

PURPOSE: To provide Council with an update on the proposal from QP Development Inc. to develop an RV Park and multi-unit housing on land in the area commonly known as “South Beach” or the “Old Mill Site” and adjacent upland area. This report also aims to set out a road map for the planning process and the disposition of public land, including valuation, access, and legislative matters.

The contents and recommendations in this report are presented without prejudice and in no way to bind any party involved in this process until matters are resolved by Council’s decision.

SUMMARY:

This document outlines the development proposal by QP Development Inc. (QP), represented by CTQ Consultants Ltd (CTQ), for QP's vacant land holdings in Kaslo, which are currently zoned as M-1 Industrial. The site, formerly a sawmill, has been unused since the mill closed, except for occasional temporary uses. The proposal is to develop a portion of the site as an RV park due to its expansive waterfront, attractive views of Kootenay Lake, and limitations of the floodplain. The upland area could accommodate residential development, although servicing would pose challenges due to steep terrain.

Historically, when the sawmill operated, the site functioned as a single property, disregarding distinctions between private lots and public rights-of-way. The total area of QP's holdings, along with the public land of interest, is about 24 acres. Accurate mapping, including a survey commissioned by QP in 2017, revealed discrepancies in land area calculations.

The public road allowances within the QP Site present a complex aspect in the planning process for enabling RV Park development. While constructing roads along these rights-of-way may be impractical due to steep terrain, they are considered “highways” under provincial legislation.

In 2021, QP/CTQ initiated discussions with the Village regarding purchasing and consolidating land for an RV park project. Council rejected a proposal at an in-camera meeting, deeming it premature and lacking in detail. An independent appraisal in 2022 valued the land at \$52,500 per acre, considering market conditions and land constraints. Adjustments were made for inaccuracies in mapping and to exclude untitled lakefront land retained for public access. The total area of Village land within the QP Site is estimated at 4.9 acres, with a price per acre of \$63,525 adjusted for assessment increases since the appraisal, totaling \$311,272.50.

The subdivision process will involve completing the land transaction, consolidating the land, and subdividing it. QP/CTQ have undertaken preliminary work, such as investigating onsite sewerage capability, completing environmental assessments, and a development layout. The application is complex and will require provincial approval due to closure of road allowances accessing the lake.

The Subdivision Servicing bylaw mandates various requirements such as street lighting, water, and sewerage systems, to be installed to certain standards at the developer's expense. QP must review these requirements and can apply for a Development Variance Permit from Council for relief from

certain bylaw requirements. Currently, the site is serviced by a 6" watermain connecting to the Village's water system near Kaslo River Bridge, with an existing hydrant within the proposed RV park area.

Concerns about the Village's water system capacity during peak summer months, when the RV park will be busiest, have been raised. The Village should seek an easement for a future raw water line from Kootenay Lake to the golf course across the QP site, potentially benefiting the entire Village. Utility fees for RV hookups also need to be determined, as these are not currently set by bylaw.

Development of the QP Site must adhere to the Lakefront and Stream Protection Development Permit (DP) Areas outlined in the OCP, requiring an Environmental Impact Assessment (EIA) and compliance with specified regulations. Council may approve Development Permits with conditions to ensure regulatory compliance. The Village's membership in the Kootenay Lake Partnership (KLP) and endorsement of UNDRIP necessitate having regard for KLP's Shoreline Guidance Document and indigenous consultation in considering Lakefront Protection DP Area.

The DP regulated areas include a 30-metre riparian setback from Kaslo River and a 15-metre setback from Kootenay Lake, which extends further due to the floodplain. QP has agreed to dedicate land for the river setback and construct a trail for public lake access. The natural boundary of Kootenay Lake must be accurately determined to meet provincial regulations and ensure public beach access. QP's proposed boat launch will need a separate DP application.

An EIA commissioned by QP recommends mitigation measures to minimize environmental impact, particularly during construction. Implementation of the EIA recommendations should be conditions of approval for the DPs.

The RV Park site is situated in a floodplain, imposing restrictions on development. Permanent structures must be constructed above the designated flood construction level (FCL). A flood protection wall along the property line facing Kaslo River is proposed. Plans for the flood protection wall near the entrance and access road require revision to avoid obstructing road access and encroaching on the riparian area. Attention to aesthetics and clarification on maintenance responsibility are also essential considerations.

The southern section of the QP site is earmarked for a 5 to 10 unit multi-residential strata development, pending rezoning. High construction costs pose challenges for affordable housing provision. Access and water service to the site will also be challenging.

To ensure clarity and transparency in the QP project, both QP and the Village should consider entering into an agreement outlining their respective obligations. QP's project success relies on the Village's land disposal, while the Village seeks assurance that the development aligns with its interests. Council needs to decide on whether to sell its land to QP and the sale price. A development agreement, which could be included in the agreement of purchase and sale, would be a suitable tool to establish parameters for rezoning, subdivision, amenities provision, and dispute resolution, among other things. The sale would be conditional on approvals. Legal advice is necessary to have these agreements drafted and executed appropriately.

ANALYSIS:

A. Background:

QP Development Inc. (QP), represented by CTQ Consultants Ltd (CTQ), have been working on a proposal to develop QP's vacant land holdings for over 3 years. The land (the QP Site) is currently zoned as M-1 Industrial in Kaslo's Land Use Bylaw 1130, as the site was a sawmill between the 1960s and 1980s. The site has been vacant since the mill closed, except for occasional temporary use for a shipbuilding project and as a campground during the Kaslo Jazz, etc. Festival.

Kaslo's Official Community Plan (OCP) designates the area, and most of Kaslo Bay's waterfront, as "Waterfront Development Area," which allows for a variety of commercial, recreational and residential uses. The OCP also recognizes that many of those uses cannot be built in a floodplain, where development should be limited "to passive recreational uses, which may include seasonal campgrounds/RV parks and require appropriate flood mitigation measures as determined by a qualified professional" (OCP 11.2.10).

The site features a large, open area with attractive views of Kootenay Lake and an expansive waterfront, making it attractive for development as an RV park. The surrounding upland area of the site is very steep but has some table land that could become sites for residential development.

CTQ submitted a rezoning application in August 2023 to change the zoning from industrial to a new commercial recreation zone for the RV Park, multi-residential and parkland. Council approved first reading of the zoning amendment with the condition that the proponent host a public information meeting to present the proposal to the community and gather feedback. CTQ hosted the meeting on November 29, 2023. Council has been hesitant to consider further readings of the application due to changes in Village administration, public concerns raised at the meeting, wanting to know more about the planning process, and ensure that the sale of public land required for the development is handled transparently.

B. Site History:

When the Village of Kaslo was surveyed in the late 1800s, a grid of streets, blocks and lots was laid down but there was little regard for topography or how the landscape could change over time. Kaslo is situated on the alluvial fan Kaslo River, made up of glacial deposits that have built up over centuries and the location of the river mouth is ever changing. The river mouth redirected to approximately its current location after the great flood of 1894. The original river mouth was at the Loggersports Park area. The shoreline of Kootenay Lake is also dynamic, with a history of flooding during freshet until the lake level was controlled by dams along the Kootenay River downstream of Nelson. These forces of nature, and the natural landscape of Kaslo, have resulted in surveyed lots and road allowances that cross over Kaslo River, floodplains, go underwater into the lake, and traverse steep, unbuildable slopes where building roads would be impractical (see Figure 1, below).

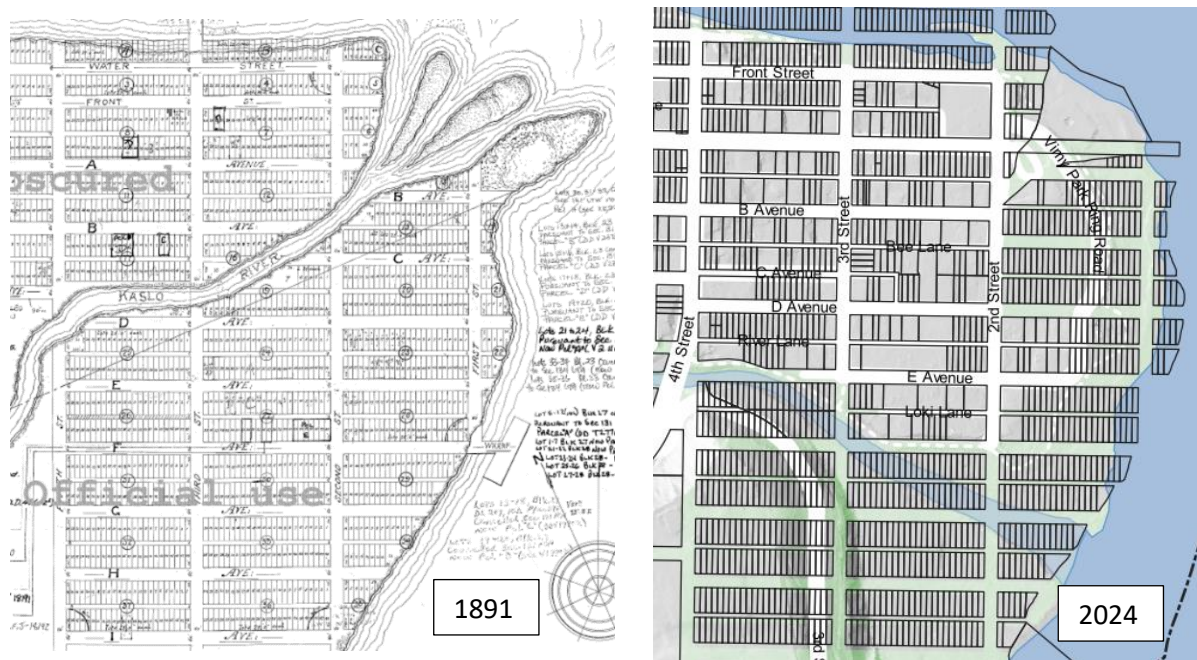


Figure 1 - Kaslo's survey fabric from historical plan to today.

C. Ownership Analysis

The QP Site is comprised of over 160 individual private lots, 4 public road allowances and 2 laneways crossing it. When the sawmill was in operation, the site operated as a contiguous property, without consideration for which parts were private lots or public rights-of-way. With the advent of accurate mapping, awareness of environmental and liability concerns and current land use regulations, such an operation would not be permitted today unless the parcels were

consolidated under one ownership. And even then, there is still the floodplain concern that would hinder development.

QP also owns land along Kaslo River towards the Kaslo River Bridge (Hwy 31), where there is a locked gate to prevent vehicular access to their site. The odd shape of these lots was influenced by the route of the original highway into Kaslo, now Third Street, which runs up the east side of the golf course.

The map in Figure 2, left, shows the overall site. QP's holdings are purple and the Village's land that is of interest to QP to consolidate with the site is in amber. The total land areas are listed below.

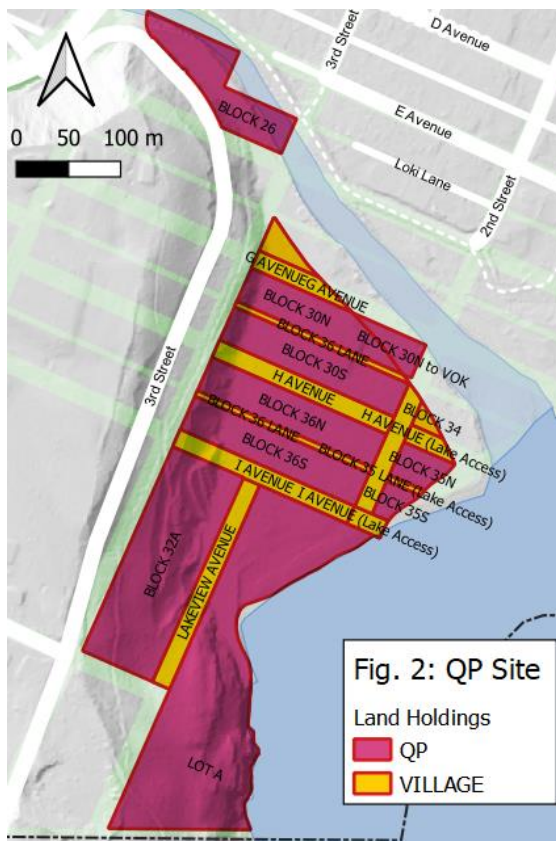


Fig. 2: QP Site

Land Holdings
 ■ QP
 ■ VILLAGE

Description	Area (ac.)
QP Land (South Beach & upland)	17.6
QP Land (Access area, Block 26)	1.5

Village Land of interest to QP	4.9
Total	24.0

This report will use acres and feet for property dimensions to be consistent with BC Assessment and the property appraisal report that will be discussed later.

Figure 2 - QP Site and ownership

The cadastral map data (surveyed lot lines) previously used in the Village's GIS mapping system that was provided by RDCK, originally sourced from Land Titles, was not accurate for calculating land area of the lots and road rights-of-way. It is not unusual for digitization of survey records that are over a century old without ground verification to inherit errors. However, a survey commissioned by QP in 2017 by Hango Land Surveying was made available in the rezoning application package and recently imported into the Village's GIS mapping system, QGIS. The accurate resurveying of the I Avenue road right-of-way alone accounted for a discrepancy of 0.8 acres.

The latest land area calculations also consider that a 30-metre riparian setback from Kaslo River and land at the river mouth that will remain in public ownership. The result is that the Village land for potential sale to QP was reduced from 6.8 acres to 4.9 acres. The minimum amount of land to be transferred from QP to the Village for public road access and riparian area will be 1.8 acres. These land dedications will be explained further in the subdivision section of this report.

D. Road Allowances (Rights-of-way) and Lake Access

The road allowances through the QP Site present one of the more complex aspects in the planning process towards enabling the RV Park development to proceed. Road allowances are not titled land and have no boundaries except for the titled properties that run along them. An undeveloped road right of way is legally a "highway." Section 41 of the Community Charter specifies that a municipality may only close a highway that provides access to a lake if the municipality is exchanging land that will provide similar access or uses the money from the sale only to purchase land that is of at least equal public benefit (CC Sec. 41(1)(c) and (d)). See Figure 3 map showing the road allowances.

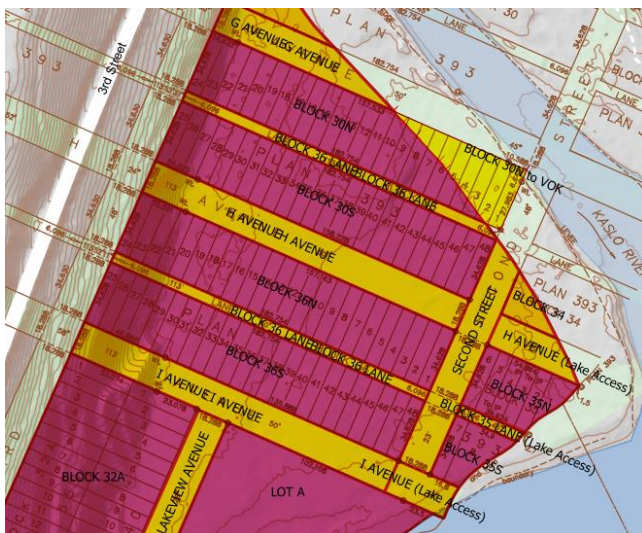


Figure 3 - Road Allowances through QP Site

Even though there are no roads built along the rights-of-way for H and I Avenues, and the laneways between them, they are a "way open to public use" to access the lake even though the steep terrain along the west end of the site makes constructing roads along these rights of way impractical. It may be possible to construct stairs down the steep slope and a footpath from Third Street to the lakeshore if not a road for vehicular access.

There is a strong argument supporting that the 30-metre strip along Kaslo River and a new recreation trail that the Village will be acquiring from QP provides superior public

Another requirement of the Community Charter, section 41(3) is MoTI approval of any municipal bylaw that closes a public highway within 800 metres of an arterial highway. In our case, that's Highway 31. Also, section 41(4) requires accommodation of utility providers. A FortisBC electrical service line provides power to the QP Site via the H Avenue road allowance from the main powerline along Third Street. An easement is not required for any utility to use a public road allowance. QP will be required to grant an easement to FortisBC for the powerline at no cost to Fortis or the Village because it will no longer be on a public road allowance once the land is sold to QP. Power may need to be relocated anyways due to the RV park layout.

This aerial map displays a series of land parcels, each labeled with a unique identifier. The parcels are organized in a grid-like fashion, with some areas highlighted in yellow and others in purple. A prominent red boundary line runs diagonally from the bottom left towards the center. A grey circular feature is situated near the top center, possibly representing a large tree or a specific landmark. Several colored lines (blue, orange, green) are drawn across the map, likely indicating proposed or existing easements, roads, or survey boundaries. The parcel numbers include:

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Figure 4 - Village lots near entrance to RV Park to be subdivided and parts sold to QP.

until a development application was received so that QP's plans could be made public. The Village received QP's rezoning application from CTQ in August 2023.

The land transaction is complicated because the road allowances technically provide access to Kootenay Lake, as noted in the previous section. The Land Titles Act and the Bare Land Strata Regulation require that a developer provide necessary land for access, infrastructure and amenities at no cost to the municipality, and the Approving Officer may also require a 7m buffer along a lakefront.

The offer from QP considered the land for the road access to be in exchange for part of the Village's land. But such land cannot be considered in such a transaction. Furthermore, the land being offered in exchange will contain a public road and trail, which the Village will maintain in perpetuity, including taking on all risk for future river erosion.

The rezoning package from CTQ included an independent appraisal of the land prepared by Dedora Schoene, the same firm that worked on the Village's land inventory project in 2018. Their valuation considered the Kaslo-area real estate market along with the various constraints of the land (floodplain, steep slopes). Their valuation is \$52,500 per acre, which is comparable to an estimation made by Village staff based on the assessed values of QP's land. The proposed compensation considers a land exchange, but the land offered must be provided at no cost through the subdivision process.

CTQ subsequently provided a letter dated 2023.12.06, CTQ proposing \$150,000 for 5.3 acres, plus \$104,700 in improvements that include construction of the nature trail from Highway 31 to the lake and a contribution to the flood mitigation works and environmental restoration as per Ecoscape's environmental impact report. The offer was declined, as it still relied on giving credit towards things that would normally be required as part of any development. QP recently donated funds to the Village towards flood mitigation works, which the Village accepted on the condition that the funds not be attached to their development proposal but simply be in the interest of protecting their property from flooding.



The appraiser used an "assumed net area" of 5.3 acres for \$278,250 but the appraiser used the inaccurate mapping, as noted in Section C of this report, to estimate the land areas. The appraiser also included some untitled lakefront land, which the Village should retain for public access. See Figure 4 showing the appraiser's map and the adjustments made for the new calculation.



Figure 5 – Appraiser’s map and adjustments noted in this report.

The new land area calculation for Village land to be sold to QP for their land consolidation, based on the yellow areas in Figure 2, is 4.9 acres. The final number will be based on a new survey, which will be a requirement of subdivision. Therefore, a price per acre is recommended, rather than a lump sum, so that adjustments can be made to the final land area total.

The appraiser’s fair value per acre was determined in 2022. According to BC Assessment’s website, the assessed value of QP’s land holdings at the site have increased by 21% over the past 2 years (11% in 2023 and 10% in 2024). The adjusted value per acre is $\$52,500 \times 121\% = \$63,525/\text{ac}$ for a total fair value of $\$311,272.50$ for the Village’s 4.9 acres. QP will be responsible for surveying, subdivision, title registration costs and GST as applicable. The Village also has the option to obtain an independent appraisal at their expense and, if the valuation is higher, could use that information in negotiating a new sale price.

F. Subdivision

The subdivision procedure will involve completion of the land transaction, consolidation of the land, and subdivision to create the final lot lines. Simple subdivision applications normally take about 6 months, but this one has complexities. This can be sped up with some preliminary work on the part of the developer, which QP/CTQ have already undertaken. The developer has investigated onsite sewerage capability, the site is serviced by Village water and FortisBC power, completed a Stage 2 environmental investigation, and filed an environmental assessment report.

Although subdivision approval is an administrative process, there are steps that require Council approval, public and external consultations, such as rezoning, land transaction, and development permits. The overall timeline is hard to estimate as there are several variables, negotiations, and externalities ahead if Council accepts QP’s proposal. The subdivision process can also be held up at the provincial level for things like environmental clearance and the road closures.

The developer indicated that the proposed RV park will be a strata, which requires delineation of each RV pad so they can be leased or sold individually. Restrictive covenants must

be included in the zoning and can be placed on title through a covenant to confirm that the park is for seasonal use only, not permanent residence or off-season storage of RV units on the sites. Subdivisions are handled by the Approving Officer, which is the Village's CAO, who must ensure that all legislated requirements are met but do not usually require Council approval. A Section 219 covenant under the Land Title Act should also be placed on title to the RV Park and strata lots absolving the Village from future liability that could arise from development in a floodplain.

In its simplest form, the subdivision will be 2 lots – one for the RV park and one for the multi-unit residential strata. Before the subdivision can receive final approval, the rezoning, development permits and servicing must be in place. If servicing is not ready, the developer must pay a security deposit to the Village equivalent to 120% of the estimated cost of the work.

A significant requirement for the developer is the construction of a paved road from Highway 31 to the RV Park entrance (Figure 6). QP will dedicate the land from Block 26 for an 18.5 metre wide road allowance. The road will be constructed to a rural paved road standard, with 6 metre pavement width and 1.5 metre gravel shoulders on either side, as specified in the Village's Subdivision Servicing Bylaw. The new pavement will tie into the existing pavement near the intersection of F Avenue and Highway 31. The public road, approximately 300 metres long, will terminate in a paved cul-de-sac, where the private entrance to the RV park and beginning of the riverside trail are located. The intersection of Third Street and the new road also will need some attention along with turning restrictions so that RV drivers do not attempt to turn from Third Street towards the RV park. Construction of the new road will be mostly within the 30 metre riparian area setback of the Kaslo River and subject to environmental mitigation at QP's expense.

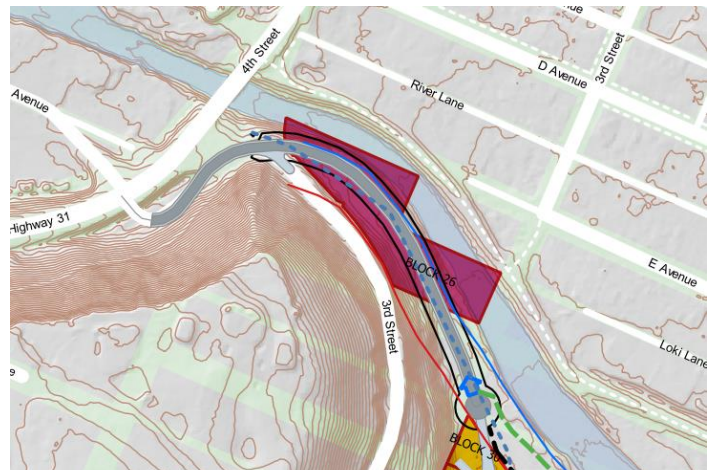


Figure 6 - Access road to be constructed.

The Village will assume all future maintenance, upkeep and replacement cost of any infrastructure that is constructed on public land by QP for this development.

G. Servicing

The Subdivision Servicing bylaw requires things like street lighting and, of course, water and sewerage systems to be installed to certain standards at developer expense. QP will need to review the servicing requirements determined by the Approving Officer and can seek a Development Variance Permit from Council for relief if there are requirements that they feel are onerous for this type of development.

For the QP Site, the developer has provided a preliminary sewerage report and will need a professionally designed water distribution plan with fire protection. These reports should be independently reviewed so that the Approving Officer can be confident that the proposed infrastructure is appropriate. The site is currently serviced by what is believed to be a 6"

watermain that connects to the Village's distribution network near the Kaslo River Bridge. The line terminates at a fire hydrant near the middle of the proposed RV park (Figure 7). The hydrant was replaced last year. The removal of the old hydrant revealed that the watermain pipe is ductile iron and appears to be in good condition.

The Village may seek an easement to keep and maintain the existing watermain and permit the developer to extend services from it. Or, the public portion of the line can terminate at the cul-de-sac, with a shut-off valve and possibly a water meter installed there.

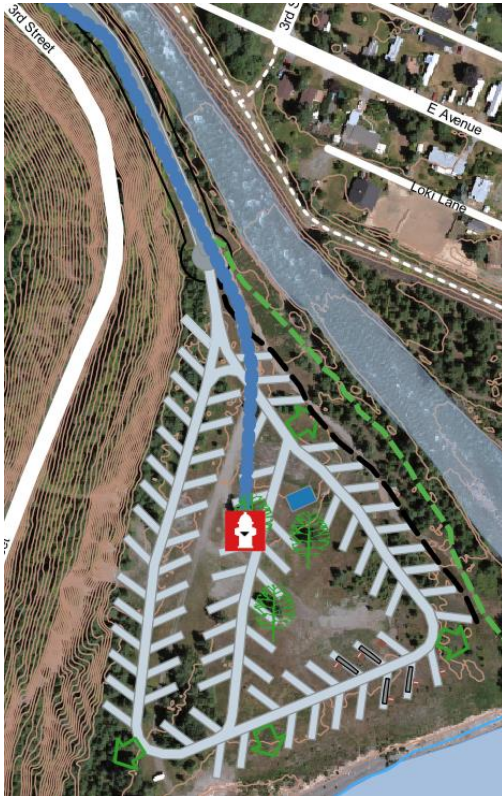


Figure 7 - Existing hydrant and watermain

Concern was raised at the public meeting about the capacity of the Village's water system during peak summer months, when the RV park will also be busiest. According to a report prepared for the current water plant upgrades, the water treatment plant can support a total permanent population of around 1,500 but the plant does sometimes reach capacity during hot, dry summer days due to the demand from lawn watering. The developer has verbally indicated that they wish the RV park landscaping to have minimal watering needs. A long-term solution that would benefit the entire Village is to have the golf course irrigate using raw lake water instead of treated municipal water. With that in mind, and the additional peak consumption that the RV park will bring, the Village could require an easement for a raw water line from Kootenay Lake up to the golf course across the QP site. The easement will enable future installation of this infrastructure when funding and a new water license are obtained. QP also expressed interest in building a golf cart path from the RV park up to the course, which could also be the route of a future raw water line.

Since there is already water service to the site, it is unclear if the developer needs to pay a new connection fee for the site due to the change of use, or for each individual RV site hookup. The Village should clarify this by policy and update the Fees and Charges Bylaw to include a water utility fee for RV sites, as there is currently no similar category.

H. River and Lakerfront

Development of the QP Site is subject to the Lakefront and Stream Protection Development Permit Areas (DPA) of the OCP. These DPAs require an Environmental Impact Assessment and other requirements specified in sections 16.4 and 16.5 of the OCP. Development Permits may be approved by Council with conditions to ensure that these requirements are met. The Village is also a member of the Kootenay Lake Partnership (KLP) and the OCP specifies that the Lakefront DPA will respect KLP's Shoreline Guidance Document. Indigenous consultation, as described in section 19.1 of the OCP, also needs to be considered because access to the lakefront is affected, and the Ktunaxa are members of KLP.

The Stream Protection DPA regulated area is within 30 metres of Kaslo River (the riparian area) and, for the Lakefront Protection DPA, normally 30 metres of Kootenay Lake. The Lakefront Protection DPA extends beyond the 30 metres in the RV park area due to the floodplain. QP has agreed that a 30 metre wide strip will be dedicated to the Village along the Kaslo River and a trail will be constructed for public access to the lake.

The Hango survey data included lines delineating the top of the riverbank and natural boundary of the lake, which were imported to the Village's QGIS mapping. See the red line on Figure 8, below. The red line will be the property line delineating the QP site and public (Village) land. QP will need to make some adjustments from their preliminary layout for the siting of the RV pads and flood protection wall to be within the property, as you can see on the map. They are aware of this, as some more recent maps show a modified layout, and these adjustments should not affect the number of RV sites proposed. The new recreation trail can consist of upgrades to existing footpaths and a track leading to the lake to minimize vegetation loss.

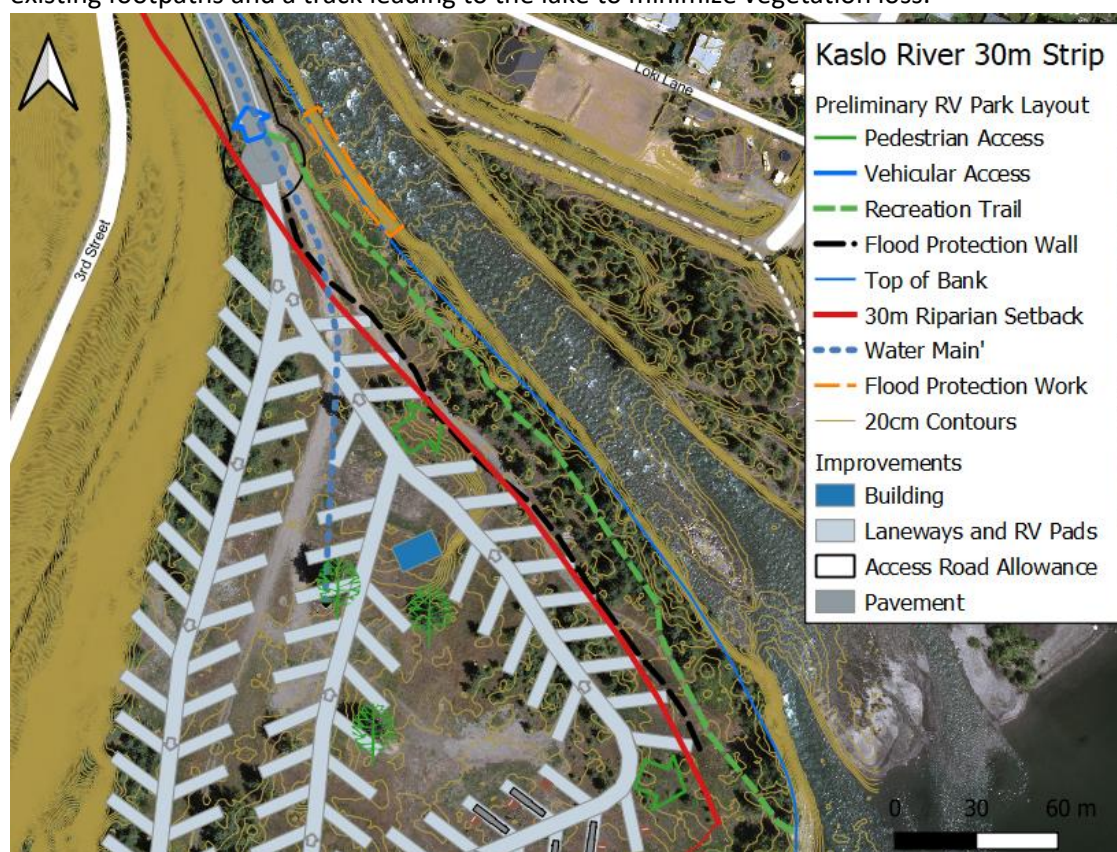


Figure 8 - Kaslo River riparian setback area.



The access road between Hwy 31 and the RV park entrance is entirely within the 30m setback area, but the strip where the road will be constructed is already cleared and there is a gravel track currently in place. The design and alignment of the road through here, which will be approved by the Approving Officer during the subdivision process, must also consider the risk of riverbank erosion so that this egress is available in the event of an evacuation due to flooding, and minimize potential damage to the

road from erosion in future. Although construction of the road is at the cost of the developer, future riverbank erosion works and related environmental approvals will be the responsibility of the Village, the costs of which may be offset by grant funding. The Village's Manager of Strategic Initiatives should also be involved in overseeing the design and construction of infrastructure that the Village will inherit from the developer.

The existing sewage storage tanks that were installed for Jazzfest temporary camping need to be removed. They could be kept by the Village for use elsewhere or sold off.



The natural boundary of Kootenay Lake shown on the survey plan may not meet the interpretation presented in the Land Act. In the act, "natural boundary" means the visible high water mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the body of water a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself." According to FortisBC's Kootenay Lake levels charts, the line presented on the survey represents the typical water elevation present from the end of July through January. The lake level is lowered between January to April, and then peaks in mid-June as freshet fills the pool.

Using air photo and LiDAR analysis and a site visit, the high water level is delineated by a line of logs and debris accumulated along the shore of the lake. The elevation of this line is 534.1 metres, whereas the line from the survey corresponds to 533.1 metres. Figure 9 shows the different lines. The Village Approving Officer can impose a 7m setback (red line) from the natural boundary (blue line, as per the survey) under the Bare Land Strata Regulation. The orange line is a 15m environmental setback. The yellow dashed line is the 534.1m contour line. The 15m line may represent the best compromise for the lakefront property line of the QP Site.



Figure 9 - Kootenay Lakeshore Natural Boundary and setback options.

The Village a new survey can determine the natural boundary to ensure that provincial regulations are being met, and beach access remains open to the public. If the higher elevation is used, the property line does not appear to impinge on the RV park development, based on QP's preliminary layout. Land dedicated by QP to public lakefront access can count towards the parkland requirement under section 510(1) of the Local Government Act.

QP also proposes a boat launch, indicated by the blue arrow on Figure 9. A separate Lakefront Protection Development Permit can be applied for once details of the boat launch are finalized, as it may involve placement of fill and concrete on the foreshore and details are not available at this time.

OCP section 14.5.6 specifies the requirements of the environmental impact assessment that an applicant must provide. QP commissioned Ecoscape to produce an environmental assessment report that meets these requirements, which include:

- a. An assessment of ecological, cultural values and archaeological potential following the Shoreline Guidance Document and mapping (see <http://kootenaylakepartnership.com/>).
- b. Identification of mitigation options and design alternatives to minimize and avoid potential negative impacts of the proposed development on ecology, cultural values and archaeology, including postconstruction restoration.
- c. A geotechnical analysis of slope stability for slopes of 30% or more.
- d. Measures to maintain or improve the integrity and function of the riparian area.
- e. A revegetation plan to improve natural control erosion, protect banks, and protect riparian and fish habitat may also be required.

The environmental report concludes that the proposed RV park development and related works maximize the use of the QP site while minimizing ecosystem impacts. The report states "if all recommendations and mitigation measures within this report are adhered to, the potential environmental effects of the works on the local flora and fauna will be minimized and are unlikely to result in a harmful alteration, disruption or destruction of the natural features, functions and conditions that support fish life processes." The greatest risk for environmental impacts will be during construction due to the significant earthworks required to install services and the access road to the site.

The recommendations in the report can be made conditions of approval of the DPAs. The recommendations include a replanting plan for the riparian area along Kaslo River after construction of the new road and recreation trail, which will take place on Village land. See the environmental impact assessment and restoration maps from the report in Figure 10, below. The preservation of three wildlife trees near the centre of the site, as shown, is also recommended. QP can be required to provide security deposits to ensure mitigation and restoration measures are undertaken or that the Village has funds to complete the work in any event.

No restoration measures are proposed for the upland multi-unit residential development area, as it is outside of the floodplain and DPA areas. However, in both the upland and RV park areas, the design and construction of the sewerage system will need to be reviewed carefully to ensure long term functionality considering the environmental hazards (flood potential and steep terrain).

Development Permits will be required prior to construction starting, which includes any land clearing and preparatory activities, but are not required for the rezoning to proceed. Construction drawings usually accompany development permit applications, but the plans submitted so far are preliminary and lack enough detail for formal consideration.



Figure 10 - Environmental impact and restoration maps from Ecoscape report.

I. Floodplain

It is well known that the RV park site is in a floodplain, which limits the type of development that can occur. Any permanent structures must be built such that the underside of the floor is above the designated flood construction level (FCL). For land near Kootenay Lake, that level is 536.5m. Moving away from the lake towards Kaslo River, the FCL rises in conjunction with the elevation of the river. For example, the proposed washroom building is in an area where the FCL is 537.0m. FCLs were last updated in 2020 based on the work of BCG Engineering commissioned by the RDCK, which included Kaslo River in their scope. The Village recently updated its Floodplain Bylaw 1193 to recognize the 2020 FCLs.

The OCP also recognizes the floodplain hazard. OCP section 15.2.1 requires an “engineer setting out how the area can be developed safely.” QP’s engineering report was completed by Watershed Engineering. A flood protection wall just inside the property line facing Kaslo River is proposed. The wall will deflect floodwater and debris away from the site in the event of a 200-year flood, which would overtop the riverbank along the south side of the river. In such an event, the recently completed flood protection works would also be overtopped.

A couple of side notes for information:

1. *The dike along the north side of the river is higher and designed to handle the 200-year flood scenario without overtopping.*

2. A “200-year flood” does not mean just one occurrence in 200 years. It means the highest water level that is likely to be encountered in a 200-year period and can more frequently.

Recommendations of note in the engineering report include developing a plan to maintain the access road in the event erosion occurs, an RV park operations and evacuation plan, and modelling the proposed flood mitigation measures to ensure effectiveness. Recommendation 2 in the report calls for all infrastructure to be above the 536.5m FCL. This recommendation needs to be clarified, as infrastructure includes water lines, sewerage system, electrical hookups, and even the internal RV park roads and RV pads. It is impractical to install such infrastructure above that FCL. Clarification from the engineer and revised wording is required.

The plans for the flood protection wall near the entrance and access road need to be revised. As shown, the wall would block the road access and is located within the 30m riparian area. The access road may need to be constructed to itself form part of the flood protection works. QP has indicated that the wall will be constructed entirely within their property, so future maintenance and upkeep of the wall will not be the responsibility of the Village. Attention to the aesthetics of the wall (i.e. landscaping) also needs clarification, as it could pose an eyesore.

J. Multi-Residential Development

The southern section of the QP site is a proposed 5 to 10 unit multi-residential strata development. The rezoning application would convert this land from industrial to RM-1 Multi-Residential. The Village lacks industrial land but the QP site is not conducive to industrial development because of the steep terrain and access constraints to the site. The cost of constructing services and access will be high, which also limits the opportunity for providing affordable housing on the site.



The closest Village watermain terminates near the YRB yard on Birch Street. A 6” main will need to be extended into the site for fire hydrants. One option is to use the Birch Ave road allowance but the grade is too steep for road construction. Another possibility is to construct a new road and waterline along the southerly municipal boundary. The Approving Officer will require servicing and access to be confirmed prior to subdivision approval. The map in Figure 11 shows the topography of the site with 1 metre contours, identifies two potential build sites and shows the existing Birch Street and Lakeview Street road allowances. An industrial encroachment into the road allowance is also visible, which could impede future access. The road allowance along the southerly Village boundary is named South Street. Using this way for access will require MoTI approval, as the road allowance is cross-jurisdictional.



Figure 11 - Southern section, multi-residential area

K. Development Agreement

An agreement that sets out the obligations of the Village and QP moving forward would provide greater certainty and transparency to both parties, resulting in a successful and beneficial project. QP's plan hinges on the Village disposing of its land holdings and the Council needs assurances that the development will proceed in the best interests of the Village and public. QP also needs assurance that the Village is willing to dispose of the land and provide the necessary planning approvals reasonably. An agreement can also provide a form of dispute resolution.

Once a sale price is confirmed, the parties will enter into an agreement of purchase and sale, and a development agreement. The sale will not close until the Village's required planning approvals are obtained. QP is then bound by complying with those approvals (new zoning, DP, subdivision, servicing and covenant requirements) to complete their development, which will include constructing the access road and trail.

The Village's legal counsel can draft or review a development agreement that is either tied to, or incorporated in, an agreement of purchase and sale.

L. Conclusion

The proposed development of the QP Site is complex due to the many factors outlined in this report. Addressing these complexities requires thorough planning, collaboration, and adherence to regulatory requirements. The Village needs legal advice to draft agreements for the disposal of land, ensure legislative processes are followed, and help set out obligations of the developer. The "road map" for Council to consider is as follows:

- An agreement of purchase and sale for Village Land – sale is conditional on Council providing timely approvals and QP fulfilling certain obligations.
- The suggested sale price for the Village's roads is \$311,272.50 based on the appraisal price per acre plus assessment increases for 4.9 acres.

- A development agreement – setting the expectations and intents of the parties (can be part of agreement of purchase and sale); this will include agreement on the path, road and park dedications required from QP.
- Road closure including provincial approval, consultation, raising title, and establishing statutory rights of way for infrastructure. Surveying and registration at QP's expense.
- Rezoning to allow the seasonal RV park and residential uses.
- Subdivision – including consolidation of the road allowances with QP land and dedications for the new access road, trail, lakefront and statutory rights of way. This step will be handled by the Approving Officer after agreements are in place unless variances are requested by QP.
- Section 219 covenant placed on title to the RV park lot and subsequent strata lots covering environmental and flood mitigation, indemnity and release of the Village from liability in the event of flooding. This covenant would be part of title registration in the subdivision process.
- Update Water and Fees & Charges bylaws with provisions and utility fees for the RV park.

M. Financial Implications:

- The cost of the development will be borne by the developer, including the cost of any required services, roads, utilities, environmental mitigation and restoration, permits, and recreation trail.
- The structure of the financial transaction for the exchange of land is undetermined. Some of the funds received may have to be held in reserve for future purchase or improvement of lake access within the Village subject to s. 41 of the Community Charter. Council nevertheless needs to consider how the proceeds will be directed, such as building reserve funds for Village infrastructure needs.

N. Corporate Priority: The 2023-2026 Corporate Strategic Plan identifies the disposition of excess village-owned land and waterfront planning as strategic priorities. Climate Action and Housing are “super themes” in the plan.

O. Communication Strategy:

Statutory public notices required for planning amendments, land disposition, highway closures and public hearing will be issued at the appropriate time. CTQ has fulfilled the requirement of hosting a public information session on Wednesday, November 24, 2024.

CAO Approval: