

SUMMARY OF COMMENTS/RECOMMENDATIONS

PROPONENT: Calvin and Fay McEachern
NAME OF DEVELOPMENT: Riviera Resort and Marina
CLASS OF DEVELOPMENT: Two
TYPE OF DEVELOPMENT: Recreation - Marina
CLIENT FILE NO.: 4995.00

OVERVIEW:

The Proposal was received on October 16, 2003. It was dated October 9, 2003. The advertisement of the proposal was as follows:

“A Proposal has been filed by KGS Group on behalf of Calvin and Fay McEachern for the construction and operation of a cottage development and marina on the east side of Pelican Lake in W 34-4-16W. This site is located between Manhattan Beach and Strathcona Memorial Park. The development would consist of approximately 50 cottage lots and a marina to be excavated in an intermittent waterway draining into Pelican Lake. The marina would have space for approximately 20 boats, and the connecting boat channel to the lake would be approximately 245 metres long.”

The Proposal was advertised in the Killarney Guide on Saturday, November 22, 2003 and the Baldur Gazette on Tuesday, November 25, 2003. It was placed in the Main, Eco-Network and Lakeland Regional Library (Killarney) public registries. The Proposal was distributed to TAC members on November 17, 2003. The closing date for comments from members of the public and TAC members was December 22, 2003.

COMMENTS FROM THE PUBLIC:

L. Forster In response to your invitation for public participation in the above mentioned proposal I will at this time take the opportunity to express my concerns regarding the environment around the Pelican Lake area in general.

Within the last few years due to road construction, drainage purposes and agricultural practices, natural habitat has been destroyed. I am not against progress, however when habitat is lost no matter how small an area, it has some impact on the environment. As a cattle producer in the area we practice conservation techniques on our farmland which include shelterbelt planting and maintaining native habitat. My strong environmental concerns have resulted I guess from working outdoors when the temperature is -30 Celsius with a windchill and there isn't a tree in sight to stop the wind.

Another concern for the area is the air quality during the summer. Over the years due to tourism, traffic has increased. With increased traffic the air quality deteriorates. To the residents living along these gravel roads this means extremely dusty conditions. Dust suppression material is made available through the R.M. of Strathcona however it is costly and does not alleviate the problem as it is only placed in small areas. Some evenings the dust is so bad it hangs in the air like a thick blanket. I have also noticed an increase in the incidence of Infectious Bovine Keratoconjunctivitis (Pink Eye) in cattle herds in the region. Although Pink Eye is an infectious disease caused by the bacterium *Moraxella bovis*, dust is also a major contributing factor. In addition, respiratory problems can result in humans and animals being exposed to extremely dusty conditions.

I realize the area we live in will always be a tourist destination but everyone would benefit from having some form of dust suppression placed on all roads leading to the Pelican Lake area and its busy resorts.

I wish at this time to thank you for reviewing these issues which I have brought to your attention. They are not as a result of the proposed construction of the Riviera Resort, but merely problems that already exist in the area.

Disposition:

With respect to habitat loss, clearing of natural vegetation in riparian areas can be addressed as a licence condition. Clearing in areas further removed from the lakeshore cannot be controlled, but sediment and erosion control measures can be required. With respect to dust control, this concern can be brought to the attention of the Proponent and the R.M. of Strathcona.

COMMENTS FROM THE TECHNICAL ADVISORY COMMITTEE:

Manitoba Conservation – Sustainable Resource Management It is stated in the proposal that the development will not be serviced with sewer and water, but a large portion of the text probably referring to the issue of individual water and sewer systems is missing. In this regard all cottages in the development should have pump out tanks for sewage rather than septic fields.

Even though it is stated that no known rare species are present at the development site there is no indication that the area was surveyed for rare plants. Data shows that two rare species occur in the area: *Uvularia sessilifolia* (small bellwort) and *Lomatium macrocarpum* (long-fruited parsley). Appropriate habitat for the small bellwort is largely limited to the narrow band of riparian woodlands that surround Pelican Lake, much of which has been fragmented by cottage developments and associated roads. A formal survey of the proposed development area should be conducted to determine if this species is present and if it will be impacted. The long-fruited parsley is a mixed-grass prairie species. Providing the proposed development is limited to wooded areas, it should not be adversely impacted.

The list of birds presented in Appendix C is incomplete and in some cases inaccurate. The proponent should provide a complete list of birds that are common in the area with a note indicating what species were seen along with information about when or how these birds were observed.

Terrain in the area where the marina is to be built is quite steep requiring an excavation of over 5 metres. This deep excavation and steep surrounding terrain, in combination with shale soil and periodic runoff, may pose a continual erosion, infill and sedimentation problem. Given this potential for erosion a properly engineered design for the marina should be provided. In addition, there is concern that if annual maintenance under the erosion control plan is neglected significant erosion and infilling of the channel could occur.

It may become necessary to periodically dredge the channel and marina due to erosion and infilling. Dredging activities would alter the existing fish habitat at the site and could result in high turbidity and sediment transport in Pelican Lake. This issue would have to be dealt with each time the marina was dredged.

Once the marina is constructed it will become fish habitat. These fish will be subject to any adverse conditions created by sediment inflow, pollutants from boats and cottages and anoxic conditions.

The creek that flows into the upper end of the marina cuts through steep shale soils. The proponent should consider methods of erosion and sediment control from upstream sources, particularly for spring runoff in 2004.

There is no information in the proposal on the second phase of the development. Where would the additional 28 lots be situated and what additional effects would there be on the environment?

No permanent development associated with the marina or cottage lots should occur within the 100 year flood level of Pelican Lake which is 1357.6 feet. No shoreline alteration below this elevation should occur without prior authorization from the department and DFO.

These constructed marinas can have a relatively short life span. When abandoned or not maintained a number of potential problems can occur such as anoxic water, algae blooms, fish kills and public liability. A decommissioning plan should be included in this proposal.

Disposition:

Additional information was requested to address most of these comments. Several comments can be addressed through licence conditions.

Historic Resources Branch

No concerns.

Mines Branch No concerns.

Highway Planning and Design Branch No concerns.

Community Planning Services Branch Having reviewed the information provided regarding the Riviera Resort and Marina development proposed by Fay and “Butch” McEachern for a site along the shores of Pelican Lake in the RM of Strathcona, we can offer the following comments:

PROPOSED DEVELOPMENT The Riviera Resort and Marina concept developed by McEacherns represents a significant recreation development in southwest Manitoba. With 50 plus building lots, public roads, marina, and a boat channel to Pelican Lake, this can be considered a major development. Recreation uses and cottage lots are common around Pelican Lake but the protected marina is a novel idea. The proponents have indicated that the marina in its first stage will basically be parking for watercraft with nearby vehicle parking but little in the way of additional services. Should there be public demand for additional commercial services (such as concessions or gasoline sales), McEacherns will consider future improvements at the marina.

SITE

1. The subject property is legally described as part of the NW and SW quarter sections of 34-4-16WPM which is owned by Calvin and Fay McEachern under Certificates of Title Nos. 1948791 and 1948792.
2. The property consists of the residual land in the half section not covered by lake water, which is about 187 acres, and has about 2600 feet of lake frontage on the eastern shore of Pelican Lake.
3. The property contains a treed area along the shoreline not suitable for agriculture primarily because of the steep slopes and contains farm fields on the higher elevations to the northeast.
4. There is a natural drain that starts nearby on the higher elevations and cuts diagonally across the subject property to the lakeshore; it is part of this short natural drain which the owners wish to reconfigure for the proposed boat channel and marina.
5. The owners have recently constructed preliminary access and internal roads on site and have, for testing purposes, dug part of the proposed boat channel for the marina.
6. A preliminary site plan has been prepared by a surveyor with information about the proposed location of roads, lots, marina, boat channel, and public areas (see attached drawing).

7. The proposed development will take up about 23 acres of the subject property for the proposed 49 lots and a few more acres for the roads and public areas.

SITUATION

1. While the general area and the subject property are zoned for agricultural uses, there are sites both north and south along the eastern shore of Pelican Lake that have been rezoned for seasonal resort uses particularly for seasonally used cottages.
2. Between the LUD of Ninette on the north end of the lake and Pleasant Valley cottage area and golf course on the south end, there are about nine (9) distinct areas of lake shoreline that support various cottage developments.
3. Between the cottage areas along the shoreline of the lake and the farmlands to the northeast, steep tree-lined slopes make access to the shoreline somewhat difficult.
4. Many of the local roads situated in government road allowances offer access to the steeply sloped areas but there is limited access points to the shoreline past the steep tree-lined slopes.
5. Pelican Lake is part of series of lakes and streams which have formed in the large meltwater channel which once flowed southeast from a large glacial lake.
6. The natural slopes found in this area, between the lake shoreline and the relatively flat plain on either side of the glacial meltwater channel, can be significant.
7. Pelican Lake is maintained at a relatively stable level with the Pembina River Diversion Project and control structures at the lake outlet at the southern end.
8. It is common knowledge that water levels in Pelican Lake vary slightly over the year with levels peaking in the spring and dropping over the summer and that its shorelines are subject to wind and wave erosion especially during severe summer storms.
9. Historically, Councils have granted approval to cottage developments used seasonally since the graveled roads typically have some steep gradients which offer challenges not only for summer grading but for winter snow plowing.
10. In spite of challenges with access, the shoreline remains attractive to cottagers wishing to make use of the largest lake and navigable body of water in southwest Manitoba.
11. Besides cottaging, recreation uses of the lake include summer and winter sport fishing and boating including sailing from the yacht club located in Ninette.

12. The closest farmyard is located about ½ mile to the northeast with no livestock production operations (such as cattle feedlots or hog barns) within one mile of the subject property.

APPROVALS

1. The subject property is classified as “A” Rural District under the Pelican-Rock Lake District Planning Scheme 1971 - RM of Strathcona By-law No. 9/1971.
2. The “A” Rural District classification was intended to accommodate prairie agricultural operations and practices.
3. The proposal for a marina plus lots for seasonal cottages and year round single family dwellings will require reclassification of the development site to “Seasonal Resort District” under the Planning Scheme which will be accomplished by Council approving a rezoning under the Planning Act.
4. The “Seasonal Resort District” classification allows for the approval of cottages as permitted uses and allows single family dwellings and marinas to be approved through the conditional use process under the Planning Act.
5. Any future development of commercial services at the marina (including concessions and/or gasoline sales) will require approvals under the local Planning Scheme and applicable provincial regulations.
6. The registered owners have developed an overall concept plan for the Riviera Resort and Marina showing 55 lots but have applied for subdivision approval for 49 lots, along with public roads and public reserve spaces while setting aside space for the marina with vehicle parking areas, boats moors, and a boat channel connecting with the lake.
7. The subdivision application indicates that each proposed lot will need to rely on an individual water source and on-site sewage disposal.
8. Some smaller lots will likely depend on holding tanks while others should be large enough to accommodate septic fields or other systems approved by MB Conservation for sewage disposal.
9. As part of the subdivision process, RM Council or Manitoba Conservation may require additional public reserve areas along the shore to provide public access to the lake or provide for erosion protection to the proposed cottage development.
10. Proposed public roads with the steep gradients (well above the provincially recommended 7% maximum) as shown on the preliminary plans prepared by the land surveyor, will require careful attention by Council in granting approval to the subdivision application and may need to be addressed in a Development Agreement with the developer.

LAND USE PLANNING ISSUES

1. Community Planning Services recognizes that the proposed development is consistent with historic development patterns in this part of the RM of Strathcona.
2. Cottage developments are found on all sides of Pelican Lake and the seasonal use of cottages has not been problematic for municipal Councils to date.
3. Community Planning Services will be raising some concerns with Council about aspects of this development proposal including the desire to allow permanent year round residential development as part of Riviera Resort.
4. While the Planning Scheme does allow for the approval of single family dwellings in areas zoned as Seasonal Resort District, the steep road gradients found on the subject property will challenge the RM in providing year round access to such residences with personal vehicles, school buses, and emergency response vehicles.

Hopefully these comments will be useful in your department's review of the Environment Act Proposal as submitted on behalf of the McEacherns for their Riviera Resort and Marina. Should you need any clarification of any of the above comments, please call at your convenience.

Disposition:

A number of the above comments identify issues which can be addressed as licence conditions.

Soils and Crops Branch

This proposal involves a cottage development, "The Riviera" planned for a parcel of land located within the NW & SW quarter sections of 34-4-16W, and including 800 feet of frontage along Pelican Lake. I have reviewed this Environment Act Proposal on behalf of Manitoba Agriculture, Food and Rural Initiatives and my comments follow.

Soils for the great majority of this parcel consist of the Eroded Slope Complex, which are soils that have developed on colluvial deposits, and have a wide range of properties and soil characteristics. These soils are rapidly drained, and are generally adjacent to and include valley walls, ravines, gullies and drainage channels. Eroded Slope Complex soils are considered class 6T for Agricultural Capability. Class 6 soils are capable of producing only perennial forage crops and improvement practices are not feasible. The limitation on this land from an agricultural perspective is topography. The north eastern corner of this parcel of land consists of Waskada series, which are loam to clay loam soils rated an Agricultural Capability of class 2 – prime agricultural land. (Soils of the Rural Municipality of Strathcona, Report No. D86, Manitoba Agriculture and Food, 1999).

This parcel of land is currently designated as agricultural in the Strathcona Planning Scheme, therefore re-designation will be required. I have noted that there is an agricultural operation located approximately 2300 feet to the southeast of the proposed development, in the SE ¼ 34-4-16W. It appears from the property map provided with the report (Fig. 1) that this quarter section is owned by John David Mooney. There are several buildings visible in the aerial photo, which could be indicative of a livestock operation. As yet, I have not been able to obtain confirmation of this. The proponents should be aware that the Farm Practices Guidelines published by Manitoba Agriculture and Food recommends a minimum mutual separation distance of 1760 feet from any designated Recreational Area to any livestock operation with greater than 10 Animal Units (A.U.'s). (Ten A.U.'s would be equivalent to 8 cows, 7 horses, or 1200 layers). If an earthen manure storage is present, the minimum separation distance from a livestock operation of 10 A.U.'s or greater as provided in the Farm Practices Guidelines is 2640 feet. Therefore, the existence, size, proximity and type of livestock operations in the area could affect the outcome of the land owners application for re-designation of this parcel of land. The proponents may wish to ascertain the number and size of livestock operations within proximity of the proposed development with consultation to the Farm Practices Guidelines and the RM of Strathcona, prior to applying for re-designation.

Given that the proposed development is for 22 cottage lots, there is a strong possibility that the Riviera Resort and Marina could have a significant impact on agriculture in the area. Although much of the soil on this parcel is not suitable for agriculture, the possible re-designation of this land as "Seasonal Recreational" could impact on existing livestock operations in the area, and may also limit the opportunities of agricultural producers to expand or diversify their operations. This is of particular concern when the size of this resort is considered. The drawings in the KGS report indicate that there will be 22 cottage lots, but in Section 7.0 Summary on page 18 of the report, it states, "The Riviera Development on Pelican Lake will provide up to **50 new cottage lots** for recreational use". It is very important that the number of lots proposed for development be very clear from the start.

We **strongly suggest** that the proponents consult with neighboring land owners to determine whether they may be impacted by the proposed Resort and Marina. We will also continue our attempt to determine if there are any livestock operations in the vicinity that would be impacted by this development.

Disposition:

Additional information was requested concerning the proximity of adjacent agricultural operations and the extent of consultation between the proponents and neighbouring landowners.

Medical Officer of Health – Assiniboine and Brandon RHAs No health impacts are anticipated from the boat channel construction other than potential construction-related spills, etc.

However, there is insufficient information related to the proposed 50 cottage lot development. The last paragraph of page 14 is incomplete. Given that the proposal does not include sewer and water, what are the cottage owners' responsibilities in this regard? Similarly, what are the proponents' responsibilities? There is a potential for groundwater and surface water contamination which requires a pro-active, coordinated approach stipulated by regulation and/or license.

Disposition:

Additional information was requested concerning water supply and solid and liquid waste disposal for the proposed Development.

Canadian Environmental Assessment Agency The Department of Fisheries and Oceans has provided notification that an environmental assessment under the Canadian Environmental Assessment Act will be required with respect to the project. Since this project requires a multi-jurisdictional EA, Gerry Tessier will act as the Federal Environmental Assessment Coordinator on behalf of the Agency during the EA review. The EA review will be conducted pursuant to the Canada-Manitoba Agreement on Environmental Assessment Cooperation. In addition, Environment Canada and the Canadian Coast Guard have identified that they would be able to offer specialist information with respect to the project review, and that they have an interest in participating in the EA process.

Environment Canada Environment Canada has an interest in the project and would like to participate in the review under Clause 59 of the Canada-Manitoba Agreement on Environmental Assessment Cooperation. Our interest is based on our mandate under the Fisheries Act, Migratory Birds Convention Act and Species-at-Risk Act and our interest regarding the potential implications to water quality in Pelican Lake and the terrestrial environment.

The EA report prepared by the KGS Group is narrow in scope and does not address several areas in interest to Environment Canada, such as the potential impacts on water quality, migratory birds and species at risk. It focuses primarily on the canal development, rather than the cottage and marina development as a whole, and mainly on fish habitat issues. In order to provide a complete understanding of the potential impacts of the cottage development and marina and the required mitigation measures, additional information should be provided by the proponent in the following areas:

1. An assessment of the potential impacts of the cottage development (both current and future development) on water quality on Pelican Lake, particularly over the long term. We gather the lake is already facing water quality and quantity problems which may be further exacerbated by additional cottage development. Potential eutrophication from nutrient inputs, for example, should be thoroughly assessed (i.e., from sewage treatment/disposal practices, increased runoff from non-point sources) as well as proposed mitigation to minimize these problems.
2. While a list of bird species frequenting the area is provided in Appendix 3, no assessment has been provided of the species utilization (particularly for migratory

birds) in and around the cottage development area nor the potential impacts that will occur from habitat loss as a result of developing the area. Mitigation measures to reduce impacts should also be discussed, including measures to ensure compliance with the Migratory Bird Regulations, which prohibit the disturbance or destruction of migratory bird nests. A thorough assessment would require completion of site surveys for migratory birds during the nesting/breeding season, although an assessment based on literature reviews may be considered an acceptable alternative in some situations.

3. The report indicates that there are no known sensitive species or habitat areas on the property, but no information or references have been provided to substantiate these conclusions. The Species-at Risk Act is now in effect, and in addition to present requirements, certain prohibitions will come into force in mid-2004. The proponent should review the requirements of the Act in relation to the proposed development to ensure compliance with the Act and to ensure proper mitigation is undertaken.
4. We note on page 16 and elsewhere that sediment and erosion control measures are discussed for the canal construction. The report, however, states that individual lot owners will be responsible for their own developments and that potential impacts from these sources were not considered in this EIA. This could represent a significant area of uncertainty in the assessment. Cottage lots under development could be sources of sediment and other contaminants to the water (including potential violations of s. 36(3) of the Fisheries Act) if mitigation measures are not properly implemented, particularly since the report suggests that slopes in the area are fairly steep. Similar to point 1 above, more information should be provided in how potential impacts from cottage development will be managed.
5. The report should include an assessment of cumulative effects from this and other proposed future developments (including development of additional cottage lots on this property).

Disposition:

Additional information was requested to address these comments.

ADDITIONAL INFORMATION:

Additional information addressing TAC comments was requested from the Proponent's consultant on January 7, 2004. A response was received on January 16, 2004. This response addresses most outstanding issues. Remaining issues can be addressed through licence conditions.

PUBLIC HEARING:

As no public requests for a hearing were received, a public hearing is not recommended.

RECOMMENDATION:

It is recommended that the Development be licensed under The Environment Act subject to the limits, terms and conditions as described on the attached Draft Environment Act Licence. It is further recommended that enforcement of the Licence be assigned to the Western Region.

PREPARED BY:

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February 6, 2004

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