



DEVELOPMENT SERVICES COUNCIL REPORT

To: Mayor and Council

Date: August 27, 2024

From: Ron Bowles, CAO

File No: FEX 24-01

Subject: **FEX 24-01, Floodplain Exemption Permit, 2479 Whitworth Rd**

Report Prepared By: Casey Loudoun, Planner I

RECOMMENDATION to Consider and Resolve:

THAT Council approve the Floodplain Exemption (FEX 24-01) to Section 3.28.2(a) of Zoning Bylaw No. 0265 for the addition to a single-family dwelling at 2479 Whitworth Rd with the condition that no mechanical equipment or damageable materials are to be in the crawl space;

AND THAT an indemnity covenant under section 219 of the Land Title Act be registered on title as a condition of issuance.

STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity – We will work with stakeholders throughout the region to advocate for and support efforts aimed at helping West Kelowna businesses prosper. With a focus on the future, we will advance opportunities to expand our economy, increase employment, and develop the community in ways that contribute towards prosperity for all.

BACKGROUND

The applicant applied for a Building Permit for an addition to an existing dwelling that included a slab on grade foundation which was in conformance with flood construction level established in the Zoning Bylaw and a recently approved Aquatic Development Permit. The applicant subsequently changed their building design after Building Permit issuance to include a floor system instead of a slab on grade, with mechanical equipment located in the crawl space. The Building Department later identified these changes during an inspection. Through the review process of a subsequent Building Permit amendment, it was identified that the underside of the floor system, the crawl space and mechanical the equipment are all under the flood construction levels, necessitating this application.

PROPERTY DETAILS

Address	2479 Whitworth Rd		
PID	009-833-846		
Folio	36412668.000		
Lot Size	0.558 Acres		
Owner	Debra Gahler	Agent	Jordan Creamore
Current Zoning	R1- Single Detached and Duplex Residential Zone	Proposed Zoning	-
Current OCP	LDR – Low Density Residential	Proposed OCP	-
Current Use	Single Family Dwelling	Proposed Use	-
Development Permit Areas	Aquatic Development Permit Area		
Hazards	Flooding		
Agricultural Land Reserve	No		

ADJACENT ZONING & LAND USES

North	^	A1 - Agricultural
East	>	R1 - Single Detached and Duplex Residential Zone
West	<	R1 - Single Detached and Duplex Residential Zone
South	v	Lake Okanagan

NEIGHBOURHOOD MAP



PROPERTY MAP



DISCUSSION

Proposal

The applicant is applying for a Floodplain Exemption Permit to allow for the underside of the floor system and crawlspace to be under the 343.66 m flood construction level. The applicant has worked with the City through the application process and revised their original proposal to remove the mechanical equipment from the crawl space.

Policy and Bylaw Review

Official Community Plan No. 0300

The subject property has a Land Use Designation of Low Density Residential and is located within the Aquatic Development Permit Area. An Aquatic DP has previously been approved for ongoing addition to the dwelling.

Zoning Bylaw No. 0265

The proposal meets all Zoning Bylaw regulations except for the following:

3.28.2 Flood Construction Levels

The underside of any floor system, and top of any pad supporting any space or room that is used for dwelling purposes, business, or the storage of goods which are susceptible to damage by floodwater, shall meet the flood construction levels:

- i. 343.66 m (1,127.5 ft) ASL above Geodetic Survey of Canada datum (CGVD28)*

The crawl space would be considered in compliance with this regulation if the space remains free of any mechanical equipment or damageable goods. The underside of the floor joists measured are 343.56 m and are 0.1 m below the flood construction level (FCL) and are not in compliance with this regulation.

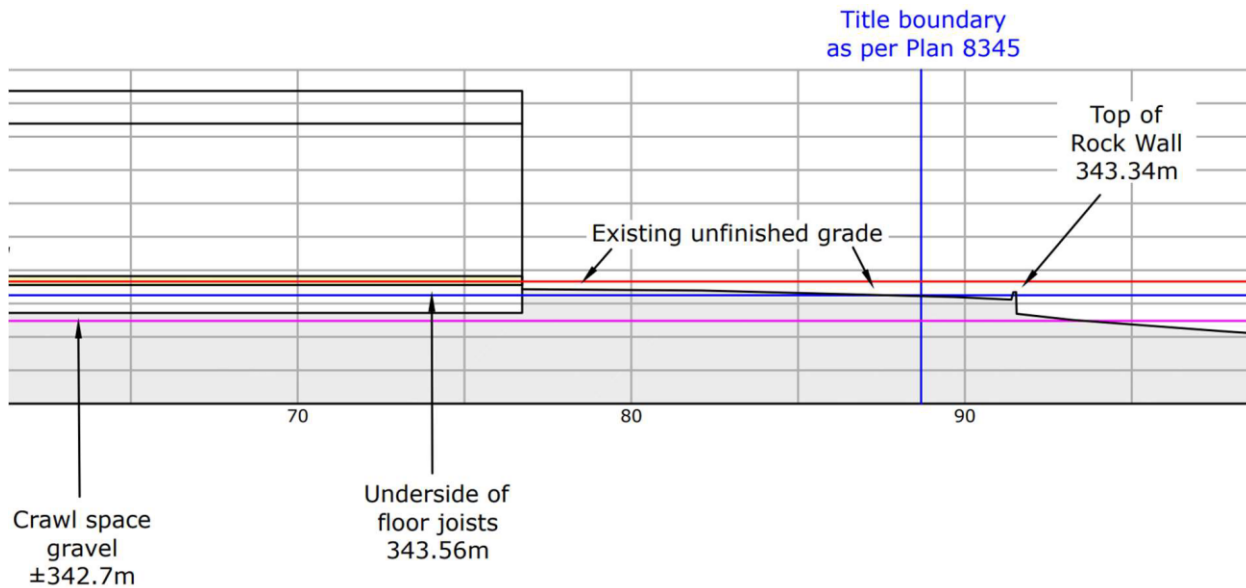


Figure 1. Flood Elevations at the Subject Property – From “Plan Showing Grades and Elevations for Lot 10” by Summit Land Surveying.

Local Government Act

The *Local Government Act* empowers local governments to exempt development from the requirements of a floodplain setback or flood construction elevation in relation to a specific parcel of land or a use, building or other structure on the parcel of land, if the local government considers it advisable. Decisions on floodplain exemptions should include consideration on the following:

- a) That the exemption is consistent with Provincial Flood Hazard Area Land Use Management Guidelines (Section 524(7)(a) of the *Local Government Act*); or
- b) The local government has received a report from a certified professional (in geotechnical engineering) that the land may be used safely for the use intended (Section 524(7)(b) of the *Local Government Act*).

As this proposal did not meet the Provincial Flood Hazard Area Land Use Management Guidelines, option b) was required.

The *Local Government Act* also states that local governments may also impose conditions considered necessary or advisable, such as an indemnity covenant under section 219 of the Land Title Act. It is advisable that a covenant be required to be registered to the title of the subject property containing an “indemnity” clause to protect the City from the financial consequences in the event of flood damage occurring on the property. This covenant will reference the Flood Hazard Assessment prepared by Water’s Edge Engineering Ltd.

Provincial Flood Hazard Area Land Use Management Guidelines

Additions to existing legally non-conforming buildings or structures that do not further the degree of non-conformity would be considered exempt by the Provincial guidelines if the addition is less than 25% of the existing floor area. However, the addition has been constructed to be 64% of the existing dwelling and therefore is not supportable by the Provincial regulations.

Technical Review

Flood Hazard Assessment Report

A Flood Hazard Assessment Report was prepared by Water's Edge Engineering Ltd. (May 30th, 2024, addendum dated August 13th, 2024) stating that "the evaluated flood risk to the crawlspace is rated moderate to high and the flood risk to the habitable portion of the addition is rated low." The applicant agreed to move the mechanical equipment from the crawl space so that it is no longer a concern.

An addendum to the report spoke specifically to the underside of the floor system and recognized it to be 0.1 m under the City's Flood Construction Level of 343.66 m. Water's Edge referenced updated floodplain modelling from the Okanagan Water Basin Board in 2020 that stated that the 200 year still water event (2017 Level) was at 343.26 m which is below the underside of the floor system 343.56 m and therefore should not be of concern. Water's Edge deemed the underside of the floor system to be safe for the intended use.

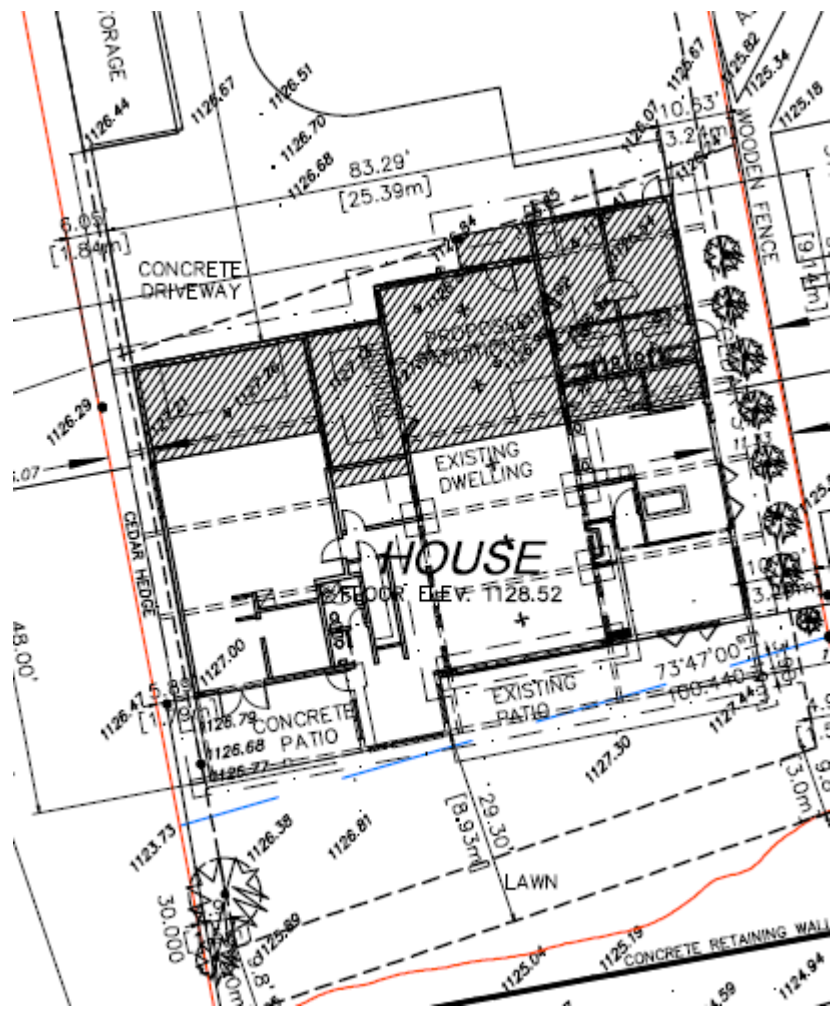


Figure 2. Site Plan with addition floor plan shaded at the Subject Property – From Howe Sound Home Design Development Plans.

CONCLUSION

The applicant has worked with the City to reduce non-compliance by removing mechanical equipment from the crawl space, leaving only an exemption requirement for the underside of the floor system of the addition. Though this application does not meet the Provincial Flood Hazard Area Land Use Guidelines, a Flood Hazard Assessment Report was provided by a certified professional that stated that the addition may be used safely for the intended use. This report satisfies the requirements under Section 524(7)b of the *Local Government Act* so that Council may consider a Floodplain Exemption Permit for the underside of the floor system of the addition. The *Local Government Act* also states that local governments may also impose conditions considered necessary or advisable, such as an indemnity covenant under section 219 of the *Land Title Act* which has been included in the recommended motion.

Alternate Recommendation to Consider and Resolve:

THAT Council deny the Floodplain Exemption (FEX 24-01) to Section of Zoning Bylaw No. 0265 for the addition to a single-family dwelling at 2479 Whitworth Rd

AND THAT applicant works with the Building Department to bring the underside of the floor system to compliance.

REVIEWED BY

Chris Oliver, Planning Manager

Brent Magnan, Director of Development Approvals

APPROVED FOR THE AGENDA BY

Trevor Seibel, Deputy CAO

Powerpoint: Yes No

Attachments:

1. Floodplain Exemption Permit, 2479 Whitworth Road (FEX 24-01)