



## BACKGROUND

Recently, a number of concerns have been raised by community members, as well as Council and staff regarding the Ponderosa/Pincushion Development being undertaken by the developer, commonly referred to as 'Ponderosa,' and variously known as Ponderosa Peachland Development Limited, Treegroup Ponderosa Development Corporation and 0817642 B.C. Ltd. Primarily, concerns relate to delays in construction of the golf course, delays in further construction of residences and landscaping and what options may be available to encourage and or enable continued progress.

Given the contractual nature of the agreements between the developer and the District, and the District's legal obligations to protect the interests of all citizens, the District has also been in discussions with its lawyers, Young Anderson.

## CURRENT SITUATION: MARCH 30, 2015

- Council and District staff recognize that construction delays have created an extremely frustrating situation for residents in the Ponderosa/Pincushion development as well as for homeowners who live near the site and the community as a whole.
- While we cannot speak on behalf of the developer regarding the delays in construction, we can tell you that we are doing everything within our legal authority to help move the project along, knowing that it was strongly supported by the community at the outset and was intended to draw people to our beautiful area.
- Delays in the construction of development projects like Ponderosa are not new. With changes in the economy, many communities have been facing similar issues.
- However our main concern is, and always will be, to protect the interests of the overall community as well as ensuring financial security held in trust for infrastructure works that will eventually become part of the District's infrastructure in the future, such as water mains, sewer mains and roads. For example, the District has security for building the necessary infrastructure as outlined in various servicing agreements for the Ponderosa development.
- But local governments cannot collect securities for things like building golf courses, nor can they force developers to build what they may have promised at the outset.
- The District's expectations are that the terms of the Phased Development Agreement be met. This is the agreement that spells out what the District requires, what the developer has agreed to do and what the community supported. A copy of the agreement can be found on the District's website at <http://www.peachland.ca/cms/wpattachments/wpID274atID1043.pdf>. No new requirements are being placed on the development; only those agreed to at the outset (and reconfirmed with a commitment from the developer as recently as 2014) and those required by law.
- In the short term, any actions are limited as the developer is now protected under the *Companies Creditor Arrangement Act*. This allows a financially troubled corporation the opportunity to restructure its affairs, and potentially avoid bankruptcy.

- Under this arrangement, the District is also protected; municipalities are always the first secured creditor when it comes to outstanding taxes and utilities, even ahead of mortgages. In this event, any debt for unpaid taxes would ultimately be secured through transfer of land ownership to the District.
- That said, the District is ready to proceed when the developers are ready to proceed. For example, the building permits for the next wave of units in the Trails townhouse development are ready to go; the District is awaiting payment of related fees by Ponderosa and is otherwise ready to issue the permits.
- While formal application has not yet been received, the developer has verbally advised that part of the financial restructuring may involve a redesign of the project to make it more financially viable and enable the project to move forward.
- Any changes to the current Phased Development Agreement would be required to go through a community consultation process, including a public hearing, prior to final consideration by Council. Until a new plan or proposal is officially presented we are unable to speculate on what it might contain.
- With regard to applying the Unsightly Premise Bylaw to the site, we are limited by law as to what we can do. While the project is under construction it is considered a construction site; the condition of the site is consistent with similar construction sites. It is unlikely that we would be successful in enforcing our bylaws in the existing circumstances. In confirming this with our lawyers, we are advised that any action on our part would require expensive legal proceedings which would be considered premature at this time.
- While we recognize this isn't what the community envisioned when the development was first proposed, our commitment to our community is to provide ongoing information, at our Council and Committee of the Whole meetings and in our monthly development project updates posted on our website at <http://www.peachland.ca/cms/wpattachments/wpID60atID1694.pdf>
- Moving forward, Council will in the near future, consider updates to our bylaws and processes to better define roles, responsibilities, standards and development procedures with the intention of improving community awareness, engagement and confidence in the development process.
- In addition, the District is looking at creating a more inclusive vision and guiding principles as part of the update to our Official Community Plan. A large part of this project will involve identifying our community values in Peachland and how we can create a future that we can all be proud of. When this process gets underway, it will be widely promoted and advertised throughout the community in order to gain valuable community insights and ideas.

#### **FOR MORE INFORMATION**

Anyone with questions regarding the project can contact Corine (Cory) Gain, MCIP RPP, Director of Planning and Development Services at (250) 767-2647 or by email [corinegain@peachland.ca](mailto:corinegain@peachland.ca)