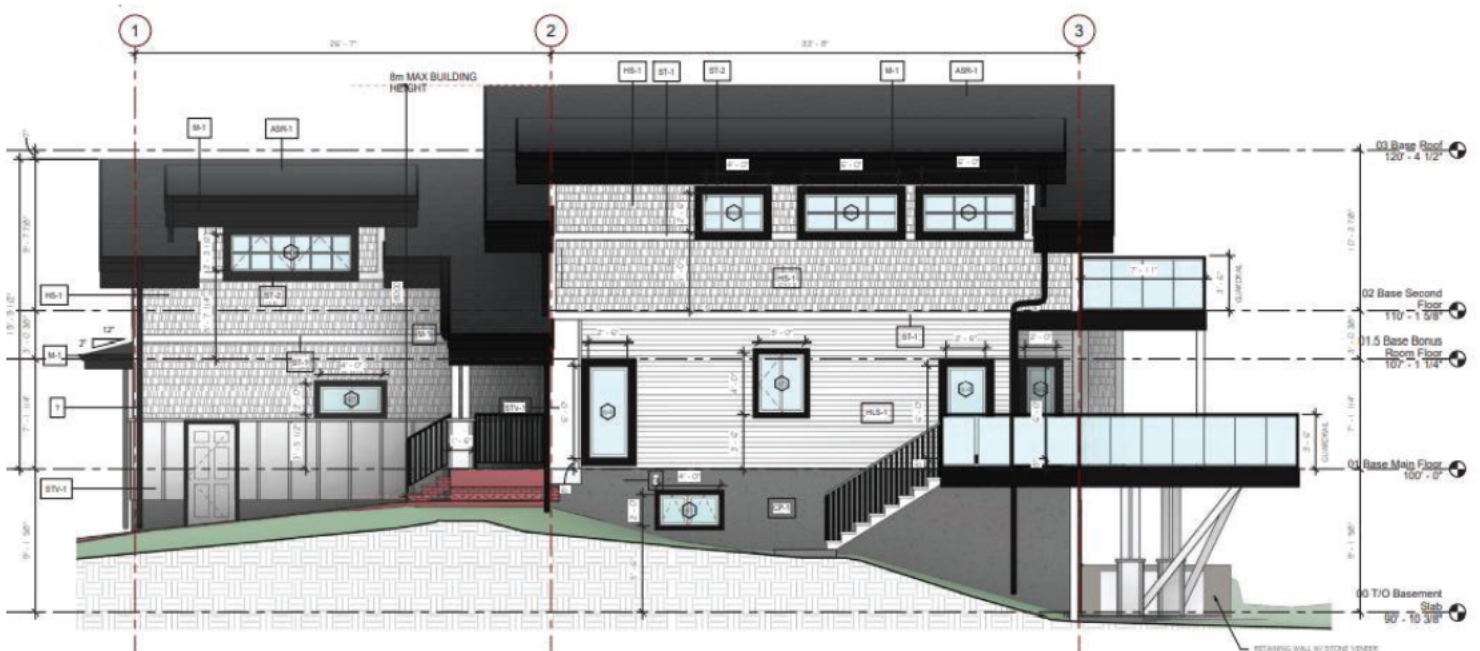
Scale: NTS

File: 22m38fg

Groundtech Engineering Ltd.



Personal information has been withheld in accordance with section 22(1) of the *Freedom of Information and Protection of Privacy Act*.



Denise & Marlin Bartling
Koocanusa Landing, House #12, 6324 Laurier Avenue, Wardner BC

April 26, 2022

Regional District of East Kootenay Board of Directors

ATTN: Andrew McLeod, Development Services Manager
19 – 24 Avenue South, Cranbrook, BC V1C 3H8
c/o Email: info@rdek.bc.ca

RE: RESPONSE TO NOTICE OF INTENT DEVELOPMENT VARIANCE PERMIT NO. 9-22, STRATA LOT 7

Thank you for the opportunity to respond to the application submitted by Cindy and James Sawatsky (the “Lot#7 Owners”) to vary the Steeples Zoning Bylaw for their property located at Lot#7, 6324 Laurier Avenue in Wardner, BC. The application is to increase the maximum parcel coverage from 35% to 44.5% AND to build a house and deck over/in a covenant area (a geotechnical setback).

As we believe that our interest in property is affected by this proposal variance, please be advised that **we object to the approval of Development Variance Permit No. 9-22** and ask that RDEK Board of Directors deny the application.

The Site Plan and Elevation drawings appear to show that both the upper and the lower deck at the rear of the house are in the covenant area. It appears that the foundation/footings for the deck(s) would have to be installed in the covenant area ...a major concern that would require in-depth review and analysis of the entire Covenant Area.

It is not reasonable for our small community like ours to allow an increase of the maximum parcel coverage of this scale. Since all the other homes on the bluff have been able to comply with the building regulations and strata guidelines, it is unjustifiable to allow one individual to disregard regional authority, bylaws, regulations, building codes and setbacks ...especially when this information is provided to each new owner by our Strata Manager when a lot is purchased.

If even one home on the bluff is allowed to build on or above the covenant area, there will be more owners on the bluff that will ask, expect and want to do the same. Our community is open and spacious and a welcome area for wildlife and people. We would like to continue to protect the environment, consider barriers to wildlife (corridors and seasonal patterns), and protect the interests of all neighboring properties.

We are concerned that an increase to the parcel coverage inevitably reduces parking availability on the lot (especially with a large family who will park more vehicles on the roadway) and cause issues for neighboring properties.

We fear that approving this application will result in a significant change to our community and set a very poor precedent for the development. Thank you for the opportunity to respond with our concerns.

Sincerely,
Denise & Marlin Bartling

April 28, 2022

Regional District of East Kootenay
Board of Directors

**Re: Development Permit Application DVP No. 9-22 - File No. P722320 - Vary the Steeples
Zoning and Floodplain Bylaw involving Strata Lot 7 filed by Mr. and Mrs. Sawatsky**

To Whom it concerns:

We, Kristin and Travis Magierowski, owners of Lot #8 (Laurier Avenue, in Wardner) in the Koocanusa Landings development, wish to **STRONGLY OBJECT** to Development Variance Permit No. 9-22 following a review of the application, including the plans and documents.

Please find below the different grounds on which we strongly object to this planning permission application submitted by Mr. & Mrs. Sawatsky and which will be further expanded upon:

1. Environmental Impact of the Covenant Area
2. Setting of NEW Precedents
3. Contrary to the Philosophy of and to the Koocanusa Landing Architectural Design Guidelines.
4. Design and layout of the proposal

1. Environmental Impact of the Covenant Area

- The increase of maximum parcel coverage as outlined in the application will require Mr. and Mrs. Sawatsky to develop into an area clearly identified as a Geotechnical Covenant Area as described under section 219 of the *Land Title Act* clearly outlined in the site plan on each owner's title. It is **CLEARLY** stated,

“that no building shall be constructed, no structure shall be erected, no construction of any nature and no changes by the hand of man shall be permitted in the Covenant area.”

- In addition, approval of this application will violate section 219 of the *Land Title Act*, which states “...no soil shall be disturbed, and no fill shall be added to the Covenant Area.”
- The application by Mr. and Mrs. Sawatsky includes an Engineered “DESK” assessment, which fails to accurately and appropriately assess the risks of development into the Covenant Area, which has been established as an area not to be disturbed in any way. Historical data gathered through the DESK assessment does not accurately analyze and evaluate the potential risks and hazards associated with Mr. and Mrs. Swatzky’s development into the Covenant Area. If approved, it also fails to consider the risks related to future development

that will look for similar accommodations to circumvent the Geotechnical Setbacks.

- The conclusion of the “DESK” assessment is invalid. The data used to arrive at the opinion failed to include an on-site visit with ALL appropriate parties to properly assess the environmental effects and impact on those in the midst of and who have completed construction.
- The collection of real-time and up-to-date information to determine the risks of developing into the geotechnical area remains unknown.
- This development (if approved) and future development into the Covenant area will pose risks and unintended consequences to ALL other homes/landowners in Kooacanusa Landing who have been diligent in adhering to the Covenant Area. This request by Mr. and Mrs. Sawatsky should be **REFUSED** by the Board of Directors.

2. The setting of NEW Precedents.

- It must be noted that approval of this application will set a **DANGEROUS** precedent for the entire development, including those who have established homes and those who are in the midst or will begin construction shortly.
- Approval of this nature will open the door for undeveloped lots to construct into the Covenant Area, creating further risk to the environment, the area, and the current homes and homeowners.
- In addition, approval of this permit application will create an opportunity for current owners/dwellings to extend their parcel coverage which **WILL** extend beyond the **CURRENT** and **CLEARLY ESTABLISHED** geotechnical setbacks.
- Essentially, If permission is granted to Mr. and Mrs. Sawatsky, what is currently one home, seeking permission to develop into the Covenant Area will become many.
- Based on how and why the Covenant area was established, development beyond geotechnical setbacks is **CARELESS, SELFISH and UNSAFE.**

3. Contrary to the Philosophy of and to the Kooacanusa Landing Architectural Design Guidelines.

- The Board’s grant of planning approval would contravene the Kooacanusa Landing Architectural Design Guidelines.
- The existing Local Area Plan or Architectural Controls contains a philosophy, guidelines, and objectives regarding protecting the overall appearance of the development.
- Mr. and Mrs. Sawatsky’s plans aim to contravene many of the Architectural Design Guidelines as outlined in the document:
 - Increasing the maximum parcel coverage to allow for a larger, two-tiered deck violates 1.0, the overall philosophy of the development which outlines the character of the development of a “mountain village resort rather than a suburban subdivision.”
 - Building Set Back - “No part of the building (including decks and porches) may be closer than...6m from the rear boundary”
 - Development into the Covenant Area is not aligned with Section 5.3, which describes a development which aims to minimize environmental impact.

- A dwelling **MAY NOT** exceed the maximum parcel coverage of 35% as identified in Section 2.2 (b).
- To preserve the integrity and consistency of the development at Koocanusa Landing, this proposal should be **REJECTED**.

4. Design and Layout of the Proposal

- The proposal put forward by Mr. and Mrs. Sawatsky, including the letter they provided, is misleading.
- Mr. and Mrs. Sawatsky's proposal is vague and leaves too many aspects open to interpretation rather than supporting facts.
- The notion that this extra deck size “would in no way hinder the enjoyment of our neighboring residents or their view as it would be consistent with the deck sizes already in existence...” is **FALSE**.
- Mr. and Mrs. Sawatsky shared they were essentially unaware of the “BC regulations” but managed to use an architect firm that “provides comprehensive architectural services across Alberta's landscape as well as British Columbia...with offices in Calgary and Nanaimo, BC in order to better serve our clients.”
- In addition, it should be noted that Lot 6 owners, who completed construction some time ago, are the family of Mr. and Mrs. Sawatsky, making it more evident they were indeed aware of all building expectations related to the parcel.
- Mr. and Mrs. Sawatsky decided to move forward with construction, knowing that a waiver application was needed and have asked for “grace.” In contrast, all other construction in the area has followed and adhered to **ALL** building parameters, even with some owners delaying construction, and entering the redesign process, to ensure adherence to all building requirements, especially that of the Covenant Area.

Based on the fact that this development at this location contravenes the Geotechnical Covenant Area as described under section 219 of the *Land Title Act*, Key development guidelines and objectives set out in the Koocanusa Landing Local Area Plan and will **NEGATIVELY AFFECT** the interests of **ALL** owners in the development; this planning permission should be **REFUSED**.

In summary, this type of waiver and its potential impact on the integrity of the Covenant Area, the expansion of maximum parcel coverage to 45% is not suitable for the proposed location and should be refused based on all the objections raised above.

Yours sincerely,

Travis Magierowski

Travis Magierowski

Chris and Belinda Salewich
Lot 22, 6324 Laurier Avenue, Wardner, BC

E: [REDACTED]

Personal information has been withheld in
accordance with section 22(1) of the *Freedom
of Information and Protection of Privacy Act*.

April 28, 2022

Regional District of East Kootenay Board of Directors

ATTN: Andrew McLeod, Development Services Manager

19 – 24 Avenue South, Cranbrook, BC V1C 3H8

E: info@rdek.bc.ca

**Concerned Member of Koocanusa Landing Strata (NES 3720) Response to NOTICE OF
INTENT, DEVELOPMENT VARIANCE PERMIT NO. 9-22, STRATA LOT 7**

Thank you for the opportunity to respond to the application submitted by Cindy and James Sawatsky (the “*Sawatskys*”) to vary the Steeples Zoning Bylaw for their property located at Lot#7, 6324 Laurier Avenue in Wardner, BC. The application looks to increase the maximum parcel coverage from 35% to 44.5% and allow for the construction of a single-family dwelling with a deck over a covenant area (a geotechnical setback) under Section 219 of the Land Title Act.

Please be advised that the above noted members Chris and Belinda of NES 3720 object to the approval of Development Variance Permit No. 9-22, and requests that RDEK reject the application.

We ask that RDEK ensure that any construction already completed on Lot#7 within the covenant area, or outside the 35% parcel coverage or outside the building setbacks be repaired prior to construction continuing.

As the lots within the community are small in nature, an increase of parcel coverage from 35% to 44.5% for a house and deck is unreasonable. This will set a new precedence within our community and will only cause further issues within the strata as other owners may also push for increases in parcel coverage. The problems we foresee if this variance is approved are as follows:

- Pushing the boundaries of development on small lots (a deck in this case) will reduce privacy between homes, as decks will overlook neighboring properties;
- further pressure on the limited parking / roads within the area will only increase;
- Reduction in visibility on the roadside due to additional vehicles being parked restricts ability to safely watch for children playing and people walking;
- reduction in areas to safely back up a boat or snowmobile trailer;
- potential to restrict access for snow clearing or emergency responder vehicles;
- neighboring views will be blocked or limited as developed parcel space increases; and

- increases in flammable materials may increase the potential for a fire to spread in an already small lot community with minimal space between cabins.

The other major problem within the lots on the waterfront of our community is that there is a strict covenant area (geotechnical setback) in which the Lot 7 owners are wanting to stretch into. We ask that RDEK continue to enforce the geotechnical setback conditions of Covenant Area LB339881, to help ensure the openness is kept within the small community. Again, we ask that RDEK disregard the geotechnical desktop assessment presented by the Lot 7 owners supplied to support their application.

The sandy / gravel nature of the soils within the development coupled with previous erosion issues along the bank in the past, have potential to increase if the land within the geotechnical setback is disturbed. Any damage to the bank, will have potential to affect other owners as well.

Unless the Covenant LB339881 under Section 219 of the *Land Title Act* is removed and is no longer required as a condition to the entire covenant area (Lot A District Lot 2374 Kootenay District Plan NEP 89767) and is no longer registered as a charge against the title in respect to the use of the land for all affected; we ask that RDEK disregard the desktop assessment.

Also, before building a new home at Koocanusa Landing; all home builders, owners, owner/builders and general contractors should have taken the responsibility for and be familiar with RDEK's Steeples Zoning Bylaws and regulations (including parcel coverage maximums, building codes and all setbacks), and applicable strata design and building guidelines before starting construction. All other owners have managed to keep within the allotted parcels, with minor variances outside of the geotechnical setback.

Thank you for the ability to voice our concerns. Should you have any questions we ask that you please contact us at [REDACTED] .

Regards,
Chris and Belinda Salewich

Personal information has been withheld in
accordance with section 22(1) of the *Freedom
of Information and Protection of Privacy Act*.

April 18, 2022

██████████
Langdon, Alberta,
██████████

Personal information has been withheld in
accordance with section 22(1) of the *Freedom
of Information and Protection of Privacy Act*.

RECEIVED

APR 27 2022

Regional District of
East Kootenay

Regional District of East Kootenay
19 - 24 Avenue South,
Cranbrook, BC.
V1C 3H8

Attention: Andrew McLeod

Dear Andrew,

Re: Development Variance Permit No. 9-22

I am the co-owner of a property in Koocanusa Landing, Laurier Street, Wardner.

Although the application by Mr. and Mrs. Sawatsky to increase the maximum parcel coverage of their single family dwelling with deck does not affect us directly, I believe the Steeples Zoning ByLaw is in place for very solid reasons. Therefore, I would NOT agree with RDEK issuing a Development Variance Permit for Strata Lot 7.

In such a close knit "cottage" community, I believe we all have a responsibility to do right by our neighbours and extending the deck area by 9.5% is not, I believe, in keeping with that philosophy.

I wish the Sawatskys well with their venture.

Sincerely,



Chris Bishop

Parcel Coverage Variance

For Lot #7 6324 Laurier Ave Wardner BC

This letter is a response to and a clarification of information dealt with in the Strata Council of Koocanusa Landing letter submitted to the Area C Planning Commission and the East Kootenay Regional Development Services Manager dated April 25, 2022.

At the front of this letter the council expresses a concern regarding present encroachment on the covenant area of any constructed buildings as well as geotechnical concerns regarding the placement of pilings on the covenant area. **Let me assure you that no construction has occurred to encroach on the said area nor go outside our building permit application request.** The purpose of this variance is to gain the appropriate permission to undertake construction of the structures requested in the locations specified in this proposal.

The Strata Council is concerned about and mentions that any sonotubes require further geotechnical study. Please see the attached geotechnical survey solicited by myself (dated March 23, 2022) with the **original geotech** involved in the set-up of the development (March 2007). Having been involved with the original development, he is intimately acquainted with the information gathered and used to develop this site. **Since he has direct access to the original data, all he needed to do was apply a desktop study with computer programs designed specifically for his field of technology to determine the viability of erecting a structure in the area requested.** Douglas Clapp writes that he sees no geotechnical based reason to disallow the placement of supporting structures (posts) in nor the cantilevering of a deck above the covenant area. His words are **"this site is safe for its intended use"** as long as his directions for placement and depth are adhered to. **The Strata's request to disregard the geotechnical report is unfounded. The desktop study described is applicable, viable and valuable since it was performed by the original geotechnician (Douglas Clapp) who still has all the relevant information from the original study, knows the area intimately and – far be it from me to dismiss his technical training – knows his trade fully and is governed by a provincial body and his peers which attests to the credibility of his work and practices. Of all persons involved regarding this issue, his recommendations should carry the heaviest weight.**

The Covenant LB339881 does allow the amendment of its description under the consideration and guidance of a certified geotechnical engineer's report performed for a specific location within the covenant boundaries. Such amendments can be made legally binding for a specific location and therefore not allowed to be replicated in other areas of the covenant keeping the permanence and spirit of the covenant. Within its own description the covenant may be amended (Clause 1c. and clause 6). The outline of the covenant document states that it may be amended according to the discretion of the parties named therein. **The Ministry of Transport and Infrastructure has already supplied a letter stating their acceptance of a variance and the only other party named in the agreement is the Regional District of East Kootenay who has the option to either concur or disallow such an application.** The argument that the whole agreement need be removed is invalid in that the agreement allows for alteration and, if desired, the production of a one-off agreement between them and other parties to vary the parameters of the document. This by no means opens a flood gate of indiscriminate variation to this legal document nor the need to abolish it.

The argument that a variance would negatively impact the environment of the area is also invalid. The make-up of the ground cover is rock, gravel and sand. There is no plant life in this specific area to be impacted and therefore no endangered species of flora to protect. **The covenant is strictly a geological protective measure to regulate any construction on potentially unsafe slopes** (something my geotechnical report deals with and

allows with guidance). **Wildlife corridor encumbrance issues are another moot point.** The wildlife utilizing the covenant area for movement is by and far consisting almost entirely of deer which as we all observe are not affected at all by human presence, construction of houses or decks. They still go their way where and when they want. The space allocated to wildlife movement between the deck and the edge of the slope to the lake will be approximately 18 feet – more than enough room for movement of animals if required. Evidence shows that the deer and other wildlife use the lower bank of the hill more regularly than any other pathway to move back and forth along the development.

The construction of this deck will in no way affect the openness of the neighbourhood. The deck will blend in with other decks and properties adjacent to it and it will have glass railings to further reduce any visual impact. Conversely, the lack of a full deck will make our home stick out from the neighborhood properties and create a negative slant on appearance of the water front. No views of other properties will be impacted by the deck. It will not extend past and will be lower than the deck to the north of it.

The history of how we got here is that **we hired an architectural firm that does work in BC** and is familiar with the Province's construction practices and regulations. Long story short – **they made a major error in developing the plans regarding plot coverage.** We submitted the Developer's regulations and they misinterpreted the regulation #6 and #7 to mean that coverage was not inclusive of decks and porches. (#6 "No building or portion of a building (excluding decks and porches) may be closer than 1.5 meters from the lot boundary at the sides, 5 meters from the front and 6 meters from the rear." #7 "No building shall be constructed on any lot with a building footprint (ie. Ground coverage), including garage that exceeds 35% of the total lot area."). **They wrongly assumed the exclusion of decks and porches mentioned in rule #6 transferred to rule #7. The plans had been in the hands of the RDEK planning department a year prior and according to the architect no red flags were raised from then till the time of the building permit application.** The Koocanusa Landing Developer had gone into receivership prior and we therefore had no direct contact to submit plans to. The Strata had in previous times requested residents to submit plans for review for a fee of \$250 which they later mused to raise to \$900. This viewing of the plans seemed arbitrary as some residents (including board members) indicated that they did not submit plans and since the rules of the Strata mimicked the RDEK regulations, we felt it an unnecessary expense to continue along that path. Development rules #14 and #21 require the submission of plans to the "Developer" and rule **#57 differentiates the Developer from the RDEK and the Community Association thereby not equating one with the other and not implying the Developer's authority being transferred to the Community Association.** I felt this verified my decision not to submit plans to a board without authority. Since our endeavour to start construction, we have noticed numerous violations of "Strata Code" amongst existing homes that seem to have had a blind eye turned toward them (another reason we chose not to pursue a costly mere exercise of process). **Our infringement of the parcel coverage direction was an error and by no means an intentional act to gain a larger footprint.**

To date, our home construction follows **all** Strata setbacks and requirements. We are only asking to have a deck larger than 2'-8" deep in the rear and a small deck at our front entry. This increased deck size will not impede any views whatsoever nor will we be looking down on other residents. **We are only interested in looking out onto the view of the lake and mountains available to us and having an outside place to gather as a family on summer afternoons and evenings.** The construction of this deck will have absolutely no impact on the roadside visibility and safety since it is nowhere near the street and our home again meets all front setbacks required of all residents. In fact, our home will be safer since it will be able to accommodate, if necessary, double the required number of parked vehicles off street. Two as required (clause #67 of the Strata Rules) on the driveway and another two in the garage. **Where is the safety issue and vehicle impedence they referenced in this situation? Snow clearing and first responder access is no different if not better than any**

other lot along the lake since we have the ability to keep our vehicles well out of the way of the street traffic. As for access to the rear of the houses, no good vehicle access exists between any two properties and the covenant denies random access to any vehicle traffic anyway. Therefore, **there is no need to allow for any emergency vehicle access as it would be unsafe to drive a vehicle in that area. The rear is more than accessible by foot traffic as well.**

Approving this variance would in no way promote indiscriminatory applications of variance and roadblocks to enforcement of area requirements. Our application required many hours of leg work, thousands of dollars in professional fees to deal with a very specific error. Our application can be rejected by the RDEK at their discretion. This is not a light matter and we do not consider it such, but because of our extenuating circumstances, we are compelled to try and ask for grace in this one instance. Who in their right mind would pay so much in time, effort, and money on merely a whim at such a high chance of failure? I think most, if not all, unwarranted applications would be deterred by these odds.

Up to the time of the APC meeting of April 27, 2022 we were unaware of the Strata Council's concerns and have since been trying to gain an audience with them to educate them on our situation and alleviate any fears of malice. **To date they have not responded and we feel they are unwilling to see any constructive outcome to this situation.** Our efforts to contact them are as follows:

April 13, 2022 Email to Strata Manager (Stephen Starling) in which he stated would talk to the Strata Council and get back to me. --- no reply

April 27 Request for a meeting via Strata Manager (Stephen Starling) --- no reply

April 28 Request for a meeting via Strata Council email (sent from me to their email listed on the correspondence to the APC.)--- no reply

May 2 Another request for a meeting via the Strata Manager. (a formal request for an audience with the Strata Council as per Strata regulations). --- no reply.

I am unaware of the Strata Council having any public meetings to get responses from the residents of Koocanusa Landing and feel they are not acting in the interests of the Developments but rather in a strict and unbending adherence to written policy as a punitive action to us not including them in the development of our lot. **To date other variances have been submitted, supported by the Strata Council and passed by the RDEK (some even submitted by council members) yet they refuse to hear ours.** Had I to do it again, I would have supplied them with our plans but refused to pay for any fees instead. Just to not create the hard feelings that seem to have sprouted now. I feel at this juncture they are only speaking for themselves and not the community as a whole. **The only exception they can take with our application is that it contravenes a written number on a rule which if allowed will not have any negative consequence to the development nor neighbors at all.** I think we have proved that point and will continue to present more evidence as to why you should consider this application favorably at the meeting on May 12, 2022.

Thank you for your time and attention, we would greatly appreciate your favorable consideration of our request.

Sincerely, Jim and Cindy Sawatsky

EXHIBIT 5

**Schedule of Restrictions
Koocanusa Landing**

No improvement shall be constructed on any lot unless such improvement complies with the Developer's Architectural Guidelines. Without limiting the foregoing, the following restrictions shall apply:

1. No improvements shall be constructed on any lots unless the building form, orientation and massing takes into account the natural landform, drainage patterns, topography, vegetation, views and sun exposure in accordance with the following:
 - (a) the natural grade, sun angles, views and consideration of adjacent land use;
 - (b) the overview and/or overshadowing of adjacent development is minimized so that the view of an adjacent lot is not impeded or so that an adjacent lot is not adversely overlooked, and
 - (c) extensive site grading is avoided by use of steps within the building structure.
2. No improvements shall be constructed on any lot unless the building form takes into account the natural characteristics of the lot, including views, original grade, sun angles, relationship to the street, adjacent land use, park or conservation area.
3. No improvements shall be constructed on any lot unless they are sited in relationship to the lot slope.
4. 1.5 storey homes with exposed basements in the rear (i.e., side not facing street) shall not be permitted unless rear elevation treatment is applied to reduce the visual impact of adjacent 3 storey homes.
5. 3 storey homes on back to front sloping lots shall not be permitted unless the third level in the front (i.e., side facing street) of the home is constructed as a half storey with dormers or other similar design.
6. No building or portion of a building (excluding decks and porches) may be closer than 1.5 meters from the lot boundary at the sides, 5 meters from the front and 6 meters from the rear.
7. No building shall be constructed on any lot with a building footprint (i.e., ground coverage), including garage, that exceeds 35% of the total lot area.
8. No building shall be constructed on any lot with a total building envelope that is less than 600 square feet.
9. No portion of any roof (excluding Chimney) may be above 8 meters from the highest natural point on the lot.
10. No garage or carport shall be constructed on any lot unless:
 - (a) it does not exceed 600 square feet,
 - (b) is built in proportion to the home,
 - (c) the architectural design is similar to the home, and

EXHIBIT 5

(d) is sufficient to fit at least 1 car.

11. No commercial workshops may be constructed, erected or placed on any lot.
12. No building shall be constructed on any lot based on a home plan or design that is identical or substantially similar to the plans or designs used for 2 or more homes on adjacent lots (i.e., beside or across from each other) having extremely similar elevations.
13. No building shall be constructed on any lot unless exterior treatments, window details and reveals are consistent throughout and details in the roofline are carried around from the front elevation.
14. No building shall be constructed on any lot unless the exterior colours are approved by the Developer or from an approved pallet board provided by the Developer.
15. No building shall be constructed on any lot that incorporates stonework, concrete or heavy wood details, unless it is consistent with house trim and detail and the stonework, if any, terminates at a wall, window or other architectural detail.
16. No vinyl or metal siding may be utilized as a material for finishing walls.
17. No building shall be constructed on any lot with an exposed concrete foundation wall that exceeds 0.5 meters in height.
18. No building shall be constructed on any lot with concrete board siding or shingles as wall cladding, unless sealed or treated prior to installation.
21. No roof may be constructed unless finished with architectural shingles approved by the Developer or selected from an approved pallet board provided by the Developer.
22. No flashing may be used that is not pre-finished metal.
23. No roof may be constructed without a pre-finished drip edge at the bottom of all roof slopes.
24. No flashing may be used that is not similar to the roof colour.
25. No venting may be installed in roof slopes unless it is ridged venting or is placed away from highly visible locations.
26. No roof may be constructed based on a design that does not take into account:
 - (a) snow load,
 - (b) the direct shedding of snow to safe areas, and
 - (c) water run off.
27. No rooftop venting (other than attic ventilation, plumbing stacks or bath vents) or chimneys may be finished without a chase that matches the overall building style.
28. No chase may be installed with a chase cap that is inconsistent with other chase caps installed on the building, if any.
29. No flue venting may be installed that does not include a shroud detail above the chase cap.

EXHIBIT 5

30. No direct vent fireplace vents may be installed, unless they are placed away from highly visible areas or otherwise obscured by landscaping.
31. No wood burning fireplaces, stoves or other wood burning appliances may be installed, unless they include spark arrestors and otherwise comply with regional codes applicable at the time of installation.
32. No fascia may be installed that is under 6 inches in height.
33. No fascia may be installed, unless finished with the following materials:
 - (a) rough sawn cedar,
 - (b) cedar,
 - (c) hardi-board,
 - (d) concrete board siding, or
 - (e) materials approved in writing by the Developer.
34. No soffits may be installed on any building, unless the colour is consistent with or complimentary to the fascia colour (or a clear finish, stain grade wood is used).
35. No building may be constructed with a roof overhang less than 18 inches.
36. No eaves trough or fascia may be installed, unless it is pre-finished metal with a minimum dimension of 5 inches.
37. No rainwater leaders may be installed, unless they are compatible in colour to the exterior wall finish and splash pads, if any, are sloped away from the home.
38. Garage doors may not be painted colours that are inconsistent or not complimentary to the wall or trim material, except for clear stained wood doors.
39. No white muntin bars or trim may be installed on garage door windows, unless it matches the other trim material of the home.
40. No main entrance doors may be installed, unless painted in dark tones and unless such doors are at least 36 inches in width.
41. No main entrance door may exceed 6 feet 8 inches in height, unless the door width is proportionally increased.
42. Reflective glazing (except for Low-E or Bronze) is not permitted.
43. No white muntin bars may be installed on a main entrance door, unless it matches the other trim material of the home.
44. No wood grills may be installed, unless they match the window trim colour.
45. No windows without trim detail may be installed, except for wood windows with a wood brick mould at least 3½ inches in width.
46. No building shall be constructed on any lot with a front entrance not visible from the street.
47. No roof design is permitted, unless it includes gables or articulations on all levels.
48. No roof may be constructed that slopes into a chase, unless a saddle is installed and finished in a manner that conforms to the overall roof design.

EXHIBIT 5

49. No roof may be constructed with a roof pitch of less than 5:12, except for shed roofs or specific design elements.
50. No garage face elevation having 5 feet of solid wall on either side may be constructed without a window with trim that matches the house trim.
51. No garage may be constructed on any lot with more than 3 feet of wall area above garage doors up to the eave without incorporating details such as banding or a second finish.
52. Driveways or pathways that do not reflect the natural grades of the lot are not permitted.
53. No driveway more than 10 meters from the home shall exceed 6 meters in width.
54. No sidewalk leading from a driveway to front entrance shall exceed 3 feet in width.
55. Sidewalks leading from a driveway to front entrance must utilize materials similar to that used for the driveway.
56. No driveway or front lot landscaping is permitted that does not take into account snow clearing and allow for snow dump areas with adequate drainage.
57. No exterior signs are permitted on any lot, except for address numbers that are clearly visible from the street and as otherwise excepted for herein and those signs approved in writing by the Developer/Community Association and the Regional Authority.
58. No temporary structures of any kind may be placed on a lot without prior approval from the Developer, except in the case of recreational vehicles licensed for highway use.
59. No modular or manufactured homes are permitted on any lot.
60. No retaining wall is permitted, except for retaining walls with exposed aggregate or faced with stone.
61. No plants or shrubs may be planted within 2 meters of the curb or road edge.
62. No fences are permitted, except for rear yard fences that are consistent with neighbouring fences.
63. No above-ground service connections are permitted, except in the case of recreational vehicles licensed for highway use.
64. No garbage may be stored on the lot, unless kept within the home or garage and care is taken to ensure wildlife cannot gain access.
65. No landscape and driveway lighting is permitted, except for lighting that is shaded from above and of minimal impact on neighbouring lots.
66. No exterior lighting is permitted that does not conform to the overall house design.
67. No improvement is permitted on any lot that would limit the ability to park at least 2 vehicles within the lot.
68. No satellite dishes may be installed, except for mini dishes approved by the Developer. No more than two dishes are permitted on any lot.

EXHIBIT 5

69. No C.B., radio or T.V. or any other exterior antennae are permitted on the exterior of a building or the lot.
70. No storage sheds are permitted on any lot, unless positioned at the side or rear of the property and do not exceed 120 square feet in area and 10 feet in height.
71. No building shall be erected or placed on any lot unless the same shall be completed within 24 months of construction start and the landscaping is completed within 12 months from the date of occupancy permit.
72. No existing trees, ground cover or other vegetation shall be removed or altered without the prior written consent of the Developer, which consent may be arbitrarily withheld, except that such consent will not be required if the tree removal is required in order to comply with any Section 219 Covenant granted to local authorities in respect of wildfire abatement.
73. No mobile or manufactured home, trailer, modular unit, nor any building constructed substantially of any metal or according to any A-frame or Quonset hut plan shall be placed on any lot herein described, but not including recreational vehicles licensed for highway use.
74. No subdivision of any lot shall be allowed without the prior written consent of the Developer, which consent may be arbitrarily withheld.
75. No person shall habitually park or cause to be habitually parked in or about the building site or the lands comprising the lot or lots any large commercial vehicles or machinery in the nature of logging trucks, bulldozers, or the like conveyances, PROVIDED that this clause shall not be deemed to affect or prohibit such parking for the specified purpose of doing construction or maintenance work upon the lands for the improvement and benefit thereof, or of commercial vehicles parked temporarily for the purposes of conducting their regular business in or about the lots.
76. No garbage receptacle, incinerator or compost heap shall be kept on any lot unless the same is screened from view at all times.
77. No outdoor clothes lines or poles shall be used save and except for an umbrella or collapsible type erected in such a manner as not to be visible from the street upon which the lot is situate.
78. No billboard or sign of any character shall be erected, posted, pasted or displayed upon or about any part of the Lot or Lots or upon or in any buildings on the lot or lots hereby purchased, other than "For Sale" signs no larger than 18 inches by 30 inches, PROVIDED that nothing in this clause contained shall prevent the Owner erecting or displaying a sign showing his name and/or street address so long as the dimensions of such sign does not exceed 30 inches by 12 inches and is approved by the Developer.

END OF DOCUMENT



Via Email: [REDACTED]

Your File #:
eDAS File #: 2022-00366
Date: Apr/01/2022

James Sawatsky

[REDACTED]
Coaldale, Alberta

[REDACTED]
Canada

Personal information has been withheld in
accordance with section 22(1) of the *Freedom
of Information and Protection of Privacy Act*.

Dear Mr. Sawatsky,

**Re: GEOHAZARD ASSESSMENT REPORT SAWATSKY RESIDENCE –
PROPOSED DECK 7-6324 LAURIER AVENUE WARDNER BC**

Thank you for submitting the Geohazard Assessment Report prepared by Doug Clapp
P. Eng. of Groundtech Engineering Ltd. dated March 23, 2022 (the report).

I have had an opportunity to review the report. The Ministry of Transportation and
Infrastructure (Ministry) is prepared to accept the report and its recommendations, being
that placement of the proposed deck within the covenant area is "safe for intended use".
As such the Ministry would not have an objection to the deck being placed within the
covenant area. This concludes the Ministry requirements for this matter. You may
proceed to obtain the appropriate authorizations from the Regional District of East
Kootenay.

If you have any questions, please feel free to contact myself directly at (250) 420-6564
or Cliff.Razzo@gov.bc.ca

Yours truly,

Cliff Razzo
Provincial Approving Officer

Cc: Krista Gilbert - Regional District of East Kootenay
Doug Clapp P. Eng - Groundtech Engineering Ltd.

Local District Address
Rocky Mountain District 129 10th Avenue S Cranbrook, BC V1C 2N1 Canada Phone: (250) 420-6550 Fax: (250) 426-1523

MacDonald / Augustine
#6 6324 Laurier Ave
Wardner, BC

May 4th, 2022

Regional District of East Kootenay Planning Committee
19 – 24 Ave South
Cranbrook BC
V1C 3H8

RE: DEVELOPMENT VARIANCE PERMIT APPLICATION STRATA LOT 7 DL 2374 STRATA PLAN NES3720

Dear Andrew,

As members of the Koocanusa Landing Community in Wardner BC we are writing to officially state our **support** for the above noted variance. We have owned property at Koocanusa landing for the seven years and during this time we have received notice of two variance requests that were not opposed by the Koocanusa Strata Council or by us as owners. Both these variance requests were approved by the RDEK. We understand that the Strata at Koocanusa Landing has written a letter of opposition to the variance request from the Sawatskys. We are uncertain as to why the Strata would oppose the Sawatskys variance request and not the two past variances. The Strata Council states that "Allowing one variance of this magnitude will open the door for potentially many other variance requests in the community." Seeming to forget that their variance requests were approved by the RDEK and not apposed by the Strata Council. The Strata also stated that the variance would "reduces visibility on the roadside due to additional vehicles being parked restricts ability to safely watch for children playing and people walking, it reduces areas to safely back up a boat or snowmobile trailer, and it may restrict access for snow clearing or emergency responder vehicles." We are uncertain how this variance approval will add to additional vehicles being parked, vehicles navigating the road and snow removal. We believe that Strata needs to clarify how the Sawatskys deck effects parents' ability to watch their children and how it will affect people walking? Lastly is the claim that this variance request for building a deck will somehow affect emergency response vehicles. We do not believe that any of the suggested negative impacts that are suggested by the Strata are relevant to this variance and requested deck build.

We believe this approval of this variance will increase all property values at Koocanusa Landing and have an overall positive impact on the community.

Your truly,

Allan MacDonald
Tammy Augustine