

Bylaw Amendment Application

Date: May 27, 2019
File: P 719 504
Bylaw Nos. 2906 & 2907

- Applicants:** Bad Toro Properties Ltd.
- Agent:** Richard Haworth
- Location:** The subject properties are located on Athalmer Road, Amber Road, Sarah Road and along Lakeview Drive in the vicinity of the Canadian Tire Store in the Windermere north area, near Invermere.
- Legal:** Lots 79, 80 & 81, District Lot 4347, Kootenay District, Plan 1072, Except Part included in Plan 4001 (PIDs: 015-896-510, 008-233-951, and 008-233-993) and Lots 8, 9 & 10, District Lot 4347, Kootenay District, Plan 4001 except Plan NEP19552 (PIDs: 010-297-090, 008-335-389 and 008-335-460)
- Proposal:** To amend the OCP and zone designations of several properties to allow commercial development on the northerly lands near Athalmer Road, and residential development (dwellings and mobile homes) on the southerly portion of the lands (see attached maps) and, to add property specific regulations to permit an existing data centre on one of the properties and an existing RV and boat storage operation on three properties which front Athalmer Road.
- Development Agreement:** The applicant has offered to register a development agreement covenant with the following commitments:
- a) That development sequencing will consider availability of community water and sewer such that no lots permitting serviced buildings will be created without proof of availability of adequate community water and community sewer.
 - b) No building used as a data centre will be placed or constructed in a manner which is highly visible from Athalmer Road nor with a siting of less than 30 m from a boundary of residentially zoned land.
 - c) Amenity contributions of \$1000 per new residential lot created to be held in a reserve fund for future use for trails and open space development within Electoral Area F and/or for development of non-motorized public access to Lake Windermere. Amenity contribution amount is to be paid prior to subdivision sign-off by the RDEK.
 - d) The existing boat storage facility on Lots 8, 9 & 10 will be fenced along Athalmer Road with a solid wood fence no less than 1.8 m (6') high.
- Options:**
1. a) THAT Bylaw No. 2906 cited as "Regional District of East Kootenay – Lake Windermere Official Community Plan Bylaw No. 2061, 2008 – Amendment Bylaw No. 27, 2019 (Windermere North / Bad Toro Properties Ltd)" be introduced;

and further, that the Board is satisfied that the OCP consultation identified in the staff report is appropriate.

- b) THAT Bylaw No. 2907 cited as “Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 348, 2019 (Windermere North / Bad Toro Properties Ltd)” be introduced:

and further, that a development agreement containing the items identified in the staff report be registered on title prior to bylaw adoption.

2. a) THAT Bylaw No. 2906 cited as “Regional District of East Kootenay – Lake Windermere Official Community Plan Bylaw No. 2061, 2008 – Amendment Bylaw No. 27, 2019 (Windermere North / Bad Toro Properties Ltd)” not proceed.
- b) THAT Bylaw No. 2907 cited as “Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 348, 2019 (Windermere North / Bad Toro Properties Ltd)” not proceed.
3. That Bylaws No. 2906 and No. 2907 be postponed from further consideration for six months or until after adoption of the new Lake Windermere OCP.

Recommendation: Option #1

This is a large area in a prominent location with potential for large scale future development, both residential and commercial. Generally speaking, the applicant has addressed staff’s concerns and the anticipated policy direction for the new OCP.

**Property
Information:**

OCP Designations:

- The northerly lands: C, Commercial which supports local commercial uses intended primarily for local residents and the travelling public and commercial uses of a regional nature intended for a wide range of potential users.
- The southerly lands: R-RES, which is utilized for parcels that have been identified as having potential for future development for a range of residential uses and densities. The parcels have not been pre-designated so that flexibility in assigning the appropriate designation(s) in response to the needs of the community, market demands and site -specific conditions can occur. Re-designation to the applicable land use designations will be required at the time of rezoning. Any criteria established within Schedule A of the OCP that applies to the specific parcel or required Agricultural Land Commission approvals must be satisfied prior to, or in conjunction with, a rezoning application. (Note: Schedule A states that the portion of Lots 80 and 81, Plan 1072 zoned R-MP, Mobile Home Park Residential Zone, should be retained for residential land use purposes).

**Property
Information –
cont'd:**

OCP Policies Related to Residential Development:

- All residential development is encouraged to be serviced by community water and sewer servicing where connections and capacity are available.
- The development of attainable housing options is supported within all residential neighbourhoods.
- The integration of alternative housing options within new and existing single-family subdivisions through the integration of secondary suites, granny flats or carriage houses is supported. In consultation with the community the development of options for amendments to the zoning bylaw may be considered by the Regional District.
- Infill development within existing residential areas that require rezoning will be considered in relation to the following:
 - a) compatibility of the proposed development with surrounding land uses;
 - b) opportunities for connection to community servicing;
 - c) recognition of opportunities to retain and maximize the viewscales provided by the proximity to Lake Windermere.
- The integration of the R-RES, Residential Reserve land use designation into this plan does not commit the Regional District to a specific course of action or require the approval of an alternative land designation at any particular time. Properties designated R-RES are generally supported for a mix of residential development types and densities. Applications to amend the land use designation will be considered on an individual basis in relation to the following criteria:
 - a) provision of community water and sewer servicing;
 - b) compatibility of proposed development with surrounding land uses;
 - c) dedication and provision of open and green space for conservation and/or recreation purposes;
 - d) trail connectivity within the area under application and connectivity with adjacent existing development and trail networks;
 - e) recognition and integration of opportunities to retain and maximize the viewscales provided by the proximity to Lake Windermere;
 - f) integration of a range of housing options and levels of affordability;
 - g) consideration of the impact of the proposed density on the existing road network;
 - h) projections for estimated timelines for phasing and completion of development;
 - i) consideration of the number of undeveloped residential units currently approved by the Regional District of a comparable form and density;
 - j) confirmation that any criteria specific to the parcel(s) identified elsewhere in this plan has been met or addressed.

**Property
Information –
cont'd:**

- The portion of Lots 80 and 81 Plan 1072 District Lot 4347 zoned R-MP, Mobile Home Park Residential should be retained for residential land use purposes.

OCP Policies Related to Commercial Development:

- New commercial development and redevelopment is encouraged to sustain a high aesthetic standard that compliments the built character and natural landscape of the plan area.
- New commercial development within the plan area is limited to existing nodes along the Athalmer Road corridor, the Invermere Crossroads area, the four corners area within the Windermere core, and existing nodes along Highway 93/95.
- All commercial developments are encouraged to integrate screening and landscaping along the highway or road frontage to provide a buffer between the travelling public and provide points of interest.

Zoning:

Lots 8, 9 & 10: R-1, Single Family Residential Zone

Lot 79: R-1(A), Single Family Residential (A) Zone

Lots 80 & 81: the northerly portions are I-1, Light Industrial Zone and the southerly portions are R-MP, Mobile Home Park Residential Zone.

Parcel Size:

Total area under application: Approximately 9.1 ha (22.5 ac)

Density

(Note: Areas and calculations below are approximate and based on total lot area only. They do not include allowances for roads, service/utility corridors or topographical constraints, all of which have a significant impact on total number of lots possible.)

Current development potential per zone

R-1 (3 existing lots), min lot size with full community services: 555 m²
Up to 5 lots may be permitted, one dwelling permitted per lot

R-MP (3.86 ha), permits up to 18 mobile homes permitted per ha of useable site area. Up to 69 mobile homes total may be permitted plus one manager dwelling

R-1(A) (3.47 ha), min lot size: 1670 m²
Up to 20 lots may be permitted, one dwelling permitted per lot

I-1 (1.35 ha), min lot size: 0.4 ha
Up to 3 lots may be permitted

Potential development per zone if rezoning approved

R1-MH (6.03 ha), min lot size with community water and sewer: 555 m²
Up to 108 lots may be permitted, one dwelling permitted per lot

C-2 (2.93 ha), min lot size: 555 m²
Up to 52 lots may be permitted

**Property
Information –
cont'd:**

ALR Status: Not within the ALR

Interface Fire Hazard Rating: High, within the Windermere fire service area

BC Assessment:

Lots 8, 9 & 10: Business / Other (vacant)

Lot 79: Residential (vacant)

Lot 80: Residential / Business / Other (storage & warehousing – closed)

Lot 81: Residential / Business / Other (vacant)

Water and Sewer Services: Community Water and Sewer are proposed. The application states that Kinbasket Water and Sewer (KWSC) will not formally commit to provision of water and sewer until the Athalmer Road area is part of a RDEK service area. The applicant has confirmed there is suitable sewer capacity available at this time and that water capacity will be available in a few years when the new KWSC water system is operational (or when the RDEK and KWSC renegotiate the MDD (maximum day demand) for water to Holland Creek, thereby making more water available to the area).

**Professional
Studies:**

None.

**Additional
Information:**

- A boundary adjustment subdivision is currently underway to realign property boundaries to create land for commercial development on the northerly half of the lands, and land for residential development on the southerly half of the lands (see attached map).
- Currently, there's a building on Lot 80 which did not have a building permit and is used as a data storage centre. The building has existed since prior to 1982 (based on available air photos) and the current owner renovated the building to be suitable for use as a data centre. This use is not accommodated in the Upper Columbia Valley Zoning Bylaw and the owner proposes to add a definition for a 'data centre' to the zoning bylaw and then also add 'data centre' as a permitted use on this specific property. There is no proposed limit on the size of this industrial use in the C-2 Zone.
- DP 1-18 for form and character was issued for Lot 80 in April, 2018 for a proposed new 929 m² 'storage and warehousing' building which was to be constructed south east of the existing data centre. Construction of the proposed additional building has not commenced. If the proposed C-2 zoning is adopted, the 'storage and warehousing' use referred to in DP 1-18 will no longer be a permitted use.
- There has been a long-standing RV and boat storage operation on three lots fronting Athalmer Road. This use is not permitted by the zoning bylaw and the owner is requesting that 'RV and boat storage' be added as a permitted use on these properties to bring the use into compliance. Screening of outdoor storage is a high priority issue for the Lake Windermere OCP Advisory Committee.

**Additional
Information –
cont'd:**

- A form and character development permit application is required for the existing non-conforming commercial structures.

Consultation:

APC Areas F & G: At their April meeting, the APC members recommended deferral until all their questions and concerns were addressed and until after adoption of the Lake Windermere OCP which will provide updated policies for consideration.

Referral Agencies:

- **Interior Health Authority:** Interests unaffected
- **Transportation & Infrastructure:** The Ministry's interests are unaffected by the proposed amendments. The Ministry would like to remind the owner that commercial access permits will be required for land zoned C-2, Service Commercial, and that amendments to these permits will be required prior to addition or changes to business activity on the land.
- **Environment:** Reviewed without comment
- **Energy & Mines:** No response
- **Ktunaxa Nation Council:** No response
- **Akisqnuq First Nation:** No response
- **Shuswap Indian Band:** No response
- **School District No. 6:** No response
- **District of Invermere:** The proposal has not been reviewed by Council however Development Services has discussed the proposal internally and, based on that discussion, there is no defiant opposition to the land uses proposed. The principle concerns raised relate to the increase in density and users affecting the Lake Windermere infrastructure (ie: boat launching facilities for both the Lake and wetlands, public lake access at RDEK sites and pedestrian (non motorized linkage) to the existing and potential pedestrian access systems). The thoughts are that future development will add additional strain to the District Boat launch's which is in need of upgrade and is heavily used (principally by non Invermere residents), other Lake Windermere and wetland access points and increase the pedestrian and green space opportunities in the local area. Commitment by the developers to contribute financially a set sum per parcel at a pre determined development stage, (i.e. Subdivision) for amenity improvements to the Lake access, launch facilities and park, green space, pedestrian linkages would support and reinforce the applicants request for responsible growth and development in this location.
- **Telus:** No response

Documents

Attached:

- Bylaws
- Location Map
- Land Use Map
- Proposed Parent Parcel Subdivision
- Excerpts from Proposal
- Aerial Photo
- Site Photos

RDEK

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