



**VILLAGE OF HARRISON HOT SPRINGS  
NOTICE OF MEETING  
AND  
MEETING AGENDA**

<b>SPECIAL COUNCIL MEETING</b>
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**Date:** Tuesday April 14, 2009  
**Time:** 9:00 A.M.  
**Place:** Council Chambers, Village Office

<b>1. CALL TO ORDER</b>
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Meeting called to order by Mayor Becotte
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<b>2. ADOPTION AND RECEIPT OF MINUTES</b>
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<b>3. REPORTS FROM STAFF</b>
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<b>4. ITEMS FOR DISCUSSION</b>
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<input type="checkbox"/> 2009-2013 Financial Plan	<b>2009-2013 Financial Plan</b>
<input type="checkbox"/> Tugboat Junction - April 9, 2009	<b>Report of Chief Administrative Officer, April 9, 2009</b> <b>RE:</b> Rezoning Text Amendment & DP Amendment – Tug Boat Junction 750 Hot Springs Road  <b>Recommendation:</b>  <b>THAT</b> Council direct staff to proceed with a report to prepare a text amendment to the current zoning to permit electric go-karts, specifically on the subject property; and  <b>THAT</b> Council directs staff to proceed with preparation of a Development Permit with variances to correct the existing non-conforming on the property.
<input type="checkbox"/> Bylaw No. 909 Fee Schedule Amendment – April 9, 2009	<b>THAT</b> “Village of Harrison Hot Springs Fee Schedule Amendment Bylaw No. 909, 2009” be received for first, second and third readings.

<b>5. ADJOURNMENT</b>
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Larry Burk  
Chief Administrative Officer





## VILLAGE OF HARRISON HOT SPRINGS

### REPORT TO COUNCIL

**TO:** Mayor and Council **DATE:** April 9, 2009  
**FROM:** Larry Burk, Chief Administrative Officer **FILE:**  
**SUBJECT:** Rezoning Text amendment & DP amendment – Tug Boat Junction  
750 Hot Springs Road

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#### RECOMMENDATION:

That Council direct staff to proceed with a report to prepare a text amendment to the current zoning to permit electric go-karts, specifically on the subject property; and

That Council directs staff to proceed with preparation of a Development Permit with variances to correct the existing non-conforming conditions on the property.

#### BACKGROUND:

This file has a lengthy history of issues most notably with respect to process and interpretations and definitions of bylaws and the OCP.

Mr. Senft has applied and paid for a text amendment to the current zoning on his lands and to amend the DP. I also requested that his DP amendment application include variances.

My review of the file indicated that this would be the best approach, and one that I could support in a report to Council. My desire is to remove any non-conforming issues as well as register covenants on the lands that take any liability away from the Village due to previous processes and approvals.

#### DISCUSSION:

My consideration and suggestions to the developer on his application have been based two things:

1. My review of the history in this file; and
2. On a legal opinion from the Village solicitors dated September 7, 2005 (copy attached for your information).

The application basically asks for go karts to be added to his other amusement rides and activities on the lands. He is going with electric karts which are environmentally friendly and significantly less noisy than the conventional go-karts we are used to from the past. Go-karts of any variety are likely to create some noise however it is shown to significantly less than the conventional gas powered varieties.

Ideas to reduce the impact could be to limit times of the track to say: 9am to 6pm; or maybe later, maybe earlier, or maybe with a break in the middle of the day. This all depends on the comments from neighbors during the public consultation period.

Another requirement could be to not permit the track to be open at night where lighting may take away the privacy and enjoyment of adjacent lands. Construction of berms along neighboring lands complete with fencing and landscaping could be implemented.

#### **BUDGETARY CONSIDERATIONS:**

There are no budgetary considerations involved with the application. The developer will be required to pay all legal and preparation costs associated with any covenants or agreements to be registered on the lands.

The developer did operate the park over the past 3 years without the benefit of a business license. Depending on legal advice it may be an opportunity to back charge for these years.

#### **POLICY CONSIDERATIONS:**

At this point in time the developer is only looking for a general outline of support from Council. Final DP and bylaw text amendments will go forward within the next two sittings of Council where by detailed reports and legal assessments if necessary can be brought forward.

The developer will have to be aware that he is still proceeding entirely at his own risk until all documents and permits are signed and executed.

#### **ALTERNATIVES/OPTIONS:**

As noted above this report is only soliciting Council's direction to proceed with preparation of detailed reports, listing appropriate and negotiated requirements so that Council can attend to formal consideration of the applications and permits.

Council has the option to refuse to consider the application at which the developer can proceed with whatever action he feels is appropriate to either seek approval or abandon the project. Expenditure of capital on the equipment (the karts) is contingent upon early response from the Village so that he can realize some profit this year.

Respectfully submitted for your consideration;

  
\_\_\_\_\_  
Larry Burk  
Chief Administrative Officer

LIDE ONE, YOUNG, ANDERSON  
BARRISTERS & SOLICITORS

207 - 1441 Ellis Street  
Ricco Plaza  
Kelowna, BC V1Y 2A3  
Tel: (250) 712-1130  
Fax: (250) 712-1180

1616 - 808 Nelson Street  
Box 12147, Nelson Square  
Vancouver, BC V6Z 2H2  
Tel: (604) 689-7400; Fax: (604) 689-3444  
Toll Free: 1-800-665-3540

**VIA FAX, ORIGINAL BY MAIL WITH  
ATTACHMENTS**

**REPLY TO: VANCOUVER OFFICE**

September 7, 2005

***PRIVILEGED & CONFIDENTIAL***

Mr. Gerry Van Der Wolf  
Chief Administrative Officer  
Village of Harrison Hot Springs  
Box 160  
495 Hot Springs Road  
Harrison Hot Springs, BC V0M 1K0

Dear Mr. Van Der Wolf:

**Re: Tugboat Junction Development and Building Permit Issues  
Our File No. 00163-0112**

You requested our advice with respect to a number of building and development permit issues arising with respect to the development of a miniature railway and mini-golf attraction called Tugboat Junction (the "Property"), and a new application to add a go-cart track to the Property. Specifically, you asked for our opinion with respect to a number of issues arising out of the original development and building permits for this Property, the lack of completion of the building permit process, and a Development Permit Amendment application. We have broken down your questions with respect to this file into the following issues:

1. Should the Village process the Development Permit Amendment despite the existence of ongoing building bylaw infractions?
2. What steps should the Village take with respect to enforcement of its Building Bylaw?
3. What is the scope of building inspection services that must be provided to the Property in order to complete the building permit process on the original development?
4. What is the effect of the existing development permit with respect to:
  - (a) the requirement of 28 parking stalls on the Property; and
  - (b) the allowance of decreased setbacks from property lines?
5. Can any provisions be made with respect to minimizing impact of the development on neighbours, and specifically buffering noise and decreasing parking congestion?



## **BRIEF CONCLUSION**

With respect to the Building Permit violation issues, we advise that the developer of Tugboat Junction likely has a right to have his Development Permit Amendment processed regardless of the outstanding building permit violations. The amendment does not appear to significantly relate to outstanding building enforcement issues. As to the mini-golf course and the mini-railway structures that are not regulated by the B.C. Building Code, the Building Bylaw only requires that these be designed and construction supervised by a registered professional. No building inspection in the traditional sense is appropriate for these structures.

With respect to the issuance of the Development Permit for the Property, in our opinion, on its face it reduces the setback requirements under the Zoning Bylaw and requires 28 parking stalls be provided in the area shown on the plan attached as Schedule "A". There may be some question as to whether the variance to the setback requirements was properly considered by Council; nevertheless, it is our view that the Development Permit would likely be considered as a representation to the developer that he could build in accordance with Schedules "A" and "D" attached to and forming part of the Development Permit. Therefore, it is probably in the Village's best interests to recognize and regularize those setbacks if possible.

With respect to processing the Development Permit Amendment, the Zoning Bylaw has no setbacks required for paved track, such as a go-cart track. Nor do the setbacks apply to fences or landscaping with respect to the buffering of noise. Furthermore, there does not appear to be any basis under the Zoning Bylaw for requiring any greater access to parking facilities. However, there is some basis within the OCP to take the position that the Development Permit Amendment must address the parking and noise issues in order to be approved, though these provisions could be vulnerable to attack if challenged.

## **BACKGROUND FACTS**

The following facts provide the background for this opinion:

1. In or about April 2002, the Village council authorized the issuance of a Development Permit to the developer of the Property now known as Tugboat Junction, pursuant to the Official Community Plan. The Development Permit specifically required that the Property "shall be developed and used only in accordance with plans attached hereto as Schedules 'A', 'B', 'C', and 'D'", and subject to a number of conditions with respect to screening, landscaping and servicing. A survey was provided showing that the development was not within the Geotechnical Hazard Development Permit Areas under the OCP.
2. Schedule "A" to the Development Permit shows a scaled plan of the development, including the location and types of landscaping, and the location of some structures, such as the proposed mini-rail track and clubhouse. Schedule "D" to the Development Permit is a survey plan, which includes setback measurements specifically calculated from lot lines to certain permanent structures. Specifically, Schedule "D" shows a setback of 5.79 metres from the concrete foundation of what appears to be the station/clubhouse to the

front lot line of the Property. It shows a distance of 9.92 metres from the foundation of what appears to be the washrooms to the front lot line of the Property. It also shows the dimensions and location of ballast which appear to follow the proposed railroad track, which is, in places, considerably less than 5 metres from the front and southern side lot line.

3. Schedule "A" also shows the provision of 28 parking stalls in an area approximately 150 ft. by 70 ft. The setbacks to the parking areas are approximately 5-10 feet from the side lot line, and 29 feet to the front lot line.
4. It appears that Council authorized the issuance of the Development Permit subject to the provision of certain schedules to be provided, and that when those Schedules were provided, the Development Permit was registered with the Land Title Office on or about July 31, 2002. It is not clear if Council ever reviewed Schedule "D", but it appears that it did have a copy of Schedule "A", at least in draft form.
5. There is some evidence that Council and the Administrator of the time made a significant effort to expedite the processing of the Development Permit to allow the attraction to open for the Summer of 2002. Although Schedules "A" and "D" of the Development Permit indicated that the station/clubhouse, the parking lot, and much of the train track and mini-golf features and structures would be located considerably within required setback areas from the front or side parcel lines, the portions of the Development Permit application relating to variance of setback requirements was not specifically filled out.
6. The Development Permit does not specifically mention those setbacks, but rather provides only the following statement at paragraph 1:

This Development Permit is issued subject to compliance of all of the Bylaws of the Village applicable thereto, except as specifically varied or supplemented by this permit.

7. A letter dated April 30, 2002 from the operator of the Property, Gary Senft, to Phil Taylor, Administrator, indicates that Mr. Senft considered that all the buildings on the Property were within the required setback areas. There appears to have been some discussion with respect to the setback of the train tracks, but no record of what the resolution to this issue was, other than the issuance of the Development Permit with the train tracks well within the front and side setbacks.
8. Sometime in the Spring of 2002, it also appears that Mr. Senft applied for a building permit for the entire attraction on the Property. There was, at that time, an application to vary a setback with respect to a flood level requirement for one building, which was denied.
9. Despite the fact that a building permit was never issued for the Property, the attraction proceeded to be built and was opened in the Summer of 2002.

10. There remains a number of outstanding building deficiencies with respect to the elevation above the flood level for one of the buildings. We also understand that not all the required letters of assurance, plans and schedules have been provided from the developer's professional engineers to allow for approval of the structures on the Property. We understand that the Village has received Provincial certification with respect to the mini-railway, however.
11. In the Spring of 2005, the Property operator applied to amend the existing Development Permit to allow for the addition of a go-cart track in an undeveloped portion of the Property. This Development Permit Amendment has not yet been processed.

Please advise us if any of the above facts are misstated or incomplete, as this may affect our opinion.

### **APPLICABLE BYLAWS AND REGULATIONS**

The following Bylaw provisions are relevant to these matters:

#### **Zoning By-Law Number 672-1996**

BUILDING means any *structure* used or intended for supporting or sheltering any *use* or occupancy.

OUTDOOR RECREATIONAL FACILITY means a facility for recreation and sport activities primarily conducted outdoors, including stadium, golf course, driving range, waterslide, mini golf, and theme park.

PRINCIPAL BUILDING means the *building* which is the chief or main one among *buildings* on the *parcel*; includes attached garages and carports, but does not include an *accessory building*.

STRUCTURE means any construction ancillary to a *principal building* fixed to, supported by or sunk into land or water; includes swimming pool, satellite dish, *parking areas* and retaining wall; excludes fences, signs, and concrete, asphalt, brick or tile surfaced areas.

#### **Tourist Commercial Zone (C5)**

##### **.1 Intent**

The intent of the C5 zone is to provide for the development of tourism and related facilities. Uses permitted in this zone are designed to minimize excessive noise and other conflicts with surrounding uses. New developments zoned C5 shall be required



to obtain a Development Permit as per the requirements of the Official Community Plan.

## .2 Permitted Uses

The following uses and no others are permitted in the C5 zone:

### Principal Uses

...

- .4 outdoor recreation facility;

Accessory uses

- .5 mini golf courses;

...

- .12 parking areas;

- .13 accessory buildings and structures.

## .4 Regulations

On a parcel zoned C5, no building or structure shall be constructed, located or altered and no plan of subdivision will be approved which contravenes the regulations set out in the following table in which Column I sets out the matter to be regulated and Column II sets out the regulations.

COLUMN I	COLUMN II
.3 Minimum Setback <ul style="list-style-type: none"> <li>▪ Front parcel line</li> <li>▪ Interior side parcel line               <ul style="list-style-type: none"> <li>- abutting a residential zone</li> </ul> </li> <li>▪ exterior side parcel line</li> <li>▪ rear parcel line</li> </ul>	7.5 metres 3.6 metres 6.0 metres 3.6 metres 6.0 metres

### Required Number of Spaces

- .1 The number of off-street parking spaces for motor vehicles required for any use is calculated according to Table 1 of this Bylaw in which Column I classifies the types of uses and Column

II sets out the number of required off-street loading spaces that are to be provided for each use in Column I.

.2 The number of off-street loading spaces for motor vehicles required for any use is calculated according to Table 2 of this Bylaw in which Column I classifies the types of uses and Column II sets out the number of required off-street loading spaces that are to be provided for each use in Column I.

.3 In respect of a use permitted under this Bylaw which is not specifically referred to in Column I of Tables 1 and 2 the number of off-street parking spaces and loading spaces is calculated on the basis of the requirements for a similar use that is listed in Table 1 and Table 2.

.4 Where the calculation of the required off-street parking spaces and loading spaces results in a fraction, one parking space or loading space must be provided in respect of the fraction;

<b>COLUMN I</b>	<b>COLUMN II</b>
<b>Class of Building</b>	<b>Required Number of Spaces</b>
Miniature Golf	1 per hole

Note: There are no parking requirements with respect to Outdoor Recreational Facilities.

**Village of Harrison Hot Springs Building Regulation Bylaw No. 581, 1993**

...

“building” means any structure used or intended for supporting or sheltering any use or occupancy;

“structure” means any construction fixed to, supported by or sunk into land or water;

...

**Applications for Buildings Requiring Specialized Technical Knowledge and Assembly or Public Use Buildings**

10.2 Notwithstanding any other provisions of this Bylaw:

- (a) A professional engineer or architect registered in the Province of British Columbia shall prepare and

sign all drawings, specifications for and plot plans of, and shall supervise construction of, any structure to be constructed the specifications of which are not governed by the provisions of the Building Code; and

- (b) Where the application for a building permit is for a proposed structure which is intended to be used for assembly or public use, the building inspector shall not issue a building permit if the plans and specifications submitted with the building permit application do not conform with the requirements of the National Fire Code of Canada.

#### 12.1 Duties And Responsibilities Of Owner

(1) Subject to section 2.3, every owner of real property or his agent, shall obtain from the building inspector a building permit before commencing any construction, works, or change in occupancy as described below:

- (g) all other construction or repairs to a structure which:
  - (i) Is greater than 13.9 m<sup>2</sup> or
  - (ii) The value of the work is more than \$2,000.00;

#### Professional Design and Review

##### General

15.1 The requirements of this section 15 apply to an owner who applies for a building permit for:

...

- (f) construction which falls within the scope of Section 10.2(a) of this Bylaw.

15.2(1) Before an owner obtains a building permit from a building inspector, the owner shall

- (a) retain a coordinating registered professional to coordinate all design work and field reviews of the registered professionals required for the project in order to ascertain that

- (i) the design will substantially comply with the building code and other applicable enactments respecting safety, and
- (ii) the construction of the project will substantially comply with the building code and other applicable enactments respecting safety, not including the construction safety aspects, and
- (b) deliver to the building inspector letters in the forms set out in Schedules A, B-1 and B-2 to section 2.6 of the building code.

**Harrison Hot Springs Official Community Plan**

**16.3 Commercial – DP Area 3**

16.3.1 Commercial development is designated a Development Permit Area under Section 945(4)(e) of the *Municipal Act* to establish the objectives and guidelines for the form and character of commercial development.

16.3.3 Commercial development is designated within a Development Permit Area in response to the following objectives:

- Establish design guidelines for commercial development outside of the Lakeshore Area which ensures that commercial uses are designed to mitigate any negative impact they might have on surrounding areas.

16.3.4 Development Permits issued in this area shall be in accordance with the following guidelines:

- .1 creation of a “commercial strip” image shall be avoided by encouraging:
  - innovative building design and configuration;
  - siting of buildings near the front of a parcels *[sic]* with landscaped areas rather than paved parking areas between the building and the adjacent roadway;
  - adequate on-site parking at the rear, side or within buildings rather than the front;

- significant landscaping adjacent to public rights-of-way and integrated within the site.
- .5 Notwithstanding the landscape screening provisions of the Zoning Bylaw, landscape, screening requirements should be supplemented to separate parking clusters and to mask storage and service areas from adjacent residential uses and pedestrian view.
- .7 Commercial uses should be sited to afford maximum privacy to adjacent residential uses.

#### 16.6 *Conditions Where Development Permits Not Required*

Development Permits are not required within the specified development permit areas under the following conditions:

- .4 for new auxiliary buildings in the rear yard or interior side yards that meet the setback requirements in the Zoning Bylaw.

### **DISCUSSION**

#### **1. Should the Village process the amended Development Permit Amendment despite the existence of ongoing building bylaw infractions?**

We have reviewed the file with respect to the Development Permit, the Development Permit Amendment and the building permit issues that are outstanding from the original development. In our view, there is no basis for holding up the processing of the Development Permit Amendment, while the building permit issues are outstanding. It does not appear that the amended Development Permit affects the applicant's obligations or entitlements under the Building Bylaw, and the two should be processed independently.

#### **2. What steps should the Village take with respect to enforcement of the Building Bylaw?**

The Village is entitled to enforce the Building Bylaw in the normal ways. With respect to the posting of no occupancy notices, we recommend that specific information be obtained from the Building Department as to what aspects of the development should or should not be occupied. For example, if the miniature railway and mini-golf have been approved by all required regulatory bodies, however certain buildings have not been, we recommend that the No Occupancy notices be posted only on those specific buildings, unless they are essential to the operation of the attractions. If health or safety issues exist as a result of the building deficiencies, the Village has a number of remedies, ranging from a notice on title, to passing a resolution requiring that remedial action be taken with respect to a specific building or structure. Injunction proceedings, prosecutions, and MTIs may also be available for these infractions.

**3. What is the scope of building inspection services that must be provided to the Property in order to complete the building permit process on the original development?**

While we understand that there are no standards with respect to the mini-golf and railway structures in the Building Code, the Village's bylaw nevertheless appears to apply to all "structures" on the Property. In this respect s.10.2 of the Building Bylaw sets out a procedure for approval of structures not specifically contemplated by the Code, through design and supervision by registered professionals. In our view, the Bylaw is broadly applicable and it does put responsibility on the Village for ensuring that all the structures on the Property are properly certified. However, no inspections are required with respect to structures that are not contemplated by the Building Code, and we do not recommend that any attempt be made to inspect these structures. Care should also be taken to ensure that structures that are regulated by the Building Code are properly inspected, for example, the washroom and clubhouse structures. If there are bodies of water on the Property that would be considered as swimming pools under the Code, those also should be subject to the review and inspection of the Building Department. We were unable to find any standards with respect to the construction of mini-golf courses, and therefore, in our view, it is the responsibility of the developer to find a registered professional who is willing to and capable of reviewing the safety of these structures.

**4. What is the effect of the existing development permit with respect to:**

**(a) the requirement of 28 parking stalls on the Property?**

With respect the requirement for a certain number of parking spaces, the Zoning Bylaw only appears to require 18 parking places plus one additional loading zone space for the mini-golf facility. As there are no requirements for Outdoor Recreational Uses, or other similar facilities, in our view, the Village would not be able to require any greater number of parking stalls under its Zoning Bylaw, even if a go-cart track was added to the Property. However, in our view, the requirement under the Development Permit that was issued that the Property be only developed and used in accordance with the plans attached to the Development Permit, and the fact that the development permit includes Schedule A showing 28 parking stalls, provides some basis for urging the developer to at least maintain these spaces. This is subject to our discussion below with respect to the scope of Council's authority to impose conditions under the Development Permit for form and character of commercial areas.

**(b) the allowance of decreased setbacks from property lines?**

With respect to the setback requirements, we believe that the developer would have a strong argument that the existing Development Permit varied the setback requirements in the Zoning Bylaw, despite the lack of a specific application in this respect. Council does have authority pursuant to S. 920(2) of the *Local Government Act* to vary siting requirements by development permit (except flood plain setbacks) and the Development Permit in this case specifically states that compliance with the bylaws is required except to the extent that they are "varied" by the permit. The Permit then goes on to require the development of the Property in accordance with schedules that show buildings and structures located less than the required setback distances



from front and side lot lines under the Zoning Bylaw. Siting and setbacks are definitely dealt with in the commercial form and character guidelines in the OCP, suggesting that Council had the authority to consider these guidelines and issue the Development Permit. Therefore, in our view, the Development Permit varies the setback requirements on its face. Furthermore, the apparent variance to the parking lot setback could be used to support the reasonableness of the requirement for the additional spaces also in the Permit.

In any event, even if the setbacks in the Development Permit were not properly considered by Council, and it was therefore improperly issued, the Village would likely be liable to the developer in damages for any costs incurred by the developer in building the railway parking lot and clubhouse in reliance upon the Development Permit, if he was required to move them. Therefore, despite the ambiguities in the process used to issue the Development Permit, it may be preferable for the Village to take the position that the Development Permit properly authorized the variances, and to seek to clarify this variance in any further development permits issued with respect to the Property.

The developer also has a reasonable argument that the rail line and the mini-golf are not “buildings” or “structures” for the purposes of the setback requirements of the Zoning Bylaw. This is because of the awkward wording of the definitions of “building” and “structure”, which appear to relate only to structures ancillary to “principal buildings”. We caution that the circular nature of these definitions may make them difficult to enforce.

**5. Can any provisions be made with respect to minimizing impact of the development on neighbours, and specifically buffering noise and decreasing parking congestion?**

In our opinion, the Zoning Bylaw does not provide any basis for the Village to impose any restrictions on the development of a go-cart track on the Property. The Zoning Bylaw specifically authorizes Outdoor Recreational Uses, which would appear to include the go-cart track. The statement in the Zoning Bylaw that the “uses permitted in this zone are designed to minimize excessive noise and other conflicts,” does not support an interpretation of the Zoning Bylaw excluding those uses. Rather the wording suggests that Council has already considered that the approved uses will not be problematic. In addition, the deliberate exclusion of “concrete” and “fences” from the definition of “structure: would likely have the effect of removing any requirement for a setback from the Property line for the go-cart track itself or any required fencing around the track.

In our opinion, the Village’s only potential avenue for controlling these problems at the planning stage is the development permit requirements of the Commercial DP Area 3. Specifically, s. 16.3.3 of the OCP states that an objective for the DP area is to ensure that commercial uses are designed to mitigate any negative impacts on surrounding areas. This objective, and some related guidelines, provides an arguable basis for seeking to impose through the development permit process, noise (and possibly some parking) mitigation measures.

This position is not very strong because it is framed primarily as an objective and not as a guideline, s. 16.6.4 of the OCP may exempt the go-cart track altogether, and because of the limited nature of “form and character”, development permit areas. With respect to the latter, the

difficulty is that “form and character” requirements are much more clearly applicable to aesthetic issues, and not to issues relating to use or impact on neighbours. This is apparent from sections 920(8) and (9) of the *Local Government Act*, which imposes the following limitation on development permits issued pursuant to a commercial form and character designation:

(8) If land has been designated under section 919.1 (1)(d), (e) or (f), a development permit may include requirements respecting the character of the development, including landscaping, and the siting, form, exterior design and finish of buildings and other structures.

(9) If land has been designated under section 919.1 (1) (f), a development permit may include requirements respecting the character of the development, as referred to in subsection (8) of this section, but only in relation to the general character of the development and not to particulars of the landscaping or of the exterior design and finish of buildings and other structures.

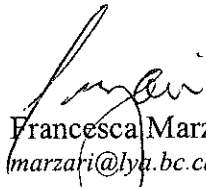
These provisions are generally thought to address “general character of the development” including siting and form, but does not allow the Village to get particular with respect to certain aspects of the design or non-aesthetic issues. As a result, it is questionable whether measures such as noise buffering (as opposed to aesthetic buffers which would be supported) from residential neighbourhoods, or adequate parking and traffic control would be considered to be valid form and character restrictions under these sections unless they could be formulated as aesthetic requirements under the Guidelines. The Village is reasonably likely to be successful in requiring substantial privacy buffers as provisions of the Development Permit Amendment. Requiring additional parking areas is less likely to be successful.

## CONCLUSION

In conclusion, we consider that the Development Permit Amendment may proceed independently from the building permit infractions in the general manner we lay out above. The Village has an arguable position that buffers are required with respect to the proposed go-car trade, but likely has to accept the reduced setbacks shown on the Development Permit. If you have any questions or concerns with respect to this matter, please do not hesitate to contact the writer.

Yours sincerely,

LIDSTONE, YOUNG, ANDERSON



Francesca Marzari  
marzari@lya.bc.ca

FM/nw

cc: Hugh Sloan, Director of Planning, FVRD  
Chris Symes, Manager of Development Services, FVRD  
Frank Kelly, Manager, Inspection Services, FVRD



## VILLAGE OF HARRISON HOT SPRINGS

### BYLAW NO. 909

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#### Being a Bylaw to amend Fee Schedule Bylaw No. 906

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**WHEREAS:** The Mayor and Council has deemed it advisable to amend the Village of Harrison Hot Springs Fee Schedule Bylaw Number 906, 2009, as adopted on April 6, 2009;

**AND WHEREAS:** it is deemed desirable to amend the fees;

**NOW THEREFORE:** the Council of the Village of Harrison Hot Springs, in open meeting assembled; HEREBY ENACTS AS FOLLOWS:

**1. TITLE**

This Bylaw may be cited for all purposes as the "Village of Harrison Hot Springs Fee Schedule Amendment Bylaw No. 909, 2009"

**2. AMENDMENT**

Bylaw No. 906 of the Village of Harrison Hot Springs cited as the "Village of Harrison Hot Springs Fee Schedule Bylaw No. 906, 2009" is hereby amended by;

- a. Page 7, Water Frontage Charges, delete \$7.64 per metre and insert "\$11.14";
- b. Page 8, Sewer Frontage Charges, delete \$.87 per metre and insert "\$6.13";
- c. Page 11, Boat Launch & Parking Lot Regulation, Section Fees, add "Fleet Pass , \$240.00 & GST";
- d. Page 12, in Fees for Use of Public Property or Facility for Events, Functions or Activities, Section 2 Damage Deposit:
  - i. - more than 100 up to 500, delete \$2,500.00 and insert "\$2,000.00"
  - ii. - greater than 500, delete \$5,000.00 and insert "\$2,500.00"

**3. READINGS AND ADOPTION:**

**READ FOR A FIRST TIME THIS 14<sup>th</sup> DAY OF APRIL, 2009.**

**READ FOR A SECOND TIME THIS 14<sup>th</sup> DAY OF APRIL, 2009.**

**READ FOR A THIRD TIME THIS 14<sup>th</sup> DAY OF APRIL, 2009.**

**ADOPTED THIS            DAY OF            , 2009.**

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**Ken Becotte**  
Mayor

---

**Larry Burk**  
Corporate Officer

