

Planning & Development Services Committee

Amended Agenda



January 9, 2020

1:45 pm

Members: Director Reinhardt (Chair), Director McCormick (Vice Chair), Director Gay, Director Doehle, Director Sosnowski, Director Walter, Director Clovechok, Director Wilkie, Director Pratt, Director Graham, Director Qualizza, Director Miller, Director Sterzer, Director Wilks

Voting Rules: Unless otherwise indicated on this agenda, all Directors except the Director representing the District of Elkford have one vote and a simple majority is required for a motion to pass.

	Pages
1. Call to Order	
2. Addition of Late Items	
3. Adoption of the Agenda	
4. Adoption of the Minutes	
4.1 December 5, 2019 Meeting	4
5. Invited Presentations & Delegations	
5.1 Amendment of DP No. 28-19 & Reconsideration of DP No. 44-19 Greg & Tracey Urichuk (item 8.1 & 8.2)	9
5.2 Bylaw No. 2966 and Bylaw No. 2967 Richard Haworth (item 9.1.1)	10
5.3 Bylaw No. 2969 Richard Haworth (item 9.1.2)	11
5.4 ALR Subdivision Application Alva Soppit & Randy Elliott (item 9.2.1)	12
*5.5 Withdrawn — DVP No. 42-19 Jean Terpsma (item 9.3.4)	
5.6 DVP No. 45-19 Ken Kachur (item 9.3.7)	13
*5.7 Withdrawn — DVP No. 47-19 Richard Haworth (item 9.3.9)	
5.8 TUP No. 2-19 Kris Pickering & Clay Tanner (item 9.4.1)	14
5.9 TUP No. 2-19 Mike Haslam (item 9.4.1)	15

5.10	Kootenay Dirt Riders Crown Land Licence of Occupation Alex Buterman (item 9.5.1)	16
6.	Correspondence	
6.1	Agricultural Land Commission Decisions	
6.1.1	North Fernie / Ayars ALR Subdivision Application	17
6.1.2	Baynes Lake / Doehle ALR Exclusion Application	24
6.1.3	Wycliffe / 310613 BC Ltd. (Three Bars Ranch) ALR Non-Adhering Residential Use Application	31
6.1.4	Radium Hot Springs North / Breeze ALR Subdivision Application	39
6.1.5	Brisco / Friedley & Pery ALR Non-Farm Use Application	47
6.2	Miscellaneous	
6.2.1	Development Services - Planning Report	56
6.2.2	Ministry of Forests, Lands, Natural Resource Operations and Rural Development - Proposed BCTS Harvesting	57
7.	Advisory Commissions	
7.1	Advisory Planning Commission Minutes	
7.1.1	Area A - December 17, 2019	59
7.1.2	Area B - December 17, 2019	61
7.1.3	Area C - December 12, 2019	63
7.1.4	Area E - December 10, 2019	65
7.1.5	Areas F & G - December 17, 2019	67
8.	Unfinished Business	
*8.1	Request for Reconsideration of DP 28-18 KGT Enterprises Ltd / Windermere Esso	70
*8.2	Request for Reconsideration of DP 44-19 KGT Enterprises Ltd / Windermere Esso	79
8.3	Coal Licence - Teck / Elkford	83
8.4	Request for Reconsideration - City of Cranbrook Proposed Boundary Expansion	89

9. New Business

9.1 Bylaw Amendments

9.1.1	Bylaw No. 2966 & Bylaw No. 2967 (Fairmont / FHSR)	97
9.1.2	Bylaw No. 2969 (Jaffray / Barr)	109
9.1.3	Bylaw No. 2970 (Miscellaneous / RDEK)	118
9.1.4	Bylaw No. 2971 (Wilmer / Wilmer Eco Development Ltd.)	125

9.2 Agricultural Land Reserve Applications

9.2.1	Fort Steele / Elliott & Soppit ALR Subdivision Application	135
-------	------------------------------------------------------------	-----

9.3 Development Variance Permit Applications

9.3.1	DVP No. 36-19 Fernie / Goran	145
9.3.2	DVP No. 39-19 Meadowbrook / Hockley (Besold)	152
9.3.3	DVP No. 41-19 Holland Creek / 1047217 Alb Ltd.	161
*9.3.4	Withdrawn — DVP No. 42-19 Baynes Lake / McArthur (withdrawn due to further public notification required)	
9.3.5	DVP No. 43-19 Cranbrook East / ZAM Enterprises Ltd.	169
9.3.6	DVP No. 44-19 Cranbrook North / Marlow	179
9.3.7	DVP No. 45-19 Windermere / Kachur & Stringer	185
9.3.8	DVP No. 46-19 Wycliffe / Odarich & Klekowski	195
*9.3.9	Withdrawn — DVP No. 47-19 Tie Lake / Fenwick (withdrawn to amend application)	

9.4 Temporary Use Permit Applications

9.4.1	TUP No. 2-19 Mayook / EarthRite Industries Ltd.	203
-------	-------------------------------------------------	-----

9.5 Ministry of Forests, Lands, Natural Resource Operations and Rural Development Referrals

9.5.1	Area B - Kootenay Dirt Riders Crown Land Licence of Occupation	214
-------	----------------------------------------------------------------	-----

9.6 Miscellaneous Items

9.6.1	Kootenay River Tributaries - Vessel Operation Restriction Regulations	226
-------	-----------------------------------------------------------------------	-----

10. Late Agenda Items

11. Adjournment



MINUTES OF THE PLANNING & DEVELOPMENT SERVICES COMMITTEE MEETING

December 5, 2019
Regional District Office, Cranbrook, BC

PRESENT:

Committee Vice Chair D. McCormick	City of Kimberley
Director M. Sosnowski	Electoral Area A
Director S. Doehle	Electoral Area B
Board Chair R. Gay	Electoral Area C
Director J. Walter	Electoral Area E
Director S. Clovechok	Electoral Area F
Director G. Wilkie	Electoral Area G
Director L. Pratt	City of Cranbrook
Director W. Graham	City of Cranbrook
Director A. Qualizza	City of Fernie
Director D. Wilks	District of Sparwood
Director A. Miller	District of Invermere
Director K. Sterzer	Village of Canal Flats
Committee Chair C. Reinhardt	Village of Radium Hot Springs

STAFF:

S. Tomlin	Chief Administrative Officer
S. Moskal	Corporate Officer
R. Chippett	Planning Assistant (Recording Secretary)

Call to Order

Committee Vice Chair Don McCormick called the meeting to order at 2:00 pm.

Adoption of the Agenda

MOVED by Director Gay

SECONDED by Director Clovechok

THAT the agenda for the Planning & Development Services Committee meeting be adopted.

CARRIED

Adoption of the Minutes

October 31, 2019 Meeting

MOVED by Director Wilks

SECONDED by Director Sosnowski

THAT the Minutes of the Planning & Development Services Committee meeting held on October 31, 2019 be adopted as circulated.

CARRIED

Invited Presentations & Delegations

Director Wilkie, Director Reinhardt, and Director Miller arrived to the meeting at 2:04 pm.

BC Agriculture and Food Climate Action Initiative

Harmony Bjarnason, on behalf of the BC Agriculture and Food Climate Action Initiative, gave a presentation and requested a financial commitment from the RDEK Board to support agricultural adaptation projects in the region.

Edgewater / Lautrup ALR Non-Farm Use Application

Jean Terpsma, agent for George and Jeanette Lautrup, made a presentation and requested support of an ALR Non-Farm Use application to permit a public works maintenance yard on a portion of their property.

DVP No. 40-19

Barry Brown-John, agent for Deborah Robillard, requested a variance of the Upper Columbia Valley Zoning Bylaw and Subdivision Servicing Bylaw. Mr. Brown-John explained the variances are required only to facilitate subdivision of the property and that the owner understands no further building permits will be issued until the community water system is upgraded.

Crown Land Licence of Occupation for a Commercial Campground

Bill Leeper spoke to and requested support of a Crown land application for a portion of his existing privately owned campground that currently encroaches on Crown land. Mr. Leeper explained they need to bring the campground into compliance, and require this licence so they can complete an application to the Agricultural Land Commission for the exclusion of this piece of land from the Agricultural Land Reserve.

Amendment of DP No. 28-19 & Reconsideration of DP No. 44-19

Greg and Tracey Urichuk, spoke to their applications for a variance to allow an internally illuminated pylon sign and to permit a flat roof canopy instead of the originally proposed gable-style canopy for their business Crossroads Market Esso located at Highway 93/95 in Windermere. They gave an overview of the project, provided conceptual drawings and photos and discussed concerns in regards to lighting and visibility at their location.

Richard Haworth withdrew as a delegation.

Kootenay Boundary Regional Agricultural Adaptation Strategies Implementation

48855

MOVED by Director Walter

SECONDED by Director Wilkie

THAT the RDEK contribute \$3,000 per year for three years, or a lesser amount equivalent to the contribution commitments from the RDCK and RDKB, to the Climate Action Initiative to implement the *Kootenay Boundary Regional Agricultural Adaptation Strategies* by delivering climate adaptation projects in the agricultural sector, with the funds to come from the Planning service.

CARRIED

ALR Non-Farm Use Application (Edgewater / Lautrup)

48845

MOVED by Director Miller

SECONDED by Director Clovechok

THAT the Agricultural Land Commission be advised the RDEK supports the Lautrup ALR non-farm use application for part of their property at 5550 Highway 95 near Edgewater, BC.

CARRIED

DVP No. 40-19 (Windermere North / Robillard)

48849

MOVED by Director Sterzer

SECONDED by Director Clovechok

THAT Development Variance Permit No. 40-19 (Windermere North / Robillard) be granted.

CARRIED

Leeper Crown Land Licence of Occupation for a Commercial Campground

48850

MOVED by Director Doehle

SECONDED by Director Qualizza

THAT the Ministry of Forests, Lands, Natural Resource Operations and Rural Development be advised the RDEK supports the Leeper Crown Land Licence of Occupation for a commercial campground in the Newgate area, subject to Agricultural Land Commission approval and OCP and zoning amendments to authorize the use.

CARRIED

Request for Reconsideration of Amendment to DP 28-18 (KGT Enterprises / Windermere Esso)

48856

MOVED by Director Clovechok

SECONDED by Director Sosnowski

THAT consideration of the amendment to Development Permit 28-18 (KGT Enterprises / Windermere Esso) be postponed one month and referred to the December 2019 Advisory Planning Commission meeting.

CARRIED

Request for Reconsideration of DP 44-19 (KGT Enterprises / Windermere Esso)

48857

MOVED by Director Clovechok

SECONDED by Director Sterzer

THAT consideration of Development Permit 44-19 (KGT Enterprises / Windermere Esso) be postponed one month and referred to the December 2019 Advisory Planning Commission meeting.

CARRIED

Correspondence**Teck Resources Ltd. / Coal Licence**

MOVED by Director Wilks

SECONDED by Director Sosnowski

THAT a letter be sent to the Ministry of Energy, Mines and Petroleum Resources requesting the following additional information on Coal Licence Applications 419278 and 1068773 submitted by Teck Coal Limited:

- confirmation on whether the subject lands are within the Greenhills mine operation;
- property class of the subject lands;
- property ownership; and
- a more detailed map clearly showing the location of the subject lands in relation to surrounding landmarks and municipalities.

CARRIED

Note: On December 6, 2019, the RDEK Board adopted Resolution No. 48842 which included a request for details on the water protection plans in place during the proposed examination of the subject lands.

Unfinished Business

The Board reviewed the Information Report in regards to the Ministry of Agriculture and Agricultural Land Commission "Supporting BC Farmers" Meeting.

New Business**Bylaw No. 2956 (Tie Lake / Fenwick)**

48843

MOVED by Director Doehle

SECONDED by Director Sosnowski

THAT Bylaw No. 2956 cited as "Regional District of East Kootenay – Jaffray, Tie Lake, Rosen Lake Land Use and Floodplain Management Bylaw No. 1414, 1999 – Amendment Bylaw No. 32, 2019 (Tie Lake / Fenwick)" be introduced.

CARRIED

Bylaw No. 2963 (Gold Creek / Holmes)

48844

MOVED by Director Gay

SECONDED by Director Sterzer

THAT Bylaw No. 2963 cited as "Regional District of East Kootenay – Housing Agreement Bylaw No. 41, 2019 (Gold Creek / Holmes)" be introduced.

CARRIED

DVP No. 33-19 (Fort Steele / Baiko)

48846

MOVED by Director Sterzer

SECONDED by Director Gay

THAT Development Variance Permit No. 33-19 (Fort Steele / Baiko) be granted.

CARRIED

DVP No. 35-19 (Jaffray / Futura Holdings Ltd.)

48847

MOVED by Director Doehle

SECONDED by Director Sterzer

THAT Development Variance Permit No. 35-19 (Jaffray / Futura Holdings Ltd.) be granted.

CARRIED

DVP No. 37-19 (Jaffray / Anderson Holdings Ltd.)

48848

MOVED by Director Doehle

SECONDED by Director Clovechok

THAT Development Variance Permit No. 37-19 (Jaffray / Anderson Holdings Ltd.) be granted.

CARRIED

Highway Corridor Signs

48851

MOVED by Director Gay

SECONDED by Director Doehle

THAT complaint-based enforcement of off-premise sign regulations for existing signs in Electoral Areas B, C, E, F and G be resumed;

and further, that the municipalities be informed about Ministry of Transportation and Infrastructure business directory signage.

OPPOSED: Director Sosnowski, and Director Wilks

CARRIED

City of Cranbrook Proposed Boundary Expansion

48852

MOVED by Director Sosnowski

SECONDED by Director Walter

THAT consideration of the City of Cranbrook's proposed 18.6 ha boundary expansion in the vicinity of 17th Street South, and outlined in their November 14, 2019 letter, be postponed until the results of the City's open house are received.

OPPOSED: Director Pratt

CARRIED

Note: On December 6, 2019, the RDEK Board adopted Resolution 48853 which supported the proposed City of Cranbrook boundary expansion.

Request for Exemption (Jorel Investments Corp. Ltd.)

48854

MOVED by Director Sterzer

SECONDED by Director Clovechok

THAT the Jorel Investments Corporation Ltd. request for exemption from providing a report from a qualified professional in support of their ALR non-farm use application for District Lot 15050 located east of Highway 93/95 approximately 5 km south of Wasa be refused.

CARRIED

Adjourn to Closed Meeting

MOVED by Director Sterzer

SECONDED by Director Gay

THAT the meeting adjourn to a Closed Planning & Development Services Committee meeting to consider the following matter:

- APC / EAAC Appointments - Section 90(1)(a) of the *Community Charter* personal information about an identifiable individual who is being considered for a position appointed by the RDEK.

CARRIED

The meeting adjourned to closed at 3:23 pm.

Committee Vice Chair Don McCormick

Shannon Moskal, Corporate Officer

Rhiannon Chippett

Subject: FW: Correspondence - KGT Enterprises Ltd - Windermere Esso (Urichuk)
Attachments: 9.5.5 & 9.5.6 KGT Enterprises Ltd. - Windermere Esso (Urichuk).pdf

Hi Rhiannon,

We would like to re- present as a delegation at the January 9, 2020 Planning Committee Meeting. As per the attachment below.

Thanks,
Greg and Tracey Urichuk

Rhiannon Chippett

Subject: FW: Delegation Request - FHSR, Fairway Drive
Attachments: 20-01-09 FHSR Fairway Drive.pptx

Rhiannon,

We are submitting this request to appear as a delegation at the January 9th Planning Committee meeting regarding our zoning application for Fairmont Hot Springs Resort.

The subject property is located on Fairway Drive at Fairmont Hot Springs Resort and comprises approximately 10.96 acres (4.43 ha). The property lies along the west side of Fairway Drive and abuts the Mountainside Golf Course.

The property is currently serviced with community water and community sewer. All new development will be connected to these services.

Fairmont Hot Springs Resort is proposing to develop multiple family residential units on the lands. To facilitate this proposed development, the following amendments to the zoning and OCP designations are required.

The subject property is currently zoned RES-4 (Resort Core), R-2 (Two Family Residential) and EH-1 (Employee Housing). We are proposing the following amendments:

1. A portion of the lands zoned R-2 to RES-3 to permit multiple family dwellings;
2. A portion of the lands zoned RES-4 to RES-3 to permit multiple family dwellings;
3. A portion of the lands zoned R-2 to RES-2 to recognize the existing use of these lands as golf course;
4. The lands zoned EH-1 to RES-4 for future development.

The property is currently designated as R-MU (Resort Mixed Use) and R-SF (Residential Single Family). We are proposing to amend the designation for the entire property to R-MU (Resort Mixed Use).

Our powerpoint presentation is attached.

If you require anything further, please contact me at your convenience.

Thanks,
Richard Haworth

HAWORTH | Development
Consulting

PO Box 223, Suite 203, 926 – 7th Avenue,
Invermere, BC V0A 1K0

T: 250-342-1227

Confidentiality Warning: This message and any attachments are intended only for the use of the intended recipient(s), are confidential, and may be privileged. If you are not the intended recipient, you are hereby notified that any review, retransmission, conversion to hard copy, copying, circulation or other use of this message and any attachments is strictly prohibited. If you are not the intended recipient, please notify the sender immediately by return e-mail, and delete this message and any attachments from your system. Thank you.

Rhiannon Chippett

Subject: FW: Delegation Request - Barr
Attachments: 20-01-09 Disney Brook Zoning.pptx

Rhiannon,

We are submitting this request to appear as a delegation at the January 9th Planning Committee meeting regarding our request for zoning amendment for the Barr property in the Jaffray area.

The subject property, which comprises Disney Brook RV Park and surrounding lands, is located along Highway #3 in the Jaffray area. The property is approximately 57 acres (23 ha).

The property owner is proposing to rezone a small portion of the property from RR-60 to C-3 to create a panhandle that will connect the existing C-3 zoned portion of the property to Highway #3. An amendment from C-3 to RR-60 is also proposed to ensure that the existing residential uses along Highway #3 are fully within the RR-60 zone. Following approval of these zoning amendments, the owner proposes to subdivide the RV park portion of the property from the residential portion of the property along the zone boundary.

Our powerpoint presentation is attached.

If you require anything further, please contact me at your convenience.

Thanks,
Richard Haworth

HAWORTH | Development
Consulting

PO Box 223, Suite 203, 926 – 7th Avenue,
Invermere, BC V0A 1K0

T: 250-342-1227

Confidentiality Warning: This message and any attachments are intended only for the use of the intended recipient(s), are confidential, and may be privileged. If you are not the intended recipient, you are hereby notified that any review, retransmission, conversion to hard copy, copying, circulation or other use of this message and any attachments is strictly prohibited. If you are not the intended recipient, please notify the sender immediately by return e-mail, and delete this message and any attachments from your system. Thank you.

Rhiannon Chippett

Subject: FW: Request to Appear as a delegation

Good Afternoon Shannon,

I am sending this email on behalf of myself, my mother Alva Soppit, and my Husband Randy Elliott. We wish to appear as a delegation on the January 9, 2020 meeting.

Alva, and Randy will be appearing as the delegation.

The request to have removal of existing covenants on the land titles that we currently reside on will be the topic of discussion.

Unfortunately I will be unable to attend the meeting as my work is out of town that day. However, if I may send to you an outline on the reason on why I am requesting the removal of the covenants.

Alva, Gordon, and Myself have been joint tenants on these two parcels since 2012. Since this time I have been married and my boys have become of legal age. As we are aware of the legalities of being joint tenants, estate planning has been put on hold. It was Alva and Gord's wishes to exclude any other parties being added to the titles.

In March 2019, Gord suddenly passed and Alva and Myself now remain on title. Since this time Alva has had a change of heart and is now willing to add my husband Randy Elliott to lot 781. Because she is only allowing his name to one parcel, the covenants that are in place are denying this to happen.

Randy and I have built a home on lot 781 and have lived since 2004 and wish, along with our boys to continue the history of farming and future for this land. We are asking that these covenants be removed for proper estate planning, taxation issues, and security for our family. There are repairs and equipment that have and need to be purchased to continue maintaining and running this farm as well.

Thank you so much for your time, and Merry Christmas

Holly Elliott

Sent from my iPad

Rhiannon Chippett

Subject: FW: Kachur & Stringer Variance - letter attached

Importance: High

Hello and Seasons Greetings Shannon,

As per Rhiannon's instructions below I am writing to provide the requested information in order to appear as a regular delegation on January 09, 2020.

Please advise if anything additional is required from me.

Thanks, Ken
Development Variance Permit Application File P 719 554 / 45-19

Re: Request to Appear as a Delegation

Thank you for your inquiry regarding appearing as a delegation at the Planning & Development Services Committee Meeting on **January 9, 2020**.

To appear as a delegation you must provide the following details, in writing (an email is acceptable), to the Corporate Officer, Shannon Moskal (smoskal@rdek.bc.ca).

The topic on which the delegation wishes to speak;

1. An executive summary or outline of the presentation to be made;

Agenda as follows:

Current height bylaw - observations – interpretations – challenges

Owner & Architect Intent

Owner Architect Design Direction

Building Permit Application Results

Options & Preferences Moving Forward

2. The name of the designated speaker(s);

Ken Kachur

3. The specific action which is being requested of the Board or Committee; and

Consider the approval our development variance application

4. Whether or not you will require use of audio/visual equipment.

Will require audio and visual equipment.

Rhiannon Chippett

Subject: FW: AGENDA - FW: Delegation Jan 9,2019

Hello,

I intend to be at the January 9 planning committee meeting and appearing as a delegation. I do not need any Media, I am just there to answer any potential questions.

- 1- topic temporary use permit application
- 2- executive summary, question answerer
- 3- Kris Pickering & Clay Tanner
- 4- Temporary use permit to temporarily store up to 1000 loads of wood mulch used for "Hog Fuel" at Skookumchuck Pulp Mill.
- 5- no visual needed

Kris Pickering,
Earthrite Industries LTD.
250-417-9817

Delegation – Mike Haslam

1. I first heard about the potential application by word of mouth from my neighbours and I was anticipating a letter in the mail in regards to the temporary use permit application by Earthrite Industries.
2. The delegation would like to speak on the Temporary Use permit application by Earthrite Industries.
3. The delegation will be speaking on the concerns of the activity that is currently taking place (and the application to continue to do so) and the effects it has on the neighbouring properties and the surrounding area.
4. I, Mike Haslam, will be the designated speaker of the delegation.
5. The delegation is specifically requesting the RDEK Board of Directors or Committee to deny this application.
6. The delegation will not require the use of audio and/or video equipment at the meeting.
7. The delegation's first choice is to speak at the committee meeting on Jan 9 with the second choice of speaking on Jan 10.

Rhiannon Chippett

Subject: FW: AGENDA - FW: kootenay dirtriders as a delegation for january 9

Good morning. My name is Alex Buterman and I am a representative of the Kootenay Dirt Riders Association (KDRA) and i am emailing you to be able to appear as a delegation on the January 9 2020 meeting.

The topic i wish to speak about is the partnership with the Ministry of Forest, Lands & Natural Resources and the KDRA for section 56/57 for the TaTa Creek OHV trail systems.

I would like to give a presentation of the history of the Tata Creek Trail systems, KDRA's history and commitment towards Tata creek and the vision of protecting this area for the future.

I Alex Buterman will be the designated speaker. I would like to bring one other director of the KDRA Diana Wiest

The specific action being requested of the Board is to educate the board of the trail systems, the importance of this trail system to the community and the support of the RDEK with moving forward with the partnership with the Ministry.

I have a short power point that i would like to present to the board on the january 9 board meeting

I would like to be able to present to the Board on January 9, 2020

I will email a copy of the power point presentation before January 7. If there is any more information that i need to provide please feel free to contact me at your convenience.

Thank you
Alex Buterman



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

December 17, 2019

ALC File: 57495

Keith Ekman
McElhanney Associates Land Surveying
DELIVERED ELECTRONICALLY

Dear Keith Ekman:

Re: Application 57495 to subdivide land in the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Kootenay Panel for the above noted application (Resolution #509/2019). As agent, it is your responsibility to notify the applicant(s) accordingly.

Review of Decisions by the Chair

Under section 33.1 of the *Agricultural Land Commission Act* (ALCA), the Chair of the Agricultural Land Commission (the "Commission") has 60 days to review this decision and determine if it should be reconsidered by the Executive Committee in accordance with the ALCA. You will be notified in writing if the Chair directs the reconsideration of this decision. The Commission therefore advises that you consider this 60 day review period prior to acting upon this decision.

Request for Reconsideration of a Decision

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision's release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

Please direct further correspondence with respect to this application to
ALC.Kootenay@gov.bc.ca.

Yours truly,

A handwritten signature in black ink, appearing to read 'M Bandy', is written over a light blue horizontal line.

Mike Bandy, Land Use Planner

Enclosure: Reasons for Decision (Resolution #509/2019)

cc: Regional District of East Kootenay, Attn: Krista Gilbert (File: P 719 111)



AGRICULTURAL LAND COMMISSION FILE 57495
REASONS FOR DECISION OF THE KOOTENAY PANEL

Subdivision Application Submitted Under s. 21(2) of the *Agricultural Land Commission Act*

Applicant: Daniel Ayars

Agent: Keith Ekman, McElhanney Associates Land
Surveying

Property: Parcel Identifier: 011-469-994
Legal Description: Lot 10, District Lots 6393 and
11707, Kootenay District, Plan 1411
Civic: 1643 Dicken Road, north of Fernie, BC
Area: 50 ha (13.9 ha in ALR)

Panel: David Zehnder, Kootenay Panel Chair
Ian Knudsen
Jerry Thibeault

OVERVIEW

- [1] The Property is located partially within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA). The 13.9 ha of the Property within the ALR is comprised of relatively flat land adjacent to the eastern boundary. The remaining area of the Property slopes steeply upward to the west and is not within the ALR.
- [2] Pursuant to s. 21(2) of the ALCA, the Applicant is applying to the Agricultural Land Commission (the "Commission") to subdivide the 50 ha Property into five lots and a common access, as follows:
- Lot 1: 9.2 ha (9.2 ha in ALR)
 - Lot 2: 2.0 ha (0.9 ha in ALR)
 - Lot 3: 2.0 ha (0.3 ha in ALR)
 - Lot 4: 33.9 ha (0.9 ha in ALR)
 - Lot 5: 2.0 ha (2.0 ha in ALR)
 - A 0.6 ha lot for common access (0.6 ha in ALR) (the "Proposal").
- [3] The issue the Panel considered is whether the Proposal would impact the Property's agricultural utility.
- [4] The Proposal was considered in the context of the purposes of the Commission set out in s. 6 of the ALCA. These purposes are:
- (a) to preserve the agricultural land reserve;
 - (b) to encourage farming of land within the agricultural land reserve in collaboration with other communities of interest; and,
 - (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of land within the agricultural land reserve and uses compatible with agriculture in their plans, bylaws and policies.

EVIDENTIARY RECORD

[5] The Proposal along with related documentation from the Applicant, Agent, local government, and Commission is collectively referred to as the "Application". All documentation in the Application was disclosed to the Agent in advance of this decision.

BACKGROUND

[6] In 2005, ALC Application 36235 was submitted to the Commission to dedicate a 0.41 ha road along the southern boundary of the Property to provide access to, and facilitate subdivision of, the non-ALR portion of the Property. The Commission approved the application by ALC Resolution #570/2005. A portion of the road has been constructed, though the dedication and subdivision of the non-ALR portion of the Property have not been completed. The approval for the road dedication granted by ALC Resolution #570/2005 is still valid and can be pursued by the Applicant.

[7] In 2010, ALC Application 51595 was submitted to exclude 1.1 ha of land adjacent to the southern boundary on the Property from the ALR, and to include an equal amount of land adjacent to the northern boundary on the Property into the ALR. The intent of the Proposal was to reduce the length and cost of the access road to the non-ALR portion of the Property that was approved by ALC Resolution #570/2005. The exclusion and inclusion were not completed, and the approval expired in 2013.

[8] In 2014, the Commission undertook a review of the ALR Boundary in the Elk Valley area of the Regional District of East Kootenay (RDEK) Electoral Area A. A portion of the Property west of the current ALR boundary was identified as having potential for inclusion into the ALR, as portions of the area were cleared and relatively flat. The landowner expressed their preference to not include the identified area into the ALR, as they planned to subdivide the non-ALR part of the Property in the future. The ALR boundary on the Property was ultimately not changed following completion of the boundary review.

EVIDENCE AND FINDINGS**Issue: Whether the Proposal would impact the agricultural utility of the Property.**

[9] To assess agricultural capability on the Property, the Panel referred in part to agricultural capability ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings applicable to the ALR portion of the Property are Class 2, Class 3, Class 4, Class 5, and Class 6; more specifically, the majority (approximately 80%) of the ALR area is (8:3M – 2:4MP), approximately 15% is (2CX), and approximately 5% is (6:5T-4:6T).

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

Class 6 - land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

The limiting subclasses associated with this parcel of land are C (adverse climate), M (moisture deficiency), P (stoniness), T (topographic limitations), and X (a combination of soil factors).

- [10] In addition, the Panel received a professional Agrologist's report, prepared by T.J. Ross, P.Ag., dated February 2019 (the "Ross Report"). The Ross Report classified the Property's unimproved agricultural capability based on an on-site soil survey. The Ross report submits:

"Based on data collected in this survey, and experience with landforms, soils and agriculture practices in the East Kootenay, it is believed that the Agricultural Capability designations are, for the most part, correct. Designations from this study indicate that 37% of the property is Class 4 soils, and the remainder are Class 5 soils."

The majority of the ALR portion of the Property is comprised of Class 4 land (unimproved rating).

- [11] Based on the agricultural capability ratings and the Ross Report, the Panel finds that the Property has mixed prime and secondary agricultural capability. The ALR portion of the Property is capable of supporting a moderate range of soil-based crops in addition to non-soil based agricultural activities. The Panel notes that the majority of the ALR portion of the Property is currently used for agricultural purposes.

- [12] At its meeting of July 8, 2019, the RDEK Board resolved to forward the application to the Commission with support. In the RDEK staff report dated June 26, 2019, RDEK planning staff recommended refusal of the Application, stating:

"Parcelization and fragmentation of ALR land is not supported. The proposal intends to divide land currently used in a farm operation and would impact the agricultural capability of the land by allowing more non-farm development in the ALR after subdivision. In addition, subdivision along the ALR boundary is already permitted and further subdivision of the non-ALR portion of the property is possible if access can be provided."

- [13] The Panel concurs with the above comments of the RDEK staff. The Panel finds that the Proposal would fragment the most productive part of the Property and contribute to further encroachment of rural residential-sized lots into the ALR. The Panel finds that the Proposal would negatively impact the agricultural utility of the Property by converting



potential farmland into rural residential uses. Smaller, rural residential lots offer a narrower range of options for agricultural development than larger parcels.

- [14] The Panel notes that the approval for the road dedication to access the non-ALR portion of the Property granted by ALC Resolution #570/2005 is still valid. The Panel finds that the Commission has already made concessions to allow for the subdivision of the non-ALR portion of the Property that can still be pursued by the Applicant if they so choose.

DECISION

- [15] For the reasons given above, the Panel refuses the Proposal to subdivide the Property into five lots and a common access.

- [16] These are the unanimous reasons of the Panel.

- [17] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the ALCA.

- [18] Resolution #509/2019

Released on December 17, 2019

A handwritten signature in black ink, appearing to read 'D. Zehnder', with a stylized flourish at the end.

David Zehnder, Panel Chair

On behalf of the Kootenay Panel



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

December 19, 2019

ALC File: 59257

Richard Haworth
DELIVERED ELECTRONICALLY

Dear Richard Haworth:

Re: Application 59257 to exclude land from the Agricultural Land Reserve

Please find attached the Reasons for Decision for the above noted application (Resolution #524/2019). As agent, it is your responsibility to notify the applicants accordingly.

Request for Reconsideration of a Decision

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision's release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

Please direct further correspondence with respect to this application to
ALC.Kootenay@gov.bc.ca

Yours truly,

A handwritten signature in black ink, appearing to read 'M Bandy', is written over a light grey horizontal line.

Mike Bandy, Land Use Planner

Enclosure: Reasons for Decision (Resolution #524/2019)
 Schedule A: Decision Map (Resolution #524/2019)
 Schedule B: Decision Map 7 – ALC Resolution #278/2017

cc: Regional District of East Kootenay, Attn: Krista Gilbert (File: P 719 207)

59257d1



AGRICULTURAL LAND COMMISSION FILE 59257

REASONS FOR DECISION OF THE CHIEF EXECUTIVE OFFICER

Exclusion Application Submitted Under s. 30(1) of the *Agricultural Land Commission Act*

Applicants:

**Stanley Doehle
Gloria Doehle**

Agent:

**Richard Haworth
Haworth Development Consulting Ltd.**

Property:

**Parcel Identifier: 015-806-481
Legal Description: Lot 3, Block 10, District Lot
132, Kootenay District, Plan 1181
Civic: 561 Chief David Road, Baynes Lake, BC
Area: 2.4 ha (2.4 ha in ALR)**

Chief Executive Officer:

**Kim Grout
(the "CEO")**

OVERVIEW

- [1] The Property is located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA).
- [2] Pursuant to s. 30(1) of the ALCA, the Applicants are applying to the Agricultural Land Commission (the “Commission”) to exclude the Property from the ALR (the “Proposal”).
- [3] The Proposal along with related documentation from the Applicant, Agent, local government, Commission is collectively referred to as the “Application”. All documentation in the Application was disclosed to the Agent in advance of this decision.
- [4] The Agent waived the requirement for a meeting with the Commission pursuant to s. 30 (5) of the ALCA.
- [5] Under Section 27 of the Agricultural Land Commission Act the ALC, by resolution, may establish criteria under which the CEO may approve applications for exclusion, subdivision, non-farm use, non-adhering residential use, and soil or fill use applications. By resolution, the Commission has specified that the following applications may be decided by the CEO:
 - 2. Exclusion, subdivision, non-farm use, non-adhering residential use, and soil or fill use applications that are consistent with a specific planning decision of the Commission made by resolution (e.g.: Peace River- Fort St. John Comprehensive Development Plan).

BACKGROUND

- [6] S. 29(1) of the ALCA enables the Commission to exclude land from the ALR on the Commission’s own initiative. Between 2014 and 2017, the Commission undertook a review of the ALR boundary within the RDEK Electoral Area ‘B’ in the area generally described as Jaffray to Grasmere, pursuant to s. 29(1) of the ALCA (the “Boundary Review”). The Commission identified 435 lots within Electoral Area B, including the Property, as

appropriate for exclusion from the ALR. At its February 25, 2016 meeting, the Commission endorsed the exclusion of the proposed areas in Electoral Area B, including the Property.

- [7] At the time of the February 2016 Commission meeting, landowner consent to exclusion of a property from the ALR was not a legislated requirement of the ALCA. Subsequently, on May 19, 2016, Bill 25 - 2016 and Order-in-Council 508/2016 amended the ALCA and the ALR Regulation with respect to boundary reviews. Specifically, s. 29(1.1) of the ALCA prevents the Commission from excluding land from the ALR without the deemed consent of the landowner. This requirement applied retroactively to decisions of the Commission to January 1, 2016.
- [8] In accordance with the recently amended ALCA, the Commission sought landowner consent to the exclusion of the proposed properties in the RDEK Electoral Area B. In February 2017, notice of the Commission's intention to exclude land under s. 29(1) of the ALCA was sent via registered letter to every landowner whose property was identified for exclusion in the Boundary Review. Properties for which the Commission did not receive landowner consent could not be excluded from the ALR as a result of the Boundary Review. The Applicants did not provide their consent to exclude the Property at the time.
- [9] In 2017, the Commission completed the Boundary Review by approving the exclusion of 1,284.8 ha of land (304 of 435 proposed properties) from the ALR in Electoral Area B, by ALC Resolution #278/2017. On ALC Decision Map 7 of ALC Resolution #278/2019, the Property, and other properties that the Commission did not receive consent to exclude, are denoted as 'Areas proposed for exclusion from the ALR'.
- [10] The Application submits that the Applicants now wish to exclude the Property in order to enable construction of an additional residence on the Property for the Applicants' daughter.
- [11] At its meeting of August 6, 2019, the RDEK Board resolved to forward the Application to the Commission with support. In the staff report dated July 22, 2019, RDEK planning staff recommended support of the Proposal commenting: *"Schedule C of the [Baynes Lake Area Official Community Plan] identifies the subject property as having potential for ALR exclusion, as does the boundary review completed by the ALC in 2015."*



DECISION

[12] After reviewing the Application and having confirmed that the Property was proposed for exclusion by the Commission as shown on Decision Map 7 of ALC Resolution #278/2017, I am satisfied that the Proposal is consistent with Criterion #2 and approve the Proposal.

[13] The Commission will advise the Registrar of Land Titles that the Property has been excluded from the ALR.

[14] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

[15] A decision of the CEO is a decision of the Commission pursuant to s. 27(5) of the ALCA.

[16] Resolution #524/2019

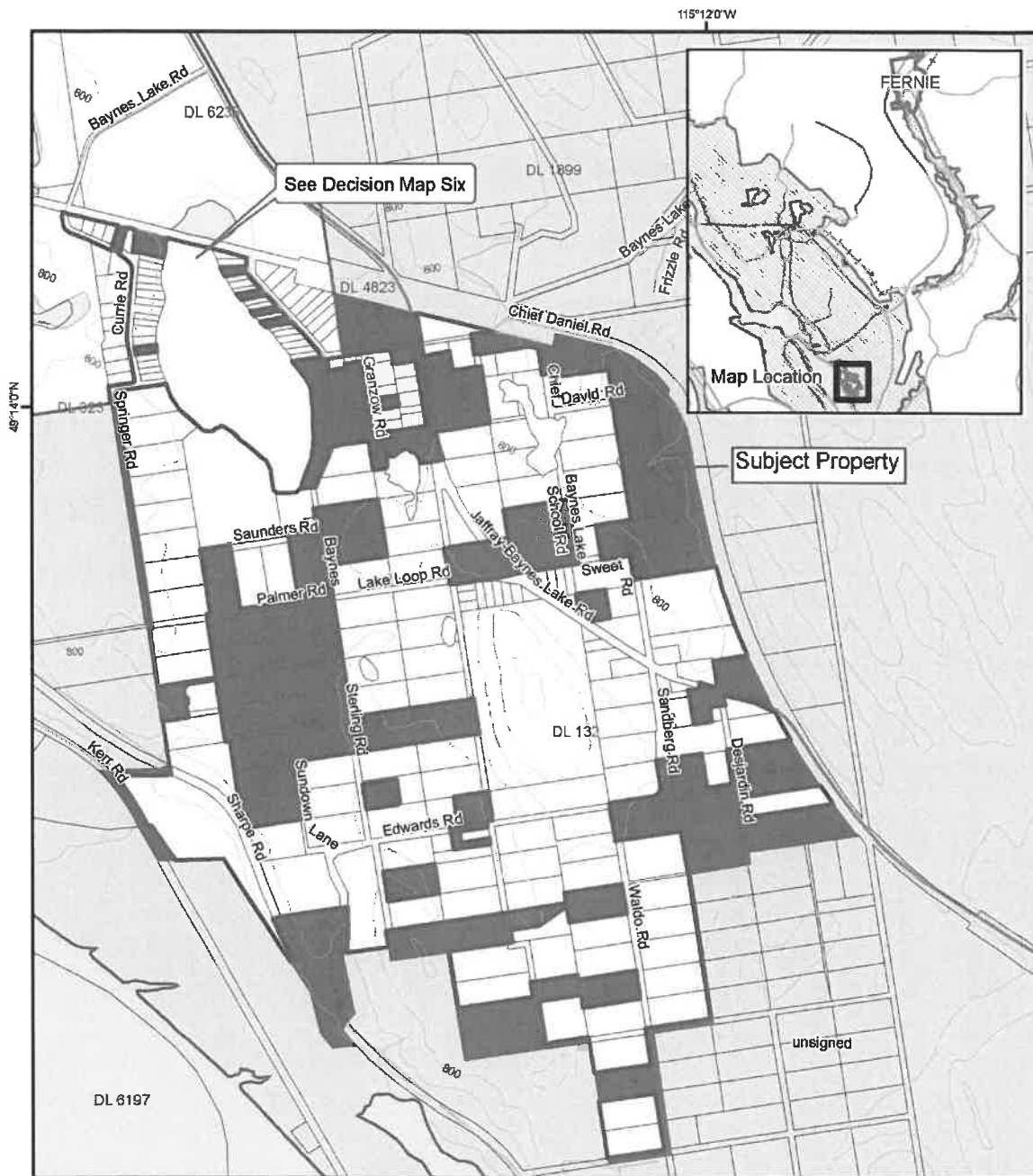
Released on December 19, 2019

A handwritten signature in black ink, appearing to read 'Kim Grout', is positioned above the printed name.




Kim Grout, Chief Executive Officer



— The Property Conditionally Approved for
Exclusion (2.4 ha)



Legend

-  Areas approved for exclusion from the ALR
-  Areas proposed for exclusion from the ALR
-  Agricultural Land Reserve

Decision Map Seven
Area Seven:
Baynes Lake Block Area
ALC File Number: 56609





Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

December 20, 2019

ALC File: 59224

Krystal Hamilton
Eagle Homes
DELIVERED ELECTRONICALLY

Dear Krystal Hamilton:

Re: Application 59224 for a non-adhering residential use in the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Executive Committee for the above noted application (Resolution #526/2019). As agent, it is your responsibility to notify the applicant(s) accordingly.

Review of Decisions by the Chair

Under section 33.1 of the *Agricultural Land Commission Act* (ALCA), the Chair of the Agricultural Land Commission (the "Commission") has 60 days to review this decision and determine if it should be reconsidered by the Executive Committee in accordance with the ALCA. You will be notified in writing if the Chair directs the reconsideration of this decision. The Commission therefore advises that you consider this 60 day review period prior to acting upon this decision.

Request for Reconsideration of a Decision

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision's release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

Please direct further correspondence with respect to this application to
ALC.Kootenay@gov.bc.ca.

Yours truly,

A handwritten signature in black ink, appearing to read 'Katie Cox', is written over a light blue horizontal line.

Katie Cox, Land Use Planner

Enclosures: Reasons for Decision (Resolution #526/2019)
Schedule A: Decision Map

cc: Regional District of East Kootenay, File P719338



AGRICULTURAL LAND COMMISSION FILE 59224
REASONS FOR DECISION OF THE EXECUTIVE COMMITTEE

Non-Adhering Residential Use Application Submitted under 20.1(2) of the *Agricultural Land Commission Act*

Applicant: 310613 BC Ltd. dba Three Bars Guest & Cattle Ranch

Agent: Krystal Hamilton, Eagle Homes

Property: Parcel Identifier: 007-422-059
Legal Description: District Lot 14299 Kootenay District
Civic: 9430 Wycliffe-Perry Creek Road, Wycliffe, BC
Area: 93 ha

Executive Committee: Jennifer Dyson, Chair
Ione Smith, South Coast Vice Chair
Linda Michaluk, Island Vice Chair
Gerald Zimmerman, Okanagan Vice Chair
Richard Mumford, Interior Vice Chair
Janice Tapp, North Vice Chair

OVERVIEW

- [1] The Property is located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA).
- [2] The Property is one of multiple properties operated as Three Bars Ranch which is a tourist facility and working ranch (the "Guest Ranch"). There are currently five legal residences on the Property that are utilized for full-time and seasonal staff for the Guest Ranch. The original residence on the Property is a cabin that was built in 1936 but is no longer habitable (the "Cabin").
- [3] Pursuant to 20.1(2), the Applicant is applying to the Agricultural Land Commission (the "Commission") to:
- replace the existing Cabin with a 290 m² CSA A277 certified modular home (190m²) with an attached garage (100m²) and deck for farm use (the "Residence Proposal"), and
 - retain the Cabin and convert it to a non-residential use building for heritage purposes (the "Cabin" Proposal).
- [4] The first issue the Executive Committee considered is whether the proposed replacement residence is necessary for farm use.
- [5] The second issue the Executive Committee considered is whether the size and siting of the replacement residence would impact the agricultural use of the Property.
- [6] The third issue the Executive Committee considered is whether to allow the retention of the Cabin for heritage purposes.
- [7] The Proposal was considered in the context of the purposes of the Commission set out in s. 6 of the ALCA. These purposes are:
- (a) to preserve the agricultural land reserve;

- (b) to encourage farming of land within the agricultural land reserve in collaboration with other communities of interest; and,
- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of land within the agricultural land reserve and uses compatible with agriculture in their plans, bylaws and policies.

EVIDENTIARY RECORD

[8] The Proposal along with related documentation from the Applicant, Agent, local government, third parties, and Commission is collectively referred to as the "Application". All documentation in the Application was disclosed to the Agent in advance of this decision.

BACKGROUND

Adjacent Guest Ranch Property

[9] In 1988, ALC Application 21821 was submitted to the Commission to establish a guest ranch on the north adjacent property (PID 007-422-083) with a 214 m² (2,300 ft²) lodge containing living and dining facilities, laundry and a pool along with 10 two-bed, two-bath cabins. The Commission considered the proposal to be ancillary to the agricultural use of the property and approved the application by Resolution #156/1988 with the recommendation that the lodge and cabins be located on the areas of the parcel with the lowest agricultural capability.

[10] In 1994, the Applicant requested a reconsideration of Resolution #156/1988 in order to build an additional 186m² (2,000 ft²) building to host meetings, games, workshops, and receptions. The Commission approved the new proposal by Resolution #1131/1994.

[11] In 2017, ALC Application 55941 was submitted to the Commission to add three additional two-bed, two-bath cabins to the 10 existing cabins on PID 007-422-083 as part of the guest ranch. The Commission considered the guest ranch operation to be ancillary to the agricultural operation and approved the proposal by Resolution #77/2017.

The Property

[12] The Regional District of East Kootenay (the “RDEK”) amended section 1.28(1)(b) of the Wycliffe Zoning & Floodplain Management Bylaw No. 2256, 2010 in 2015 by identifying a 9 ha portion of the Property that all residence units must be located within. The Proposal Area is within that 9 ha portion of the Property.

[13] At its meeting of August 2, 2019, the RDEK Board resolved to forward the Application to the Commission with a recommendation of support.

EVIDENCE AND FINDINGS**Issue 1: Whether the proposed replacement residence is necessary for farm use.**

[14] In addition to the 1936 Cabin, there are currently four other legal residences on the Property that were approved by the RDEK for use by Guest Ranch staff. As such, the Executive Committee is considering only the necessity of the replacement residence for farm use.

[15] The Applicant operates the Guest Ranch over a 354 ha farm operation with approximately 120 cows, 100 horses, and 90 ha of irrigated hay production. The Property also has equestrian infrastructure, horse pasture, and irrigated hay production.

[16] The replacement residence is proposed to be used by the Plechinger family who are one of the Guest Ranch farm shareholders. The Application states that the Plechingers have lived in the Cabin since 1987 and had to move out due to concerns that the structure was unsafe for residential use. The Plechingers have since been commuting to the Property from Cranbrook which is an approximately \pm 32 km round trip. The Application submits that the current scale of the agricultural and Guest Ranch operation requires the constant presence of the Plechingers, on the Property to oversee operations.

[17] In consideration of the current size of the farm operation on the Property and that the Plechingers are required to be present on the farm operation, the Executive Committee finds

that the Cabin replacement is necessary for continued farm use.

Issue 2: Whether the size and siting of the replacement residence would impact the agricultural use of the Property.

[18] The Application submits that the location of the 290 m² CSA A277 replacement residence is sited just east of the existing staff accommodation and the existing access road, Wycliffe Perry Creek Road. The Executive Committee finds that by siting the structure on the north western portion of the Property, clustered near existing residential uses and utilities, the Proposal minimizes encroachment into the cultivated area of the Property and would not affect the overall agricultural utility of the Property.

[19] The Application submits that the Proposal does not require any fill placement. The Executive Committee would like to remind the Applicant that if any soil removal or fill placement is necessary for the construction of the new principal dwelling, that it must be done in compliance with s. 35(a)(i) of the ALR Use Regulation B.C. Reg 30/2019 or a separate Soil Use for Placement of Fill or Removal of Soil Application is required.

Issue 3: Whether to allow the retention of the Cabin for heritage purposes.

[20] The Executive Committee discussed the proposal to retain the Cabin as a non-residential use heritage building. Conversion of the Cabin to a non-residential use would result in the same number of residential structures on the Property as what currently exists. The Executive Committee therefore finds that the preservation of the Cabin for heritage purposes and use as a storage building in its existing location would not impact the agricultural utility of the Property. Given that the Cabin is not currently being used as a residence, the Executive Committee will require documentary evidence that it has been decommissioned from residential use prior to placement of the replacement residence (CSA A277).

DECISION

- [21] For the reasons given above, the Executive Committee approves the Residence Proposal to place a 290 m² CSA A277 certified modular home on the Property as a replacement residence, and retain the Cabin built in 1936 as a heritage building subject to the following conditions:
- a. Submission of documentary evidence that the Cabin has been decommissioned prior to placement of the replacement residence (CSA A277);
 - b. Registration of a covenant in favor of the Commission to ensure that the replacement residence is not used for tourist accommodation;
 - c. Placement of the replacement residence must be completed within three years from the date of this decision;
 - d. The replacement residence must be located in the area indicated in the sketch plan (Schedule A) attached to Resolution 526/2019.

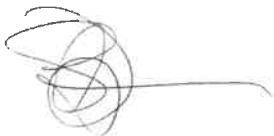
[22] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

[23] These are the unanimous reasons of the Executive Committee.

[24] A decision of the Executive Committee is a decision of the Commission pursuant to s. 11.1(5) of the ALCA.

[25] Resolution #526/2019

Released on December 20, 2019

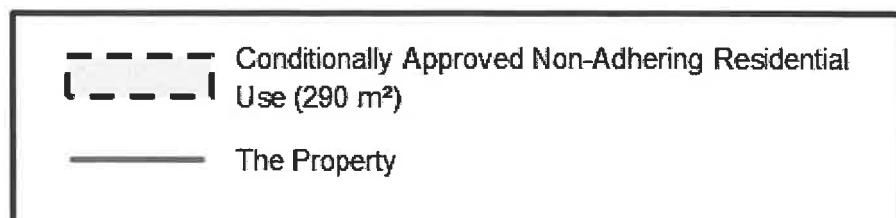
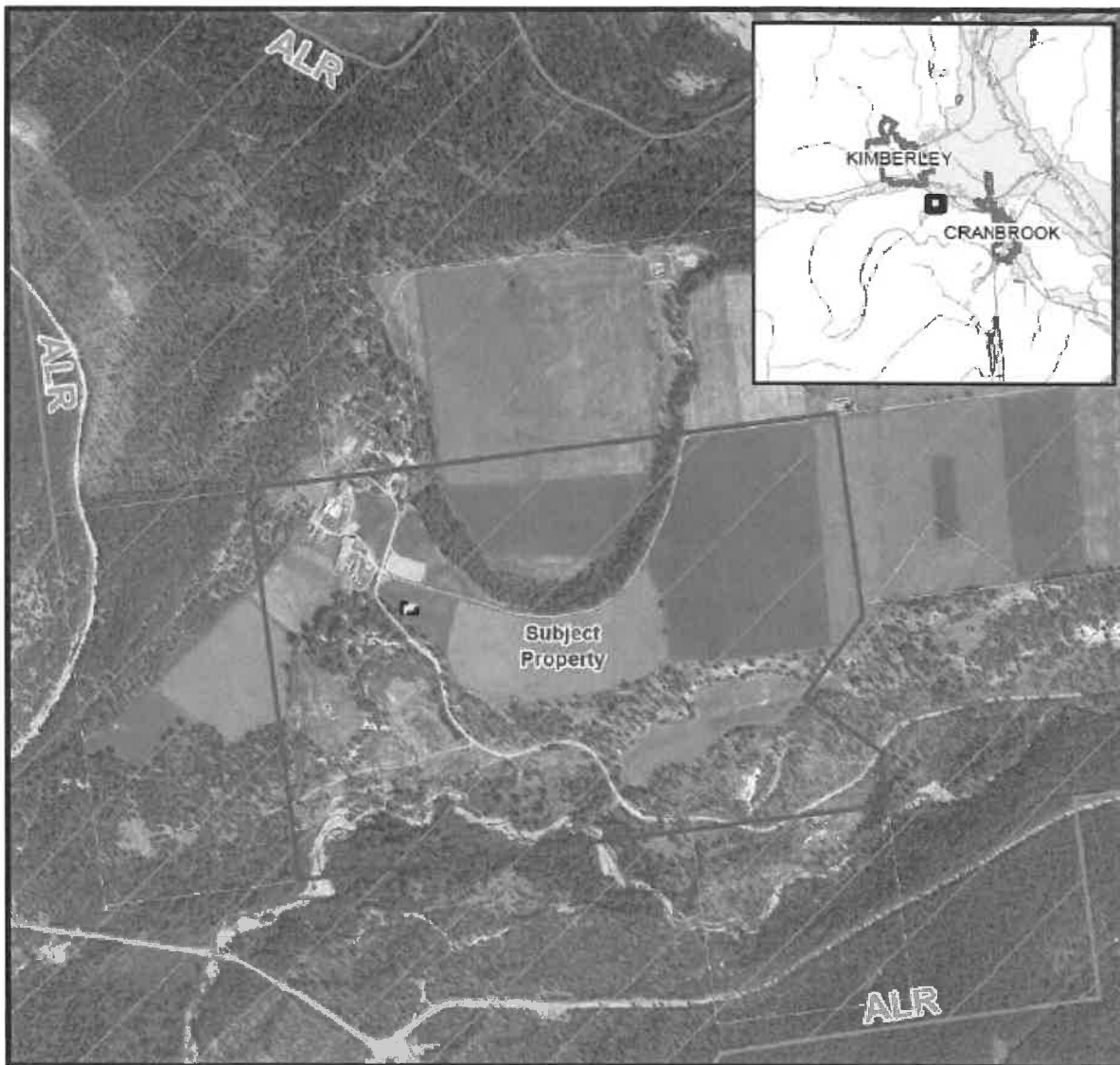


Jennifer Dyson, Chair

On behalf of the Executive Committee



Schedule A: Agricultural Land Commission Decision Sketch Plan
ALC File 59224 (Three Bars Guest & Cattle Ranch)
Conditionally Approved Non-Adhering Residential Use
ALC Resolution #526/2019





Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

December 4, 2019

ALC File: 59481

Barry Brown-John
DELIVERED ELECTRONICALLY

Dear Barry Brown-John:

Re: Application 59481 to subdivide land in the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Kootenay Panel for the above noted application (Resolution #459/2019). As agent, it is your responsibility to notify the applicant accordingly.

Review of Decisions by the Chair

Under section 33.1 of the *Agricultural Land Commission Act* (ALCA), the Chair of the Agricultural Land Commission (the "Commission") has 60 days to review this decision and determine if it should be reconsidered by the Executive Committee in accordance with the ALCA. You will be notified in writing if the Chair directs the reconsideration of this decision. The Commission therefore advises that you consider this 60 day review period prior to acting upon this decision.

Request for Reconsideration of a Decision

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision's release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

Please direct further correspondence with respect to this application to Mike Bandy at ALC.Kootenay@gov.bc.ca.

Yours truly,

A handwritten signature in black ink, appearing to read 'M Bandy', written in a cursive, flowing style.

Mike Bandy, Land Use Planner

Enclosures: Reasons for Decision (Resolution #459/2019)
Schedule A: Decision Map

cc: Regional District of East Kootenay, Attn. Tracy Van de Wiel (File: P 719 619)



AGRICULTURAL LAND COMMISSION FILE 59481
REASONS FOR DECISION OF THE KOOTENAY PANEL

Subdivision Application Submitted Under s. 21(2) of the *Agricultural Land Commission Act*

Applicants:

Larry Breeze
Alice Breeze

Agent:

Barry Brown-John

Property:

Parcel Identifier: 012-510-602
Legal Description: District Lot 10718, Kootenay District
Civic: 4201 Highway 95, north of Radium Hot Springs, BC
Area: 13.7 ha (entirely in the ALR)

Panel:

Jerry Thibeault, Acting Chair, Kootenay Panel
Ian Knudsen

OVERVIEW

- [1] The Property is located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA).
- [2] Pursuant to s. 21(2) of the ALCA, the Applicants are applying to the Agricultural Land Commission (the "Commission") to subdivide the 13.7 ha Property into a ± 10.5 ha lot and a ± 3.2 ha lot, as divided by Highway 95. The Applicants propose to negotiate an easement through an adjacent property to the east in order to provide access to the proposed new lot on the east side of Highway 95 (the "Proposal").
- [3] The issue the Panel considered is whether the Proposal would impact the agricultural utility of the Property.
- [4] The Proposal was considered in the context of the purposes of the Commission set out in s. 6 of the ALCA. These purposes are:
- (a) to preserve the agricultural land reserve;
 - (b) to encourage farming of land within the agricultural land reserve in collaboration with other communities of interest; and,
 - (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of land within the agricultural land reserve and uses compatible with agriculture in their plans, bylaws and policies.

EVIDENTIARY RECORD

- [5] The Proposal along with related documentation from the Applicant, Agent, local government, and Commission is collectively referred to as the "Application". All documentation in the Application was disclosed to the Agent in advance of this decision.

BACKGROUND

- [6] In 1985, ALC Application 36311 was submitted to the Commission to subdivide five lots, including the Property, into a total of ten lots as divided by Highway 95. At the time of the application, all of the lots involved were owned by Kirk Forest Products. The Commission approved the application subject to consolidation of the resulting lots with adjacent parcels, as the Commission did not want to encourage the creation of residential sized lots in the area. The subdivision was never completed and all of the lots involved have been sold to individual owners since.
- [7] In 2016, ALC Application 54578 was submitted to the Commission to subdivide the 63 ha lot directly to the south of the Property, into a 60 ha lot and a 3 ha lot, as divided by Highway 95. The Commission approved the application by ALC Resolution #215/2016 on the grounds that, due to the topography of the property west of Highway 95, and the highway itself, the subdivision would have no negative impact on the property's farm operation east of the highway.

EVIDENCE AND FINDINGS**Issue: Whether the Proposal would impact the agricultural utility of the Property.**

- [8] To assess agricultural capability on the Property, the Panel referred to agricultural capability ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings applicable to the Property are Class 3, Class 4, Class 5, and Class 6, more specifically, the area west of Highway 95 is approximately 80 percent (3P) and 20 percent (6:3T – 4:6T), while the portion of the Property east of Highway 95 (the "Proposed East Lot") is approximately 90 percent 6T, and 10 percent (6-5PT – 4:4P).

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability

Class 6 - land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

The limiting subclasses associated with this parcel of land are P (stoniness), and T (topographic limitations).

- [9] Based on the agricultural capability ratings, the Panel finds that the Property has mixed prime and secondary agricultural capability and that the Proposed East Lot has limited capability for soil-bound agricultural uses.
- [10] At its meeting of June 7, 2019, the Regional District of East Kootenay Board resolved to forward the Application to the Commission with support. In the staff report dated May 29, 2019, RDEK planning staff recommended support of the Application based on the challenging topography and marginal soils of the Proposed East Lot.
- [11] The Application submits that the Proposed East Lot is currently unused, has no legal access, and could not likely get legal access directly from Highway 95 as it is located above a steep cut bank along a curve of the highway. The Application submits that a neighbouring landowner is willing to provide access to the Proposed East Lot via an easement through their lot to the east of the Property, in order to facilitate the subdivision. The Proposal would potentially allow for construction of a residence on the Proposed East Lot; however, the Application suggests that it is not likely feasible to improve the Proposed East Lot for agricultural use due to the lack of water for irrigation, the steepness of the land, and poor soil conditions.

[12] The Panel considered the limited agricultural potential of the Proposed East Lot based on its topography, soil capability, and access constraints, and considered that it is unlikely the Proposed East Lot could function as part of any farm operation undertaken on the western portion of Property. As such, the Panel finds that the Proposal would have a negligible impact on the agricultural utility of the Property as a whole. The Panel would generally prefer that lots separated by roadways be consolidated with adjacent larger holdings instead of subdivided as stand-alone lots, as to not encourage parcelization of ALR land; however, given the constraints to agricultural use of the Proposed East Lot, the Panel is amenable to allowing the Proposal provided the Applicants can arrange access to the Proposed East Lot in a fashion that minimizes impact to ALR land.

DECISION

[13] For the reasons given above, the Panel approves the Proposal to subdivide the Property into a ± 10.5 ha lot and a ± 3.2 ha lot as divided by Highway 95, subject to the following conditions:

- a. The submission of a sketch plan, acceptable to the Commission, showing the proposed access route, and written rationale explaining how the proposed access layout minimizes impact to existing and future agricultural operations on any affected properties;
- b. the submission of an easement plan in substantial compliance with condition 'A';
- c. the submission of a survey plan delineating the area to be subdivided;
- d. the survey plan to be in substantial compliance with Schedule A of this decision;
- e. the survey plan be submitted within three years from the date of release of this decision;

[14] When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the subdivision plan.

[15] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

[16] These are the unanimous reasons of the Panel.

[17] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the ALCA.

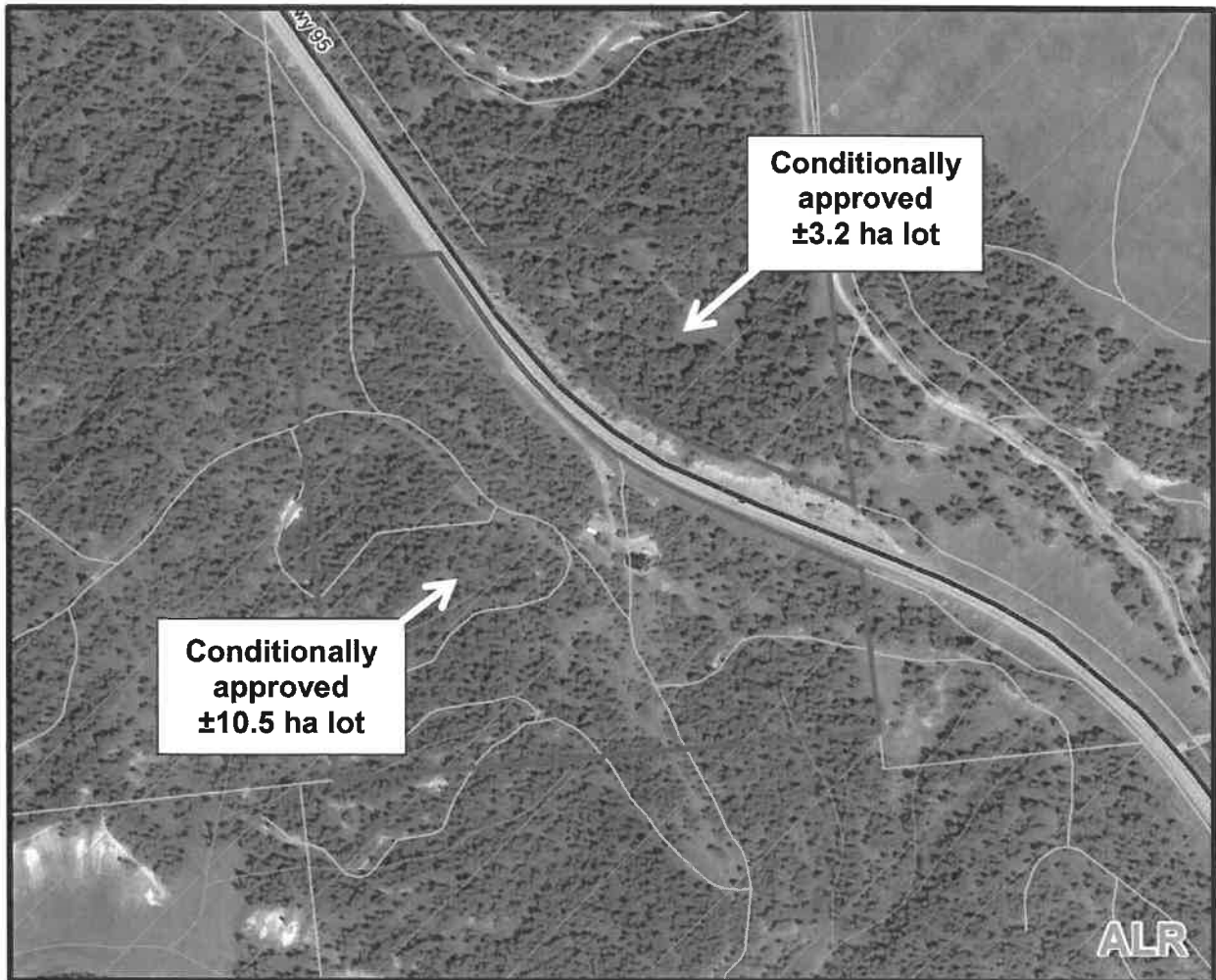
[18] Resolution #459/2019

Released on December 4, 2019

A handwritten signature in black ink, appearing to read "J. Thibeault", written in a cursive style.

Jerry Thibeault, Acting Panel Chair

On behalf of the Kootenay Panel





Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

December 23, 2019

ALC File: 59274

Katherine Friedley
DELIVERED ELECTRONICALLY

Dear Katherine Friedley:

Re: Application 59274 to conduct a non-farm use in the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Kootenay Panel for the above noted application (Resolution #537/2019). As agent, it is your responsibility to notify the applicant accordingly.

Review of Decisions by the Chair

Under section 33.1 of the *Agricultural Land Commission Act* (ALCA), the Chair of the Agricultural Land Commission (the "Commission") has 60 days to review this decision and determine if it should be reconsidered by the Executive Committee in accordance with the ALCA. You will be notified in writing if the Chair directs the reconsideration of this decision. The Commission therefore advises that you consider this 60 day review period prior to acting upon this decision.

Request for Reconsideration of a Decision

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision's release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

Please direct further correspondence with respect to this application to
ALC.Kootenay@gov.bc.ca.

Yours truly,

A handwritten signature in black ink, appearing to read 'Katie Cox', is written over a light grey horizontal line.

Katie Cox, Land Use Planner

Enclosures: Reasons for Decision (Resolution #537/2019)
Schedule A: Decision Map

cc: Regional District of East Kootenay File P 718 603



AGRICULTURAL LAND COMMISSION FILE 59274
REASONS FOR DECISION OF THE KOOTENAY PANEL

Non-Farm Use Application Submitted Under s. 20(2) of the *Agricultural Land Commission Act*

Applicants: Katherine Friedley
Adrian Pery

Agent: Katherine Friedley

Property: Parcel Identifier: 005-723-990
Legal Description: District Lot 9046, Kootenay
District Excluding Parcel A (RP 119394I)
Civic: 3550 Highway 95, southeast of Brisco, BC
Area: 256.2 ha

Panel: David Zehnder, Kootenay Panel Chair
Ian Knudsen
Jerry Thibeault

OVERVIEW

- [1] The Property is located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA).
- [2] Pursuant to s. 20(2) of the ALCA, the Applicants are applying to the Agricultural Land Commission (the "Commission") for a recreational camping facility and to host special events.

Recreational Camping Facility

The Applicants are applying to establish a 1.0 ha site on the Property (the "Proposal Area") for outdoor education courses and passive recreation including:

- 3 to 4 non-permanent canvas tent sites;
- 1 temporary camp kitchen shelter structure;
- 1 temporary outhouse with a buried pump-able container for waste and
- Existing gravel pad, access road

(the "Recreational Facility Proposal")

Trail Proposal

The Applicants are applying to utilize existing logging roads on the Property for use as recreational trails (the "Trail Proposal").

Special Events

The Applicants also wish to host special events such as wellness retreats, educational seminars, workshops, gatherings, reunions, weddings, guided outfitting, bird watching, photo safaris, art excursion, and sports gatherings (paragliding, orienteering, trail running, snowshoeing) for groups of between 16 to 75 people. Events will range from single day to multi-day sessions (the "Events Proposal").

- [3] The first issue the Panel considered is whether the Recreational Proposal would impact the agricultural utility of the Property.

- [4] The second issue the Panel considered is whether the Trail Proposal would impact the agricultural utility of the Property.
- [5] The third issue the Panel considered is whether the Events Proposal would impact the agricultural utility of the Property.
- [6] The Proposal was considered in the context of the purposes of the Commission set out in s. 6 of the ALCA. These purposes are:
- (a) to preserve the agricultural land reserve;
 - (b) to encourage farming of land within the agricultural land reserve in collaboration with other communities of interest; and,
 - (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of land within the agricultural land reserve and uses compatible with agriculture in their plans, bylaws and policies.

EVIDENTIARY RECORD

- [7] The Proposal along with related documentation from the Applicants, Agent, local government, and Commission is collectively referred to as the “Application”. All documentation in the Application was disclosed to the Agent in advance of this decision.

EVIDENCE AND FINDINGS

- [8] To assess agricultural capability on the Property, the Panel referred to agricultural capability ratings. The ratings are identified using the Canada Land Inventory (CLI), ‘Soil Capability Classification for Agriculture’ system. There are 4 different areas of agricultural capability on the Property, including: Class 4PF (improvable to Class 3P) and Class 5PT (improvable to Class 4P) in the south and west portions, Class 6TP and Class 5PT (not improvable) in the central majority, Class 6TP (not improvable) in the northeast corner; and Class 6RT and Class 7RT (not improvable) in the north portion. The Proposal Area is contained within the unimprovable Class 6TP and Class 5PT (6:6TP-4:5PT) area.

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

Class 6 - land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

Class 7 - land has no capability for soil bound agriculture.

The limiting subclasses associated with this parcel of land are F (low fertility), P (stoniness), R (bedrock near the surface), and T (topographic limitations).

[9] At its meeting of September 6, 2019, the Regional District of East Kootenay Board resolved to support the Application and forward it to the Commission for a final decision.

Issue 1: Whether the Recreational Facility Proposal would impact the agricultural utility of the Property.

[10] The Panel considered the 1.0 ha size, siting, and description of the recreational areas in relation to the size of the Property and its historic use as a log landing site. The Panel finds that the Recreational Facility Proposal would not adversely impact the agricultural utility of the Proposal Area due to the historic disturbance of the area.

[11] While the Panel finds that the use of the log landing site minimizes the area of impact of the recreational facilities, the Panel is concerned with the use of the area in perpetuity. Therefore, the Panel is not amenable to granting approval of the Recreational Facility Proposal as a commercial use in perpetuity. Instead, the Panel would prefer the

Commission have an opportunity to re-assess the impact of the commercial use by way of a new application after ten years. Re-assessment would provide for oversight of the commercial use and ensure compliance with this decision.

Issue 2: Whether the Trail Proposal would impact the agricultural utility of the Property.

[12] The Applicants intend to utilize the existing logging roads and trails for commercial use as recreational trails in association with the Recreational Facility Proposal. The Application specified that the use of the trails would be restricted to non-motorized use, but it did not specify if mechanized uses (i.e. bicycles) would also be restricted. The Panel is concerned that the use of trails on the Property for mechanized or motorized uses may negatively impact the agricultural utility of the Property by creating erosion and potential conflict with surrounding agricultural uses. For this reason, the Panel is amenable to the use of existing trails on the Property provided that mechanized and motorized users are prohibited, and that no further construction of trails associated with the proposed non-farm use is undertaken. The Panel requests a site plan and trail map of the proposed recreational facilities and trails for its review.

Issue 3: Whether the Events Proposal would impact the agricultural utility of the Property.

Section 17 of the ALR Use Regulation provides ALR landowners with an opportunity to host 10 events per year, provided that the property is assessed as 'farm' under the *Assessment Act*, the events are 24 hours or less, there are no more than 150 people, and that the facilities used in conjunction with the events are not permanent. This provision provides an opportunity for additional revenue if the Property is already in agricultural production. Given that the Property is not assessed as farm, and that the Applicants are requesting an unlimited number of events, the Panel finds that the primary use of the Property will be commercial and not subordinate to agriculture.

[13] The Panel would like to clarify that the intention of refusing the Events Proposal at this time is not to stifle the Applicants' plan to host events on the Property. Rather, the Panel encourages the Applicants to develop agriculture on the Property in order to meet the criteria to host gatherings for events in the ALR in accordance with s. 17 of the ALR Use Regulation.

DECISION

[14] For the reasons given above, the Panel refuses the Events Proposal.

[15] However, the Panel approves the use of 1.0 ha of the Property for the Recreational Facilities Proposal, and the use of the existing logging roads and trails for the Recreational Trail Proposal subject to the following conditions:

- a. The non-farm use is approved for a period of 10 years from the date of release of this decision;
- b. The submission of a site plan acceptable to the Commission, delineating any existing and proposed infrastructure, including structures and trails to be used in association with the non-farm use within 1 year of the date of release of this decision;
- c. The Recreational Facilities Proposal is confined to a 1.0 ha area per the sketch plan attached to Resolution #537/2019 (Schedule A), with the exception of the use of existing trails for passive recreation purposes, and existing access roads for accessing the site;
- d. No fill or permanent structures associated with the Proposal are permitted;
- e. Approval for non-farm use is granted for the sole benefit of the Applicant and is non-transferable.

[16] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

[17] These are the unanimous reasons of the Panel.



[18] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the ALCA.

[19] Resolution #537/2019

Released on December 23, 2019

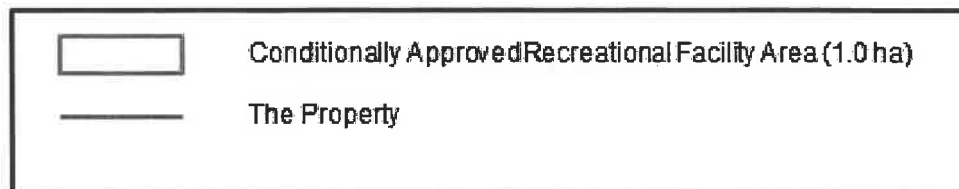
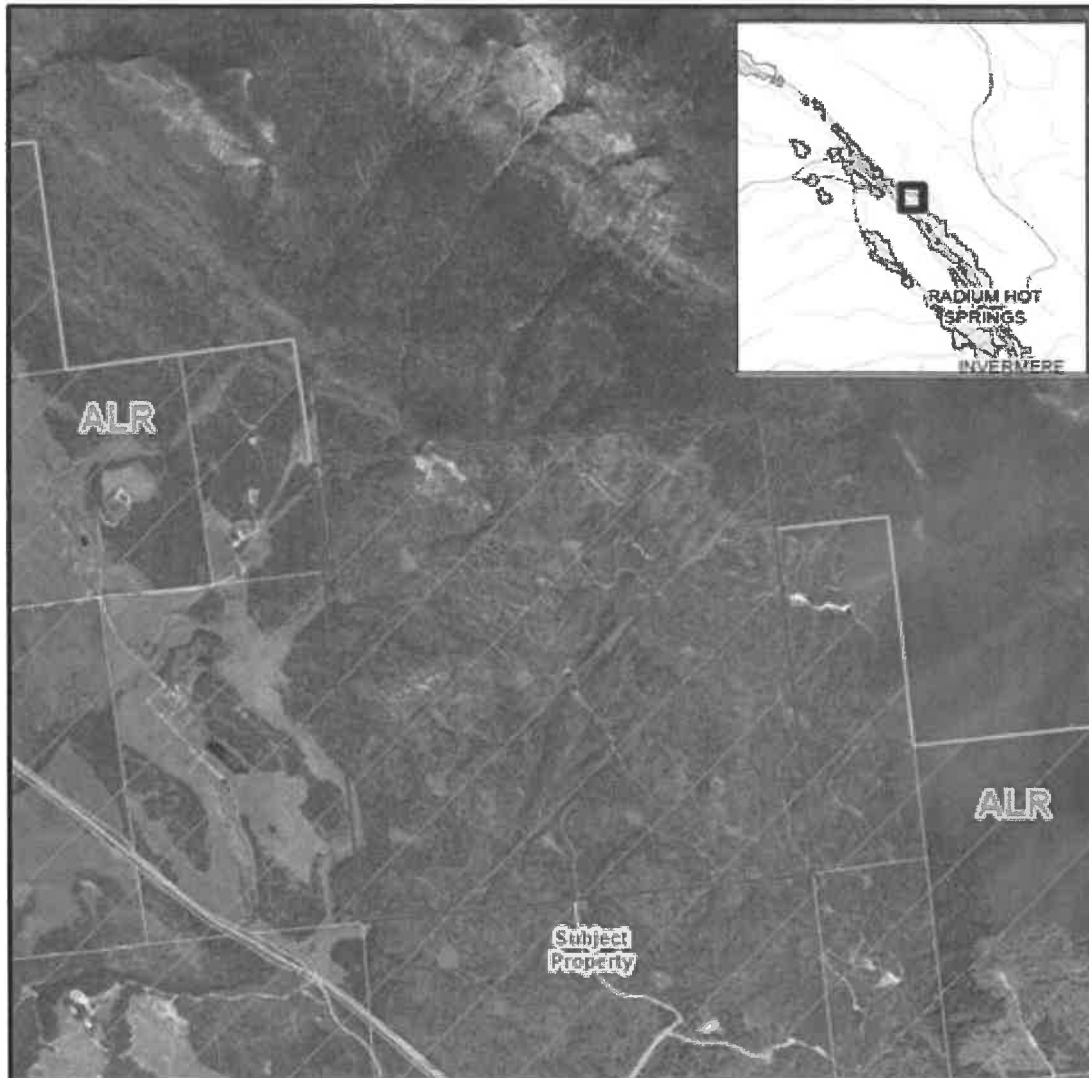
A handwritten signature in black ink, appearing to read 'D. Zehnder', written in a cursive style.

David Zehnder, Panel Chair

On behalf of the Kootenay Panel



Schedule A: Agricultural Land Commission Decision Map
ALC File 59274 (Friedley)
Conditionally Approved Non-Farm Use Area (1.0 ha)
ALC Resolution #537/2019



Subject Development Services – Planning Monthly Report

Month January 2020

STATISTICS

November 16, 2019 – December 15, 2019)

	2019	2018
INQUIRIES	239	251
BUILDING CHECKS	15	18

	----- ELECTORAL AREAS ----- -----						YEAR	
	A	B	C	E	F	G	2019	2018
Agricultural Land Reserve							0	2
Bylaw Amendments (Zoning / Land Use / OCP)		3				1	4	5
DP					5		5	10
DVP / Bd. of Variance		1	2	1	3		7	7
Subdivision			1		1		2	8
MFLNRO Referrals			1				1	1
Other Agency Referrals (MoTI / Liquor Control etc.)								2
Other Permits & Agreements (Housing Agreements / Temp. Use / Floodplain Exemptions / Campground)								1
TOTALS 2019	0	4	4	1	9	0	19	
TOTALS 2018	4	6	7	6	11	2		36

Panorama Area OCP

An Open House attended by over 50 people was held on December 30th to present the proposed changes and draft OCP. The draft will now be informally referred to interested provincial ministries and First Nations. A comment period will be open until February 19th to allow for public review and feedback.



File: 18046-40/FTKL 20191206 Block and Road Referral Kootenay Lake TSA

December 5, 2019

RDEK
19 24th Ave S.
Cranbrook, BC
V1C 3H8

Dear Andrew McLeod

RE: Proposed BCTS Harvesting

BC Timber Sales, Kootenay Business Area, has timber harvesting and road construction planned for areas located in the vicinity of your tenure or property.

This proposal is available for your review at the following locations:

- Kootenay Lake Forestry Centre, 1907 Ridgewood Rd, Nelson B.C. Viewing by appointment during regular business hours, Monday to Friday, 8:30 AM – 4:30 PM. To arrange an appointment please contact either Sean Slimmon (Development Forester) or Della Peterson (Woodlands Supervisor) at 250 825-1100.
- Maps showing the general location of the proposed development can be viewed on the web at <https://bit.ly/37MMrMG>

Please note that the shape and size of the proposed harvesting and roads are our best estimate at this time and may change as BCTS gathers more information; additionally, please note that all potential harvesting is demonstrated, however, the timing of these operations will likely occur over a period of years.

We would appreciate any feedback or information you can provide which would improve how our plans proceed. Please advise written questions or comments regarding these plans by not later than February 21st, 2020. Once your interest is established, communication will continue as we move forward, beyond this date.

Yours truly,

Sean Slimmon, RPF, Development Forester – Sean.Slimmon@gov.bc.ca
Della Peterson, RFT, Woodlands Supervisor – Della.Peterson@gov.bc.ca

Hawkins Creek Proposed Blocks and Roads		
Location	Block Name	Road Name
East Hawkins	HK-015B	
East Hawkins	HKE-029	
East Hawkins	HKE-047	
East Hawkins	HKE-087	KLHKE047
Branch 17	HKE-067	
Branch 17	HKE-088	
Canuck	HKW-065	
Canuck	HKW-083	
Canuck	HKW-112	
Canuck	HKW-113	
Canuck	SHKW-112	

Advisory Planning Commission Electoral Area A

Minutes

**December 17, 2019
Fernie Chamber Commerce**

Present:

Karen Alexander, Chair by phone
Joe Caravetta, Secretary
Warren Baker
Dave Beranek
Blair Chattersson by phone
Dale Garrett
Dan Savage
Director Mike Sosnowski

1. Call to Order

Joe called the meeting to order at 7:30.

2. Delegations

Dan Wyatt read a letter on behalf of Greg and Sharon Goran

3. Adoption of the Minutes

Moved by Karen
Seconded by Dan

That the minutes of the Advisory Planning Commission meeting held on September 17, 2019 be adopted.

CARRIED

4. Planning & Development Services Monthly Report

-

Moved by Warren
Seconded by Karen

That the monthly Planning & Development Services Report be received.

5. Agriculture Land Reserve Referrals

6. Bylaw Amendment Application

7. Development Variance Permit Application

P719123 – Goran Hwy #3 Fernie Area

Motion made by Warren and seconded by Dale that The Advisory planning committee recommends the Goran DVP application be supported

8. Ministry of Forests, Lands, Natural Resource Operations and Rural Development (NRO) Referrals

9. Liquor & Cannabis Licence Applications

10. Adjournment

The meeting adjourned at 7:50.

Advisory Planning Commission Electoral Area B

Minutes

**December 18, 2019
Baynes Lake Fire Hall**

Present:

Shayne Webster Chair
Lily Durham, Secretary
Maureen Coulombe
Wendy Salanski
Steve Minuk
Kent Holmes
Josh Pederson
Andy McDonald
Gary Mitchell

1. Call to Order

Chair Shayne Webster called the meeting to order at 7pm

2. Delegations

Vern & Sharon Barr spoke to their application; P719 219-Barr (Haworth)/Hwy 3/93, Jaffray.

Matt McArthur spoke to their application; P719 220-McArthur (Terpsma)/Stirling Rd, Baynes Lake

No representative spoke to their application: P719 221-Fenwick (Haworth)/Thistle Rd, Tie Lake

3. Adoption of the Minutes

Moved by Gary Mitchell
Seconded by Kent Holmes

That the minutes of the Advisory Planning Commission meeting held on November 20, 2019 be adopted.

CARRIED

4. Planning & Development Services Monthly Report

Moved by Steve Minuk
Seconded by Josh Pedersen

That the monthly Planning & Development Services Report be received.

5. Bylaw Amendment Application**5.1** 719-219-Barr (Haworth)/Hwy 3/93, Jaffray

Moved by Lily Durham

Seconded by Maureen Coulombe

That the Advisory Planning Commission recommends the Barr (Haworth)/ Hwy 3/93, Jaffray Bylaw Amendment application be supported.

CARRIED

Comments: Unanimous

6. Development Variance Permit Application**6.1** P719 220- McArthur (Terpsma)/Stirling Rd., Baynes Lake

Moved by Wendy Salanski

Seconded by Maureen Coulombe

That the Advisory Planning Commission recommends the McArthur (Terpsma)/Stirling Rd, Baynes Lake Development Variance Permit application be refused.

CARRIED

Comments: Committee is going to discuss with Director Doehle.

6.2 P719-221- Fenwick (Haworth)/Thistle Rd, Tie Lake

Moved by Andy McDonald

Seconded by Wendy Salanski

That the Advisory Planning Commission does not recommend the Fenwick (Haworth)/Thistle Rd, Tie Lake Development Variance Permit application.

CARRIED

Comments: Committee is not supporting this application as there was no representation from Haworth and Director Doehle was absent due to being stranded in Whitehorse.

7. Adjournment

The meeting adjourned at 8:05 pm

MINUTES of the Electoral Area C Advisory Planning Commission meeting held on Thursday, **December 12, 2019** in the Conference Room at the RDEK office in Cranbrook.

PRESENT

Lee-Ann Crane, Chair & Secretary
Ilene Lowing
Jim Westwood

Bob Bjorn, Vice Chair
Roger Mitchell
Rob Gay, Electoral Area C Director

Herb Janzen
Richard Wake

ABSENT

Chris Caron

Wayne Stone

The meeting was called to order at 7:00 pm.

DELEGATIONS

Elliott & Soppit – DL 781 and part of DL 39, Wardner-Fort Steele Rd – Release of Covenant

Alva Soppit presented information on their ALR subdivision application which is required to remove a covenant from the subject properties. The covenant was registered in 2001 to bind the titles of the two properties, as required by the ALC, for subdivision of another, non-adjacent, property to proceed. Ms. Soppit advised that they do not intend to subdivide the property and only wish to add an additional owner to the title of one of the properties bound by the covenant. Because the covenant requires that the properties be transferred together, release of that covenant is required.

MINUTES

Moved by Bob Bjorn

Seconded by Herb Janzen

That the minutes of the November 14, 2019 APC C meeting be adopted as circulated.

CARRIED

ALR APPLICATION

P 719 362 Elliott & Soppit / DL 781 and part of DL 39, Wardner-Fort Steele Road

Moved by Jim Westwood

Seconded by Richard Wake

That the Elliott & Soppit ALR subdivision application required to remove a covenant registered on DL 781 and part of DL 39 located on Wardner-Fort Steele Road, **be supported**.

CARRIED

Roger Mitchell arrived at the meeting at 7:17pm.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

P 719 359 Marlow / 4201 Kahn Road, North of Cranbrook

Moved by Ilene Lowing

Seconded by Bob Bjorn

That the Marlow application to vary Electoral Area C South Zoning & Floodplain Management Bylaw No. 2913 to allow temporary external placement of up to three boats in association with a home-based business on property located at 4201 Kahn Road north of Cranbrook, **be supported**.

CARRIED

P 719 363 ZAM Enterprises Ltd. / 4086 Standard Hill Road, East of Cranbrook

Moved by Ilene Lowing

Seconded by Jim Westwood

That the ZAM Enterprises Ltd. application to vary Mobile Home Park Bylaw No. 209 and Electoral Area C South Zoning & Floodplain Management Bylaw No. 2913 to reduce the side yard setback of a mobile home on a mobile home space from 3.0m to 2.5m on property located at 4086 Standard Hill Road east of Cranbrook, **be supported**.

CARRIED

TEMPORARY USE PERMIT APPLICATION

P 719 311 EarthRite Industries Ltd. / Lot 1, DL 2313A, Plan EPP54560 – Hwy 3/93, Mayook

Moved by Herb Janzen

Seconded by Richard Wake

That the EarthRite Industries Ltd. Temporary Use Permit application to allow storage of up to 1,000 truckloads of off-premise wood mulch prior to transportation to the pulp mill in Skookumchuck and the parking and maintenance of up to six highway trucks and trailers on the subject property located along Highway 3/93 in the Mayook area, **not be supported** due to concerns related to the increased truck traffic and lack of a turning lane off the highway.

CARRIED

The meeting adjourned at 7:40 pm.

Advisory Planning Commission Electoral Area E

Minutes

Tuesday, December 10, 2019

Judy McPhee's Residence, 6304 Poplar Road, Wasa

Present:

Jim Westwood, Chair
Susanne Ashmore, Vice Chair
Virginia West, Secretary
Judy McPhee
Len Hunt
Doug Barraclough
Bob Eccleston
Cheryl Greenwood
Bev Rauch
Barry Garland
Director Jane Walter

1. Call to Order

Chair Jim Westwood called the meeting to order at 7:00 pm.

2. Delegations

Alex Buterman, Diana Wiest, and Amber Odarich attended the meeting, spoke to their applications, and answered questions from the committee.

3. Adoption of the Minutes

Moved by Bob Eccleston
Seconded by Susanne Ashmore

That the minutes of the Advisory Planning Commission meeting held on August 13, 2019 be adopted.

CARRIED

4. Planning & Development Services Monthly Report

Moved by Jim Westwood
Seconded by Virginia West

That the monthly Planning & Development Services Report be received.

5. Development Variance Applications

5.1 P 719 426 - Hockley (Besold) / Thompson Road, Meadowbrook

Moved by Len Hunt
Seconded by Cheryl Greenwood

That the Advisory Planning Commission recommends the Hockley development variance permit application be supported.
CARRIED

5.2 P 719 429 – Odarich & Klekowski / Porteous Rd., Wycliffe

Moved by Bob Eccleston
Seconded by Doug Barraclough

That the Advisory Planning Commission recommends the Odarich & Klekowski development variance permit application be supported.
CARRIED

6. Ministry of Forests, Lands, Natural Resource Operations and Rural Development (NRO) Referrals

6.1 P 151 400 – Kootenay Dirt Riders (Buterman) Ta Ta Creek Area

Moved by Bob Eccleston
Seconded by Doug Barraclough

That the Advisory Planning Commission recommends the Kootenay Dirt Riders NRO Referral be refused.

CARRIED with 7 in favour, 2 opposed, and 1 abstained

7. Adjournment

The meeting adjourned at 8:40 pm. The next meeting will be held at Jim Westwood's residence on Tuesday, January 14, 2020.

**Advisory Planning Commission
Electoral Area F&G Minutes
December 17, 2019
Location: Windermere Emergency Operations Centre
1627 Highway 93/95**

Present:

Area F:

Paul De Guise— **Chair**
Mary Anne Csokonay
Colleen Roberts
Karl Conway
Chris Zehnder
Scott Wallace
Lindsay McPherson
Director Susan Clovechok

Area G:

Hermann Mauthner
Rick Tegart
Stephanie Stevens
Owen Mitchell

Director Gerry Wilkie

Nancy Wilfley - Secretary

1. Call to Order

Chair Paul De Guise called the meeting to order at 7:02pm.
Introduction of Board members.

Presentations:

P719-607 Wilmer Eco Development Ltd/Wilmer

7:02pm. Gerry Taft speaks to application. Gerry states application is a "Housekeeping" matter regarding zoning. And refers to a mistake on rezoning process. Property is zoned W1. Rezoning is to allow two legal lots. There is an easement on the property for maintenance of dam. Property is within the ALR. There are some protection guidelines on the larger parcel. Two dwellings, one on each property.
7:08pm. Gerry leaves.

P 719 548 – Enayat/Fairmont.

7:09pm. Felicity Enayat speaks to application. Last minute change to location of personal cemetery. Felicity thought by-law distance from well was to be 120' and was corrected. Felicity changed location on advice from RDEK.
7:13pm. Felicity leaves

P719-554 Kachur & Stringer (Craig Design Ltd)/Windermere Road, Windermere

7:14pm. Ken Kachur and Craig Bischke presents power point regarding application. Illustrations to give a visual on why they are asking for a variance. Current design does not give more square footage. By law changes in the future will allow the roof design. Craig speaks to design of roof.
7:24pm. Ken and Craig leave.

P718-537/P719 536 KGT Enterprises Canopy/Pylon Sign/(Urichuk)/Cooper Road, Windermere

7:25pm. Greg and Tracey Urichuk speak to Reconsideration request and hand out information packages to board. Original Canopy design was cost prohibitive. Looking at flat roof but not allowed in OCP. Colleen makes some suggests on other options. Photos of Sign design are presented. Only the top part of sign will be illuminated with back lighting. Letter from local electrician points out the type of light will use less energy. Mary Anne ask question on other lighting plans. Suggests are made for sign design.
7:42pm. Greg and Tracey leave.

2. MINUTES

2.1 APC Meeting – November 19, 2019 Adoption of the Minutes

Moved by C. Zehnder

Seconded by M.A. Csokonay

That the minutes of the Advisory Planning Commission meeting held on November 19, 2019 be adopted as amended.

CARRIED

Paul points out spelling of his last name is incorrect. Correct spelling is **De Guise**.

2.2 Planning Committee Meeting – October 31, 2019 – Reviewed

3. REPORTS

3.1 Planning & Development Services Report – December 2019 Received

4. BYLAW AMENDMENT APPLICATIONS

4.1 P 719 548 – Enayat/Fairmont

Moved by R. Tegart

Seconded by C. Zehnder

That the Advisory Planning Commission recommends the Enayat application be **refused**.

CARRIED

Health and water safety are major concerns. Application does not follow distance of 120meters from adjacent wells.

4.2 P 719 551-Fairmont Hot Springs Resort/Fairmont

Moved by R. Tegart

Seconded by H. Mauthner

That the Advisory Planning Commission recommends the Fairmont Hot Springs Resort application be supported.

CARRIED

4.3 P 719 607-Wilmer Eco Development Ltd./Wilmer

Moved by H. Mauthner

Seconded by O. Mitchell

That the Advisory Planning Commission recommends the Wilmer Eco Development Ltd. application be **refused**.

CARRIED

3 Opposed

Concerns of irrigation water being compromised with rezoning. Wilmer Community members have rejected this rezoning. Protecting the water supply is priority.

5. DEVELOPMENT VARIANCE PERMIT APPLICATION

5.1 P 719 552 – 1047217 Alberta Ltd. (Stinson)/Hollard Creek, Windermere North

Moved by C. Roberts

Seconded by H. Mauthner

That the Advisory Planning Commission recommends the 1047217 Alberta Ltd. Development Variance Permit application be supported.

CARRIED

5.2 P 719 554- Kachyr &Stringer (Craig Design Ltd)/Windermere Road, Windermere

Moved by K. Conway

Seconded by C. Zehnder

That the Advisory Planning Commission recommends the Kachyr & Stringer Development Variance Permit application be supported.

CARRIED

6. LATE AGENDA ITEMS – Reconsideration Requests – Windermere Esso

6.1 P 718 537-KGT Enterprises Canopy(Urichuk)/Cooper Road Windermere

Moved by S. Wallace

Seconded by C. Zehnder

That the Advisory Planning Commission recommends the KGT Enterprises Canopy application be supported with the following conditions.

CARRIED

Canopy should have the addition of a three-sided facade peak to break up the flat roof.

6.2 P 719-536-KGT Enterprises Pylon Sign (Urichuk)/Cooper Road Windermere

Moved by R. Tegart

Seconded by C. Roberts

That the Advisory Planning Commission recommends the KGT Enterprises Pylon Sign application be **refused**.

CARRIED

OCP doesn't allow this type of lighting.

7. INFORMATION ITEMS

7.1 Housekeeping Bylaw Amendments – Lake Windermere OCP(Belanger)

Moved by C. Zehnder

Seconded by S. Stevens

That the Advisory Planning Commission recommends the Housekeeping Bylaw Amendments to the Lake Windermere OCP be supported.

CARRIED

8. ADJOURNMENT

The meeting adjourned at 9:10pm.

Date January 6, 2020
Author Tracy Van de Wiel, Planning Technician 2
Subject Reconsideration of Request for Amendment to DP 28-18 – KGT Enterprises / Windermere Esso

REQUEST

Reconsideration of the requested amendment to Development Permit 28-18 to permit a revised gas bar canopy structure in place of the originally approved timber-frame, gable roof design.

OPTIONS

1. THAT the amendment to Development Permit 28-18 (KGT Enterprises / Windermere Esso) be granted.
2. THAT the amendment to Development Permit 28-18 (KGT Enterprises / Windermere Esso) be refused.
3. THAT the amendment to Development Permit 28-18 (KGT Enterprises / Windermere Esso) be granted subject to the addition of architectural details as shown in the sketches received January 3, 2020, which break up the long expanse of canopy roofline.

RECOMMENDATION

Option 2

The Official Community Plan policies for form and character do not support long expanses of unbroken or unarticulated roofline and continuous ridgelines are discouraged. Roofs that include architectural detail such as dormers are supported. The sketches provided only provide for the minimum of architectural interest and are considered inadequate.

BACKGROUND

The applicants propose to construct a new Esso gas station and convenience store on their property located at 548 Highway 93/95 at the intersection with Copper Road. In July, 2019 the RDEK issued Development Permit 28-18 for form and character for the convenience store and the gas bar canopy structure. The owners have since discovered that the originally proposed canopy structure is not possible and, in December of 2019, they proposed a flat roof design. Staff refused the new flat roof canopy design because the Lake Windermere OCP policy 19.5(6)(b)(iii) states that “long expanses of unbroken or unarticulated roofline and continuous ridgelines are discouraged. Roofs that include architectural detail such as dormers are encouraged”.

In accordance with Development Applications Bylaw No. 2300, the applicants are appealing the refusal their Development Permit application amendment.

ANALYSIS

In December 2019, the applicants attended the Electoral Area F & G APC meeting and, following their discussion of design options, the applicants offered to add architectural details to the flat roof design and they've submitted possible examples (attached '2020 Option 1 & 2'). The 2019 flat roof gas bar canopy design did not meet the guidelines of the Lake Windermere Official Community Plan development permit guidelines because it utilized a long expanse of unbroken or unarticulated roofline. The new 2020 design is somewhat improved since it adds architectural interest to the long expanse of roof. OCP guidelines establish objectives for the form and character of commercial development. General compliance with established guidelines ensures new development fits into the character of an area and with the community goals for design and aesthetics.

CONSULTATION

APC F & G (reviewed the flat roof design in December 2019): Supported, subject to the addition of architectural details to break up the long expanse of canopy roofline.

SPECIFIC CONSIDERATIONS

Zoning Bylaw

Upper Columbia Valley Zoning Bylaw

Current Designation: C-3, Regional Commercial, which permits a gasoline service station and retail store.

Siting regulations: The siting and height of the proposed canopy complies with the relevant regulations.

Official Community Plan

Lake Windermere Official Community Plan

Designation: C, Commercial

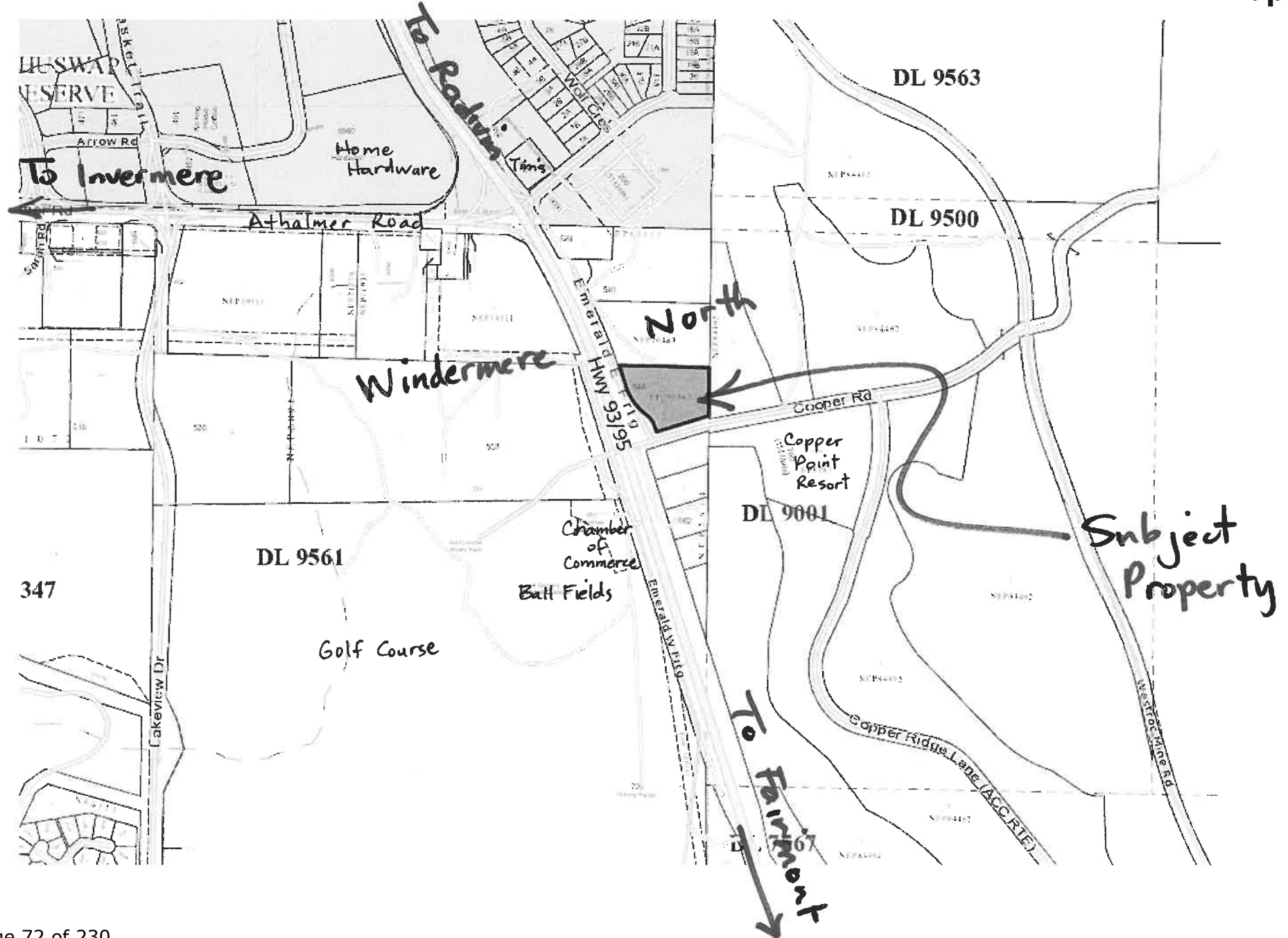
OCP Section 19.5(6)(b)(iii) – Building Form, Massing and Scale

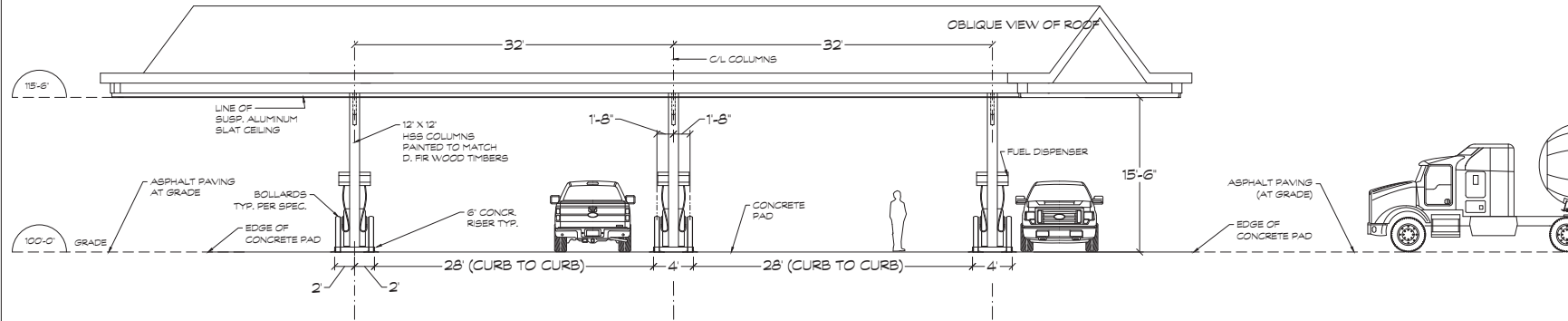
- Long expanses of unbroken or unarticulated roofline and continuous ridgelines are discouraged. Roofs that include architectural detail such as dormers are encouraged.

Attachments

- Location Map
- Original Canopy Structure Design
- 2019 Flat Roof Canopy Design
- 2020 Flat Roof Design with Architectural Detail

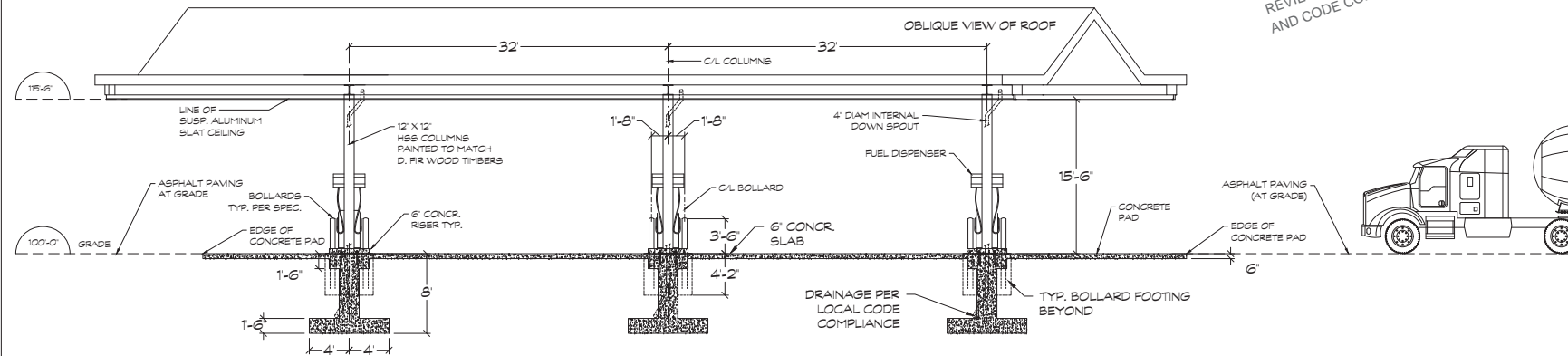
Location Map





1 ELEVATION - FUEL ISLANDS
A-1.06 SCALE: 3/16" = 1'-0"
ALL DIMENSIONS TO BE FIELD VERIFIED
REFER TO PLANS FOR LAYOUT DIMENSIONS

NOT FOR CONSTRUCTION
THIS DRAWING SET IS FOR
CLIENT AND CONSULTANT REVIEW
ONLY AND IS NOT INTENDED
FOR CONSTRUCTION
ALL DESIGN AND DETAILS ARE TO BE
REVIEWED BY APPLICABLE ENGINEER
AND CODE COMPLIANCE CONSULTANT



2 SECTION - FUEL ISLANDS
A-1.06 SCALE: 3/16" = 1'-0"
ALL DIMENSIONS TO BE FIELD VERIFIED
REFER TO PLANS FOR LAYOUT DIMENSIONS

Graham H. Gregory
Design Associates

141-1489 Marine Drive,
West Vancouver, BC V7T 1B8
Tel: 604-789-1962
ghg@ghgdesign.ca

General Notes:



ISSUE FOR
CONSULTANT
AND CLIENT
REVIEW

08		
08		
04		
08		
02	ISSUE FOR REVIEW	12-04-18
01	ISSUE FOR REVIEW	28-03-18
NO	DESCRIPTION	DATE

Project title
**CROSSROADS
ESSO
INVERMERE, BC**

Drawing title
**FUEL ISLAND
ELEVATIONS, SECTIONS**

Drawn by GHG
Designed by GHG
Approved by NWG
Phase Design Development
Date April 12, 2019
Project no. 100284GP
Drawing no.

A-1.06

A-1.06 / ELEVATIONS, SECTIONS - FUEL ISLANDS / IFR APR. 12, 2019 / CROSSROADS ESSO

19_ESSO INVERMERE-P22624_CPY02_R4

S:\1_CORP CUSTOMERS\ESSO\Projects\P22624 Invermere\03-Design\Art

Dec 2019 Canopy
DP 28-19 amendment refused



Ph. 250.426.8131 Fax 250.426.8852
421 Patterson St. W. Cranbrook, BC VIC 6T3
www.selkirksigns.com



Page: 1 of 1

Description

Custom Esso canopy

Client Approval

Quantity

1

Scale

Noted

Revisions

#1
Date: 10/31/19 - AD
Details: construction details,
logo placement

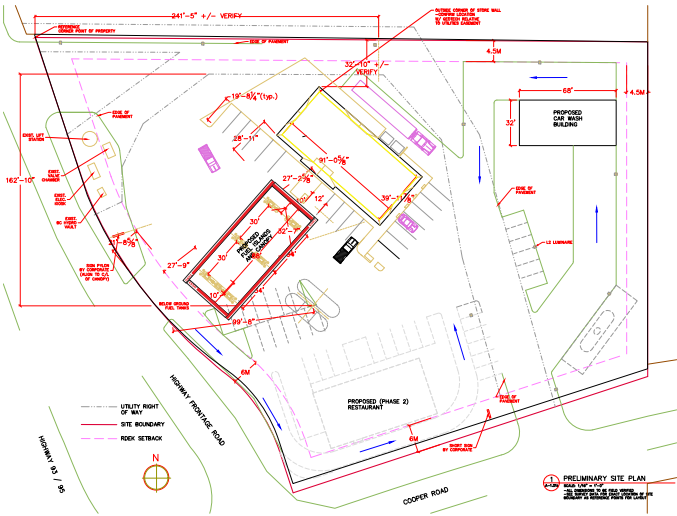
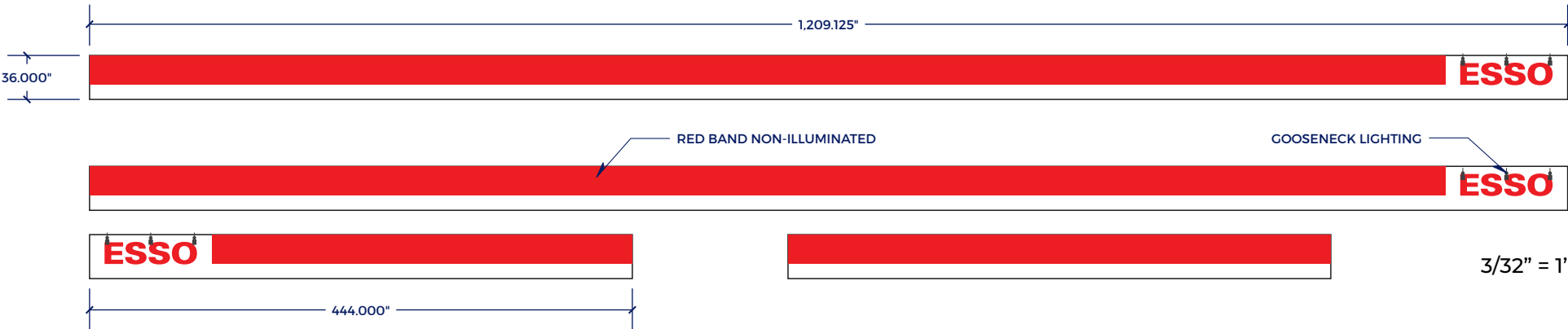
#2
Date:
Details:

- ☒ Single Sided
- ☐ Double Sided

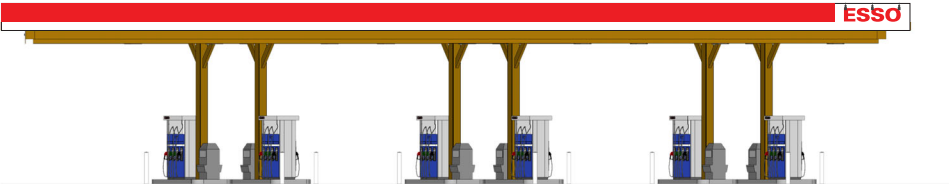
- ☐ Draft
- ☒ Concept Only
- ☐ Shop Ready

© Selkirk Signs & Services Ltd.
This design is the sole property of
Selkirk Signs & Services Ltd. and may
not be used, or duplicated in any form
without the express written permission
of Selkirk Signs & Services Ltd.

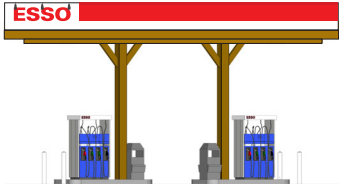
Perspective renditions in this drawing
are by the designer. Only approximate
sizes and perspectives of the signs
are being achieved.



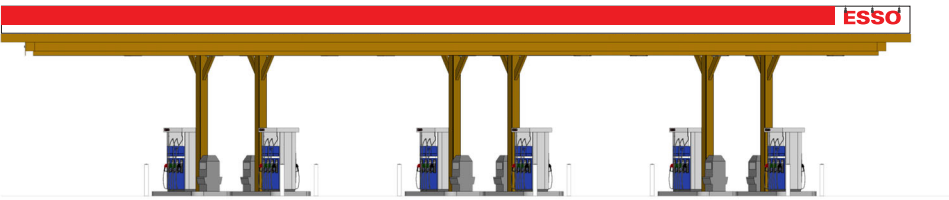
ESSO LOGO PLACEMENTS TBC



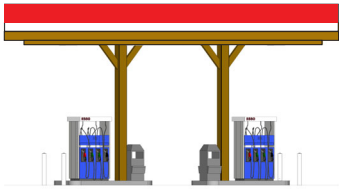
NORTH ELEVATION



WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION

3/64" = 1'

Customer: ESSO

Address: Invermere, BC

Project Manager: Patricia Whalen

Designer: AD

Date: 4/15/19

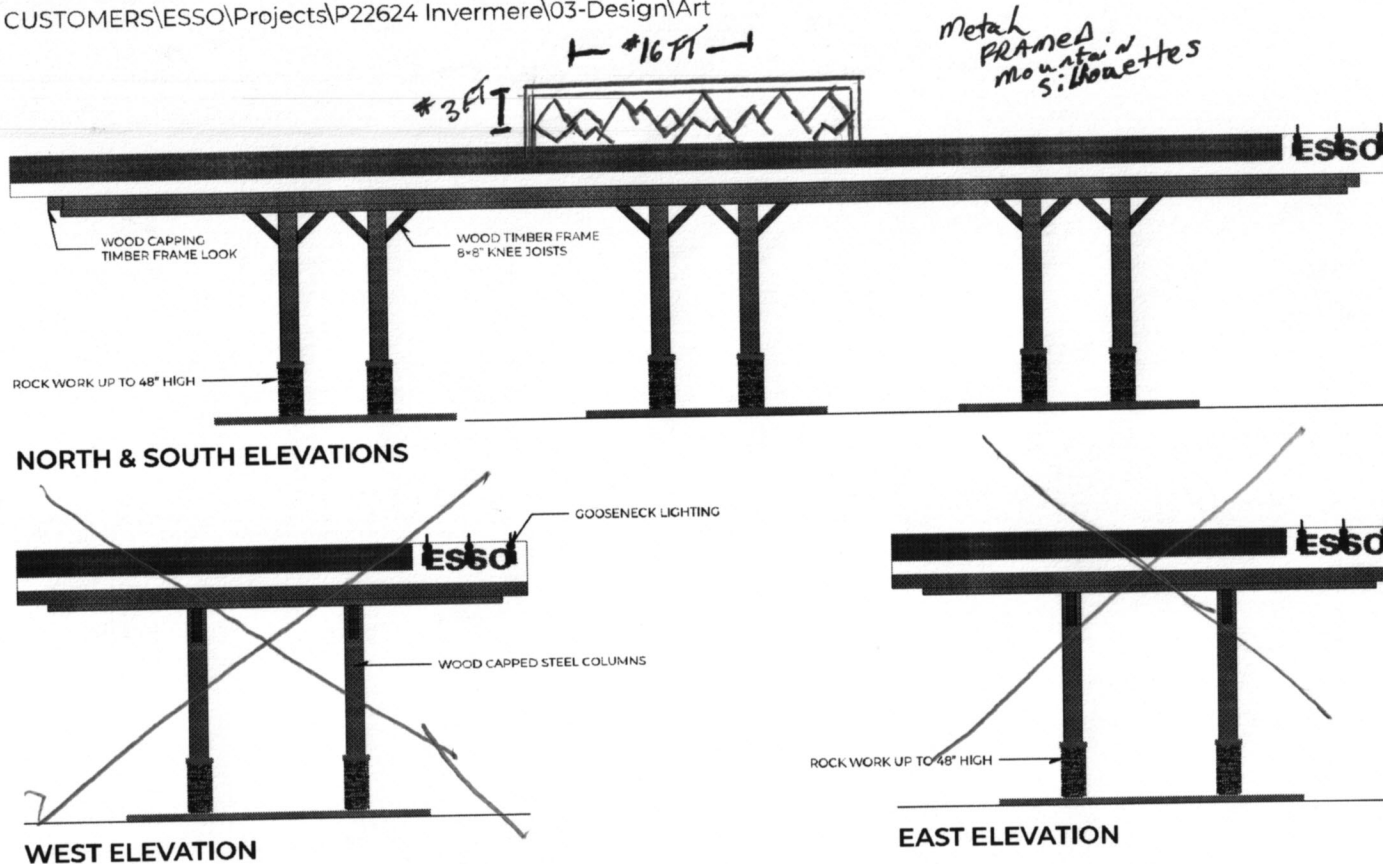
CANOPY - ESSO LOGO PANELS
ILLUMINATION: GOOSENECK LAMPS, NOT BACKLIT
LOGO: VACUUM FORMED GEMINI LETTERS GRAPHICS:
3630-33 RED
BACKER: 3MM WHITE ACM PANEL BENT BOX & PAN
ROCK WORK WILL COVER THE BOTTOM 4 FEET OF
EACH CANOPY COLUMN

CANOPY - RED BAND PANELS
ILLUMINATION: NON ILLUMINATED
GRAPHICS: ALPOLIC PRINTED RED FEF MITSUBISHI
BACKER: 3MM WHITE ACM PANEL BENT BOX & PAN

Jan 2020 Canopy Option 1 (mountain scene detail)

19_ESSO INVERMERE-P22624_CPY02_R8

S:\1_CORP CUSTOMERS\ESSO\Projects\P22624 Invermere\03-Design\Art



*metal
FRAMED
mountain
silhouettes*



PH: 250/426-8851 FAX: 250/426-8852
421 Patterson St. W. Cranbrook, BC V1C 6T3
www.selkirksigns.com



Page: 1 of 1

Description

Custom ESO canopy

Client Approval

Quantity

1

Scale

3/32" = 1'-0"

Revisions

#7
Date: 12/9/19 - AD
Details:

#8
Date: 12/12/19 - AD
Details:

- ☒ Single Sided
- ☐ Double Sided
- ☐ Draft
- ☒ Concept Only
- ☐ Shop Ready

© Selkirk Signs & Services Ltd.
This drawing is the sole property of
Selkirk Signs & Services Ltd. and may
not be used, or displayed in any form
without the express written permission
of Selkirk Signs & Services Ltd.

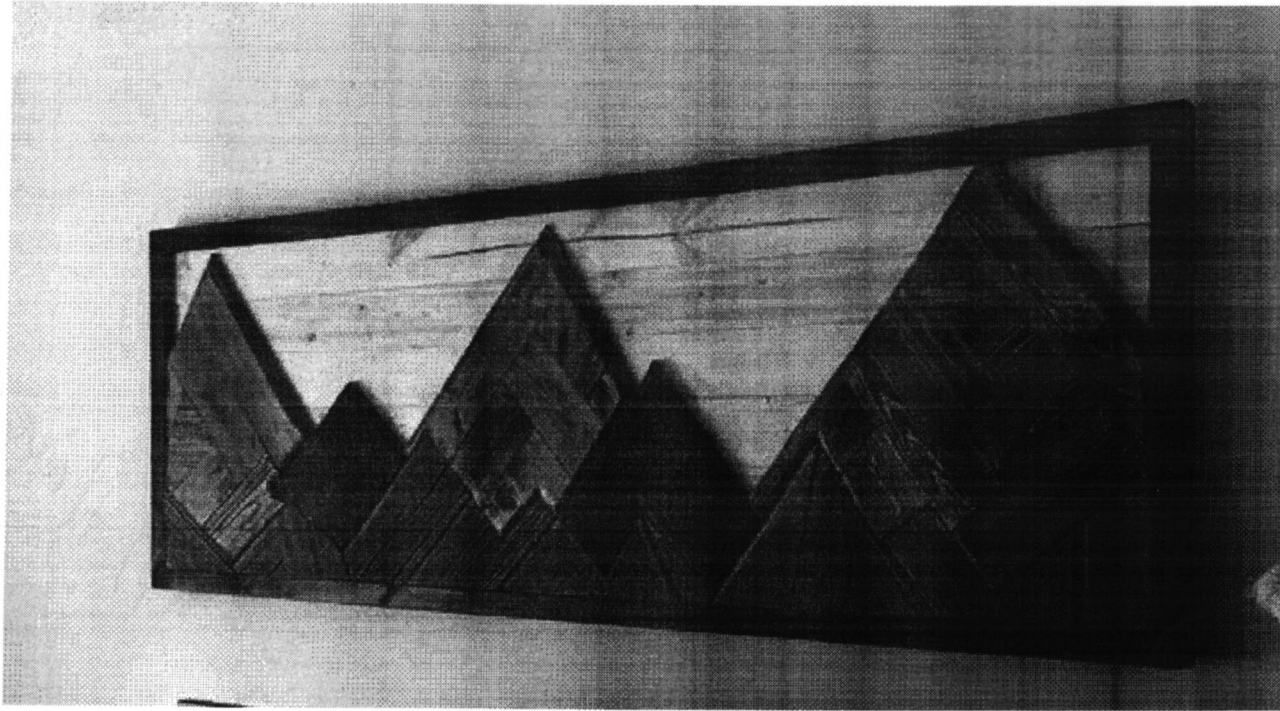
Perspective renderings in this drawing
are by the designer. Only approximate
size and proportions of the signs
are shown achieved.

Customer: ESSO Address: Invermere, BC Project Manager: Patricia Whalen Designer: AD Date: 4/15/19

CANOPY - ESSO LOGO PANELS
ILLUMINATION: GOOSENECK LAMPS, NOT BACKLIT
LOGO: VACUUM FORMED GEMINI LETTERS
GRAPHICS: 3630-33 RED
BACKER: 3MM WHITE ACM PANEL BENT BOX & PAN

CANOPY - ESSO LOGO PANELS
ILLUMINATION: NON ILLUMINATED
GRAPHICS: ALPOLIC PRINTED RED FEF MITSUBISHI
BACKER: 3MM WHITE ACM PANEL BENT BOX & PAN

NOTE - TIMBER FRAMING & STONE WORK BY OTHERS

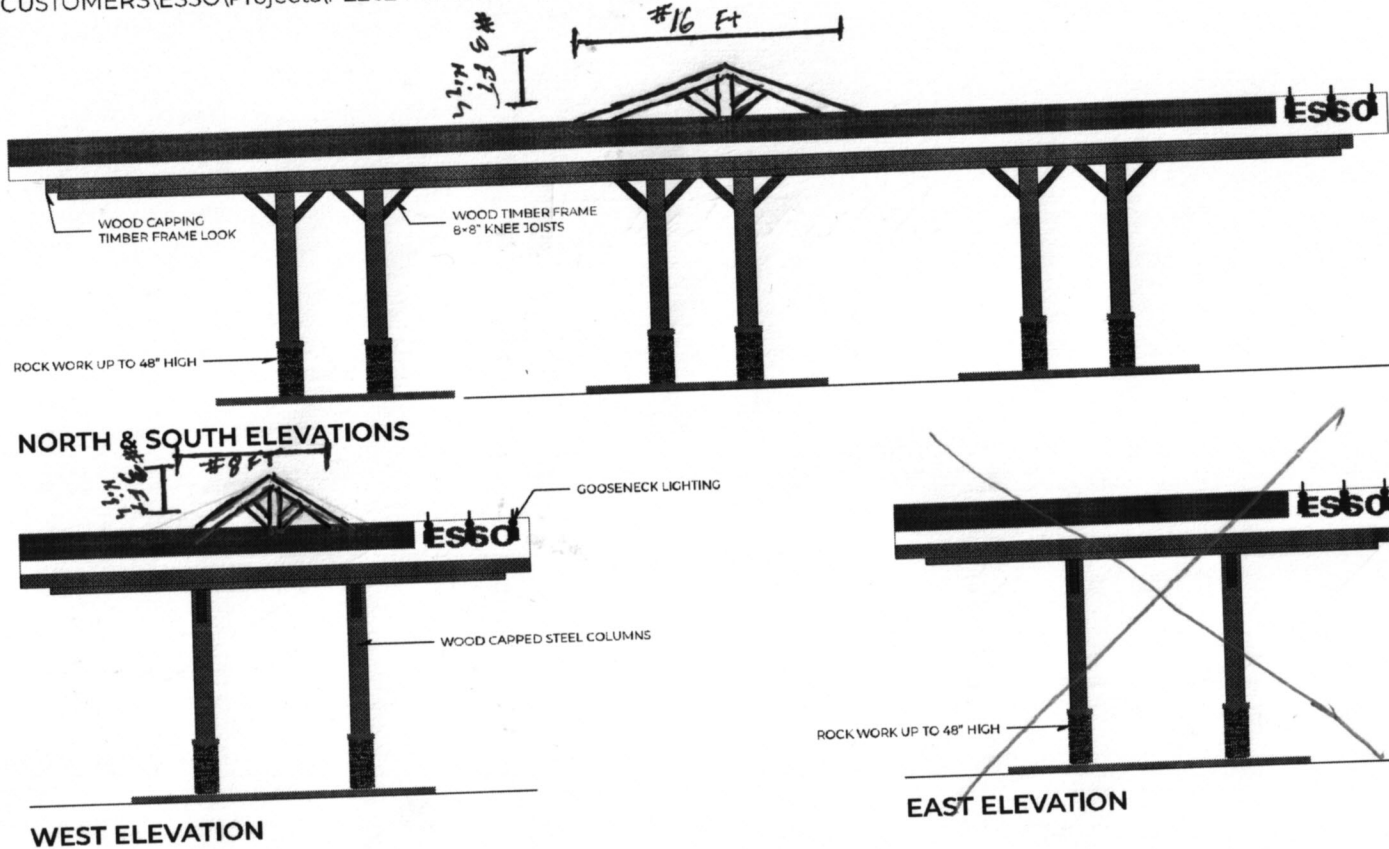


Jan 2020
Example of mountain scene style

Jan 2020 Canopy Option 2 (timber detail)

19_ESSO INVERMERE-P22624_CPY02_R8

S:\1_CORP CUSTOMERS\ESSO\Projects\P22624 Invermere\03-Design\Art



Customer: ESSO

Address: Invermere, BC

Project Manager: Patricia Whalen

Designer: AD

Date: 4/15/19

CANOPY - ESSO LOGO PANELS
ILLUMINATION: GOOSENECK LAMPS, NOT BACKLIT
LOGO: VACUUM FORMED GEMINI LETTERS
GRAPHICS: 3630-33 RED
BACKER: 3MM WHITE ACM PANEL BENT BOX & PAN

CANOPY - ESSO LOGO PANELS
ILLUMINATION: NON ILLUMINATED
GRAPHICS: ALPOLIC PRINTED RED FEF MITSUBISHI
BACKER: 3MM WHITE ACM PANEL BENT BOX & PAN

NOTE - TIMBER FRAMING & STONE WORK BY OTHERS



Ph: 250-426-8111 Fax: 250-426-8853
 421 Patterson St. W. Nanaimo, BC V1C 6T3
 www.selkirksigns.com



Page: 1 of 1

Description

Custom ESO canopy

Client Approval

Quantity

1

Scale

3/32" = 1'-0"

Revisions

#7
 Date: 12/9/19 - AD
 Details:

#8
 Date: 12/12/19 - AD
 Details:

- ☒ Single Sided
- ☐ Double Sided
- ☐ Draft
- ☒ Concept Only
- ☐ Shop Ready

© Selkirk Signs & Services Ltd.
 This drawing is the sole property of
 Selkirk Signs & Services Ltd. and may
 not be used, or replicated in any form
 without the express written permission
 of Selkirk Signs & Services Ltd.

Respective responsibilities in this drawing
 are by the designer. Only approximate
 sizes and perspectives of the signs
 are shown. All work.

Request for Decision

File No: P 719 536

Date January 3, 2020
Author Tracy Van de Wiel, Planning Technician 2
Subject Reconsideration for DP No. 44-19 – KGT Enterprises Ltd. / Windermere Esso

REQUEST

Reconsideration of Development Permit No. 44-19 requesting permission for an illuminated Esso station pylon-style sign.

OPTIONS

1. THAT Development Permit No. 44-19 (KGT Enterprises Ltd. / Windermere Esso) be granted.
2. THAT Development Permit No. 44-19 (KGT Enterprises Ltd. / Windermere Esso) be refused.

RECOMMENDATION

Option 2

The proposed pylon sign has been redesigned since it was last viewed by the Board and APC in December and is much improved from previous versions. It incorporates elements consistent with OCP guidelines and it reduces the backlit illumination areas to certain portions of the sign. However, development permit area guidelines for form and character for commercial development in the Lake Windermere area do not permit the use of any backlight or internally lit signs.

BACKGROUND

The applicants propose to construct a new Esso gas station and convenience store on their property located at 548 Highway 93/95 at the intersection with Copper Road. The RDEK issued Development Permit 28-19 for form and character for the convenience store and the gas bar canopy structure and a building permit for the convenience store in summer of 2019. In July 2019, the applicants submitted a Development Permit application for their signage and this application was refused because it did not comply with the zoning bylaw, the OCP, nor with Development Permit 28-19. The applicants resubmitted in September 2019, and this application was also refused, for similar reasons. Following this, the applicants resubmitted again and, although many elements of their development now comply with applicable regulations and guidelines (ie: signage size, timber frame and stone details on the structures etc), the applicants have requested special consideration from the RDEK to permit an internally illuminated pylon sign. Internal illumination is not permitted by OCP policies. OCP policy 19.5 (6)(e)(5) states that “the use of backlight or internally light signs is not permitted; however, halo light signs are appropriate”.

In accordance with Development Applications Bylaw No. 2300, the applicants are appealing the refusal of their Development Permit application.

At the December Committee meeting, this request was postponed one month and referred to the Advisory Planning Committee for comment. Following the discussion at the APC meeting, the applicants decided to change their sign plan to include a stone planter around the base and reduce the amount of requested illumination (see attached new plan).

ANALYSIS

The new design is much improved from previous versions however, general compliance with established guidelines ensures new development fits into the character of an area and with the community goals for design and aesthetics. To the extent that OCP development permit guidelines provide clear direction, they are intended to be applied.

The owners have cited several reasons for their reconsideration request including being on a level playing field with their 'internally lit' competitors, improved safety and security and better visibility across the frontage road from the highway for customers.

CONSULTATION

APC Areas F & G: Refusal recommended (Note: the APC reviewed a previous version of the proposed sign which didn't include the stone planter and it had more illumination).

SPECIFIC CONSIDERATIONS

Zoning Bylaw

Upper Columbia Valley Zoning Bylaw

Current Designation: C-3, Regional Commercial which permits a gasoline service station and retail store.

Sign regulations: The size and placement of the sign complies with the relevant regulations.

Official Community Plan

Lake Windermere Official Community Plan

Designation: C, Commercial

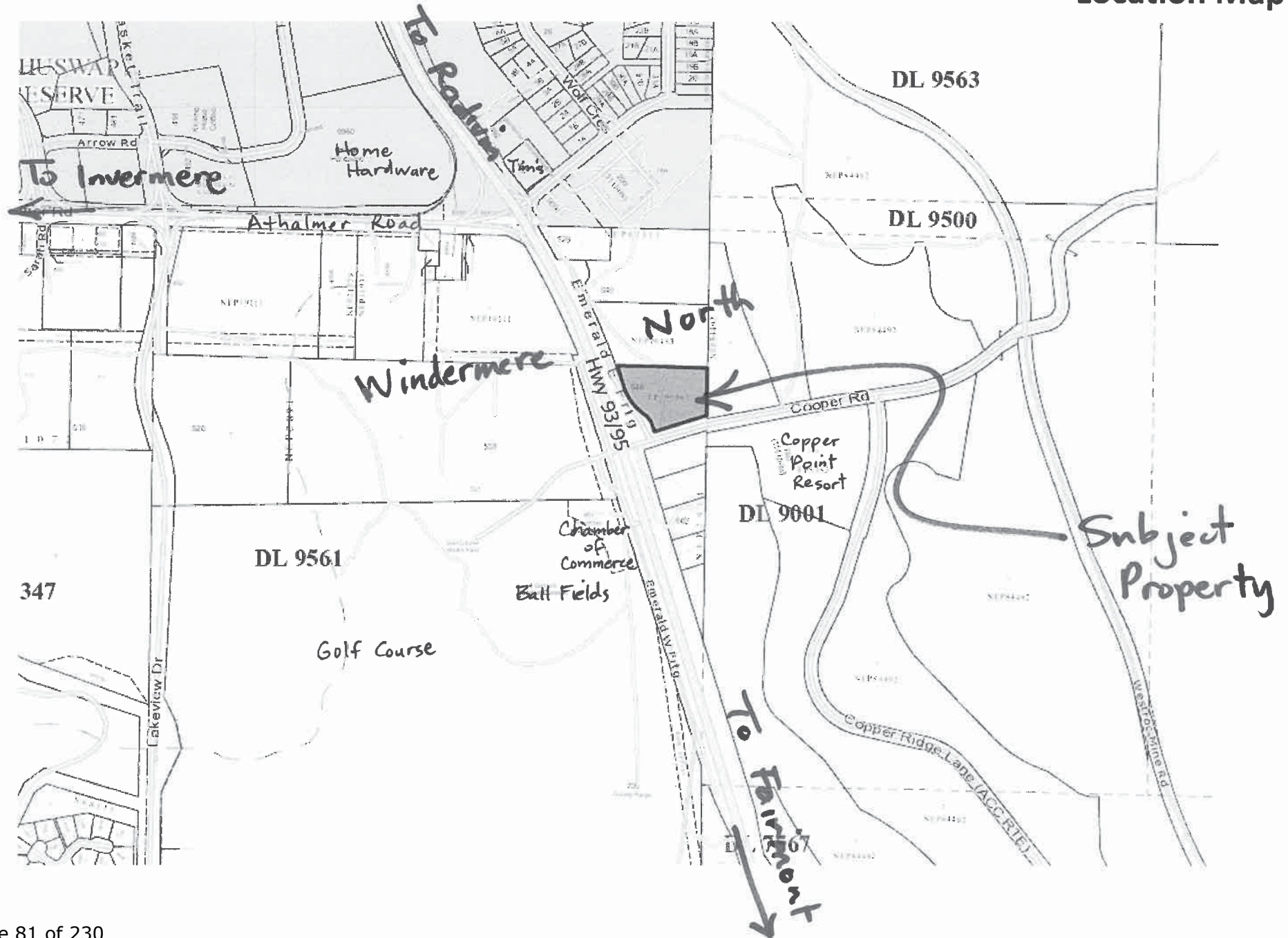
OCP Section 19.5(6)(e)(v) – Lighting

- The use of backlight or internally light signs is not permitted; however, halo light signs are appropriate.

Attachments

- Location Map
- New Pylon Sign Design

Location Map



19_ESSO_P22624_P01_R6

S:\1_CORP CUSTOMERS\ESSO\Projects\P22624 Invermere\03-Design\Art

DRAWING APPROVAL: _____
INVERMERE_ESSO_PYLON_REV6



**SELKIRK
SIGNS**
Ph. 250.489.3321 Fax 250.426.8852
421 Patterson St.W., Cranbrook, B.C. V1C 6T3
www.selkirksigns.com

MEMBER OF



Page: 1 of 1

Description
New non illuminated two pole pylon

Quantity 1

Scale
100%

Revisions
#5
Date: 12/9/19
Details: Non illuminated - CN
#6
Date: 12/10/19
Details: Crossroads to replace C-Store - CN

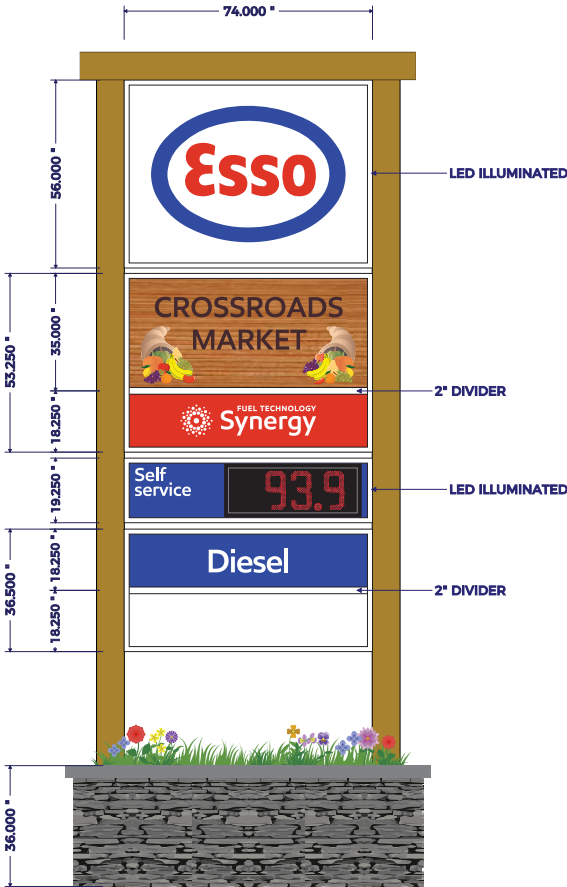
- ☐ Single Sided
- ☒ Double Sided
- ☐ Draft
- ☐ Concept Only
- ☒ Shop Ready

Client Approval

Signature: _____

Date: _____

© Selkirk Signs & Services Ltd.
This design is the sole property of Selkirk Signs & Services Ltd. and may not be used, or duplicated in any form without the express written permission of Selkirk Signs & Services Ltd.
Perspective renditions in this drawing are by the designer. Only approximate sizes and perspectives of the signs are being achieved.



ALL FACES ARE NON ILLUMINATED EXCEPT ESSO / PRICER

CUSTOMER: ESSO ADDRESS: 9480 JUNIPER HEIGHTS RD, INVERMERE PROJECT MANAGER: PATRICIA WHALEN DESIGNER: CN DATE: 7/ 4/ 19

CONSTRUCTION: PYLON FACES
ILLUMINATION: ESSO / PRICER ILLUMINATED ONLY
FRAME: WHITE EX7 FRAME W/ 2" DIVIDERS
SUBSTRATE: 4.5MM CLEAR ACRYSTEEL
GRAPHICS: SECOND SURFACE VINYL
PRICER: NEW 12" RED WIRELESS HYOCO
PRICER C/W ULTRA-DISTANCE RECEIVER

VINYL COLOURS:
□ 3630-20 WHITE VINYL
■ 3630-33 RED VINYL
■ 3630-97 BRISTOL BLUE VINYL

Date December 31, 2019
Author Krista Gilbert, Planning Technician
Subject Mine Referral – Teck Resources Ltd./ Coal Licence

BACKGROUND

Basic Overview: This referral was reviewed as a correspondence item by the Board of Directors at the December meeting, where additional information was requested. The additional information has been provided and attached to this report. The proposal is for two Coal Licences for an approximately 1325 ha area in order to expand geological and geotechnical understanding of the coal resource in the area. Proposed work in 2020 includes groundwater studies, archaeological and pre-disturbance environmental monitoring. No mechanical disturbance is proposed at this time.

INFORMATION

Access Road: The Elk River Forest Service Road runs adjacent to the southern portion of the subject area. An unnamed minor resource road also runs through the subject area.

Zoning Designation: The subject property is zoned RR-60, Rural Resource Zone in the Elk Valley Zoning Bylaw. This zone permits “extraction of sand and gravel, including grading, washing, screening, crushing and transporting of materials”.

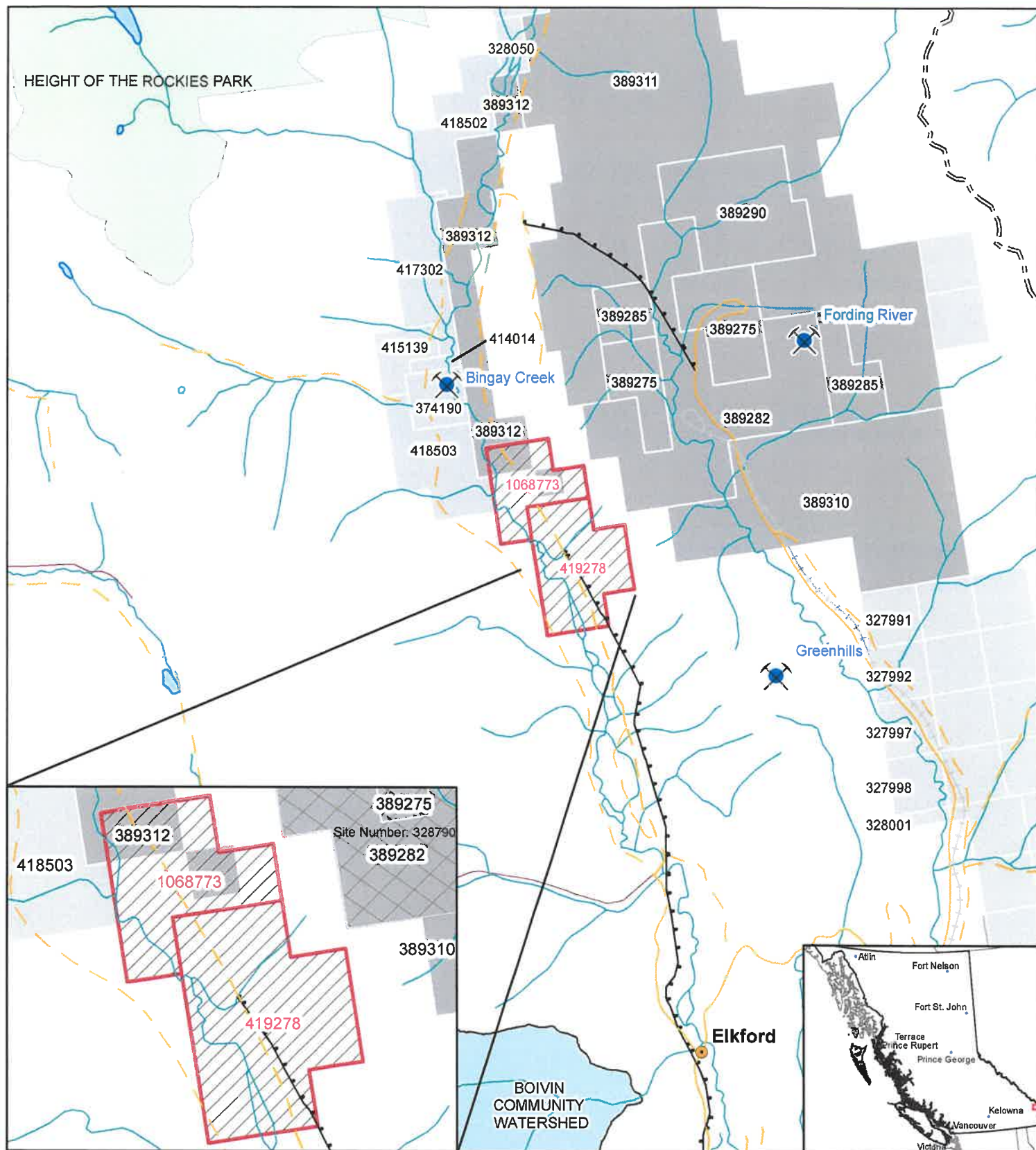
ALR Designation: The subject land is not within the ALR.

Nearest private land within the RDEK: There are several pieces of private property surrounding the subject area that are owned by Teck Resources Ltd. The nearest private land not owned by Teck Resources Ltd. is approximately 4.5 km to the southeast of the subject area, within the District of Elkford.

Nearest community: Elkford

Attachments:

- Map provided by Ministry
- Land Use Map
- Letter from Applicant
- Information on Coal Rights
- Email from Ministry with Requested Information



- Coal Licence Applications
- Coal Licences
- Coal Leases
- Major Mines

- Area of Interest
- Provincial Parks
- Community Watershed

1.5 0.75 0 1.5 3 Kilometres
1:150,000

Coal Licence Application Map

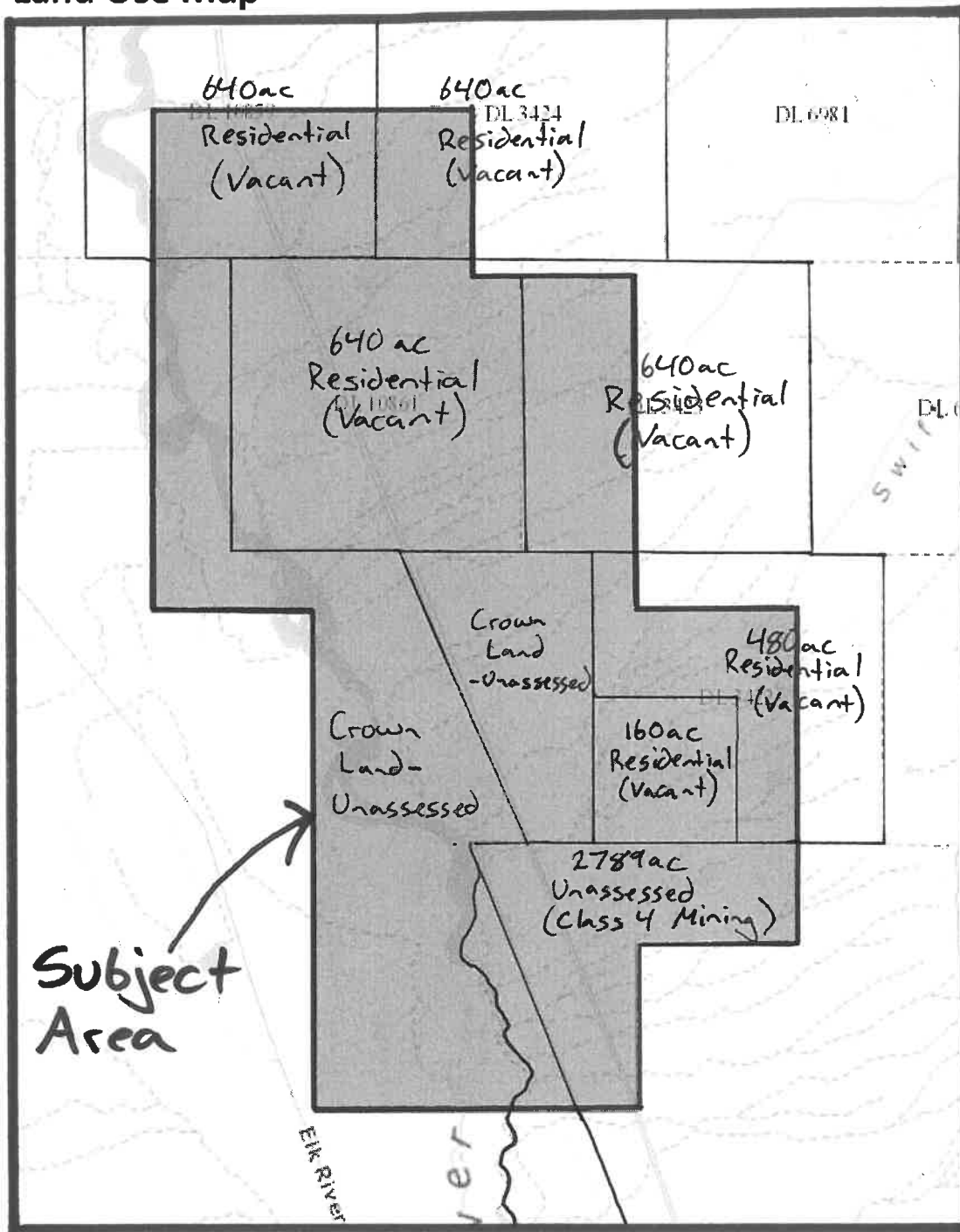
419278, 1068773

Page 84 of 230
Path: \\spatial\files\bcgov\work\enr\mining\coal\projects\coal\applications\13755-02-1041\mxd\CLA_419278_1068773_(8.5x11Portrait)_2019Dec17.mxd

CONFIDENTIAL
Intended for INTERNAL
purposes only

December 19, 2019
Projection: Albers
Datum: NAD83 - Data Source: BCGW
Mineral Titles - Ministry of Energy, Mines
and Petroleum Resources
FOR INFORMATIONAL PURPOSES ONLY
Please refer to Mineral Titles Online for the
latest information

Land Use Map





Teck Resources Limited
Suite 3300, 550 Burrard Street
Vancouver, B.C. Canada V6C 0B3
+1 604 699 4000 Tel
www.teck.com

October 8, 2019

Mrs Rhonda Marshall
Senior Advisor, Mineral and Coal Titles
Ministry of Energy, Mines and Petroleum Resources
300 – 865 Hornby Street
Vancouver, B.C. V6Z 2G3

Dear Rhonda,

Reference: Work Plan for Coal Licence Applications 419278 and 1068773

Teck Coal Limited ('Teck') is applying to the British Columbia Ministry of Energy, Mines and Petroleum Resources ('EMPR') for two coal licence applications (the 'Licences') located in proximity to Greenhills Operations ('GHO').

The Licences are a natural extension of Teck's fee simple and Crown coal holdings at GHO.

In 2018 and 2019, Teck conducted geological exploration and geotechnical drilling in the vicinity of the Licences. The addition of the Licences would allow Teck to expand geological and geotechnical understanding of the northern GHO coal resource.

The Licences would eventually be incorporated into an exploration program which would have an overall objective to clarify seam structure and confirm coal quality from drill-hole results. Additional objectives would be to determine geotechnical structure associated with future mine design and to aid in hydrology and water quality modelling.

Any work conducted on the Licences would be subject to an approved Mines Act application. Proposed work in 2020 would include groundwater studies, archaeological and pre-disturbance environmental monitoring. No mechanical disturbance is proposed at this time. Subsequent to the completion of these activities, it is possible that geotechnical drilling would be proposed in 2021 to aid in mine design associated with expansion plans at GHO.

Should you have any questions in respect of the foregoing, please do not hesitate to contact me via phone (+1 403 787 8507) or email (murray.chitwood@teck.com).



ADMINISTRATION OF PROVINCIAL COAL RIGHTS
MINISTRY OF ENERGY AND MINES
Mines and Mineral Resources Division, Mineral Titles Branch

In most areas of British Columbia, coal rights are held by the Province (Crown) and are administered by the Mineral Titles Branch of the Ministry of Energy and Mines. There are some exceptions where, as a result of historic land grants, coal rights are privately owned (Freehold). The Mineral Titles Branch administers the Provincial coal rights under the provisions of the *Coal Act* and Coal Act Regulations, and conveys rights to the resource through coal licences and coal leases.

A person may apply for a coal licence by submitting an application to the Chief Gold Commissioner, together with the application fee and the first year's annual rent. Before a coal licence is issued, a status of the coal rights is completed within the application area to determine whether the rights are privately held or held by the Province. If the status determines the coal rights are held by the Province, the application is referred to First Nations, local governments and government agencies for their review and comment. A licensee, under the *Coal Act* and licence, has the exclusive rights to explore for and develop Provincial coal resources on a licence location. A limited amount of coal can be produced from a coal licence, but for testing purposes only.

Even with a coal licence, the licensee is still required to obtain additional authorizations to proceed with any mechanized work on the ground. The licensee is required to obtain approval from the District Inspector of Mines prior to commencing any mechanized work on their coal licence. The District Inspector of Mines has an established referral and consultation process that must be completed prior to approving a work permit. This process includes referral to local governments and provincial agencies, and consultation with First Nations in the area and may coincide with the coal licence application referral. If exploration progresses to a point where a licensee wishes to produce more than the limit allowed on a coal licence, for testing purposes, the licensee would be required to convert their licence to a coal lease.

A person may apply for a coal lease by submitting an application to the Chief Gold Commissioner, together with the application fee and the first year's annual rent. The *Coal Act* and Regulations outline other information that is required to accompany the coal lease application. Coal lease applications are processed through the Mine Development Review (MDR) which also processes other authorizations for the mine. A coal lease application will not be processed until a MDR has been established. A lessee, under the *Coal Act* and coal lease, has the exclusive right to explore for, develop and produce coal on the lease location.

If you have any questions regarding the administration of provincial coal rights, please contact the Mineral Titles office at 1-866-616-4999 or Mineral.Titles@gov.bc.ca.

Krista Gilbert

From: Rhiannon Chippett
Sent: December 20, 2019 8:36 AM
To: Andrew McLeod; Krista Gilbert
Subject: FW: Reference: Teck Coal Licence Applications 419278 & 1068773
Attachments: gm-62661549E59F45E580160EB857603440.htm; MTA_ACQ_TE_polygon.dbf; MTA_ACQ_TE_polygon.prj; MTA_ACQ_TE_polygon.shp; MTA_ACQ_TE_polygon.shx; Map for RDEK.pdf

From: Marshall, Rhonda EMPR:EX <Rhonda.Marshall@gov.bc.ca>
Sent: December 19, 2019 5:09 PM
To: Rhiannon Chippett <rchipsett@rdek.bc.ca>
Subject: RE: Reference: Teck Coal Licence Applications 419278 & 1068773

Hello Rhiannon,

With respect to Andrew McLeod's questions below, my responses are in red. Please note that a coal licence, issued under the *Mineral Tenure Act*, does not authorize any mining activity, and that recorded holders are required to obtain a valid work permit, issued under the *Mines Act*, should a mining activity take place.

- Confirmation on whether the subject lands are within the Greenhills mine operation – **the coal licence applications are located in proximity to Greenhills Operations**
- Property assessment class of the subject lands – **you may request this information from BC Assessment**
- Property ownership – **our review of an application for acceptance is to ensure that the lands are consider coal lands, which they are; just prior to issuance we go into more depth for the coal holders, however, from my initial review, the Province and Teck are the property owners for the application area**
- A more detailed map clearly showing the location of the subject lands in relation to surrounding landmarks and municipalities – **attached to this email. I've also re-attached the shapefiles/kml in case you did not get these as part of the referral request.**
- Details on the water protection plans in place during the proposed examination of the subject lands – **these details would be provided upon an application for a work permit under the *Mines Act* and are not required for a coal licence application.**

Please let me know if you have any further questions.

Thank you,

Rhonda Marshall

Senior Advisor, Mineral and Coal Titles
Ministry of Energy, Mines and Petroleum Resources
300-865 Hornby Street, Vancouver, BC V6Z 2G3
Phone: 604-660-2670
Fax: 604-660-2653

Date December 31, 2019
Author Shannon Moskal, Corporate Officer
Subject Request for Reconsideration – City of Cranbrook Proposed Boundary Expansion

REQUEST

Director Gay would like the Board to reconsider support of the City of Cranbrook proposed boundary expansion and rescind Resolution No. 48853.

OPTIONS

1. THAT Resolution No. 48853 adopted on December 6, 2019, in support of the City of Cranbrook proposed boundary expansion, be rescinded.
2. THAT the City of Cranbrook be advised that the RDEK does not support the proposed 18.6 ha boundary expansion in the vicinity of 17th Street South as outlined in the November 14, 2019 correspondence from the City.
3. THAT the City of Cranbrook be advised that the RDEK supports the proposed 18.6 ha boundary expansion in the vicinity of 17th Street South as outlined in the November 14, 2019 correspondence from the City.

BACKGROUND/ANALYSIS

On December 6, 2019, the Board adopted Resolution No. 48853:

“THAT the City of Cranbrook be advised that the RDEK supports the proposed 18.6 ha boundary expansion in the vicinity of 17th Street South as outlined in the November 14, 2019 correspondence from the City.”

In accordance with Procedure Bylaw No. 2020, Director Gay would like the Board to rescind the above resolution (Option 1) and entertain a motion to not support the proposed boundary expansion (Option 2).

In support of this request, Director Gay has submitted the following comments:

- Rational for extension – From what Director Gay can gather via documentation and discussion, the only rational for this extension is from one owner who would like to subdivide their property.
- Existing available land base within City limits – Staff reports suggest capacity of 5000+/- dwelling units currently exist.
- Ministry guidelines:
 - “Generally, the Minister will not recommend a boundary extension to Cabinet if a majority of property owners within the proposed extension area object.” Director Gay advises that 15 of the 18 impacted property owners do not support the proposed expansion. 83% opposed.

- “An exception may be made where overriding provincial or local issues exist, such as resolving public health concerns or environmental protection issues.” To Director Gay’s knowledge, there are no public health concerns (wells and septic systems are working fine) nor do any environmental protection issues exist.

In summary, Director Gay is not in support of the City of Cranbrook proposed boundary expansion at this time. In his view no sound rationale exists, by its own figures the City has more than ample room to develop and grow, and Provincial guidelines will not be met.

Attachment:

- November 19, 2019 Staff Report

Date November 19, 2019
Author Andrew McLeod, Planning & Development Services Manager
Subject City of Cranbrook – Proposed Boundary Expansion

REQUEST

Consider a proposed boundary expansion by the City of Cranbrook.

OPTIONS

1. THAT the City of Cranbrook be advised that the RDEK supports the proposed 18.6 ha boundary expansion in the vicinity of 17th Street South as outlined in the November 14, 2019 correspondence from the City.
2. THAT the City of Cranbrook be advised that the RDEK does not support the proposed 18.6 ha boundary expansion in the vicinity of 17th Street South as outlined in November 14, 2019 correspondence from the City.

RECOMMENDATION

Option 1.

The proposal is consistent with the Rockyview Official Community Plan.

BACKGROUND/ANALYSIS

The attached correspondence was received from the City regarding a proposed boundary expansion in the South Hill area. The RDEK OCP for the area encourages larger scale block-by-block annexations, as opposed to small individual parcels, in order to facilitate better infrastructure planning by the City and provide greater predictability about future development for Area C landowners.

As noted in the information received from the City, there are abundant residential development opportunities available on underutilized lands within the existing municipal boundary. However, the proposed boundary expansion area is a logical extension to existing development patterns and urban densification in this area, if the impacted landowners support it. The City is responsible for conducting the required consultation with the landowners.

SPECIFIC CONSIDERATIONS

Official Community Plan

Rockyview OCP Section 19.3 (2) (a) states:

To provide opportunities for comprehensive long-term subdivision and servicing planning, municipal boundary expansions should occur on a large parcel or block level rather than on an individual small parcel basis.

RECEIVED

NOV 18 2019

Regional District of
East Kootenay



November 14, 2019

Our File No: 6630.02

Shawn Tomlin, CAO
Regional District of East Kootenay
19 – 24 Avenue South
Cranbrook, BC
V1C 3H8

Re: Proposed City of Cranbrook Boundary Expansion

The City of Cranbrook is considering a request by a landowner to incorporate property located on 17th Street South within the City of Cranbrook. At the October 28, 2019 Council meeting, Council passed a resolution to proceed with an application to the Province for an 18.6 ha boundary expansion as shown on the attached map. As part of the application process the City is seeking the Regional Districts comments which will form part of the application to the Province.

The proposed boundary will provide a contiguous area of land which meets the Provincial technical criteria. A copy of the complete staff report to Council is attached for your reference.

Please provide comments or concerns to myself by **December 15, 2019**. You can contact me if you have any other questions at (250) 489-0241.

Regards,

Rob Veg, MCIP, RPP
Manager of Planning

RV/rv
Enclosure



MOUNTAINS OF OPPORTUNITY

CRANBROOK

COUNCIL REPORT

FILE NO. 3370.20

Regular Council - 28 Oct 2019

TITLE: Proposed Municipal Boundary Extension - 17th Street South

PREPARED BY: Rob Veg

DEPARTMENT: Office of Innovation and Collaboration

PURPOSE: To consider a request for municipal boundary extension and authorize staff to proceed with a municipal boundary extension proposal to the Ministry of Municipal Affairs and Housing for consideration.

RECOMMENDED BY: Staff

THAT Council approve the City of Cranbrook proceed with the proposed 18.6 ha boundary expansion proposal as shown on the attached map; and further, that staff be authorized to develop, sign, and submit the proposal to the Ministry of Municipal Affairs and Housing.

BACKGROUND INFORMATION:

A request has been made by the owners of Lot 5, District Lot 3911, Kootenay District Plan 6277 for a municipal boundary extension to include their 2.0 ha (5.0 ac) property into the City of Cranbrook. In consideration of the request, a potential boundary extension option is described below for consideration should Council wish to proceed with an application to the Province.

Proposed Municipal Boundary Extension Option

The proposal would include an extension of the City's boundary to incorporate a block of land, including the requested property, which are contiguous with the existing city boundary. The block includes approximately 18 parcels totaling 18.67 ha (46 acres) comprised of nine – 5+/- acre parcels and a cul-de-sac of nine - 0.5+/- acres residential lots. As its generally a requirement to also assume responsibility of the fronting roads, the proposal also includes 1.2 km of rural roads the City would be responsible for.

OCP Comments

The general area has been identified within the City's Official Community Plan as an area for potential expansion however detailed growth analysis was not used to identify the areas but rather they were identified based on technical factors such as potential for services, topography and proximity to transportation corridors and networks. Factors not included were things like owner willingness to be incorporated. In addition to the above, in 2013 the City adopted criteria for review of boundary extension requests. The criteria are as follows:

- (i) Existing available land base within City limits;
- (ii) Current and proposed land use and/or development intentions and commitments;
- (iii) Compatibility with adjacent land uses;
- (iv) Proximity and availability of municipal water, sewer and stormwater services and/or required servicing extensions, including consideration of servicing and infrastructure capacity to accept additional loads on the systems;

- (v) Road access;
- (vi) Impacts to City operations and maintenance, including but not limited to fire protection and road maintenance;
- (vii) Short and long term cost and benefit implications with respect to the City's Five Year Financial Plan and capital infrastructure operations and maintenance;
- (viii) Agricultural Land Reserve status and agricultural potential of property;
- (ix) Consideration of the criteria in the Ministry of Community and Rural Development "Municipal Boundary Extension Process Guide".

OCP policies and Provincial guidelines support expansion to include larger parcels or block rather than parcels on an individual basis. This is to support more efficient use of land and City infrastructure and provide for long-term development planning.

Analysis

With respect to the proposal in relation to the OCP's policy the following is presented for Council's consideration:

- There is a significant land base within the City limits which has potential for development however many factors affect their potential development. A cursory review by staff in 2016 found that the existing land base (not taking into account other factors) within the City limits has the capacity to support approximately 5000+ dwelling units (includes Wildstone and River's Crossing). Factors affecting development include availability of services, development costs, willingness of owners, market conditions, etc.
- The current proposal would facilitate subdivision of the applicants' property; however, no proposals or development intentions have been expressed by the remaining landowners to date. Through consultation more information may become available.
- The proposal expansion area does have the potential for municipal services; however, it is not known whether landowners would be willing to pay for services should the properties be incorporated. If not, the potential for requests for the City to install services at the City's expense exists.
- All properties would be served by a public road which would become the responsibility of the City.
- Potential impacts to City operations includes 18 new properties which will require garbage pick-up and snow removal and capital costs for road maintenance for the newly acquired roads. Potential also exists for the costs of servicing the parcels in the future be borne by the City similar to the Pinecrest subdivision. The properties currently have fire service coverage.
- Should Council wish to proceed and the expansion approved by the Province, there is potential for new single family lots to be developed; however, until consultation is complete no additional development plans are known at this time.
- Financial implications to City resulting from the expansion would be that the newly incorporated lots would be paying City of Cranbrook tax rates. Initial review in 2016 indicated that the taxes would significantly increase including almost double for some of the properties. This could be a detriment to gaining support from the landowners in the expansion area.
- Larger, contiguous blocks adjacent to existing City boundary is consistent with technical guidelines of the Province. The proposed area is adjacent to existing City boundaries.

2016 Public Consultation Results

In November 2016 staff held an open house to consult with the potentially affected property owners for a slightly smaller proposed extension area (new area now has 5 additional properties). The sentiment expressed at the open house was of no interest from the property owners to be annexed into the City and was supported by a petition signed by the landowners not supporting incorporation. Since then, no other interest has been brought to the City's attention from any of the property owners.

It is noted that the Provincial “Municipal Boundary Extension Process Guide” states that “*generally, the Minister will not recommend a boundary extension to Cabinet if a majority of property owners within the proposed extension area object. An exception may be made where overriding provincial or local interest exists, such as resolving public health concerns or environmental protection issues.*”

Next Steps

In order to proceed, a resolution of support to move forward with proposal development must be adopted and additional work is required in order to meet the Provincial submission requirements for their initial consideration.

In addition to the public consultation work that was done in 2016, the City will have to re-consult with the original land owners and the newly added property owners via mail and an open house. The City is also required to conduct intergovernmental consultation (RDEK, First Nations, MOTI) and have their comments included before the City can submit a package to the Provincial Ministry for initial consideration.

ALTERNATIVE:

Not proceed with a proposed municipal boundary extension proposal.

BUDGETARY IMPACT:

Costs associated with required public consultation, and if the Province approves the proposal, costs associated to seek Electoral Approval through an Alternative Approval Process (AAP) or vote.

POLICY IMPLICATION:

Nil

ATTACHMENTS:

[Boundary Extension Proposal](#)

Approved By:

Marnie Dueck, City Clerk
Ron Fraser CAO, Acting Chief Administrative Officer

Status:

Approved - 24 Oct 2019
Approved - 24 Oct 2019

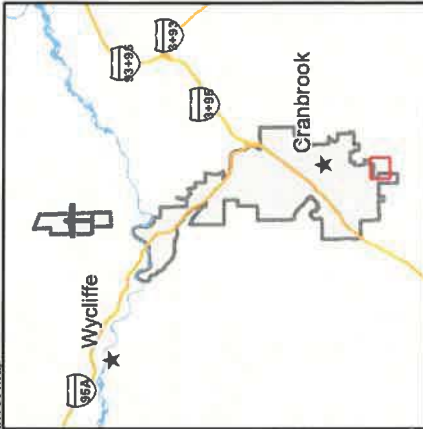
Proposed Boundary Expansion



Legend

- Proposed Boundary Expansion
- Proposed Boundary Expansion
- Roads included in expansion

Inset Map



Area of Interest

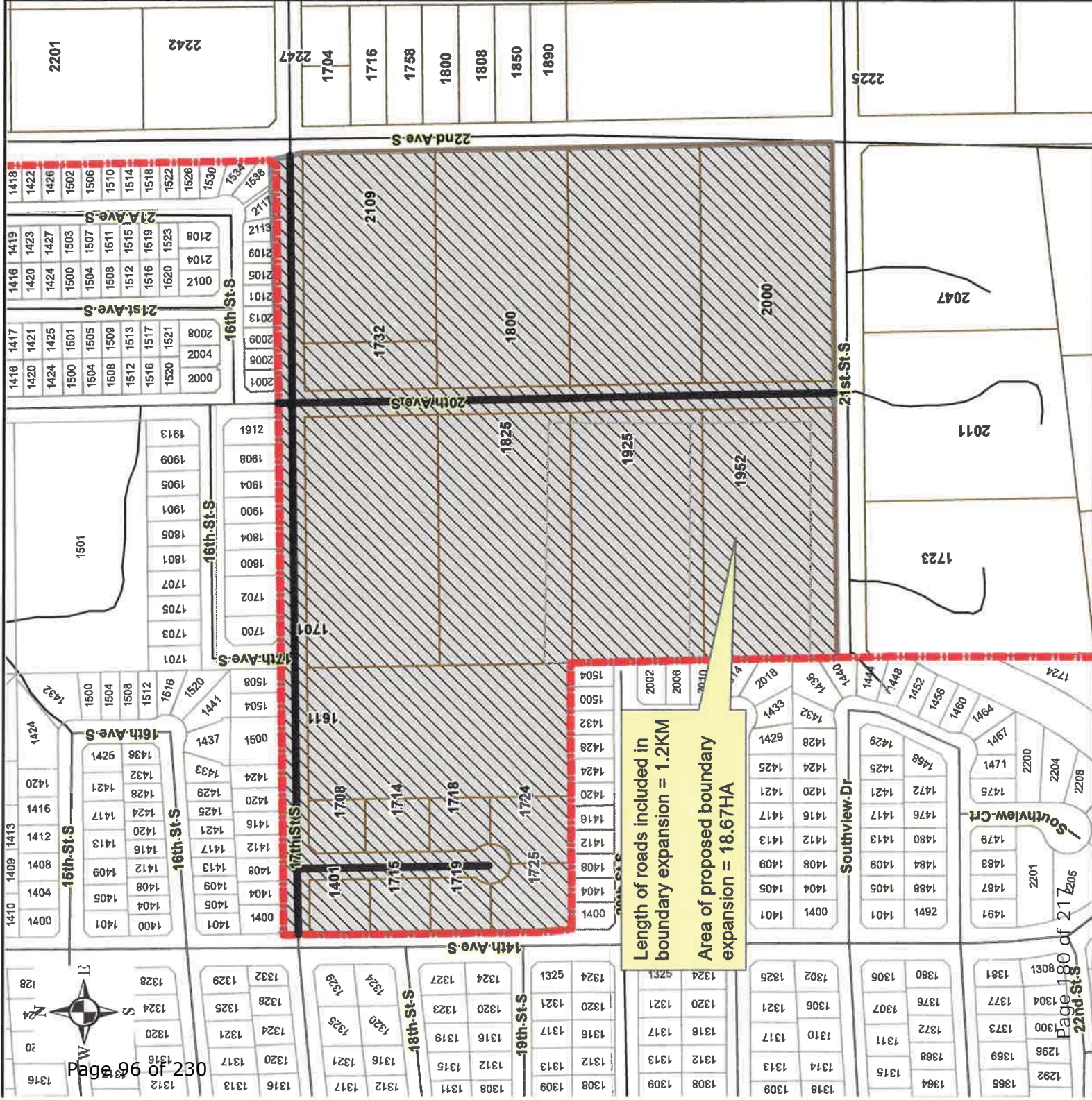
1:4,000

0 20 40 80 120 160 Meters

Projection: UTM ZONE 11N NAD 83

DISCLAIMER:
This map is for general purposes only. The City of Cranbrook makes no warranties regarding the accuracy of the suitability of the map for any purpose. This map is not for navigation or legal purposes. The City of Cranbrook will not be liable for any damage, loss or injury resulting from the use of the map or information on the map and the map may be changed at any time.

Date: August 29, 2019



Request for Decision Bylaw Amendment Application

File No: P 719 551
Reference: Bylaw No. 2966 & 2967
Date: December 23, 2019

Subject: Bylaw No. 2966 & 2967 (Fairmont / FHSR)
Applicant: Fairmont Hot Springs Resort Ltd.
Agent: Richard Haworth
Location: 5060 & 5062 Hot Springs Road in Fairmont Hot Springs
Legal: Portions of Lot 4, DL 18, 46 & 4596, KD, Plan NEP20033
(PID: 017-935-920)

Proposal: To amend the OCP and zoning designations to permit multi-family dwellings and to recognize the current use of a portion of the property as part of the existing golf course.

Development Agreement: None.

Options:

1. THAT Bylaw No. 2966 cited as “Regional District of East Kootenay – Fairmont Hot Springs & Columbia Lake Area Official Community Plan Bylaw No. 2779, 2017 – Amendment Bylaw No. 5, 2019 (Fairmont / FHSR)” be introduced.
2. THAT Bylaw No. 2967 cited as “Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 357, 2019 (Fairmont / FHSR)” be introduced.
3. THAT Bylaw No. 2966 cited as “Regional District of East Kootenay – Fairmont Hot Springs & Columbia Lake Area Official Community Plan Bylaw No. 2779, 2017 – Amendment Bylaw No. 5, 2019 (Fairmont / FHSR)” not proceed.
4. THAT Bylaw No. 2967 cited as “Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 357, 2019 (Fairmont / FHSR)” not proceed.

Recommendation: **Options #1 & #2**
Development of the subject site as proposed will add residential density and help provide a range of housing options within the community as well as contribute to the build out of the Resort.

Property Information: **Current OCP Designation:** R-SF, Residential Low Density includes single family residential subdivisions, duplexes and zoning that supports secondary suites.

**Property
Information –
cont'd:**

Proposed OCP Designation: RES-MU, Resort Mixed Use supports a variety of land uses including resort recreation, commercial accommodation, general commercial, multi-family residential and similar types of development.

OCP Policies:

- Except where otherwise noted, new residential development is generally directed to existing development nodes within the Fairmont Hot Springs subarea. Rural subdivision is generally not supported.
- New subdivisions of single family or greater density should be serviced by community water and sewer systems.
- Bylaw amendment applications for residential development should address the following:
 - a) compatibility of the proposed development with surrounding land uses, parcel sizes, local rural character and lifestyle;
 - b) access and proposed internal road networks;
 - c) demonstrate the use of Conservation Subdivision Design principles such as:
 - identify and establishing buffers from features such as riparian areas, wetlands, Class 1 ungulate winter range, wildlife corridors, wildlife habitat areas, natural hazard areas, woodlands and agricultural land;
 - clustering development into nodes of smaller lots in order to preserve larger contiguous environmentally sensitive areas and agricultural zones; and
 - utilizing compact neighbourhood design with dwelling units built in close proximity to each other to minimize the overall development footprint and required infrastructure.
 - integrate FireSmart principles.
- A mix of residential densities is supported in the Fairmont Hot Springs subarea.

Current Zoning:

EH-1, Employee Housing Zone, minimum parcel size of 1670 m²
RES-4, Resort Core Zone, no minimum parcel size requirement
R-2, Two Family Residential Zone, minimum parcel size of 700 m²

Proposed Zoning:

RES-2, Resort Recreation Zone, minimum parcel size of 0.5 ha
RES-3, Resort Lodge Zone, minimum parcel size of 0.5 ha
RES-4, Resort Core Zone, no minimum parcel size requirement

Parcel Size:

4.4 ha (10.9 ac)

Density:

Existing: 2 single family dwellings

**Property
Information –
cont'd:**

If the property was developed to the maximum potential under the current zone designations, it could permit the following:

- a) up to 12.5 employee housing dwelling units in the EH-1 zone, or
- b) 1 duplex in the R-2 zone or,
- c) A variety of dwelling unit types both residential and commercial, up to a maximum floor area ratio* of 3.5 on the RES-4 zoned portion of the lot (1.07 ha).

Proposed: The application includes a conceptual development sketch for the site which shows 31 dwelling units in multi-family style buildings such as fourplexes.

Potential: If the proposed zone designations are approved, they could permit:

- a) up to 60 dwelling units per gross hectare of useable site area within the proposed RES-3 zone (which calculates to approximately 110 +/- new dwelling units) and/or,
- b) A variety of dwelling types both residential and commercial on the 0.36 ha portion of RES-4, up to a maximum floor area ratio* of 3.5.

*Floor area ratio is the figure obtained when the gross floor area of all buildings on a parcel is divided by the area of the parcel).

ALR Status: Not within the ALR

Interface Fire Hazard Rating: Low, within the Fairmont Hot Springs fire service area

BC Assessment: Business / Other (Recreation)

Water and Sewer Services: Fairmont Hot Springs Water Utility and Fairmont Hot Springs Sewer Services

**Professional
Studies:**

None

**Additional
Information:**

- There are currently two dwellings and a barn on the property. A portion of the existing golf course extends onto the property as well. The application states that the dwellings will be removed prior to development and the RES-2 zone will accommodate the existing golf course portion.
- All future multi-family development within the proposed RES-3 zone must be serviced by the Fairmont community water and sewer systems.
- The agent has indicated that there are no plans to develop the RES-4 zoned lands since this land is the access road to the resort's maintenance yard. The agent said the owner chose to rezone this portion to RES-4 simply because that's the same zone as the adjoining parcel to the north.

**Additional
Information –
cont'd:**

- The property to the north of the subject site is zoned to permit future development of employee housing.

Consultation:

Advisory Planning Commission:

APC Areas F & G: Support recommended

Referral Agencies:

- **Interior Health Authority:** Interests unaffected
- **Transportation & Infrastructure:** Interests unaffected
- **Environment:** A Qualified Professional should assess the site for species at risk, wildlife habitat features (e.g., nest trees), and develop mitigation measures to minimize development impacts on wildlife and habitat. Any fencing must be wildlife friendly:
 - Number 4 top wire 38-40 inches on slope to a max of 40 inches
 - Number 3 wire 30-32 inches
 - Number 2 wire 24-26 inches
 - Number 1 wire 18-20 inches except in areas with depressions use 15-18 inches
- **Ktunaxa Nation Council:** A 'Preliminary Field Reconnaissance' should be completed due to the proximity to the hot spring and the fact that no AOA's were ever done on the property.
- **Akisqnuk First Nation:** No response
- **Shuswap Indian Band:** No response
- **School District No. 6:** No response
- **Telus:** No response

**Documents
Attached:**

- Bylaws
- Location Map
- Land Use Map
- Proposal
- Conceptual Development Sketch from applicant

**RDEK
Contact:**

Tracy Van de Wiel, Planning Technician
Phone: 250-489-0306
Email: tvandewiel@rdek.bc.ca

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2966

A bylaw to amend Bylaw No. 2779 cited as "Regional District of East Kootenay – Fairmont Hot Springs & Columbia Lake Area Official Community Plan Bylaw No. 2779, 2017."

WHEREAS the Board of the Regional District of East Kootenay has received an application to amend Bylaw No. 2779;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Regional District of East Kootenay – Fairmont Hot Springs & Columbia Lake Area Official Community Plan Bylaw No. 2779, 2017 - Amendment Bylaw No. 5, 2019 (Fairmont / FHSR)."
2. The designation of part of Lot 4, District Lots 18, 46 & 4596, Kootenay District, Plan NEP20033, outlined on the attached Schedule A, which is incorporated in and forms part of this Bylaw, is amended from R-SF, Residential Low Density to RES-MU, Resort Mixed Use.

READ A FIRST TIME the day of , 2019.

READ A SECOND TIME the day of , 2019.

READ A THIRD TIME the day of , 2019.

ADOPTED the day of , 2019.

CHAIR

CORPORATE OFFICER

NEPX

R-SF
to
RES-MU

NEP20033

NEP20033

NEP17735

NES117

Date _____

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2967

A bylaw to amend Bylaw No. 900 cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992."

WHEREAS the Board of the Regional District of East Kootenay has received an application to amend Bylaw No. 900;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 357, 2019 (Fairmont / FHSR)."
2. The designation of parts of Lot 4, District Lots 18, 46 & 4596, Kootenay District, Plan NEP20033, outlined on the attached Schedule A, which is incorporated in and forms part of this Bylaw, is amended from EH-1, Employee Housing Zone, RES-4, Resort Core Zone and R-2, Two Family Residential Zone, to RES-2, Resort Recreation Zone, RES-3, Resort Lodge Zone, and RES-4, Resort Core Zone.

READ A FIRST TIME the day of , 2019.

READ A SECOND TIME the day of , 2019.

READ A THIRD TIME the day of , 2019.

APPROVED by the Ministry of Transportation and Infrastructure the day of , 2019.

Signature: _____

Print Name: _____

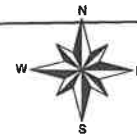
ADOPTED the day of , 2019.

CHAIR

CORPORATE OFFICER

NEP6103

SCHEDULE A



NEP18183

108

NEPX32

EH-1
to
RES-4

RES-4
to
RES-3

R-2
to
RES-2

R-2
to
RES-3

This is Schedule A referred to in Bylaw No. 2967 cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 357, 2019 (Fairmont / FHSR)."

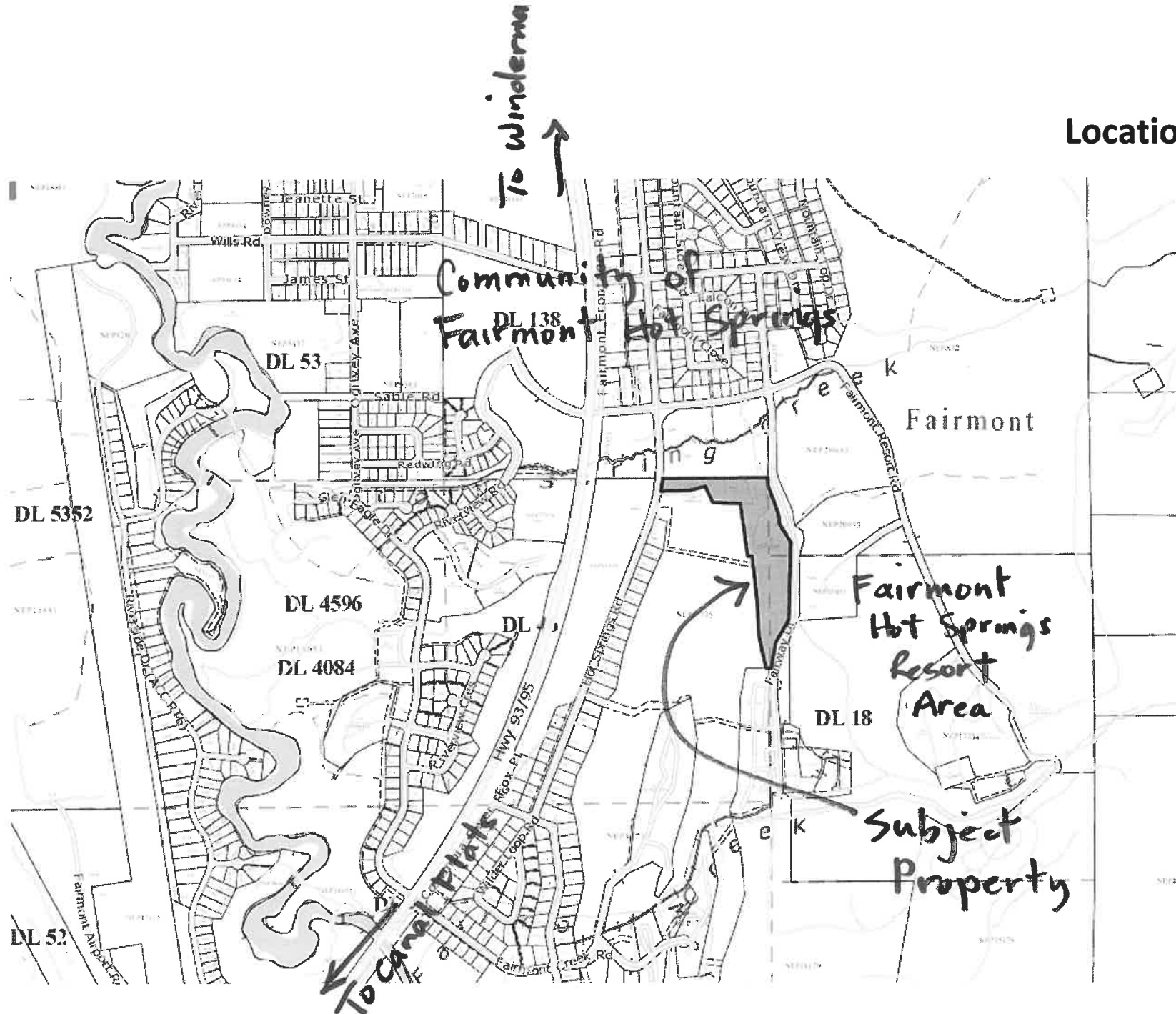
Chair

Corporate Officer

Date

NEP14614

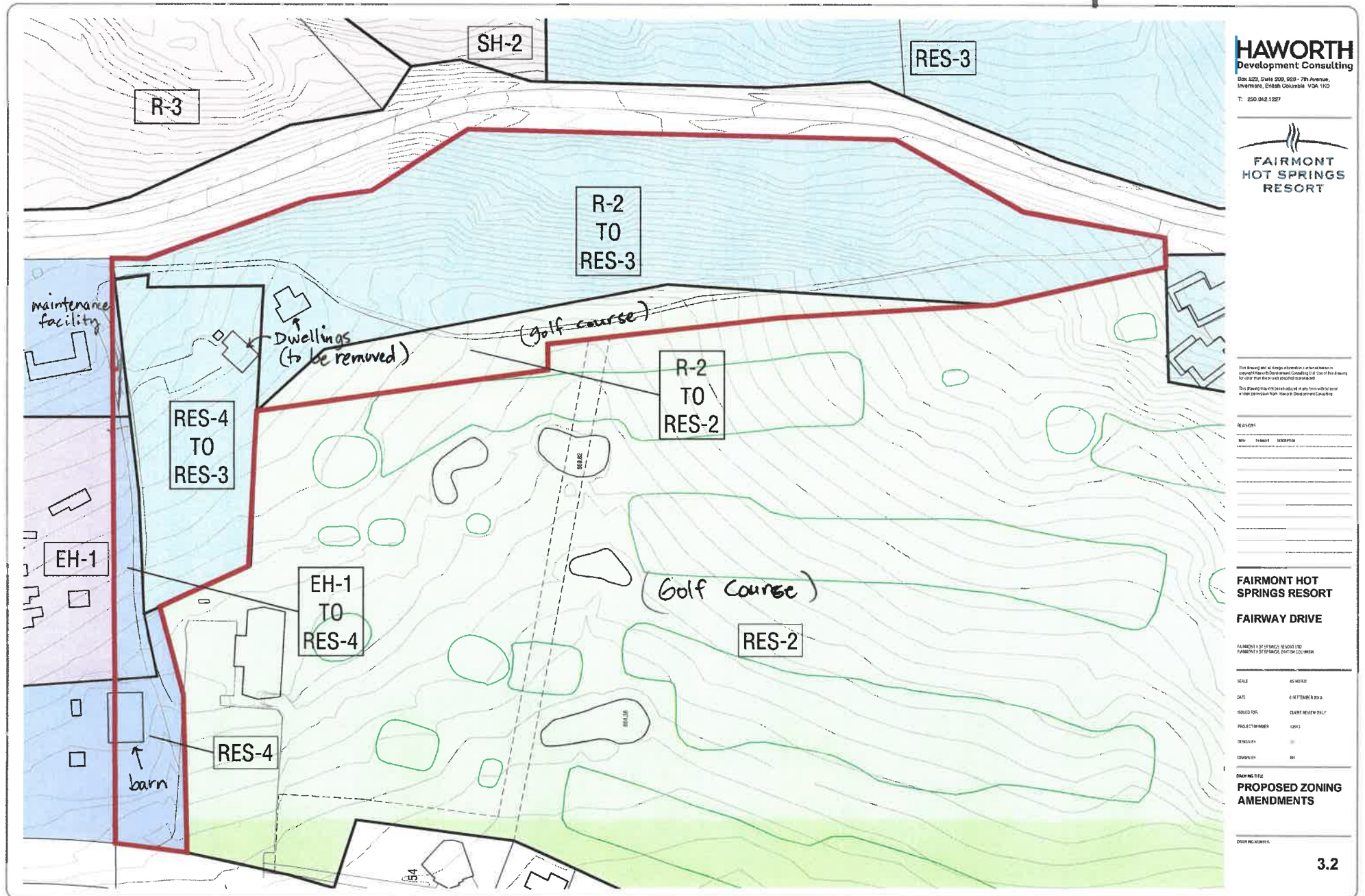
Location Map



Land Use Map



Proposal



Conceptual Plan for RES-3 land

HAWORTH
Development Consulting

Box 225, Suite 203, 926 - 7th Avenue,
Invermere, British Columbia V0A 1V0
T: 250.942.1227

**FAIRMONT
HOT SPRINGS
RESORT**

This drawing and all design information contained herein are the property of Haworth Development Consulting Ltd. No part of this drawing or other data herein may be reproduced or used in any form without the prior written permission of Haworth Development Consulting.

REVISIONS

NO. DATE LOCATION

**FAIRMONT HOT
SPRINGS RESORT**

FAIRWAY DRIVE

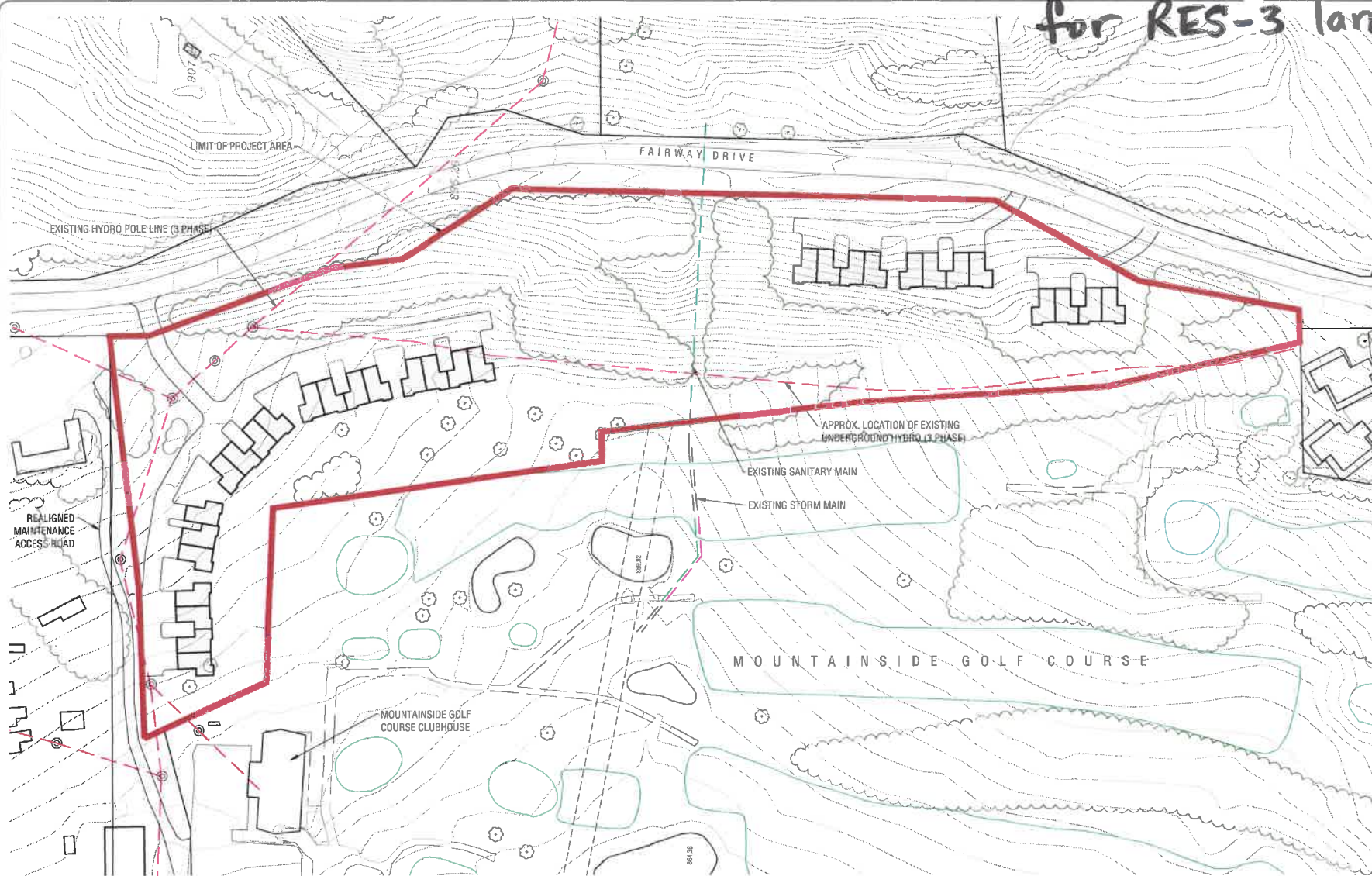
FAIRMONT HOT SPRINGS RESORT LTD.
FAIRMONT HOT SPRINGS, BRITISH COLUMBIA

SCALE AS NOTED
DATE 5 SEPTEMBER 2014
DRAWN BY [signature]
PROJECT NUMBER 12011
DESIGNED BY SH
CHECKED BY SH

DRAWING TITLE
**CONCEPTUAL
SITE PLAN**

DRAWING NUMBER

2.1



ALL DIMENSIONS IN METERS
CONTOUR INTERVAL 1.0m

Request for Decision Bylaw Amendment Application

File No: P 719 219
Reference: Bylaw No. 2969
Date: December 17, 2019

Subject: Bylaw No. 2969 (Jaffray / Barr)
Applicant: Vernon and Sharon Barr
Agent: Richard Haworth
Location: 2218 Highway 3/93, Jaffray
Legal: District Lot 6206, Kootenay District, except (1) Parcel A (Explanatory Plan 20286i) and (2) part included in Plans 2272, 2345, 2465, 2756, 4905, 4981, 8789, 15618 and Plans NEP69200, NEP91497 and R140

Proposal: To amend the land use designation of a 0.19 ha portion of the property from RR-60 to C-3 and a 0.6 ha portion of the property from C-3 to RR-60 to permit future subdivision to separate the existing commercial and residential uses.

Development Agreement: None

Options:

1. THAT Bylaw No. 2969 cited as “Regional District of East Kootenay – Jaffray, Tie Lake, Rosen Lake Land Use and Floodplain Management Bylaw No. 1414, 1999 – Amendment Bylaw No. 33, 2019 (Jaffray / Barr)” be introduced.
2. THAT Bylaw No. 2969 cited as “Regional District of East Kootenay – Jaffray, Tie Lake, Rosen Lake Land Use and Floodplain Management Bylaw No. 1414, 1999 – Amendment Bylaw No. 33, 2019 (Jaffray / Barr)” not proceed.

Recommendation: **Option #1**
The proposal does not change the current use of the land. The proposal continues to provide a range of housing opportunities in the area. No negative impacts are anticipated with the creation of separate residential and commercial parcels.

Property Information: **Current Land Use Designation:** Multiple – RR-60, Rural Resource Zone (minimum parcel size: 60 ha) and C-3, Recreation Commercial Zone (minimum parcel size: 0.4 ha). Approximately 13.4 ha of the property is zoned RR-60 and 9.2 ha zoned C-3.

Proposed Land Use Designation: Multiple – RR-60, Rural Resource Zone (minimum parcel size: 60 ha) and C-3, Recreation Commercial Zone (minimum parcel size: 0.4 ha). The proposal would leave approximately 13.7 ha of the property zoned RR-60 and 9.2 ha zoned C-3.

Land Use Objectives and Policies:

**Property
Information -
cont'd:**

- To provide for a range of housing opportunities for both permanent and seasonal residents.
- Board policy supports a pattern of low density residential development consisting of single family dwellings, two family dwellings and single family dwellings with a secondary suite on parcels not fronting the lakes. Higher density residential developments is not supported at this time.

However, in recognition of the need to provide a range of housing options for an aging population and a range of income groups, this policy will be reviewed periodically. Should the need for a broader range of housing options be identified, an amendment to this plan will be required. The amendment may be initiated by the Regional District or by an owner requesting the change.

- Establishment of commercial uses to serve both the travelling public and local and seasonal residents is directed to the Jaffray Loop, the south side of the highway in the plan area and the north side of the highway at Rosen Lake Road.

Parcel Size:

Existing: 23 ha (57 ac)

Proposed: Two parcels: 13.7 ha (33.8 ac) and 9.2 ha (22.7 ac)

Density: There are three existing single family dwellings on the subject property, all within the portion of the property zoned RR-60. The campground located on the portion of the land zoned C-3 contains 40 sites.

ALR Status: Not within the ALR

Interface Fire Hazard Rating: Low to high, within the Jaffray fire protection area.

BC Assessment: Residential & Business/Other (MH)

Water and Sewer Services: Onsite

Flood Hazard Rating: Little Sand Creek flows through the subject property, floodplain regulations apply to development.

**Professional
Studies:**

None

**Additional
Information:**

- The proposed subdivision would create two parcels and would be subdivided along the zone boundary. The proposed rezoning provides a panhandle for access from the highway to the campground and allows the existing dwellings to meet setback requirements from new parcel boundaries.
- While the proposed RR-60 parcel will not meet the minimum parcel area requirement of the RR-60 zone, the land use bylaw identifies that

the parcel area requirement may be reduced where the proposed subdivision divides a parcel along a boundary line of a land use designation.

**Additional
Information -
cont'd:**

- The subject property has three dwellings that may be in non-compliance with the zoning bylaw.

Consultation:

APC Area B: Support

Referral Agencies:

- **Interior Health Authority:** Interests unaffected.
- **Transportation & Infrastructure:** Interests unaffected. However, the creation of additional access onto Hwy 3 will not be supported. Residential and commercial access is to be maintained via Jaffray Shop Road.
- **Environment:** Future development is to maintain a minimum 30 m buffer zone from Little Sand Creek and given the property is between the highway and railway, any future fencing must be wildlife friendly to avoid wildlife mortalities.
- **Ktunaxa Nation Council:** No concerns.
- **School District No. 5:** No comment to date.
- **Telus:** No comment to date.

**Documents
Attached:**

- Bylaw
- Location Map
- Land Use Map
- Land Use Designation Map
- Proposal

**RDEK
Contact:**

Krista Gilbert, Planning Technician
Phone: 250-489-0314
Email: kgilbert@rdek.bc.ca

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2969

A bylaw to amend Bylaw No. 1414 cited as "Regional District of East Kootenay – Jaffray, Tie Lake, Rosen Lake Land Use and Floodplain Management Bylaw No. 1414, 1999."

WHEREAS the Board of the Regional District of East Kootenay has received an application to amend Bylaw No. 1414;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Regional District of East Kootenay – Jaffray, Tie Lake, Rosen Lake Land Use and Floodplain Management Bylaw No. 1414, 1999 – Amendment Bylaw No. 33, 2019 (Jaffray / Barr)."
2. The designation of part of District Lot 6206 Kootenay District, except (1) Parcel A (Explanatory Plan 20286i) and (2) part included in Plans 2272, 2345, 2465, 2756, 4905, 4981, 8789, 15618 and Plans NEP69200, NEP91497 and R140, outlined on the attached Schedule A, which is incorporated in and forms part of this Bylaw, is amended from RR-60, Rural Resource Zone to C-3, Recreation Commercial Zone and from C-3, Recreation Commercial Zone to RR-60, Rural Resource Zone.

READ A FIRST TIME the day of , 2020.

READ A SECOND TIME the day of , 2020.

READ A THIRD TIME the day of , 2020.

APPROVED by the Ministry of Transportation and Infrastructure the day of , 2020.

Signature: _____

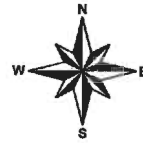
Print Name: _____

ADOPTED the day of , 2020.

CHAIR

CORPORATE OFFICER

SCHEDULE A



90

NEP2272

Rem.1
NEP18144

**C-3
to
RR-60**

REM. DL 6206

RR-60 DL 6206

**to
C-3**



SKETCH PLAN
3261-I

DL 6343

DL 11042

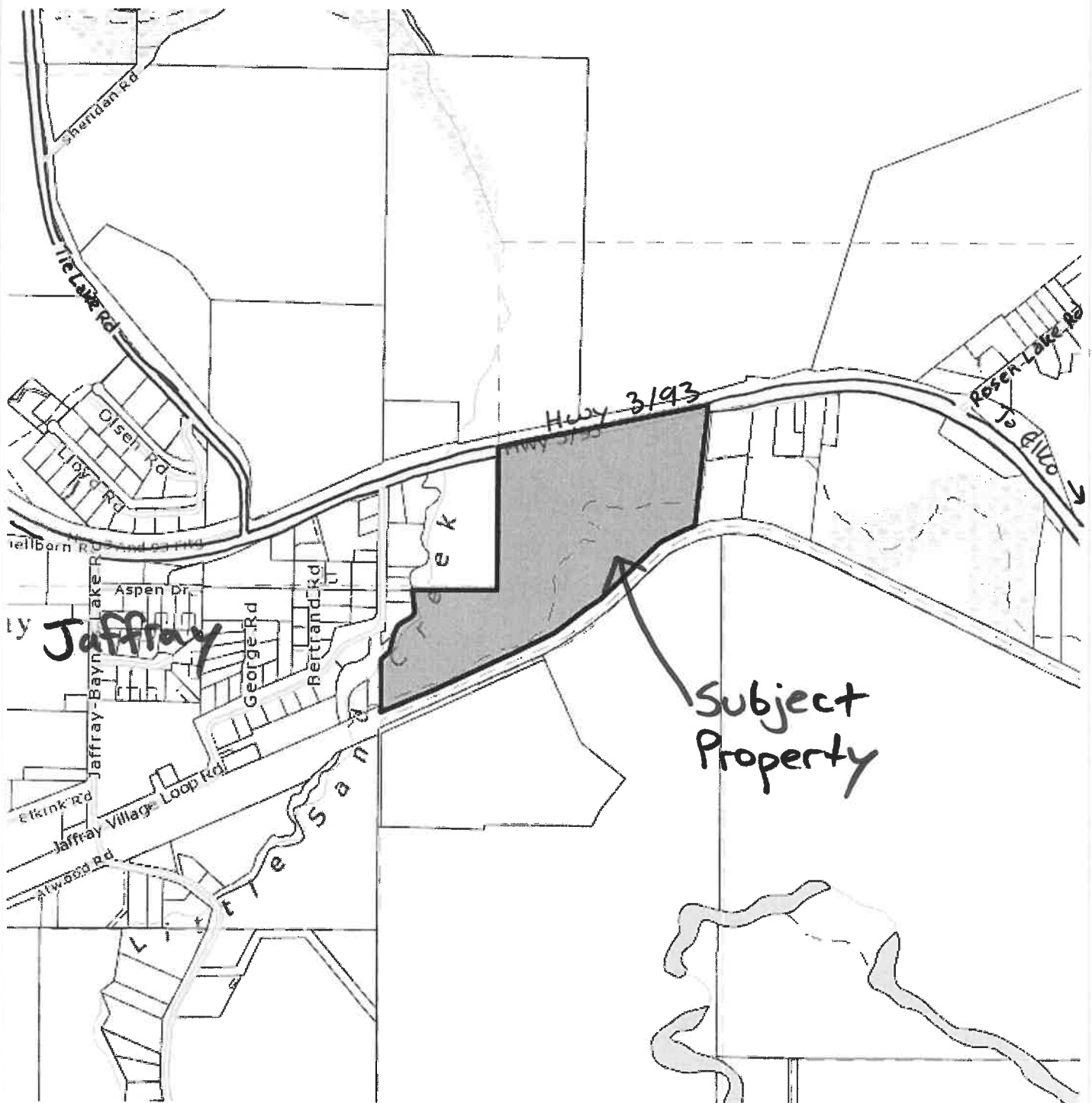
This is Schedule A referred to in Bylaw No. 2969 cited as
"Regional District of East Kootenay –Jaffray, Tie Lake, Rosen
Lake Land Use and Floodplain Management Bylaw No. 1414,
1999 – Amendment Bylaw No. 33, 2019 (Jaffray / Barr)."

Chair

Corporate Officer

Date

Location Map



Notes:

500 0 250 500 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 11-18-2019 3:27 PM

Scale = 1: 20,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Land Use Map



Notes:

200 0 100 200 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 11-18-2019 3:29 PM

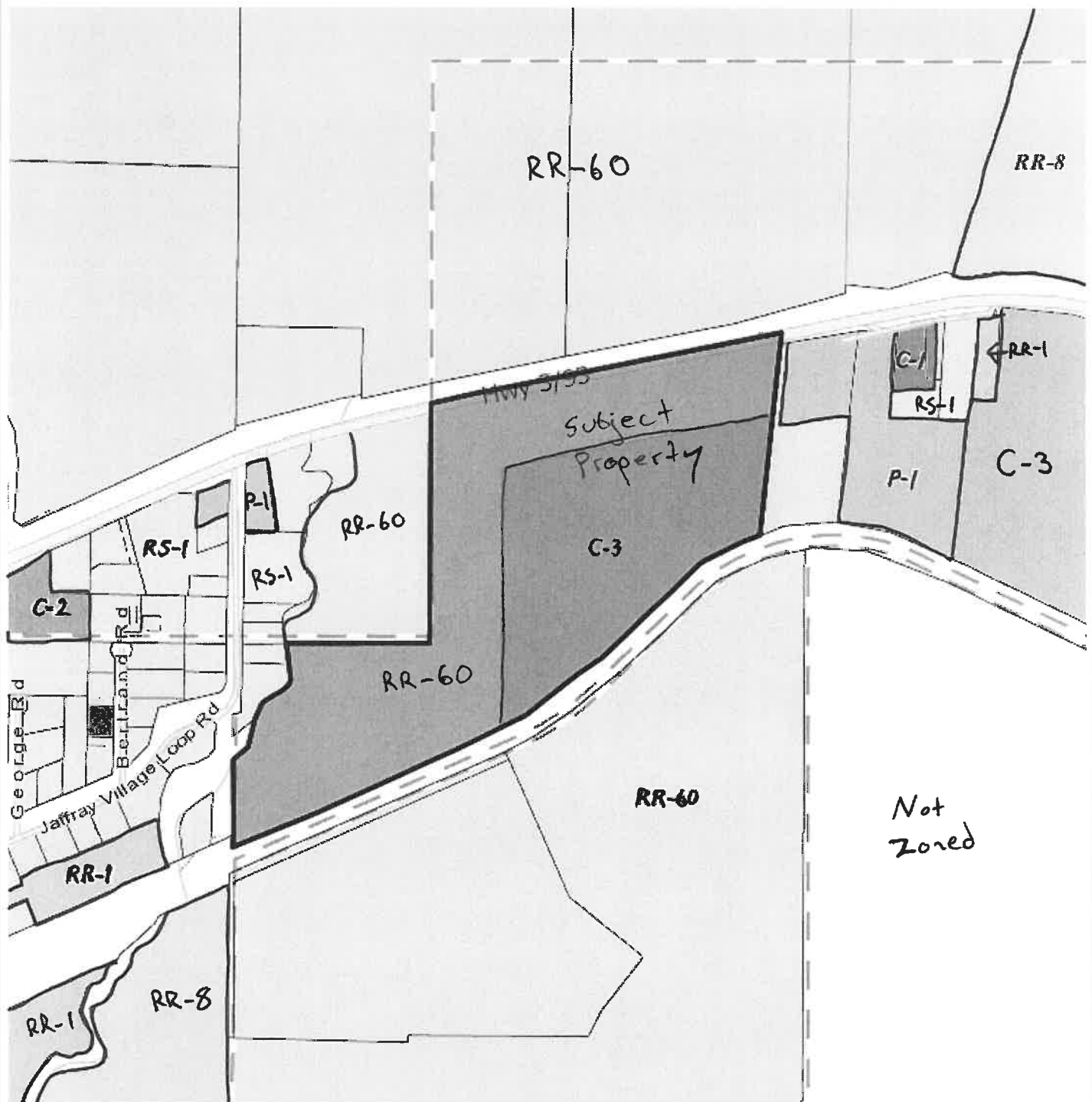
Scale = 1: 8,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Land Use Designation Map



Notes:

300 0 150 300 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 11-21-2019 11:32 AM

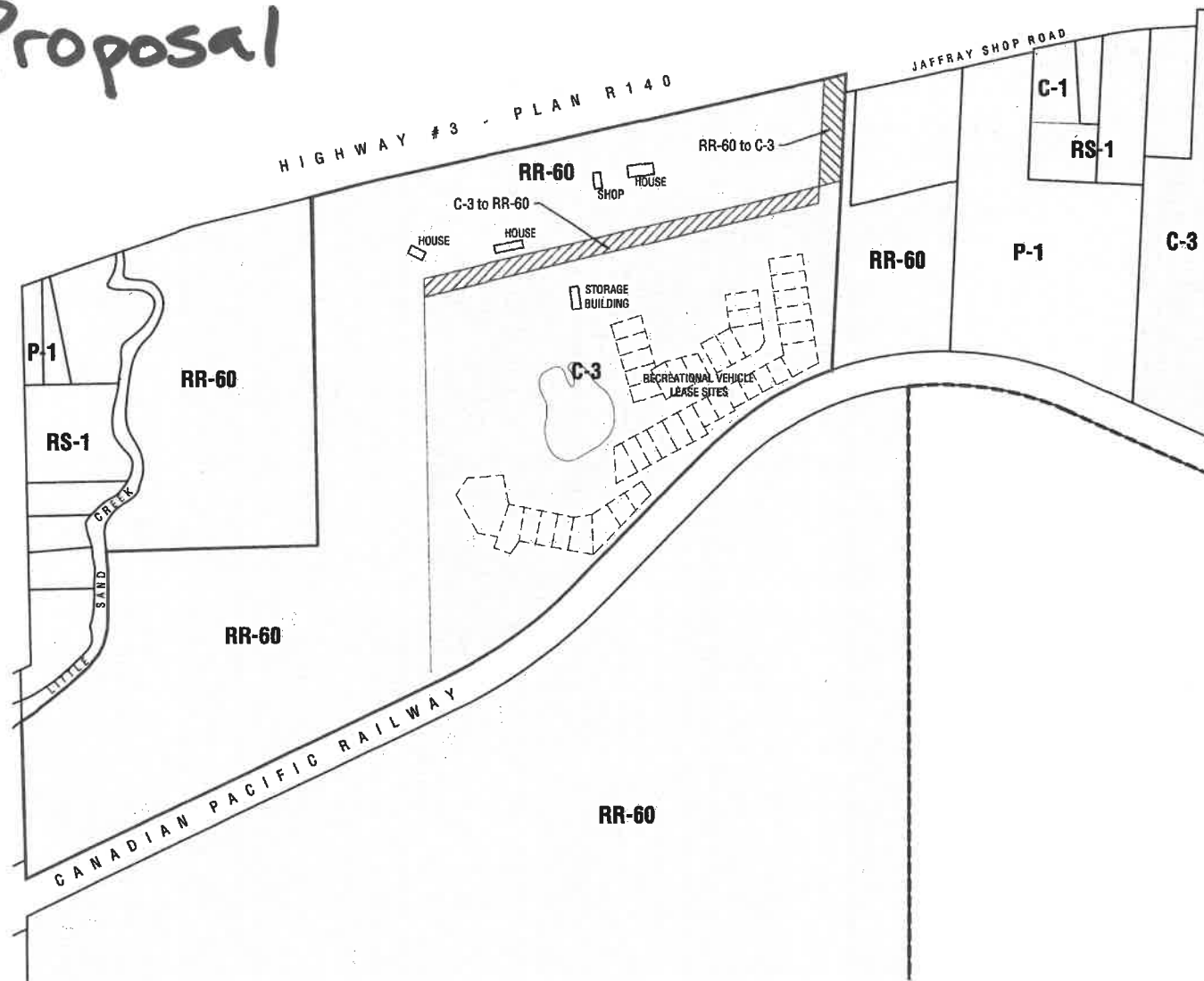
Scale = 1: 12,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Proposal



HAWORTH
Development Consulting

Box 225, Suite 205, 905 - 7th Avenue,
Vancouver, British Columbia, V6A 1A0
T: 250.542.1227

This drawing and all design information contained herein is
copyright Haworth Development Consulting Ltd. Use of this drawing
for other than the project specified is prohibited.
This drawing may not be reproduced in any form without prior
written permission from Haworth Development Consulting.

REVISIONS

No. Description

DISNEY BROOK RV PARK

VERSION AND DURATION
JANUARY, 2010

SCALE: AS SHOWN
DATE: 01 OCTOBER 2010
DESIGNED FOR: ZONING AMENDMENT
PROJECT NUMBER: 12101
DRAWN BY: RM
CHECKED BY: RM

PROPOSED ZONING AMENDMENTS

DRAWING NUMBER

2.2

Date December 19, 2019
Author Kris Belanger
Subject Bylaw 2970 – Lake Windermere OCP – Housekeeping Amendments

REQUEST

Introduce Bylaw 2970.

OPTIONS

1. THAT Bylaw No. 2970 cited as “Regional District of East Kootenay – Lake Windermere Official Community Plan Bylaw No. 2929, 2019 – Amendment Bylaw No. 1, 2019 (Miscellaneous / RDEK)” be introduced.
2. THAT Bylaw No. 2970 cited as “Regional District of East Kootenay – Lake Windermere Official Community Plan Bylaw No. 2929, 2019 – Amendment Bylaw No. 1, 2019 (Miscellaneous / RDEK)” not proceed.

RECOMMENDATION

Option 1

BACKGROUND/ANALYSIS

Two bylaw housekeeping amendments are proposed in order to correct two errors in the newly adopted Lake Windermere Official Community Plan.

The first amendment is to correct a mis-numbered reference in one of the wildfire development permit area guidelines.

The second amendment is related to a mapping error. Prior to the adoption of the Lake Windermere OCP, the RDEK updated its cadastral fabric. This update resulted in some parcels changing location relative to the ESA polygons. The result is that some ESA polygons are now incorrectly located on adjacent parcels. This could trigger the need for a development permit where one is not warranted or conversely, fail to trigger a development permit where one is warranted.

SPECIFIC CONSIDERATIONS

Public & First Nations Consultation (Referrals)

Referrals for Bylaw 2970 were sent on November 22, 2019 to the following agencies:

- **Ministry of Forests Lands, Resource Operations and Rural Development**
 - Environmental Protection
 - Water Stewardship

- Environmental Stewardship
 - **Ktunaxa Nation Council**
 - Akisqnuk First Nation
 - Shuswap Indian Band
 - School District No. 6

Comments from referral agencies had a reply deadline of December 23, 2019. Agencies that responded to the referral are highlighted in bold and had no concerns or comments related to Bylaw 2970.

At the December 17, 2019 Electoral Area F & G Advisory Planning Commission meeting, Bylaw No. 2970 was discussed and supported.

Attachment: Bylaw No. 2970 – Lake Windermere Official Community Plan Bylaw No. 2929, 2019 – Amendment
Bylaw No. 1, 2019 (Miscellaneous / RDEK)

REGIONAL DISTRICT OF EAST KOOTENAY
BYLAW NO. 2970

A bylaw to amend Bylaw No. 2929 cited as “Regional District of East Kootenay – Lake Windermere Official Community Plan Bylaw 2929, 2019.”

WHEREAS the Board of the Regional District of East Kootenay wishes to amend Bylaw No. 2929;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as “Regional District of East Kootenay – Lake Windermere Official Community Plan Bylaw 2929, 2019 – Amendment Bylaw No. 1, 2019 (Miscellaneous / RDEK).”
2. Schedule A, Section 19.2 (6)(b) is repealed and the following substituted:

(b) Occupancy Permit Guidelines

 An Occupancy Permit will not be issued by the RDEK until an inspection has been completed and it has been confirmed that the conditions under section 19.2 (6)(c) and 19.2 (6)(d) have been met.
3. The following schedules are repealed and replaced with the attached schedules which are incorporated in and form part of this Bylaw:

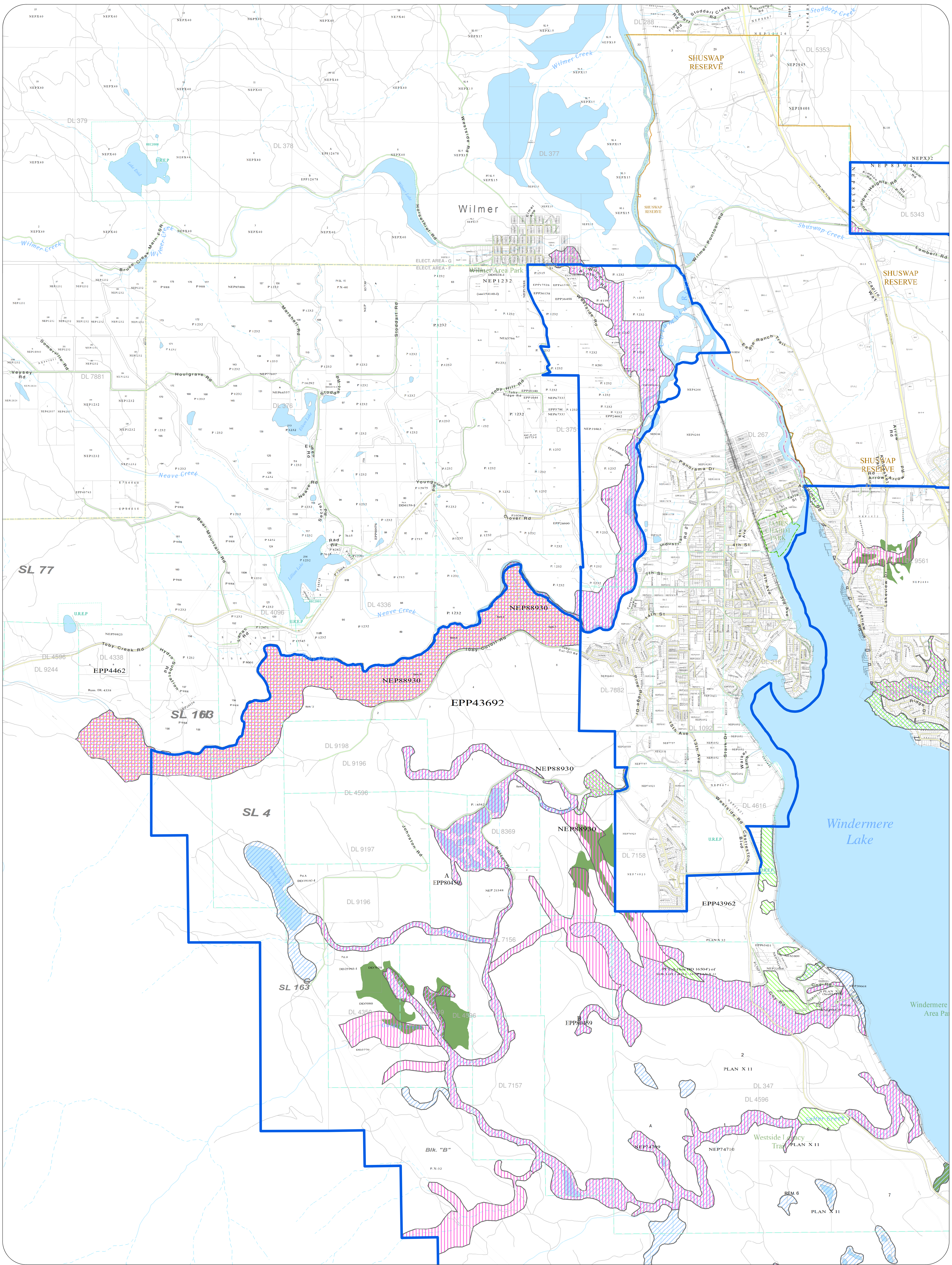
Schedule I1 – Development Permit Area #2 – Environmentally Sensitive Area (North West)
Schedule I2 – Development Permit Area #2 – Environmentally Sensitive Area (North East)
Schedule I3 – Development Permit Area #2 – Environmentally Sensitive Area (South West)
Schedule I4 – Development Permit Area #2 – Environmentally Sensitive Area (South East)

READ A FIRST TIME the day of 2020.
READ A SECOND TIME the day of 2020.
READ A THIRD TIME the day of 2020.

ADOPTED the day of 2020.

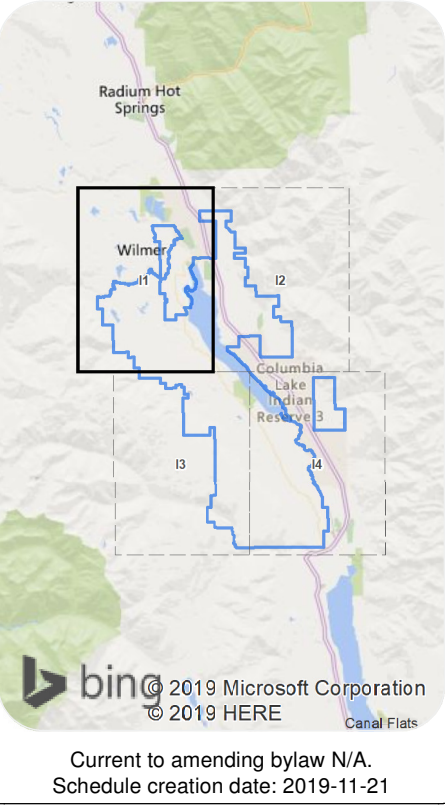
CHAIR

CORPORATE OFFICER



Legend

- Environmentally Sensitive Areas (ESA)**
- Grassland Ecosystem
 - Connectivity Corridor
 - Mountain Goat Habitat
 - Wetland and Riparian Ecosystem
 - Old Growth Forest
 - Plan Area Boundary



This is Schedule I1 of Bylaw No. 2970 cited as "Regional District of East Kootenay - Lake Windermere Official Community Plan Bylaw No. 2929, 2019 - Amendment Bylaw No. 1, 2019 (Miscellaneous/RDEK)."

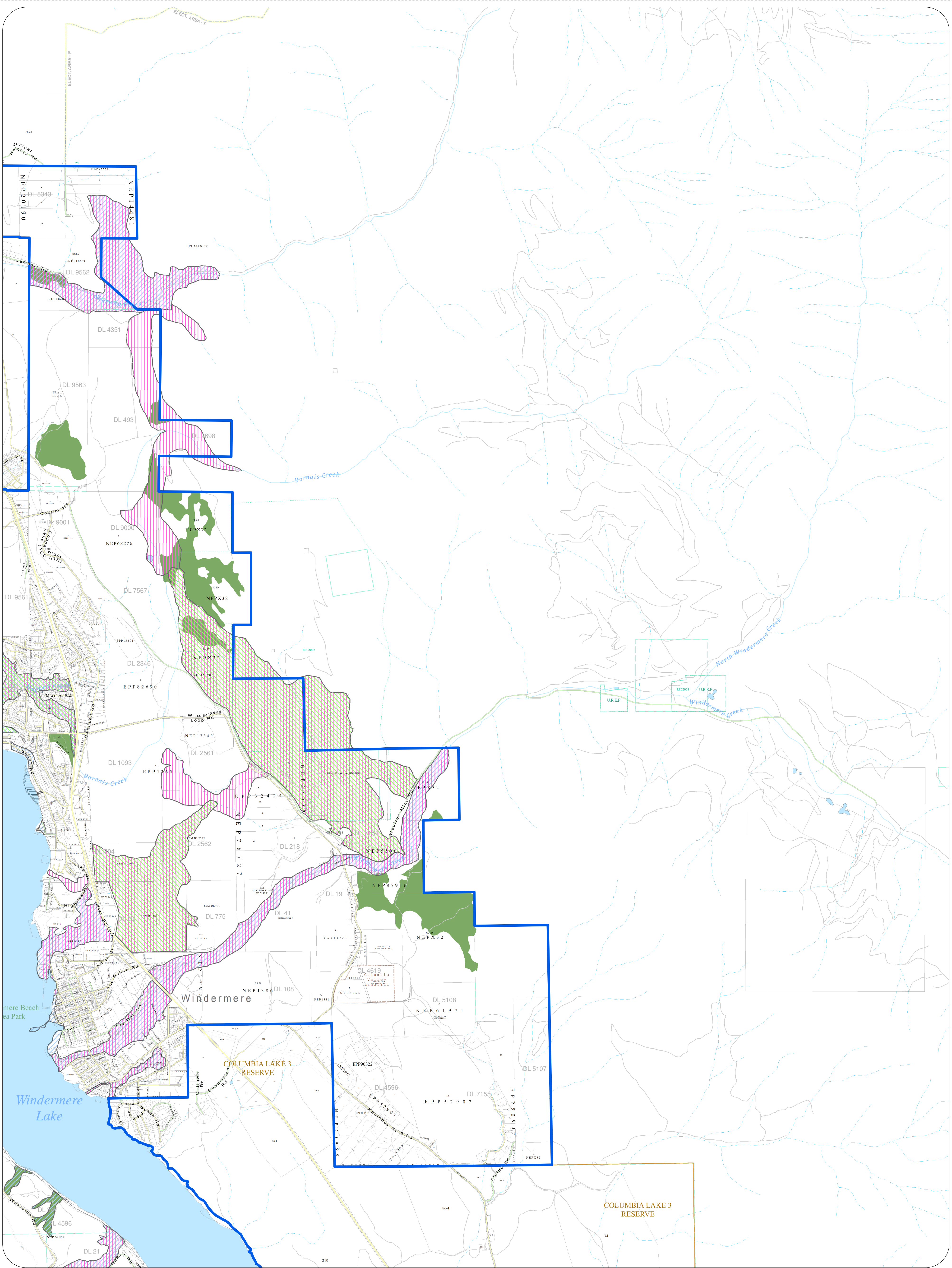
Chair _____
Corporate Officer _____ Date _____

I1
Development Permit Area #2
ESA (North West)

SCALE IN METERS
0 125 250 500 750 1000 1250

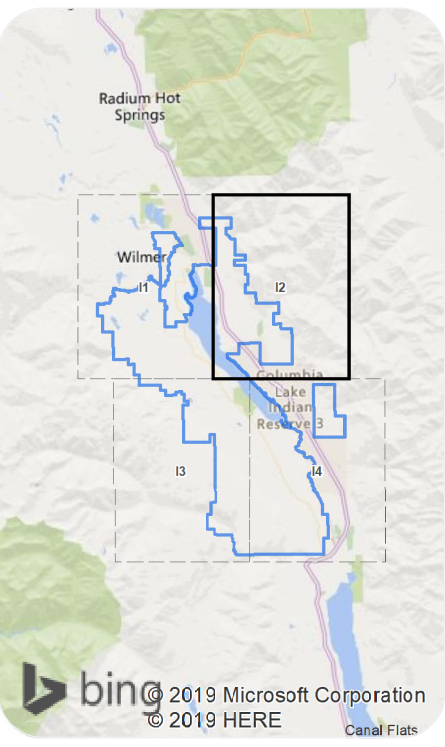


Lake Windermere
Official Community Plan
Bylaw No. 2929, 2019



Legend

- Environmentally Sensitive Areas (ESA)**
- Grassland Ecosystem
 - Connectivity Corridor
 - Mountain Goat Habitat
 - Wetland and Riparian Ecosystem
 - Old Growth Forest
 - Plan Area Boundary

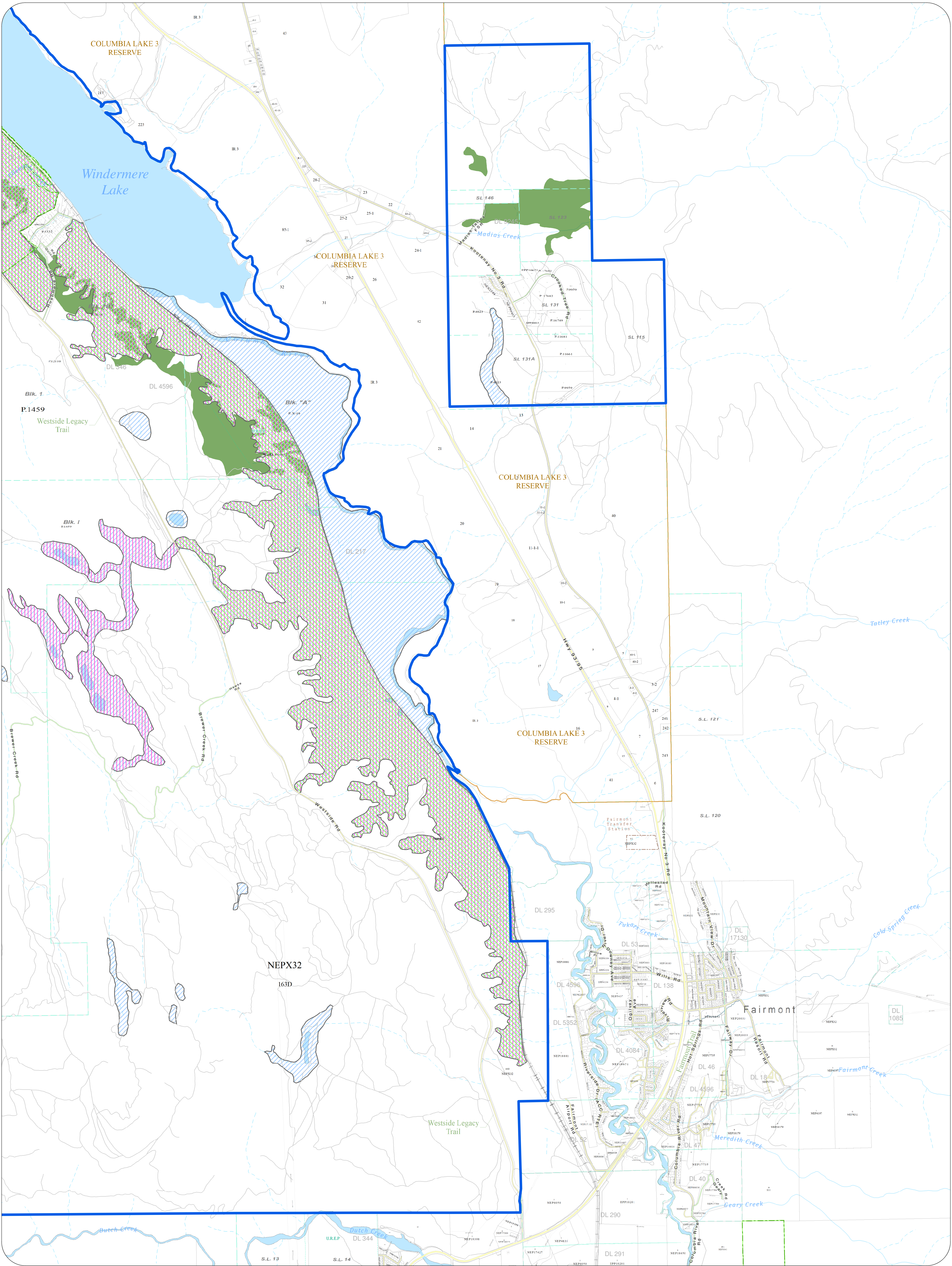


This is Schedule I2 of Bylaw No. 2970 cited as "Regional District of East Kootenay - Lake Windermere Official Community Plan Bylaw No. 2929, 2019 - Amendment Bylaw No. 1, 2019 (Miscellaneous/RDEK)."

Chair _____
Corporate Officer _____ Date _____

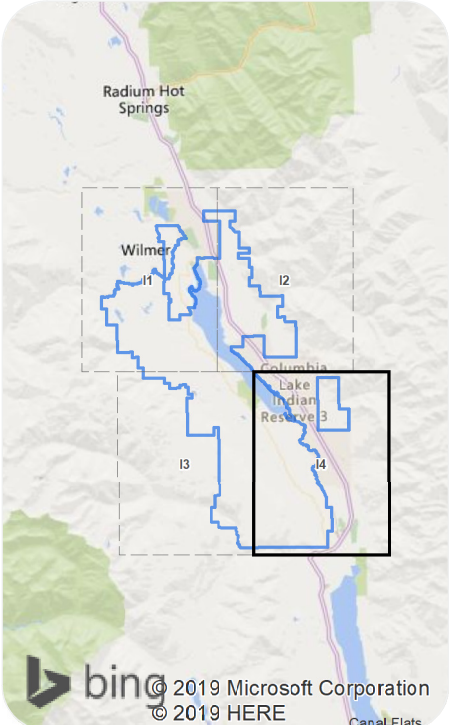
I2
Development Permit Area #2
ESA (North East)

SCALE IN METERS
0 125 250 500 750 1,000 1,250



Legend

- Environmentally Sensitive Areas (ESA)
- Grassland Ecosystem
 - Connectivity Corridor
 - Mountain Goat Habitat
 - Wetland and Riparian Ecosystem
 - Old Growth Forest
 - Plan Area Boundary



This is Schedule I4 of Bylaw No. 2970 cited as "Regional District of East Kootenay - Lake Windermere Official Community Plan Bylaw No. 2929, 2019 - Amendment Bylaw No. 1, 2019 (Miscellaneous/RDEK)."

Chair _____
Corporate Officer _____ Date _____

I4
Development Permit Area #2
ESA (South East)

SCALE IN METERS
0 125 250 500 750 1,000 1,250

Request for Decision Bylaw Amendment Application

File No: P 719 607
Reference: Bylaw No. 2971
Date: December 23, 2019

Subject: Bylaw No. 2971 (Wilmer / Wilmer Eco Development Ltd)
Applicant: Wilmer Eco Development Ltd.
Agent: Katharine Regan
Location: Horsethief Road
Legal: Part of REM Sublot 12, District Lot 377, Kootenay District, Plan X15
(PID: 009-592-261)

Proposal: To amend the zone designation of a 1550 m² portion of the subject property to permit subdivision of two new residential acreages.

Development Agreement: The applicant has offered to register a 'no development' covenant for the W-1 area.

Options:

1. THAT Bylaw No. 2971 cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 358, 2019 (Wilmer / Wilmer Eco Development Ltd)" be introduced.
2. THAT Bylaw No. 2971 cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 358, 2019 (Wilmer / Wilmer Eco Development Ltd)" not proceed.

Recommendation: **Option #1**
The OCP designation for the subject portion of land supports the requested amendment and the watershed and riparian values will be protected by Development Permit 49-18 and the 'no development' covenant offered by the applicant.

Property Information: **OCP Designation:** SH, Small Holdings which encompasses the parcels that are larger than 0.4 hectares and less than or equal to 2.0 hectares. This designation has been applied to lots that are within proximity to development nodes and recognizes the use of these lands as residential and agricultural in nature.

OCP Policies:

- Parcels outside the Wilmer Development Node identified on Schedule D1 are not supported for subdivision below the minimum parcel size permitted by the current zoning. (The subject land is outside the Wilmer Development Node).

**Property
Information -
cont'd**

- For the REM of Sublot 12 District Lot 377 Kootenay District Plan X15, rezoning applications to enable additional subdivision opportunities on the north side of Horsethief Road beyond what is permitted by the existing zoning are not supported.
- The potential impact of additional consumers in the Wilmer Waterworks District on the groundwater supply should be considered when development is planned.
- Conservation of land in corridors and watercourses through the use of a 30 metre buffer zone is strongly encouraged. This is of critical importance along the Columbia River, wetlands and other fish bearing and domestic use watercourses throughout the plan area.

Current Zoning:

The subject 1550 m² portion of property is zoned W-1, Watershed Protection

Proposed Zoning: SH-3, Small Holding Rural Zone, minimum parcel size: 2.0 ha

Parcel Sizes:

Total area of Rem Sublot 12: 47 ha (116.5 ac)
Area under application: 1550 m² (0.06 ac)

Density: One single family dwelling is permitted.

ALR Status: The subject portion of land is within the ALR. ALC resolution #200/2017 approved the proposed subdivision.

Interface Fire Hazard Rating: High, not within a fire service area

BC Assessment: Residential (vacant)

Water and Sewer Services: Onsite proposed

**Professional
Studies:**

A Rare Plant and Ecosystem Assessment was prepared by T.J. Ross in 2018 and submitted with the Development Permit application. The Ross Report makes recommendations for the future development of the identified residential node north of Horsethief Road.

**Additional
Information:**

None.

Consultation:

Advisory Planning Commission:

APC Areas F & G: Refusal recommended. The APC stated that the Wilmer community rejected this proposal and the APC expressed concerns regarding water supply, which they say is a priority.

**Consultation –
cont'd:**

Referral Agencies:

- **Interior Health Authority:** Interests unaffected
- **Transportation & Infrastructure:** Interests unaffected
- **Environment:** No response
- **Ktunaxa Nation Council:** No response
- **Akisqnuk First Nation:** No response
- **Shuswap Indian Band:** No apparent significant impacts to our indigenous rights, including title.
- **School District No. 6:** No response
- **Telus:** No response

**Documents
Attached:**

- Bylaws
- Location Map
- Land Use Map
- Proposal and Site Sketch
- Proposed Subdivision Plan

**RDEK
Contact:**

Tracy Van de Wiel, Planning Technician
Phone: 250-489-0306
Email: tvandewiel@rdek.bc.ca

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2971

A bylaw to amend Bylaw No. 900 cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992."

WHEREAS the Board of the Regional District of East Kootenay wishes to amend Bylaw No. 900;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 358, 2019 (Wilmer / Wilmer Eco Development Ltd)."
2. The designation of part of Sublot 12, District Lot 377, Kootenay District, Plan X15 Except (1) Part Included in Plan 692A, (2) Parcel A (Explanatory Plan 16601D), (3) Parcel A (See 7949I), (4) Parcel B (Reference Plan 5056I), (5) Parcel C (Explanatory Plan 12645I) (6) Parcel D (See 12645I) (7) Plan NEP71138 (8) Plan EPP5920 and (9) Plan EPP9406, outlined on the attached Schedule A, which is incorporated in and forms part of this Bylaw, is amended from W-1, Watershed Protection Zone to SH-3, Small Holding Rural Zone.

READ A FIRST TIME the day of , 2020.

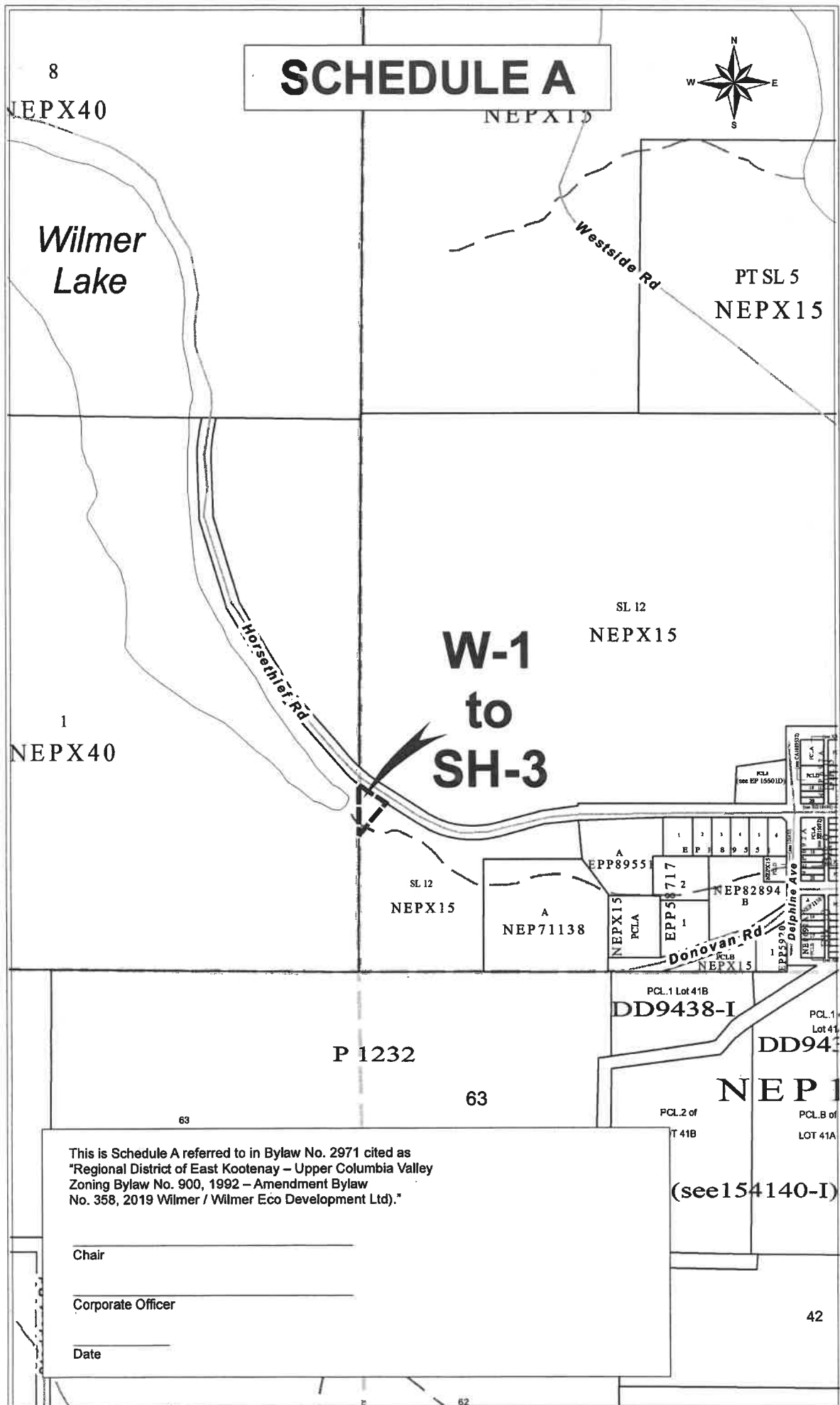
READ A SECOND TIME the day of , 2020.

READ A THIRD TIME the day of , 2020.

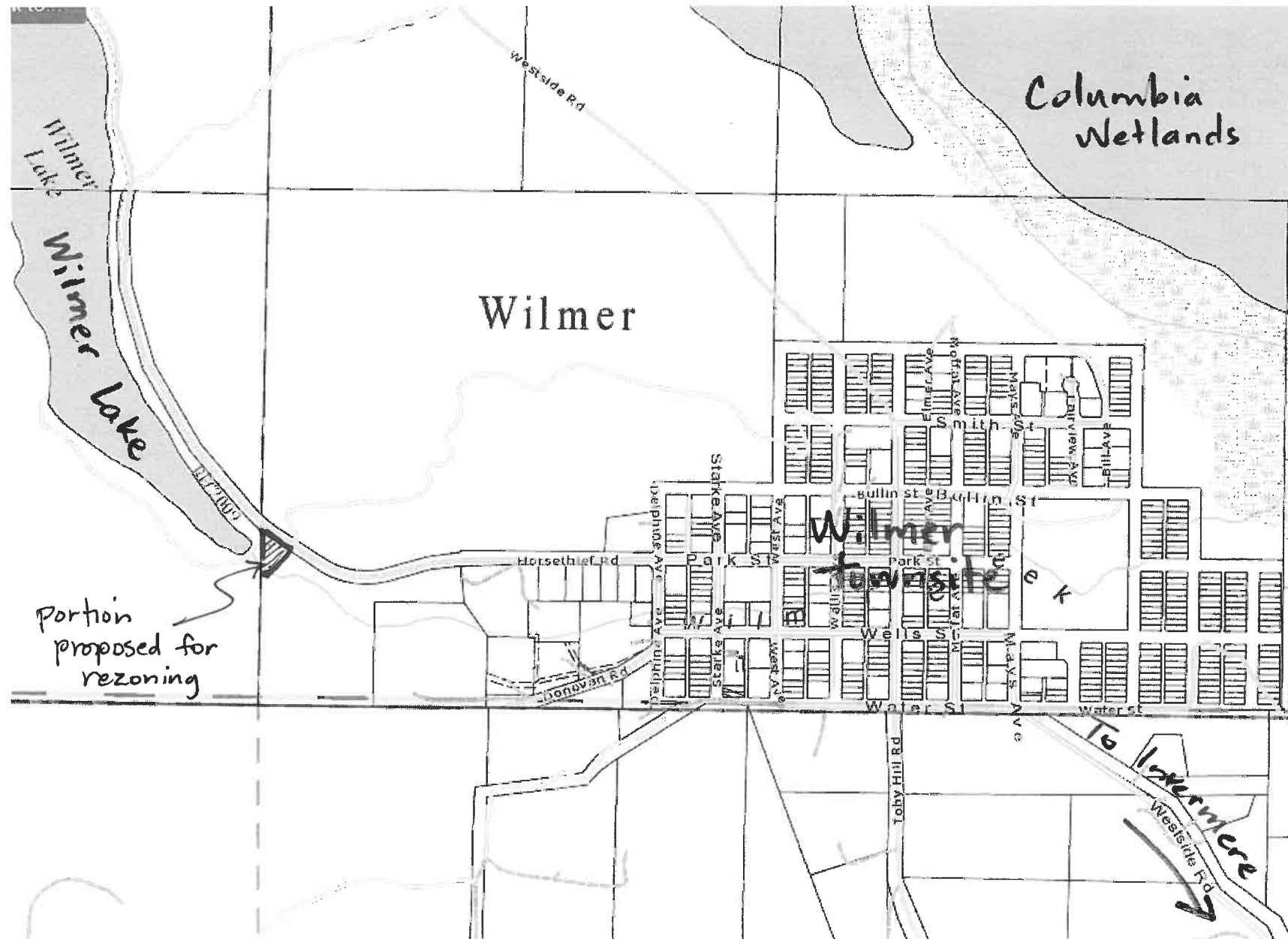
ADOPTED the day of , 2020.

CHAIR

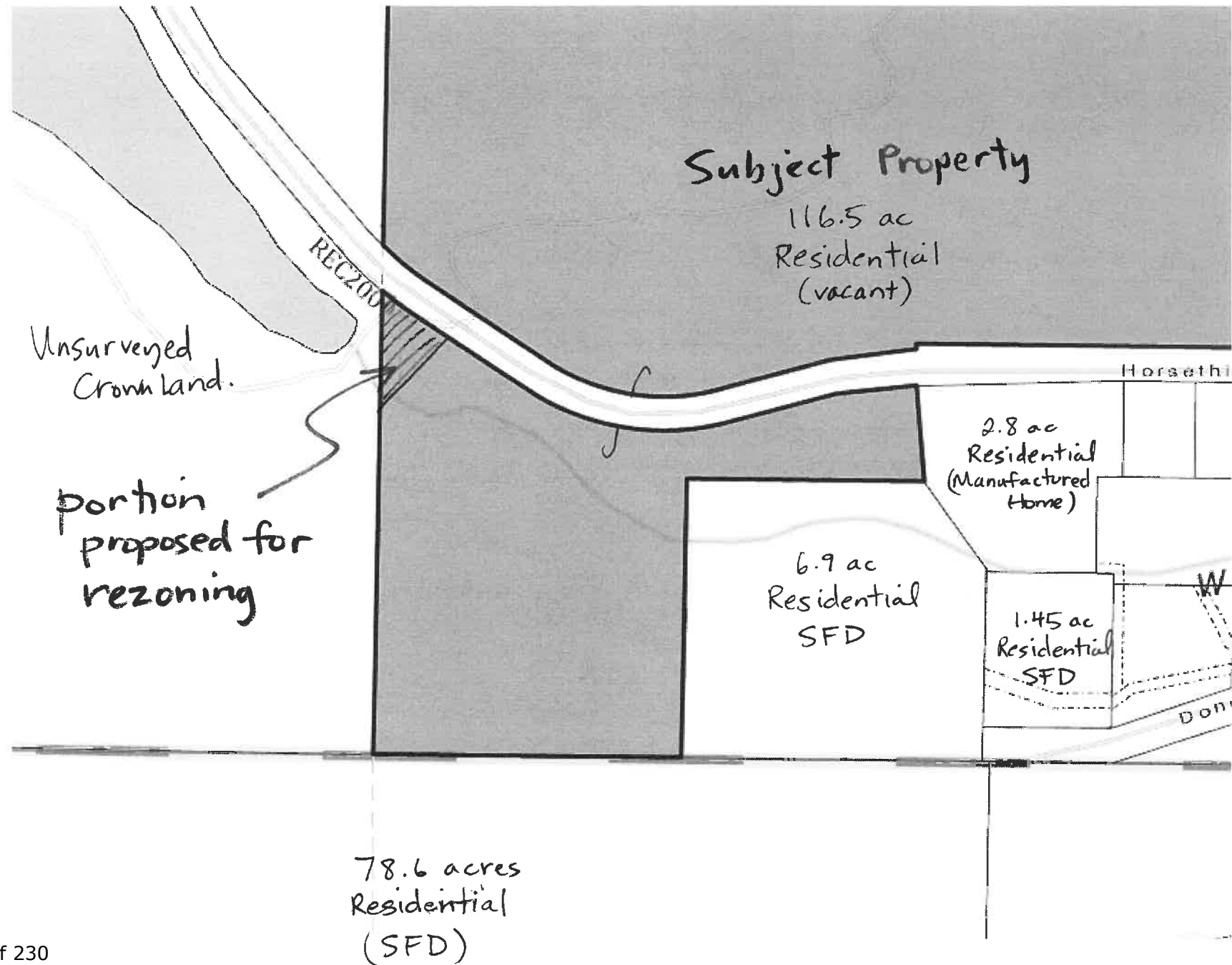
CORPORATE OFFICER



Location Map



Land Use Map



Wilmer Eco Development Inc.
Katharine Regan
354, 5 Richard Way SW
Calgary, AB T3E 7M8



Rezoning Application Explanation of Proposal

The subject property is approximately 116.5-acres (47 ha) of vacant land located in Wilmer, five kilometres northwest of Invermere, BC.

We propose to subdivide two new legal parcels of land from the property:

- 1) 5-acre (2 ha) legal parcel Lot A
- 2) 5-acre (2 ha) legal parcel Lot B

This area is currently zoned as Small Holdings (SH-3) and we propose to develop the land for single-family dwellings. During a review by the RDEK of our subdivision application to the MoTI, Planning Technician Tracy Van de Wiel noted that proposed Lot A contains more than one zoning designation.

As noted in Ms. Van de Wiel's comments (see attached), *"where a proposed lot has more than one zone designation, the larger minimum parcel size is applied. Proposed Lot A does not comply with parcel size requirements and a rezoning application is required."*

As the W-1 zoning covers approximately only 0.35-acres of land in the proposed 5-acre lot, we are applying to rezone the W-1 area to SH-3, to meet the parcel size requirements of the proposed lot.

A copy of the Upper Columbia Valley Zoning Bylaw Map of the property is attached.

The proposed lots are also within the Agricultural Land Reserve and due to the approaching ALC approval expiry deadline, the RDEK has provided a comment letter to assist the application while we await rezoning approval. A request for extension of approval has been submitted to the ALC.

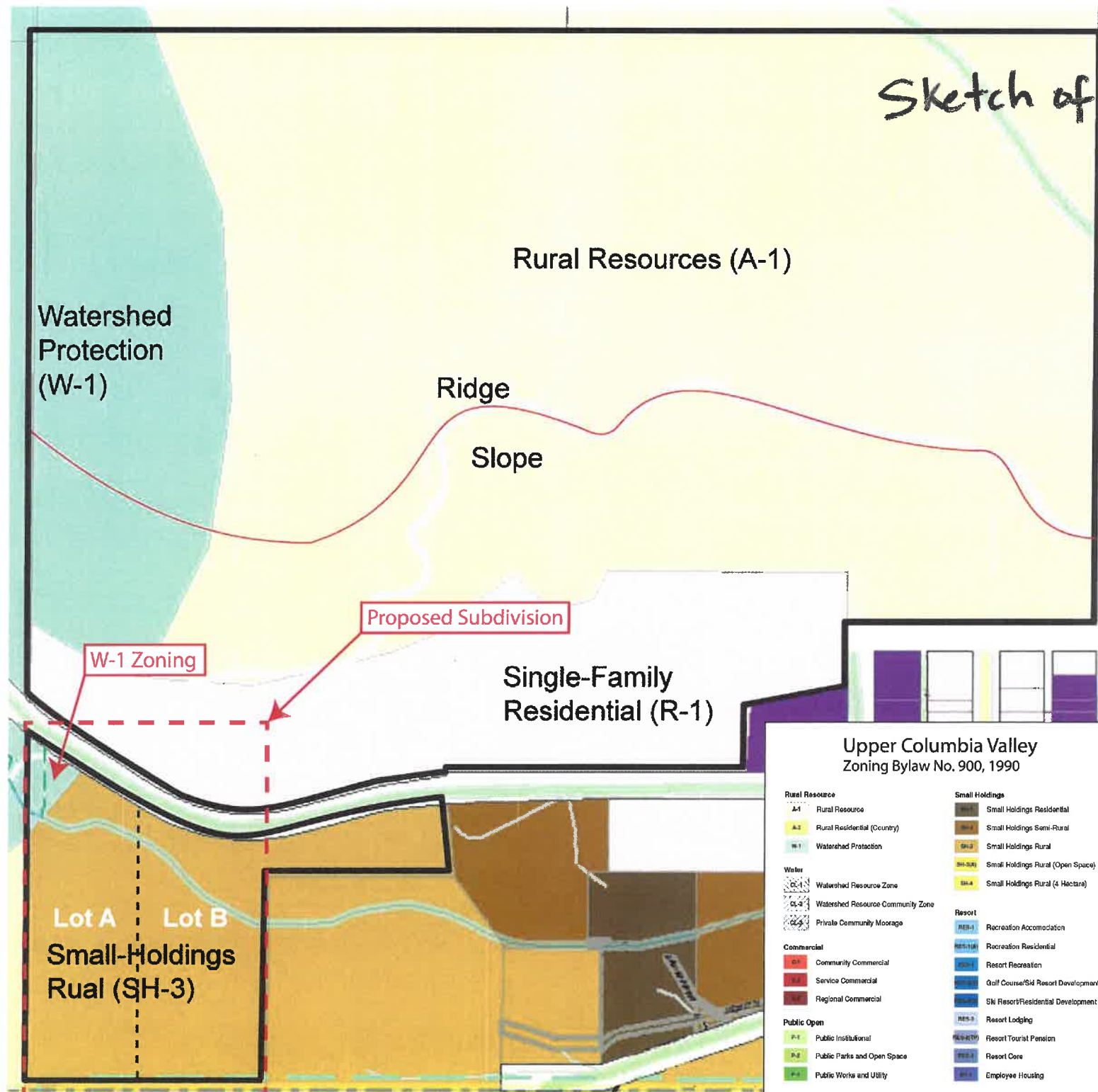
A copy of the ALC approval letter dated July 18, 2017 is attached.

Finally, the proposed lots also include an Environmentally Sensitive Area, specifically Wetland and Riparian Ecosystems as identified on Schedule J in the Steamboat-Jubilee OCP.

A copy of the Development Permit No. 49-18 issued by the RDEK dated November 28, 2017 is attached.

A portable water source and sewage capability has been confirmed for both proposed lots. Reports submitted with MoTI application.

Sketch of Property



PROPOSED LOTS

LOT A	2.00 ha
LOT B	2.00 ha
GROSS SITE AREA	4.00 ha

Proposed Subdivision



Rem 1
PLAN EPP60707

HORSETHIEF ROAD

SUBLOT 1
PLAN X-40

DL 378

A
Area = 2.00 ha

B
Area = 2.00 ha

A
PLAN NEP71138

DL

375

DL 376

WILMER ECO DEVELOPMENT INC.

PROPOSED SUBDIVISION OF LOT 1, DISTRICT LOT 377,
KOOTENAY DISTRICT, PLAN EPP60707

November 22, 2016



The intended plot size of this plan is 432mm in width by 560mm in height (C size) when plotted at a scale of 1:1000.

All distances are in metres and decimals thereof.

* All lot areas and dimensions are preliminary and subject to change upon final approvals from the owner/developer and applicable government agencies.



File: 010055698-BNCD01-R00

Request for Decision ALR Subdivision Application

File No: P 719 362
Reference: 59442
Date: December 18, 2019

Subject: ALR Subdivision – Fort Steele / Elliott & Soppit
Applicant: Holly Elliott and Alva Soppit
Location: DL 39 and 450 Wardner-Fort Steele Rd
Legal: District Lot 781, KD and that part of District Lot 39, KD lying east of a line which bisects the northerly and southerly boundaries thereof

Proposal: To request release of covenant KX12779 from the two subject properties. The covenant binds the two titles and prevents them from being sold or transferred separately. As the covenant was required for a previous ALR subdivision, the ALC has stated that an ALR subdivision application is required for removal of the covenant.

Options:

1. THAT the Agricultural Land Commission be advised that the RDEK supports the Elliott & Soppit ALR subdivision application for property located on Wardner-Fort Steele Road in Fort Steele.
2. THAT the Elliott & Soppit ALR Subdivision application for property located on Wardner-Fort Steele Road in Fort Steele be refused.

Recommendation: **Option #1**
The proposal is to remove a covenant from the properties as it restricts the applicants who want to add an owner to one of the titles. Further subdivision or development of the lands is not proposed at this time. Reverting back to two separate titles is not expected to impact the agricultural capability of the lands.

Property Information: **OCP Land Use Designation:** RR, Rural Resource which supports agricultural, rural residential and rural resource land uses with parcel sizes 8.0 ha and larger. The RR designation also recognizes the use of these lands for public utility use, resource extraction, green space and recreation.

OCP Policies:

- Land in the ALR is generally designated and supported for agricultural use.
- The plan recognizes the opportunity for a limited residential subdivision that is compatible with agricultural operations and on land that is not suitable for agricultural use due to topography and other limitations. The intent is to cluster residential growth on land of low agricultural capability and suitability in order to reduce rural sprawl and preserve the agricultural value of larger parcels in the area. ALR subdivision applications will be considered in relation to the following criteria:
 - Current agricultural capability and suitability of the parcel;

**Property
Information -
cont'd:**

- Potential impacts of the proposed subdivision on the agricultural capability and suitability of both the parcel proposed for subdivision and on neighbouring parcels; and
- Where applicable, information in the report from a qualified professional as required in section 6.3(2)(g).

Applications for subdivision that will negatively impact present or future agricultural opportunities, or that involve the fragmentation or parcelization of land suitable for agriculture, are not supported.

- ALR applications for non-farm use, subdivision, or exclusion should identify opportunities to improve the agricultural capacity and provide a net benefit to agriculture for the lands that remain within the ALR.
- Applications for subdivision in the ALR which improve agricultural capability will generally be supported, subject to compliance with the zoning bylaw.
- ALR applications for exclusion, non-farm use, or subdivision of parcels 4.0 ha in size or larger must be accompanied by a report from a qualified professional unless an exemption from the requirement has been approved by the Regional District Board. The report must include the following:
 - Determination of the level of capability and suitability for both soil bound and non-soil bound agricultural production on the parcel including investigation of the terrain, soil, size, configuration and context of the agricultural lands; and
 - Identification of the impact the proposal will have on the agricultural suitability and capability of the parcel, and agricultural operations in the surrounding area.

Applications will not be processed by Regional District staff until such time as the report has been submitted or an exemption has been granted. Requests for exemption must be provided in writing to the Regional District prior to making an application and should provide rationale for granting the exemption.

- Support for subdivision of lands within the ALR or non-farm use of ALR lands may be provided when it is demonstrated that the development will protect productive agricultural soils.

Zoning Designation: RR-60, Rural Resource Zone, minimum parcel size: 60 ha.

Parcel Sizes: 70.4 ha (174 ac) and 32.4 (80 acres)

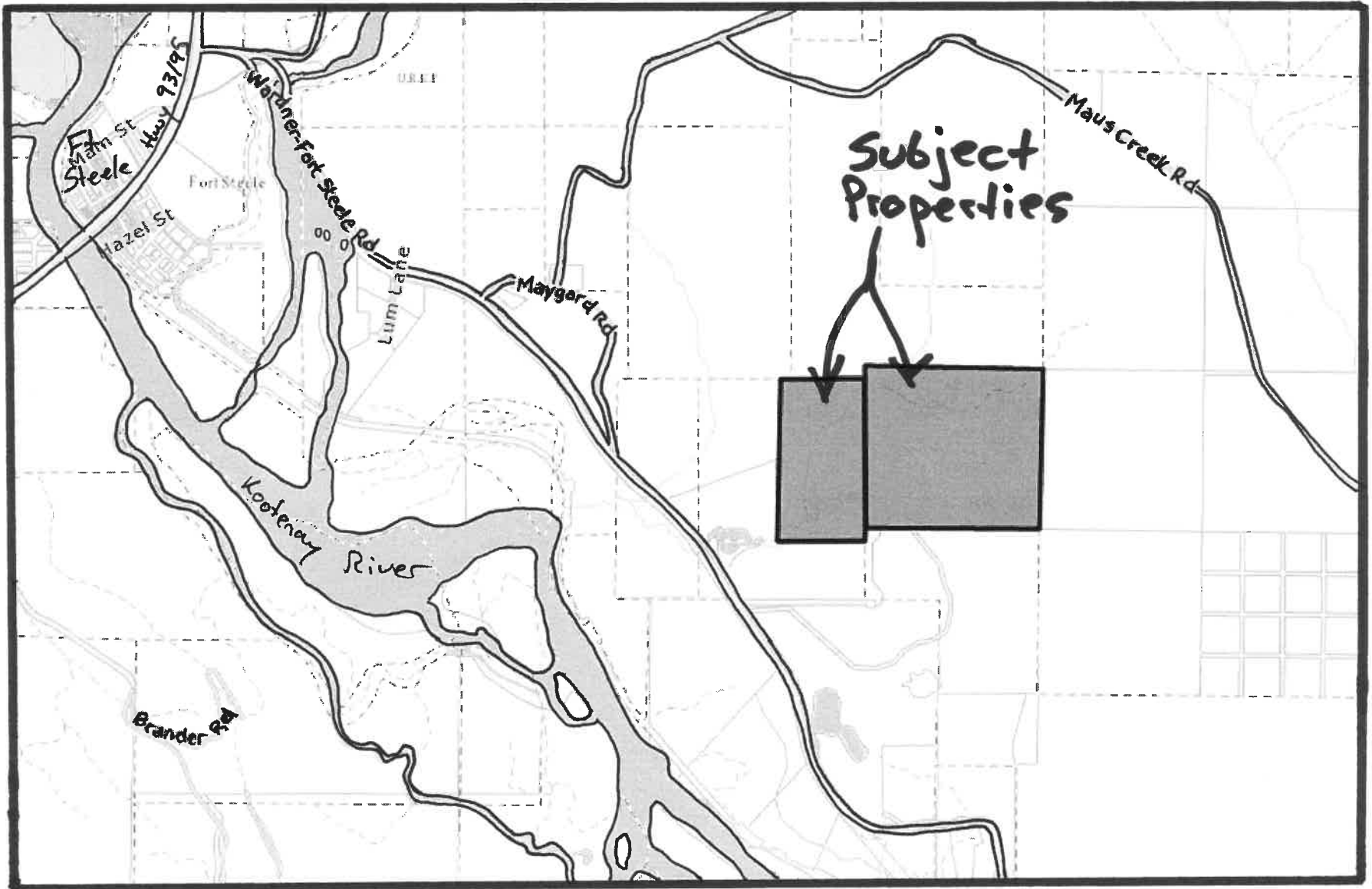
Interface Fire Hazard Rating: Ranging from moderate to high, not within a fire protection area.

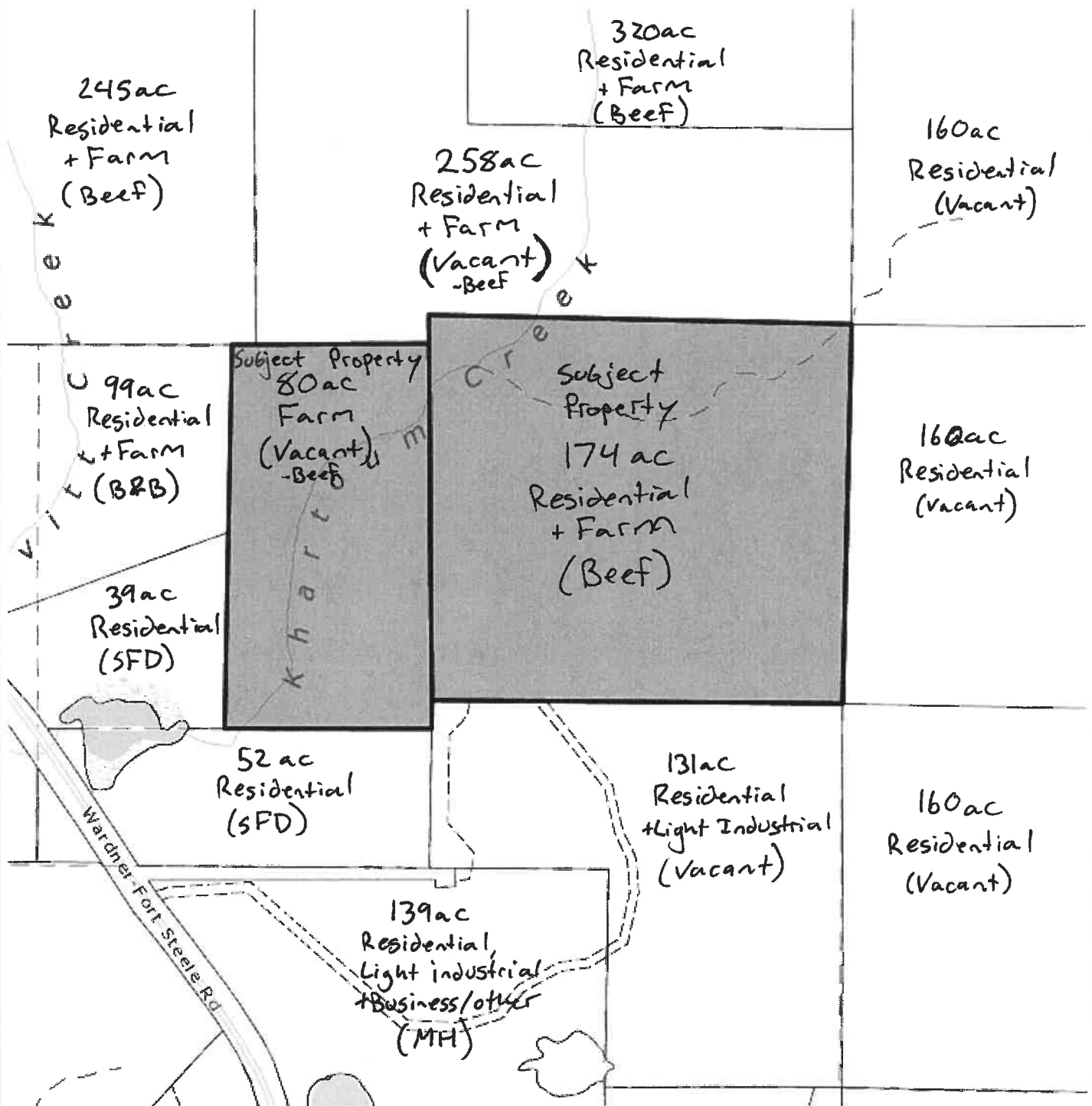
BC Assessment: Residential and Farm – Beef

Water / Sewer Services: Onsite

Agricultural Capability Ratings:	The Canada Land Inventory (CLI) Agricultural Capability Maps indicate that the middle portion of the subject properties is considered to be Class 5 with limiting factors of low fertility and topography and the outer portions of the properties are considered to be Class 6 with a limiting factor of topography. The lands are not considered improvable.
Agrologist Report:	An exemption from the requirement to provide a professional report was granted in June 2019.
Additional Information:	<ul style="list-style-type: none">▪ The applicants have stated that they are not planning to subdivide the subject properties. They want to add an additional owner, the current owners' husband, to one of the property titles, but the covenant requires the lands to be transferred together.▪ The applicants submitted an ALR subdivision application in 2001 to subdivide District Lot 284 into two parcels, separated by Wardner-Fort Steele Road. The application was approved subject to consolidation or binding of titles of District Lot 39 and District Lot 781. The covenant was registered to bind the two titles, as was required by the ALC.▪ The applicants have stated that removal of the covenant to separate the two titles would assist them in estate planning, taxation issues and provide security for their family as there are repairs and equipment that needs to be purchased to continue maintaining and running their farm.
Consultation:	APC Area C: Support
Documents Attached:	<ul style="list-style-type: none">▪ Location Map▪ Land Use Map▪ Agricultural Capability Map and Key▪ Portion of Covenant KX12779▪ Reference Map
RDEK Contact:	Krista Gilbert, Planning Technician Phone: 250-489-0314 Email: kgilbert@rdek.bc.ca

Location Map





Notes:

450 0 225 450 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 11-14-2019 3:23 PM

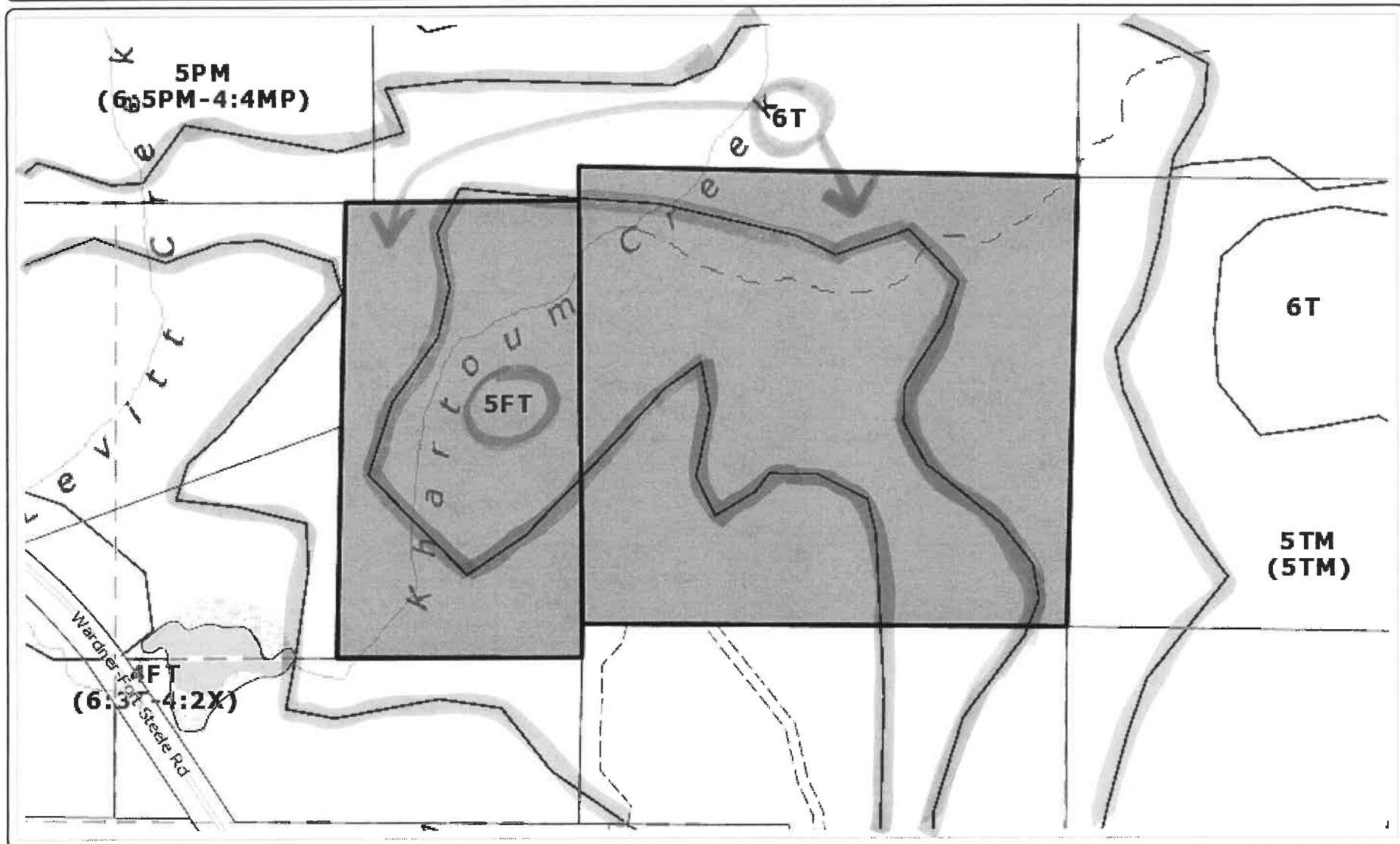
Scale = 1: 18,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Agricultural Capability Map



Notes:

375 0 188 375 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 11-14-2019 3:25 PM

Scale = 1:15,000



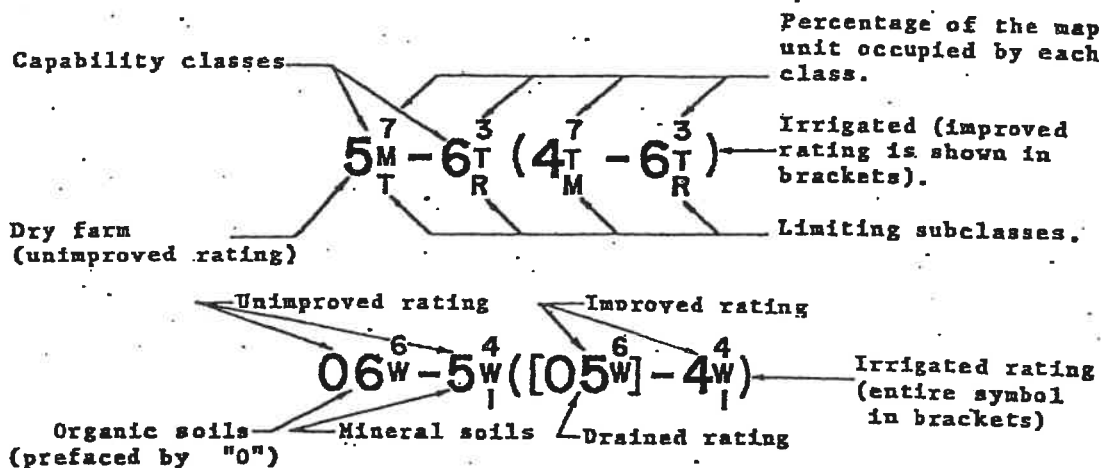
THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

KEY FOR INTERPRETATION OF AGRICULTURE CAPABILITY MANUSCRIPT MAPS (B.C.)

There are 7 capability classes for agriculture with 1 representing the highest class and 7 representing the lowest. In some areas of the province, two ratings are shown: one for dry farming and a second for irrigated or drained (improved) conditions. The irrigated ratings are shown enclosed in round brackets while the drained ratings appear in square brackets. In all cases improved ratings have precedence over dry farm ratings.

Example Classifications



The agriculture capability classes are determined on the relative range of crops the land can produce.

a) Capability Classes

- Class 1 - widest range of crops
- Class 2
- Class 3 } reduced range of crops caused by a number of limiting
- Class 4 } factors (subclasses)
- Class 5 - only permanent pasture or forage
- Class 6 - natural grazing
- Class 7 - no productivity

b) Limiting Subclasses

- C - adverse climate
- D - undesirable soil structure
- E - erosion
- F - low fertility
- I - inundation (flooding)
- M - moisture deficiency (droughtiness)
- N - salts
- P - stoniness
- R - bedrock near the surface
- T - topography (slope)
- W - excess water
- X - combination of soil factors
- S - cumulative and minor adverse characteristics

Tree fruit and grape growing areas: these crops are tolerant of soil conditions that limit field crops. Steep and stonier soils in suited climates have been upgraded to accommodate the expanded range of crops. e.g. A class 5T soil dry farmed becomes a 3T irrigated in an area climatically suited to tree fruits.

Note: A more detailed 16 page manual entitled Soil Capability Classification for Agriculture is available from the Lands Directorate, Lands Forests and Wildlife Service, Department of the Environment, Ottawa, Ontario, K1A 0H3.

Part of
Covenant
KX12779

Page 5

TERMS OF INSTRUMENT - PART 2

WHEREAS:

A. The Transferor is the registered and beneficial owner of certain lands situate, lying and being in the East Kootenay Assessment Area, Province of British Columbia, being more particularly known and described as:

P.I.D.

016-390-610	District Lot 781 Kootenay District
016-390-636	That Part of District Lot 39 Kootenay District Lying East of a Line Which Bisects the Northerly and Southerly Boundaries Thereof

(the "Lands")

B. Alva Marie Soppit ("Soppit") and Timothy Alan Fox ("Fox") wish to subdivide District Lot 284, Kootenay District Except: (1) Part Included in RW Plan DD 15976 and (2) Plans 7825 and 17453 ("District Lot 284") pursuant to the plan of subdivision prepared by Frank R. Maag, British Columbia Land Surveyor, completed on the 12th day of October, 2004 (the "Subdivision Plan");

C. All of the Lands and District Lot 284 consist of agricultural land situated in the Agricultural Land Reserve of the Regional District of East Kootenay (the "Regional District") and are subject to the provisions of the Agricultural Land Commission Act (the "Act") and the Regulations thereto;

D. Soppit and Fox wish to subdivide District Lot 284 by depositing in the Land Title Office a subdivision plan (the "Subdivision Plan"), a true copy of which is attached hereto as the first schedule;

E. Soppit and Fox have applied to, or caused an application to be made to the Transferee for authorization to subdivide District Lot 284;

F. The Transferee is empowered to authorize the deposit of the Subdivision Plan and to impose terms it considers advisable pursuant to the Act and Regulations thereto; and

F. The Transferee, by execution of this Indenture, has authorized the Registrar of Titles to accept the deposit of the Subdivision Plan in the Land Title Office at Kamloops, British Columbia, upon the terms and conditions considered advisable by the Transferee and which are set out below, and the Transferor and HSBC Bank Canada (the "Mortgagee") have agreed below to the imposition of these terms and conditions and to the execution and registration of this Indenture.

Page 6

THEREFORE in consideration of the premises and the sum of One Dollar (\$1.00) of lawful money of Canada now paid by the Transferee to the Transferor and the Mortgagee, the receipt of which is hereby acknowledged, and other good and valuable consideration the parties covenant and agree as follows:

1. In this Indenture the following definitions shall apply where the context allows:

- a. "enactment" means an enactment as defined in the Interpretation Act of Canada and an enactment as defined in the Interpretation Act of British Columbia;
- b. "transfer" includes a conveyance, a grant, an assignment, and a grant of leasehold interest;
- c. "transferee" includes a grantee, an assignee, and a lessee.



2. The Transferor shall not transfer the Lands separately and shall only transfer the Lands collectively to the same transferee. ✓

3. The covenants in this Indenture shall be covenants running with the Lands and shall be binding on the successors in title and assignees of the Lands.

4. The Transferor covenants with the Transferee that the Transferor has done no acts to charge or encumber the Lands, save for Mortgage KW15767 extended by KW162182 in favour of the Mortgagee.

5. The Lands shall remain in the Agricultural Land Reserve of the Regional District and remain subject to the provisions of the Act and the Regulations thereto.

6. The Transferee hereby authorizes the Registrar of Titles to accept the application for deposit of the Subdivision Plan.

7. The authorization given by the Transferee to the Registrar of Titles to accept an application for deposit of the Subdivision Plan shall in no way relieve the Transferor, his successors in title and assigns of the Lands, or any user or occupier thereof, from complying fully with any law or enactment or the decisions, directions, rulings or orders of the Transferee or of any other body, commission, tribunal or authority whatsoever which may apply to the Lands.

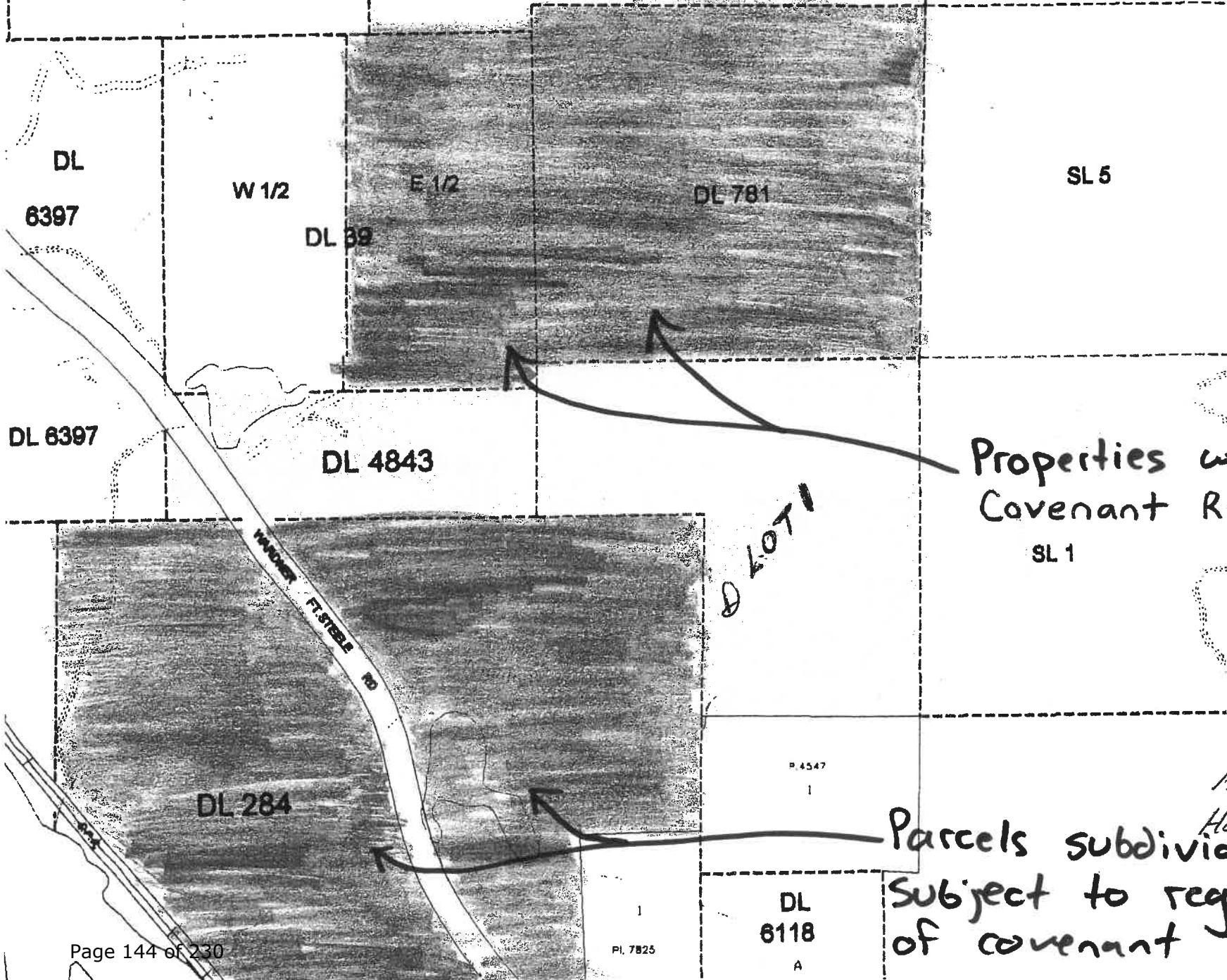
8. The Transferor and the Mortgagee will, upon the request of the Transferee, make do, execute or cause to be made, done or executed all such further and other lawful acts, deeds, documents, and assurances whatsoever as may be necessary or desirable for the better and more perfect and absolute performance of the grants, covenants, provisos and agreements herein.

9. This Indenture shall enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns of the parties hereto.

10. Words importing male gender, including the female gender and either includes the neuter and vice versa and words importing the singular number include the plural number and vice versa.

Reference Map

DL 4834



Properties with the
Covenant Registered
SL 1

LOT 1

ALVA Soppit
Holly ELLIOTT
Parcels subdivided
Subject to registration
of covenant

Request for Decision Development Variance Permit Application

File No: P 719 123
Reference: DVP 36-19
Date: January 2, 2020

Subject: DVP No. 36-19 (Fernie / Goran)
Applicant: Greg and Sharon Goran
Location: Highway 3, Fernie area
Legal: Lot 12, District Lot 4130, KD Plan 1021

Proposal: Application to waive Section 4.6 (1) of the Elk Valley Zoning Bylaw to permit construction of an accessory structure before the principle use has been established to allow for construction of a covered deck beside a recreational vehicle and a storage shed.

Options:

1. THAT Development Variance Permit No. 36-19 (Fernie / Goran) be granted.
2. THAT Development Variance Permit No. 36-19 (Fernie / Goran) be refused.

Recommendation: **Option #1**
The proposed accessory structures are small and located away from the highway and adjacent property lines. The seasonal occupation of the RV is permitted. No issues have been identified.

Property Information: **OCP Designation:** RR, Rural Resource which supports residential development and rural resource land uses on parcel sizes in the range of 2.0 ha to 8.0 ha.

OCP Policies:

- Development is encouraged to recognize and integrate opportunities to retain and maximize the viewscapes.
- Maintaining the agricultural character, which contributes to the economy of the Lizard Creek Subarea, is supported.

Zone Designation: RR-2, Rural Residential (Small Holding) Zone; minimum parcel area is 2 ha

Parcel Area: 2.2 ha (5.4 ac)

Density: One single family dwelling is permitted per parcel. The storage or seasonal occupation of up to two recreational vehicles is permitted per parcel.

ALR Status: Within the ALR. The proposal is considered to be a residential use within the ALR and is therefore permitted.

Property Information - cont'd:	BC Assessment: Farm (Vacant) Flood Hazard Rating: The Elk River flows beside the subject property. Floodplain management provisions will apply to development. Water / Sewer Services: Onsite Interface Fire Hazard Rating: Low to moderate, within the Fernie Rural fire protection area.
Additional Information:	<ul style="list-style-type: none">▪ The proposed covered deck is approximately 35 m² and the proposed storage shed is approximately 6m².▪ The application states that the property is currently used as a hay field, but the owners are also preparing the property to build a permanent residence and small farm.▪ The application states that the owners want to build the covered deck next to their recreational vehicle to keep them out of the wet weather while they building their house.
Consultation:	Advisory Commissions: APC Area A: Support. Response(s) to Notice: 10 notices were mailed on November 18, 2019 to all property owners within 100 m of the subject property. No notices were returned as undeliverable and no responses have been received.
Documents Attached:	<ul style="list-style-type: none">▪ Permit▪ Location Map▪ Land Use Map▪ Site Plan▪ Proposal
RDEK Contact:	Krista Gilbert, Planning Technician Phone: 250-489-0314 Email: kgilbert@rdek.bc.ca

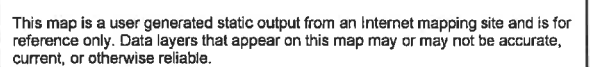
Permittees: Gregory Goran and Sharon McMahon-Goran

1. This Development Variance Permit is issued subject to compliance with all RDEK bylaws applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Permit applies to and only to those lands described below:

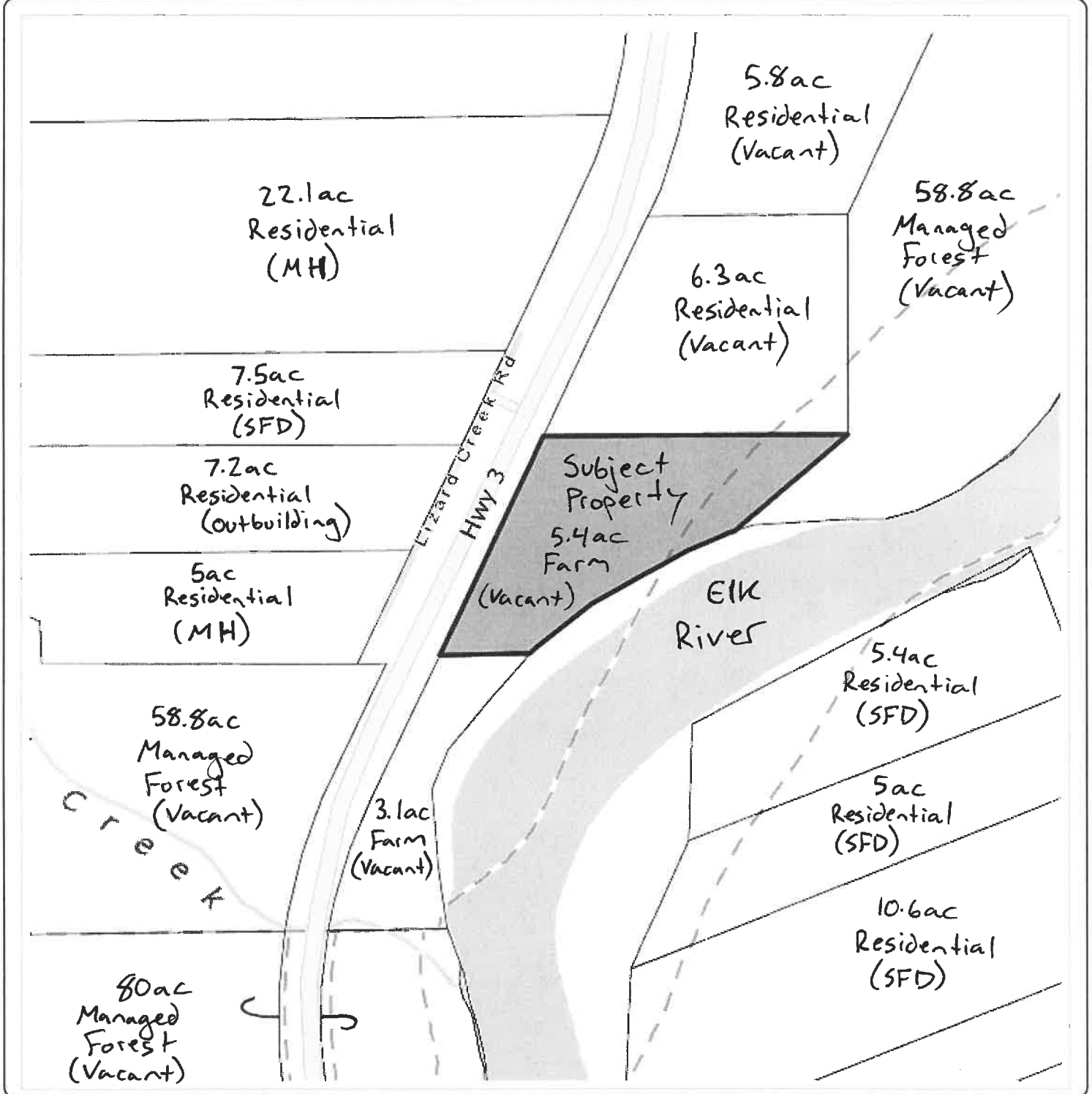
Lot 12, District Lot 4130, Kootenay District Plan 1021
(PID: 012-255-572)
3. Regional District of East Kootenay – Elk Valley Zoning Bylaw No. 829, 1990, Section 4.6(1) which prohibits the construction or placement of an accessory building prior to the principal use of the property being established, is waived to permit a covered deck and storage shed.
4. The lands described herein shall be developed strictly in accordance with the terms and conditions of this Permit and in substantial compliance with the drawings submitted in the Development Variance Permit Application received September 24, 2019.
5. This Permit shall come into force on the date of an authorizing resolution passed by the RDEK.
6. This Permit is not a building permit.
7. If development authorized by this Permit does not commence within two years of the issue date of this Permit, the Permit shall lapse.
8. A notice pursuant to Section 503(1) of the *Local Government Act* shall be filed in the Land Title Office and the Registrar shall make a note of the filing against the title of the land affected.
9. It is understood and agreed that the RDEK has made no representations, covenants, warranties, guarantees, promises, or agreement (verbal or otherwise) with the developer other than those in this Permit.
10. This Permit shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

Authorizing Resolution No. **adopted by the Board of the Regional District of East Kootenay on the day of , 2020.**

Shannon Moskal
Corporate Officer



Land Use Map



Notes:

138 0 69 138 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 10-25-2019 2:56 PM

Scale = 1: 5,500



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Site Plan

2473

2485

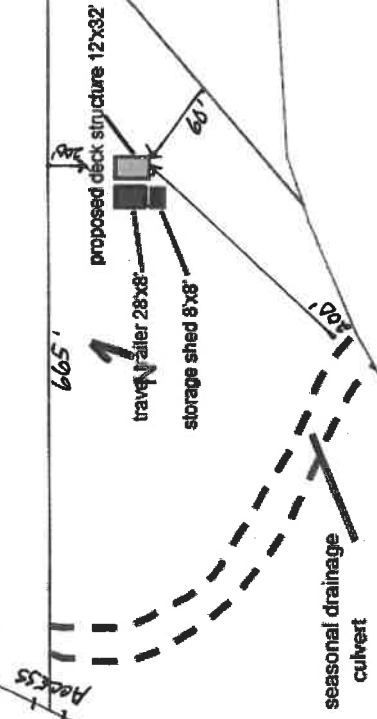
2491

Hwy 3

54.7

Elk River

4033



40m

115.073 49.474 Degrees

Print

RECEIVED

AUG 15 2019

Regional District of East Kootenay



Government of British Columbia, DataBC, GeoBC

Proposed Covered Deck

1/2" OSB SHEATHING

2/10 METAL ROOF

3"x3"x3" HDG L BRACKET

RAFTER
BRACKET

11'8"

4"x4" POST

TENSION CABLE ON
EACH SIDE OF PERGOLA

TREATED DECKING
BOARDS

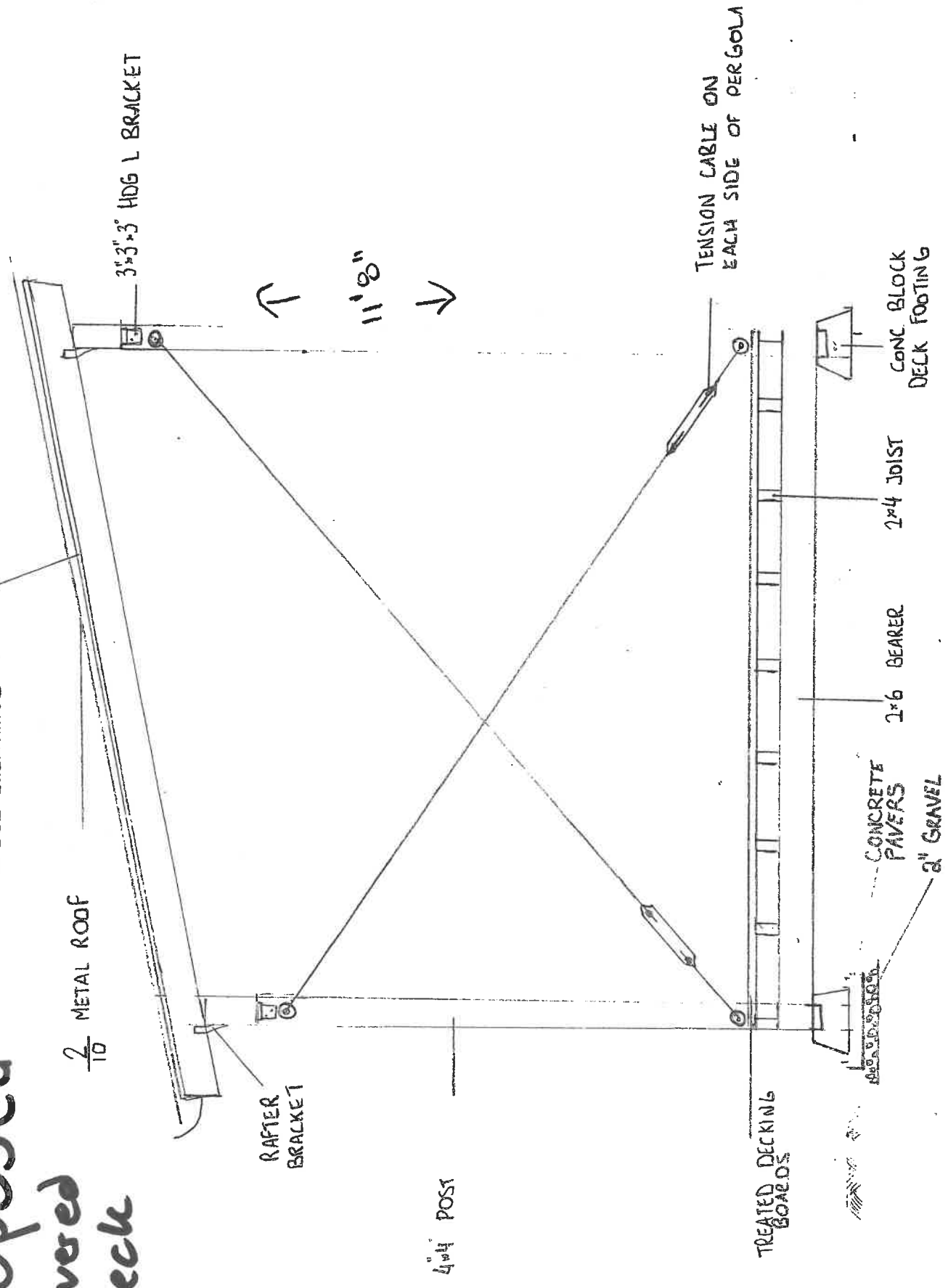
CONCRETE
PAVERS
2" GRAVEL

2"x6 BEARER

2"x4 JOIST

CONC BLOCK
DECK FOOTING

SCALE
1" = 2'



Request for Decision Development Variance Permit Application

File No: P 719 426
Reference: DVP 39-19
Date: January 2, 2020

Subject: DVP No. 39-19 (Meadowbrook / Hockley)
Applicant: Allen & Margaret Hockley
Agent: Wolfgang Besold
Location: 8011 Thompson Road, Meadowbrook
Legal: Lot 3, District Lot 12733, Kootenay District, Plan 2656

Proposal: Application to vary the Electoral Area E Zoning & Floodplain Bylaw to reduce the minimum side yard setback requirement from 5 m to 3.8 m for a storage/hobby shop with eave overhang.

Options:

1. THAT Development Variance Permit No. 39-19 (Meadowbrook / Hockley) be granted.
2. THAT Development Variance Permit No. 39-19 (Meadowbrook / Hockley) be refused.

Recommendation: **Option #1**
No negative impacts are anticipated. The building has been constructed in a location where the neighbouring property is already developed with outbuildings and fire separation requirements will not be impeded by the proposed variance.

**Property
Information:**

OCP Designation: LH, Large Holdings

OCP Objectives:

- Maintain the rural and agricultural nature of the plan area by only considering new residential proposals if they are appropriately located and compatible with adjacent land uses so as not to compromise environmental and agricultural values.

Zone Designation: RR-4, Rural Residential (Hobby Farm) Zone; minimum parcel area requirement is 4 ha.

Parcel Area: 1.7 ha (4.2 acres)

Density: One single family dwelling or duplex is permitted per parcel.

ALR Status: Within the ALR

BC Assessment: Residential with a SFD

Water / Sewer Services: Onsite

Interface Fire Hazard Rating: Low to high, not within a fire protection area

**Property
Information
– cont'd:**

Flood Hazard Rating: Subject property is not identified as being within a flood hazard area.

**Additional
Information:**

- This building is currently under construction and was started without a building permit. The Contractor stated that he was given incorrect information regarding the location of the lot line and that the building cannot be moved. A building permit application has now been submitted and is in the review process pending a DVP decision.

Consultation:

Advisory Commissions:

APC Area E: Support recommended

Response(s) to Notice: 15 notices were mailed on November 7, 2019 to all property owners within 100 m. No notices were returned and no responses have been received.

**Documents
Attached:**

- Permit
- Location Map
- Land Use Map
- Zone Regulation
- Proposal & Photos

**RDEK
Contact:**

Tracy Van de Wiel, Planning Technician
Phone: 250-489-0306
Email: tvandewiel@rdek.bc.ca

Permittees: Allen and Margaret Hockley

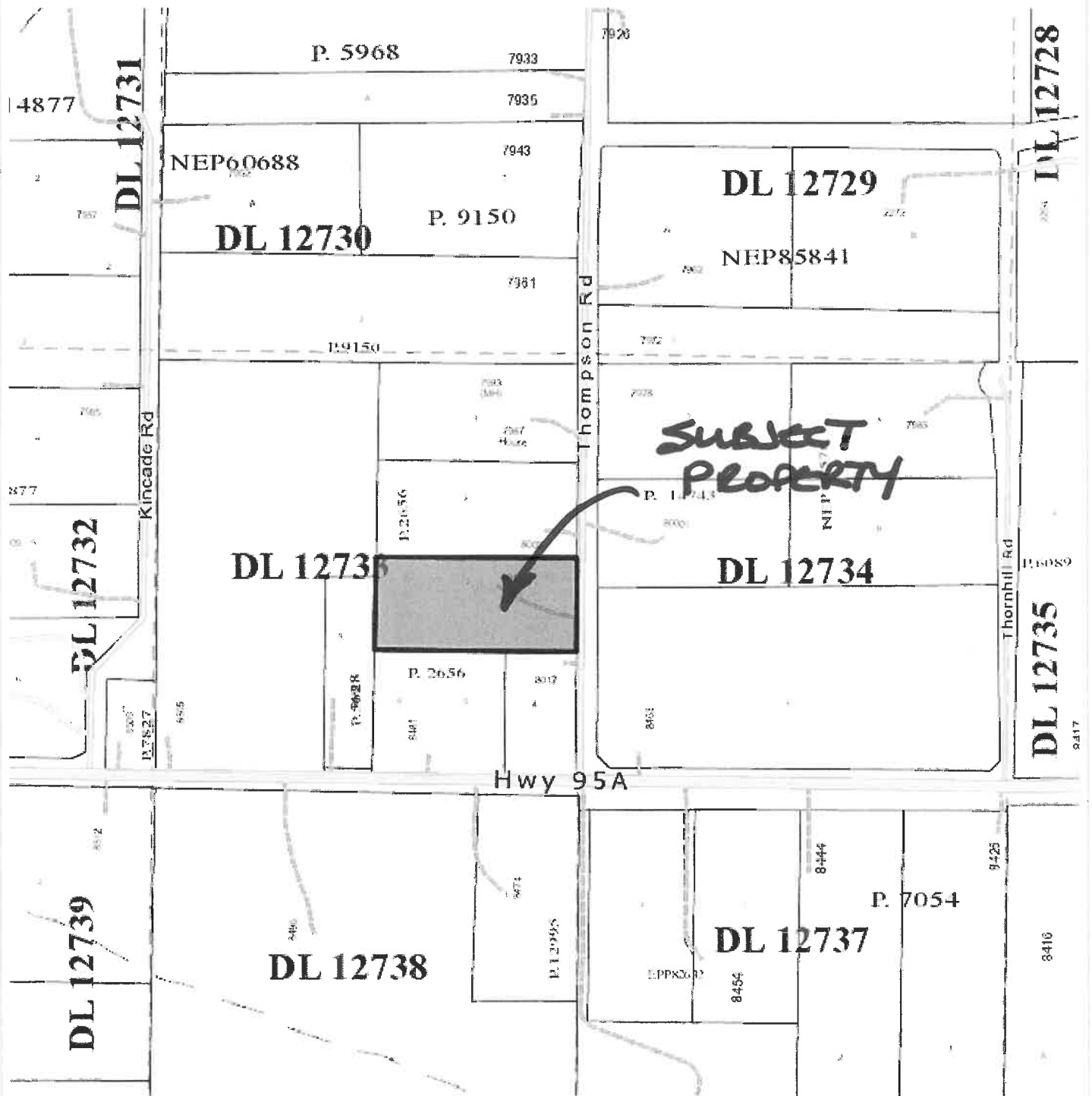
1. This Development Variance Permit is issued subject to compliance with all RDEK bylaws applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Permit applies to and only to those lands described below:

Lot 3, District Lot 12733, Kootenay District, Plan 2656 (PID: 015-170-632)
3. Regional District of East Kootenay – Electoral Area E Zoning Bylaw No. 2502, 2014, Section 4.10 (3)(b) which requires a minimum side yard setback of 5 m is varied to reduce the side yard setback to 3.8 m for a storage/hobby shop with eave overhang.
4. The lands described herein shall be developed strictly in accordance with the terms and conditions of this Permit and in substantial compliance with the drawings submitted in the Development Variance Permit application received October 3, 2019.
5. This Permit shall come into force on the date of an authorizing resolution passed by the RDEK.
6. This Permit is not a building permit.
7. If development authorized by this Permit does not commence within two years of the issue date of this Permit, the Permit shall lapse.
8. A notice pursuant to Section 503(1) of the *Local Government Act* shall be filed in the Land Title Office and the Registrar shall make a note of the filing against the title of the land affected.
9. It is understood and agreed that the RDEK has made no representations, covenants, warranties, guarantees, promises, or agreement (verbal or otherwise) with the developer other than those in this Permit.
10. This Permit shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

Authorizing Resolution No. _____ **adopted by the Board of the Regional District of East**
Kootenay on the **day of** _____ **, 2019.**

Shannon Moskal
Corporate Officer

LOCATION PLAN



Notes:

202 0 101 202 Meters

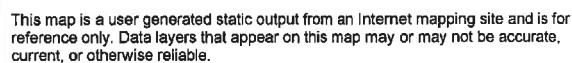
WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 10-31-2019 12:11 PM

Scale = 1: 8,073



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.



4.10 RURAL RESIDENTIAL (HOBBY FARM): RR-4 ZONE*Zone Regs***(1) Permitted uses**

Within the RR-4 zone, the following uses and no others are permitted:

- (a) *Single family dwelling;*
- (b) *Duplex;*
- (c) *Farm operation, excluding confined livestock areas.*

(2) Accessory uses

- (a) *Home based business;*
- (b) *Secondary dwelling unit for farm hand;*
- (c) *Veterinary clinic;*
- (d) *Kennel;*
- (e) *Secondary suite;*
- (f) *Uses, buildings and structures accessory to a permitted use.*

(3) Regulations

In the RR-4 zone, no *building or structure* may be constructed or placed and no plan of subdivision approved which contravenes the regulations contained in the table below. Column 1 identifies the matter to be regulated. Column 2 establishes the regulations.

COLUMN 1	COLUMN 2
(a) Minimum parcel size	4 ha
(b) Minimum setbacks:	
<i>Principal buildings and structures from:</i>	
▪ <i>front parcel line</i>	7.5 m
▪ <i>rear parcel line</i>	7.5 m
▪ <i>interior side parcel line</i>	7.5 m
▪ <i>exterior side parcel line</i>	7.5 m
<i>Accessory buildings and structures from:</i>	
▪ <i>front parcel line</i>	7.5 m
▪ <i>rear parcel line</i>	5 m
▪ <i>interior side parcel line</i>	5 m
▪ <i>exterior side parcel line</i>	5 m
(c) Maximum height for:	
<i>Principal buildings and structures</i>	10 m
<i>Accessory buildings and structures</i>	12 m
(d) Maximum parcel coverage	35%
(e) Maximum parcel coverage for greenhouses with closed waste and storm water systems	75%

*Section to be varied***(4) Other Regulations**

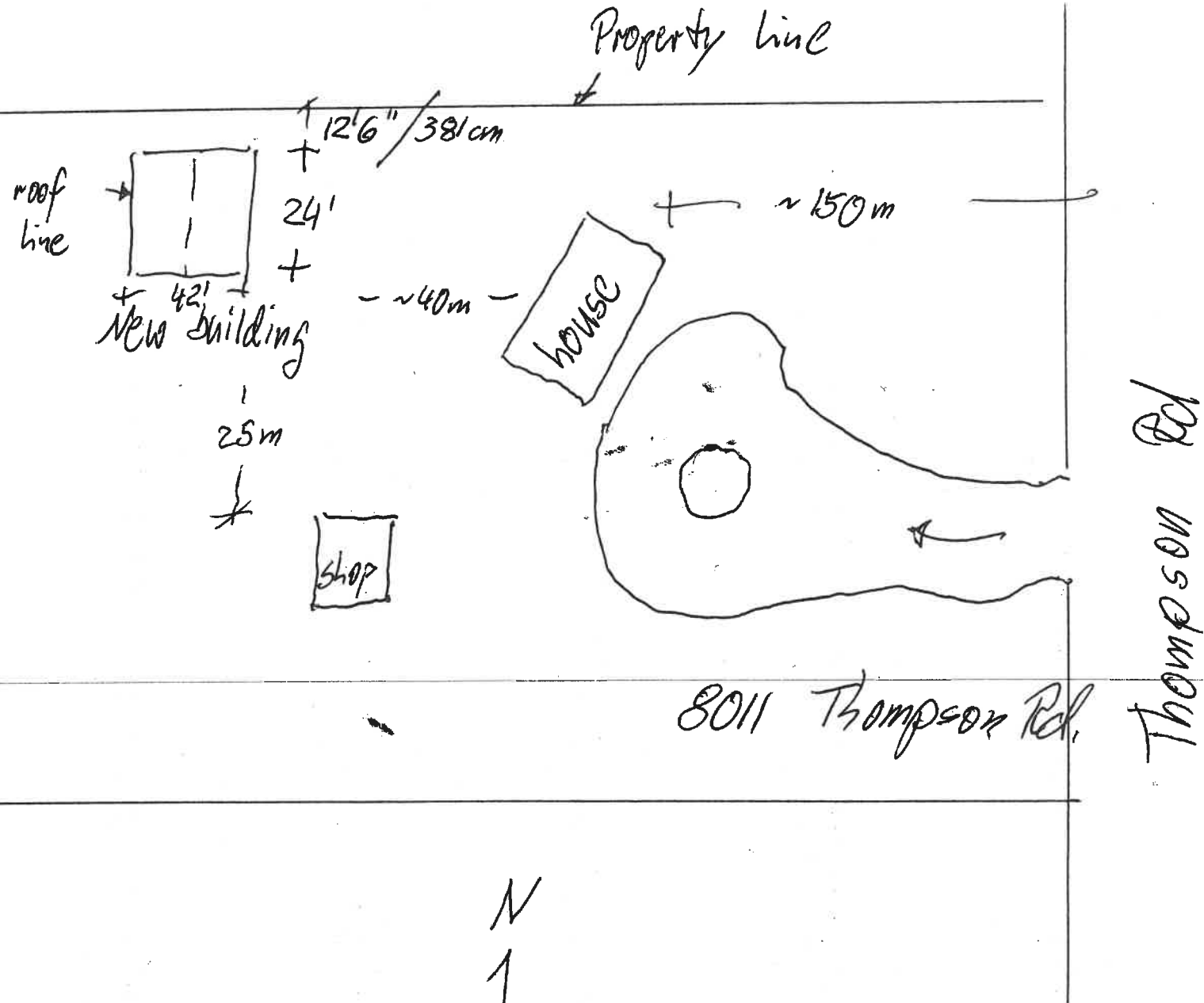
All *dwelling units* must be located on a contiguous area of the parcel not larger than 2 ha in size.

Proposal

RECEIVED

OCT 03 2019

Regional District of
East Kootenay



Photos



↑
approx. property line

new
building →



← property
line

Request for Decision Development Variance Permit Application

File No: P 719 552
Reference: DVP 41-19
Date: December 23, 2019

Subject: DVP No. 41-19 (Holland Creek / 1047217 Alb Ltd.)
Applicant: James and Elizabeth Stinson
Agent: James Stinson
Location: 4815 Holland Creek Ridge Rd in the Windermere North area
Legal: Lot 24, District Lot 7551, KD, Plan NEP68166

Proposal: To increase the maximum permitted parcel coverage from 30% to 33% to permit a deck addition for the existing dwelling.

Options:

1. THAT Development Variance Permit No. 41-19 (Holland Creek / 1047217 Alb Ltd.) be granted.
2. THAT Development Variance Permit No. 41-19 (Holland Creek / 1047217 Alb Ltd. be refused.

Recommendation: **Option #1**
No issues have been identified. The proposed deck is a minor addition at the rear of the property where impacts to other lots will be minimized.

Property Information: **OCP Designation:** R-SF, Residential Low Density, which supports single family residential subdivisions, duplexes and manufactured home parks.

OCP Policy:

- To support a range of housing types and densities within the plan area reflective of the diverse needs of both resident and non-resident homeowners that make up the plan area.

Zone Designation: R-1, Single Family Residential Zone

Parcel Area: 0.08 ha (0.2 ac)

Density: One single family dwelling is permitted per lot

ALR Status: Not within the ALR

BC Assessment: Residential (SFD)

Flood Hazard Rating: Not identified as being within a floodplain or a special policy area for flood hazard.

Water / Sewer Services: East Side Lake Windermere Water, Holland Creek Community Sewage

Property Information - cont'd:	Interface Fire Hazard Rating: Moderate; within the Lake Windermere fire protection area.
Additional Information:	The existing dwelling with existing decks calculates to approximately 31.9% coverage. The additional proposed portion of deck increases the coverage calculation by approximately 6.93 m ² (1.1 % of coverage).
Consultation:	Advisory Commissions: APC Area F & G: Support recommended Response(s) to Notice: Notices were mailed on November 20, 2019 to all property owners within 100 m of the subject property. Two notices were returned as undeliverable and one letter was received indicating 'no objection' (letter attached).
Documents Attached:	<ul style="list-style-type: none">▪ Permit▪ Location Map▪ Land Use Map▪ Zone Regulations▪ Proposal & Photo
RDEK Contact:	Tracy Van de Wiel, Planning Technician Phone: 250-489-0306 Email: tvandewiel@rdek.bc.ca

Permittees: 1047217 Alberta Ltd.

1. This Development Variance Permit is issued subject to compliance with all RDEK bylaws applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Permit applies to and only to those lands described below:

Lot 24, District Lot 7551, Kootenay District, Plan NEP68166 (PID: 024-922-129)
3. Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992, Section 7.03 (6)(c) which permits a maximum parcel coverage of 30% is varied to increase the maximum permitted parcel coverage from 30% to 33% to permit a deck addition onto the existing dwelling.
4. The lands described herein shall be developed strictly in accordance with the terms and conditions of this Permit and in substantial compliance with the drawings submitted in the Development Variance Permit application received October 18, 2019.
5. This Permit shall come into force on the date of an authorizing resolution passed by the RDEK.
6. This Permit is not a building permit.
7. If development authorized by this Permit does not commence within two years of the issue date of this Permit, the Permit shall lapse.
8. A notice pursuant to Section 503(1) of the *Local Government Act* shall be filed in the Land Title Office and the Registrar shall make a note of the filing against the title of the land affected.
9. It is understood and agreed that the RDEK has made no representations, covenants, warranties, guarantees, promises, or agreement (verbal or otherwise) with the developer other than those in this Permit.
10. This Permit shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

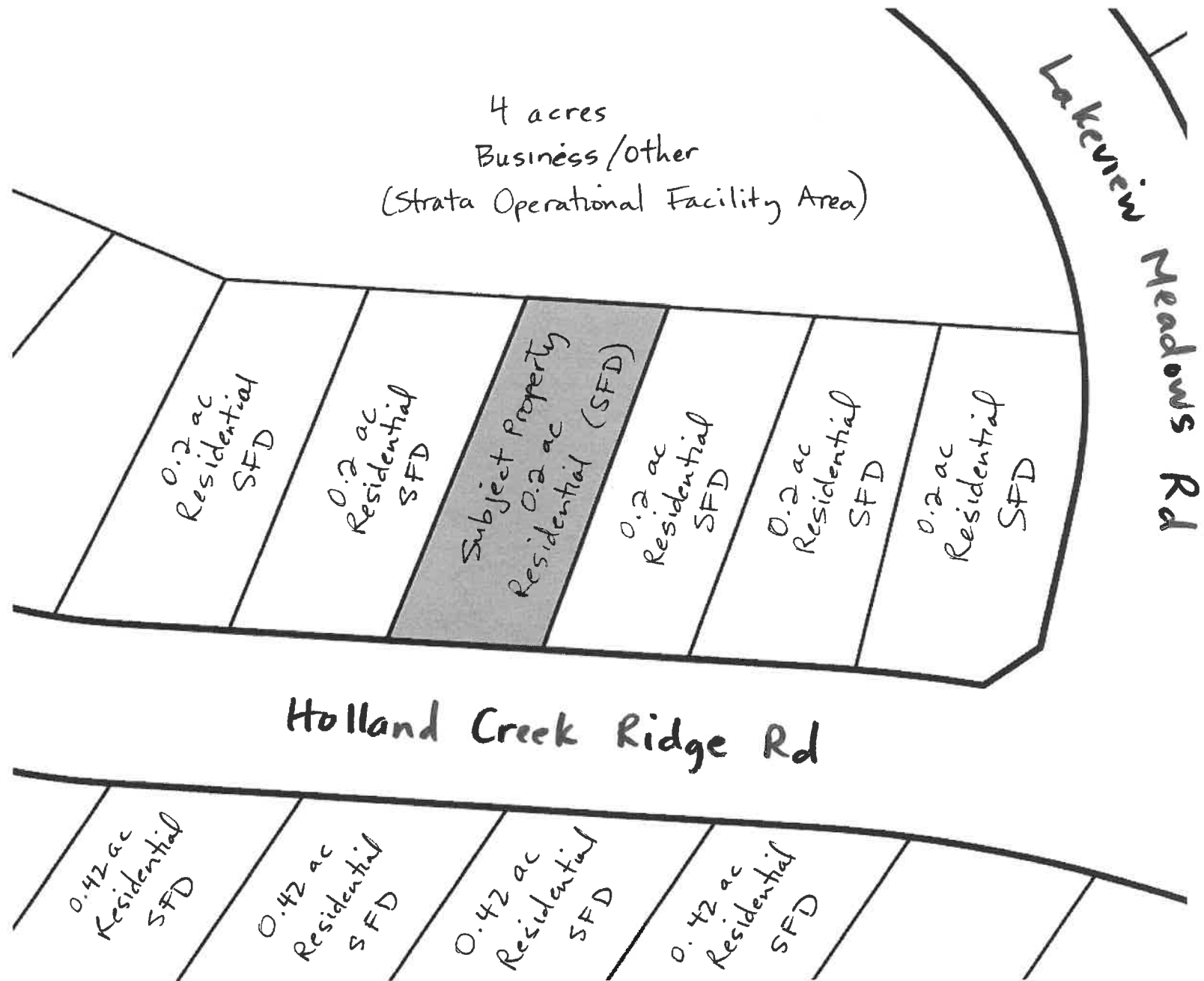
Authorizing Resolution No. **adopted by the Board of the Regional District of East Kootenay on the day of , 2020.**

Shannon Moskal
Corporate Officer

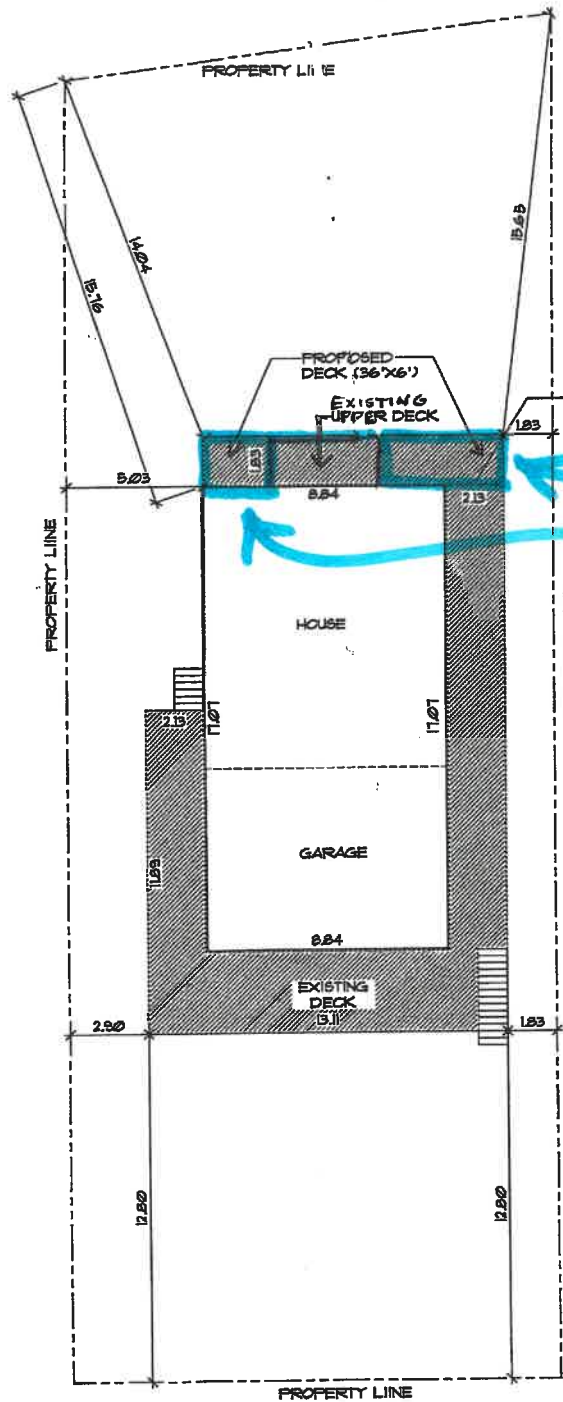
To →
Fairmont



Land Use Map



Proposal



Variance to permit new deck which increases total coverage to 33%

4815 HOLLAND CREEK RIDGE ROAD,
INVERMERE, BRITISH COLUMBIA

RECEIVED

OCT 18 2019

Regional District of
East Kootenay CV

NOT VERIFIED TO SCALE



Letter from neighbour

Tracy Van de Wiel

From: Rob Doel <rob@mckeehomes.com>
Sent: November-29-19 4:25 PM
To: Tracy Van de Wiel
Subject: RE: Dev.Var Permit #41-19 (4815 Holland Creek Ridge Rd.)

Hi Tracy, thanks. Don't know why they would want even more decking, ☺ but based on this size we have no objections.

Thank you,

Rob Doel

VP Land & Development

McKee Homes Ltd.
406-1st Ave., Airdrie, AB.
Bus: 403-948-6595
<http://www.mckeehomes.com>

From: Tracy Van de Wiel [mailto:tvandewiel@rdek.bc.ca]
Sent: November-29-19 14:14
To: Rob Doel
Subject: RE: Dev.Var Permit #41-19 (4815 Holland Creek Ridge Rd.)

Hi Rob,

No problem, please see the attached info package.

The applicants would like to add a deck at the back main level of their house which will project out from the house the same distance as the current upstairs deck, but the new one will be across the whole width of the house, on the main level.

Please let us know if you have any comments.

Tracy Van de Wiel
Planning Technician

Regional District of East Kootenay
19 24th Avenue South
Cranbrook BC V1C 3H8
Main: 250-489-2791
Email: tvandewiel@rdek.bc.ca

From: Rob Doel <rob@mckeehomes.com>
Sent: November-27-19 4:26 PM

Request for Decision Development Variance Permit Application

File No: P 719 363
Reference: DVP 43-19
Date: December 31, 2019

Subject: DVP 43-19 (Cranbrook East / ZAM Enterprises Ltd.)
Applicant: ZAM Enterprises Ltd.
Agent: Sheila Hall
Location: 4086 Standard Hill Rd, East of Cranbrook
Legal: Lot 1, District Lot 33, Kootenay District Plan NEP19378

Proposal: Application to vary the RDEK Mobile Home Park Bylaw No. 1 and the Electoral Area C South Zoning & Floodplain Management Bylaw No. 2913. The applicant is requesting to reduce the side yard setback of a mobile home from a mobile home space from 3.0 m to 2.5 m for the east side of the mobile home space.

Options:

1. THAT Development Variance Permit No. 43-19 (Cranbrook East / ZAM Enterprises Ltd.) be granted.
2. THAT Development Variance Permit No. 43-19 (Cranbrook East / ZAM Enterprises Ltd.) be refused.

Recommendation: **Option #1**
Placement of a new manufactured home is not anticipated to change the current state of the land. New manufactured homes are larger, making them difficult to meet required setbacks. Fire separation requirements of the BC Building Code must be met at the building permit stage.

Property Information: **OCP Designation:** R-SF, Residential Low Density, which includes single family residential subdivisions, duplexes and manufactured home parks.

OCP Policies:

- Residential developments are encouraged to be designed to meet the needs of permanent full-time residents.

Zoning Designation: R-MP, Manufactured Home Park Residential Zone, minimum parcel sizes: 2.0 ha.

Parcel Size: 7.4 ha (18.2 acres)

Density: 18 manufactured homes per hectare of usable site area is permitted.

ALR Status: Not within the ALR

BC Assessment: Residential (Mobile Home Park)

Water / Sewer Services: Onsite

**Property
Information -
cont'd:**

Interface Fire Hazard Rating: Low to high, within the Cranbrook Rural fire protection area

Flood Hazard Rating: Subject property is not within a flood hazard rating area.

**Additional
Information:**

- There is currently an existing mobile home, the proposal is to replace this current mobile home with a new one. The application states that new mobile homes are larger than older models and that the requested variance will allow for the best use of the existing space and access to existing services.

Consultation:

APC Area C: Support

Building Inspector Comments: At 2.5 m to the eaves there would not be any additional considerations for fire protection for proximity to property lines. There are no concerns to vary the side yard setback.

Response(s) to Notice: 116 notices were mailed on December 2, 2019 to all property owners within 100 m. One notice was returned as undeliverable and one response has been received stating opposition for the application for the reasons noted in the attached letter.

**Documents
Attached:**

- Permit
- Location Map
- Land Use Map
- Site Plan
- Proposal
- Response Letter

**RDEK
Contact:**

Krista Gilbert, Planning Technician
Phone: 250-489-0314
Email: kgilbert@rdek.bc.ca

Permittees: ZAM Enterprises Ltd.

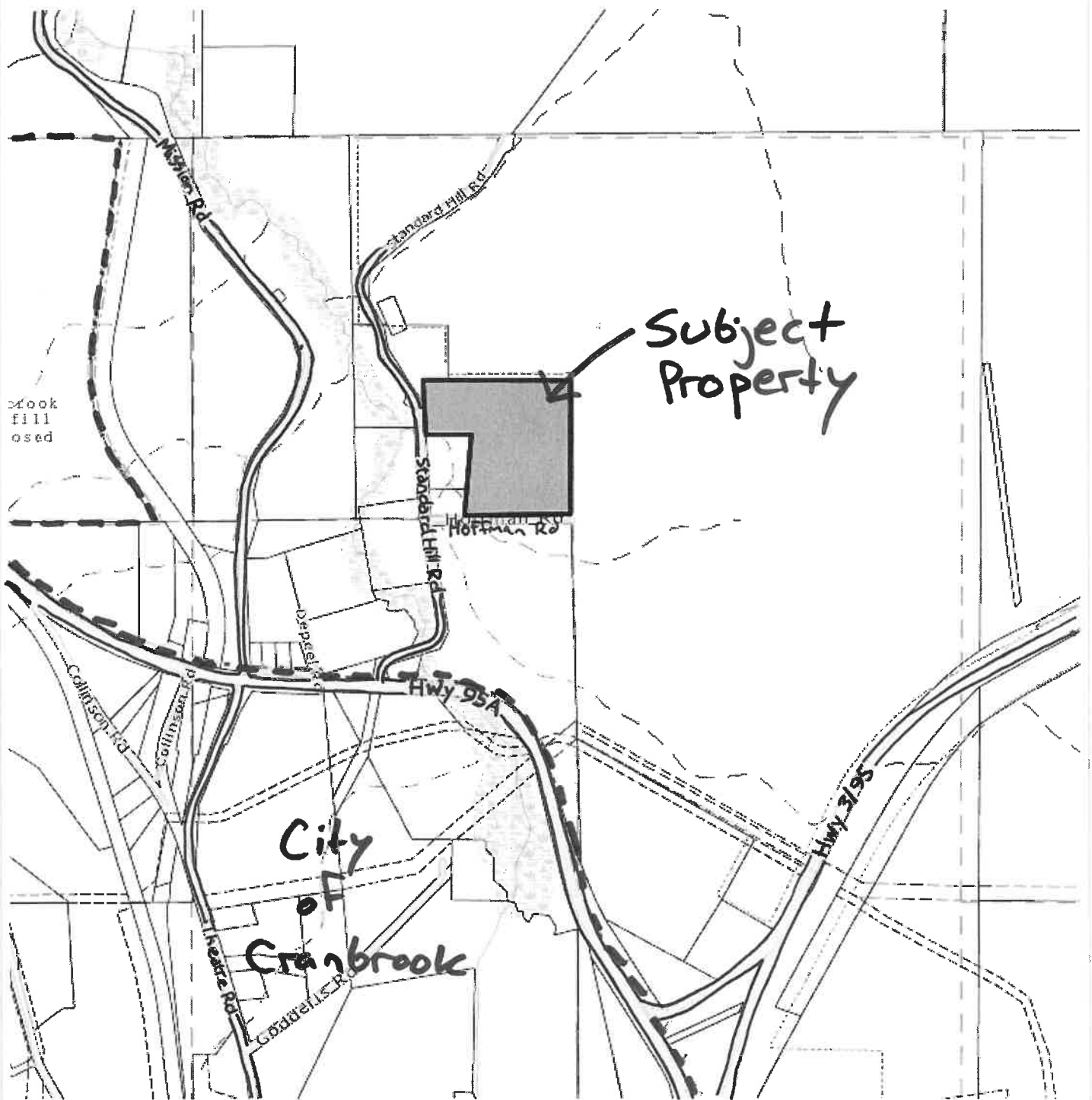
1. This Development Variance Permit is issued subject to compliance with all RDEK bylaws applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Permit applies to and only to those lands described below:

Lot 1 District Lot 33, Kootenay District, Plan NEP19378
[PID: 017-399-319]
3. Regional District of East Kootenay – Mobile Home Park Bylaw No. 1, 1978, Section 4.09(1)(b), which requires a mobile home and additions to be sited at least 3.0 m from the side of the mobile home space, is reduced to 2.5 m.
4. Regional District of East Kootenay – Electoral Area C South Zoning & Floodplain Management Bylaw No. 2913, 2019, Section 4.06(3)(e), which requires a manufactured home to be sited at least 3.0 m from the side of the mobile home space, is reduced to 2.5 m.
5. The lands described herein shall be developed strictly in accordance with the terms and conditions of this Permit and in substantial compliance with the development variance permit application received on November 12, 2019.
6. This Permit shall come into force on the date of an authorizing resolution passed by the RDEK.
7. This Permit is not a building permit.
8. If development authorized by this Permit does not commence within two years of the issue date of this Permit, the Permit shall lapse.
9. A notice pursuant to Section 503(1) of the *Local Government Act* shall be filed in the Land Title Office and the Registrar shall make a note of the filing against the title of the land affected.
10. It is understood and agreed that the RDEK has made no representations, covenants, warranties, guarantees, promises, or agreement (verbal or otherwise) with the developer other than those in this Permit.
11. This Permit shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

Authorizing Resolution No. **adopted by the Board of the Regional District of East Kootenay on the** **day of** **, 2020.**

Shannon Moskal
Corporate Officer

Location Map



Notes:

450 0 225 450 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 11-22-2019 3:03 PM

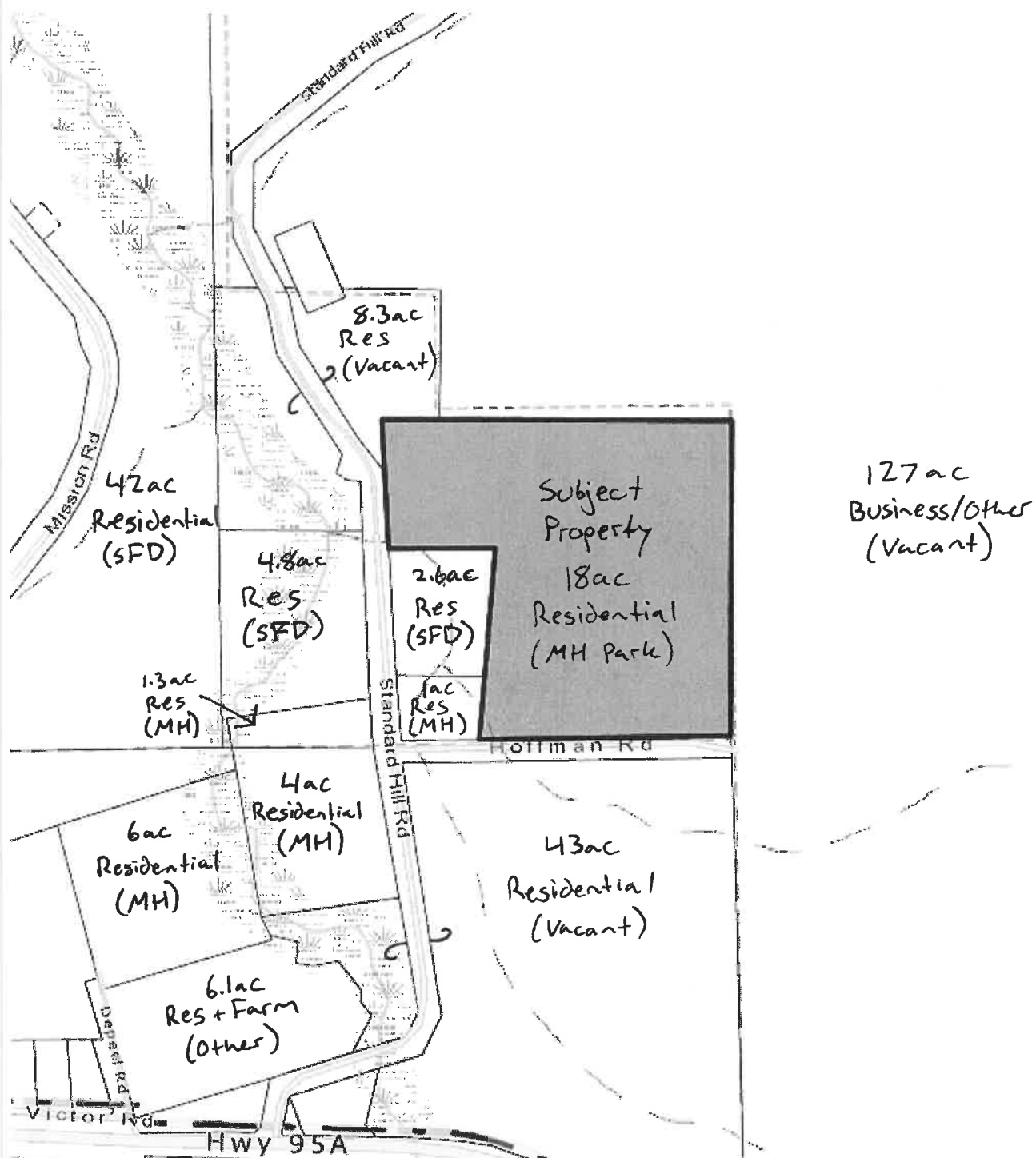
Scale = 1: 18,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Land Use Map



Notes:

200 0 100 200 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 11-22-2019 3:05 PM

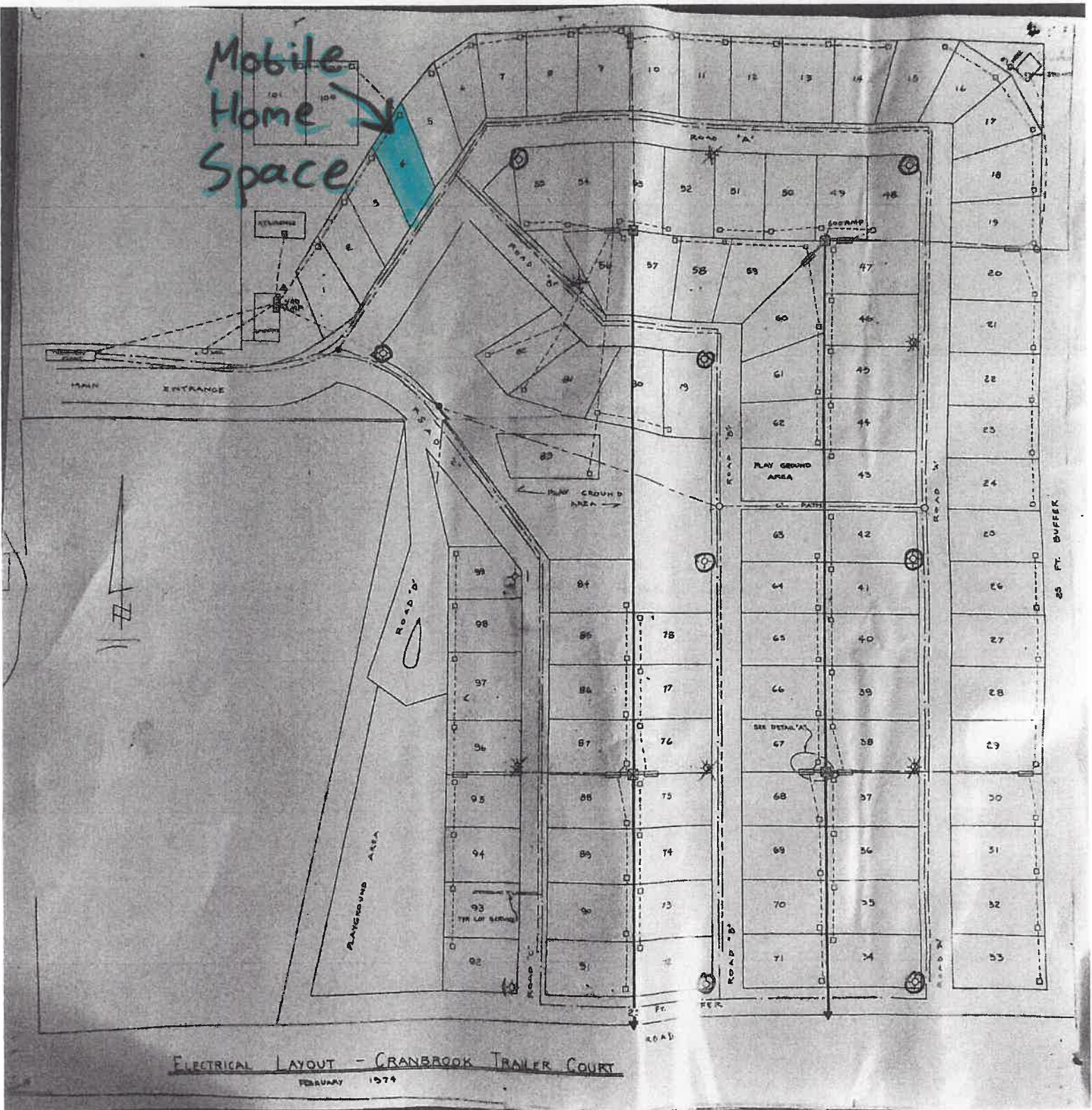
Scale = 1: 8,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

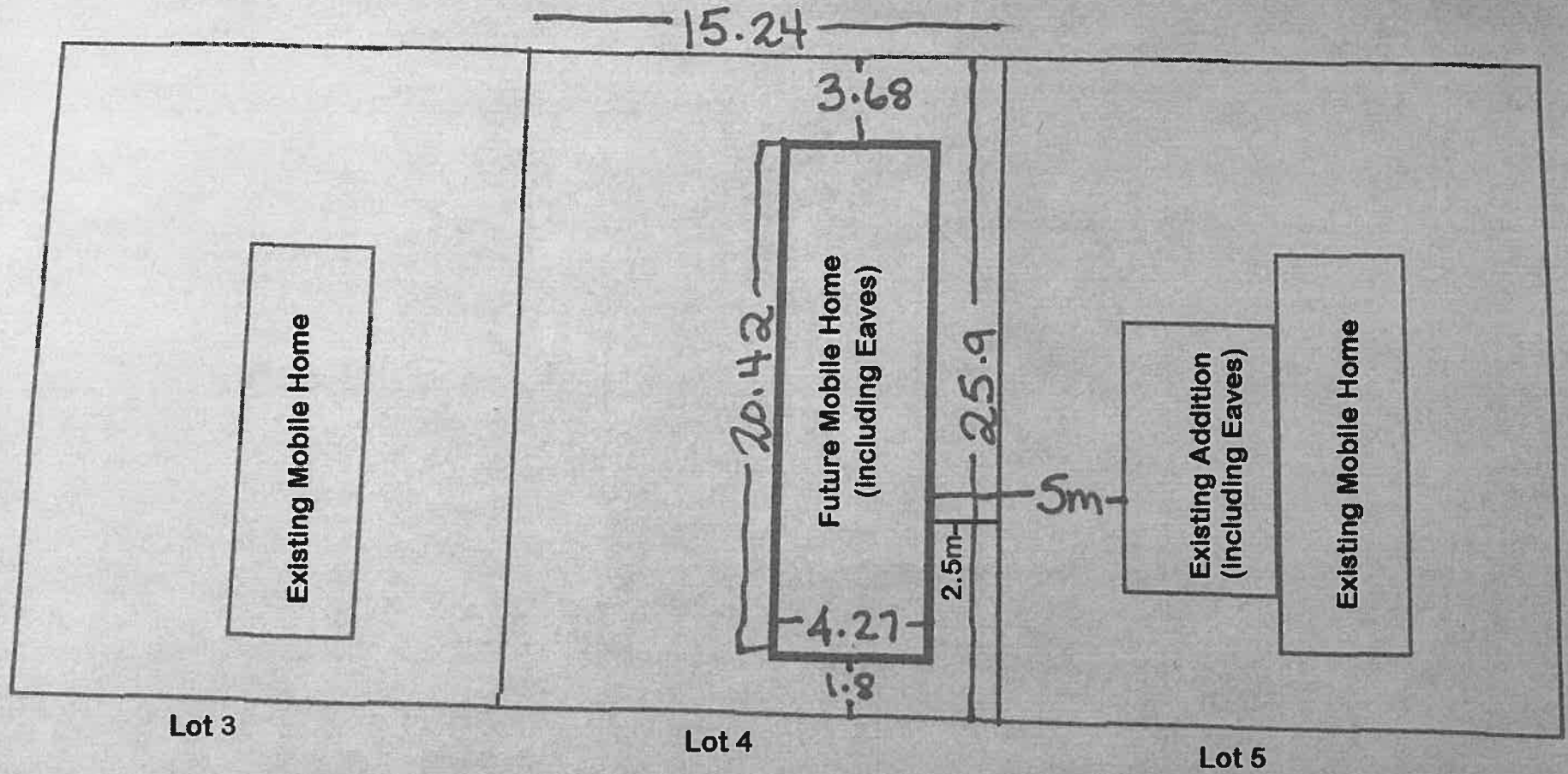
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Mobile Home Park Site Plan



Proposal

Georgian Pines MHP





HYDRAULICS UNLIMITED

*Specializing in Custom Products
Designed and Built to Customer Requirements*

Personal information has been
withheld in accordance with
Section 22(1) of the Freedom of
Information and Protection of
Privacy Act.

From Steve Hagan
#5-4086 Standard Hill Rd
Cranbrook B.C.
[REDACTED] [REDACTED]

As per your request for
removing part of my
property

#1 I have 3 trees that
should bloom every year.
but because of the
closeness of the old
trailer I needed to prune
the branches every 2 years
as they hit my neighbours
trailer. So in doing that

PO Box 519, Cranbrook, BC V1C 4J1
Telephone: 250-489-1666 • Fax: 250-489-5919
Email: hydraulics@cyberlink.bc.ca • Web: www.hydraulicsunlimited.com



HYDRAULICS UNLIMITED

*Specializing in Custom Products
Designed and Built to Customer Requirements*

they would bloom only every 2nd year. If you will take the land requested means I'd be pruning them every year and they would never bloom so that means I would have to remove them and I don't want to

#2 I believe this would also be a fire hazard

#3 I also believe my privacy would also be violated

PO Box 519, Cranbrook, BC V1C 4J1
Telephone: 250-489-1666 • Fax: 250-489-5919
Email: hydraulics@cyberlink.bc.ca • Web: www.hydraulicsunlimited.com



HYDRAULICS UNLIMITED

*Specializing in Custom Products
Designed and Built to Customer Requirements*

Personal information has been
withheld in accordance with
Section 22(1) of the Freedom of
Information and Protection of
Privacy Act.

#4

Ownership & Management
also allowed the trailer
in lot 6 to build a deck
close to my house and a
fence touching my house
and they won't have her
remove it and I shouldn't
be required to give up
more land.

Steve Hogan

PO Box 519, Cranbrook, BC V1C 4J1
Telephone: 250-489-1666 • Fax: 250-489-5919
Email: hydraulics@cyberlink.bc.ca • Web: www.hydraulicsunlimited.com

Request for Decision Development Variance Permit Application

File No: P 719 359
Reference: DVP 44-19
Date: December 17, 2019

Subject: DVP 44-19 (Cranbrook North / Marlow)
Applicant: Tracey and Katherina Marlow
Location: 4201 Kahn Road, North of Cranbrook
Legal: Lot 17, District Lot 10352, Kootenay District Plan 7892

Proposal: Application to waive section 1.08 (2)(a) of the Electoral Area C South Zoning & Floodplain Management Bylaw to permit the temporary external placement of up to three boats in association with a home based business.

Options:

1. THAT Development Variance Permit No. 44-19 (Cranbrook North / Marlow) be granted.
2. THAT Development Variance Permit No. 44-19 (Cranbrook North / Marlow) be refused.

Recommendation: **Option #1**
The area identified for the temporary placement of the boats is in a location that is not visible from the road. The proposed maximum number of boats allowed at one time will not overwhelm the property and the home based business will continue to operate in a way that is accessory to the residential nature of the property.

Property Information: **OCP Designation:** MH, Medium Holding, which supports rural residential development with a parcel size of 2.0 ha.

OCP Policies:

- Home based businesses will be permitted within residential areas through the zoning bylaw. However, the business must remain accessory to the residential use and must not disrupt the residential character of the neighbourhood.

Zoning Designation: RR-2, Rural Residential (Small Holding) Zone (minimum parcel size: 2.0 ha)

Parcel Size: 1.1 ha (2.8 ac)

Density: One Single Family Dwelling

ALR Status: Not within the ALR

Interface Fire Hazard Rating: Low to high, within the Cranbrook Rural fire protection area

BC Assessment: Residential (SFD)

**Property
Information -
cont'd:**

Water and Sewer Services: Onsite

Flood Hazard Rating: The subject property is not identified as being within in an area with a flood hazard rating.

**Additional
Information:**

- The owners operate a boat and ATV repair and maintenance business. The accessory shop on the property is part of the home based business. On parcels less than 2 ha no external storage and no exterior evidence of the home based business is permitted.
- The application states that the boats would not be placed long term, just while they are waiting for parts. The boats would be placed outside, to the west of the shop.

Consultation:

Advisory Commissions:

APC Area C: Support.

Response(s) to Notice: 13 notices were mailed on November 25, 2019 to all property owners within 100 m of the subject property. No notices were returned as undeliverable. Five letters of support have been received.

**Documents
Attached:**

- Permit
- Location Map
- Land Use Map
- Proposal

**RDEK
Contact:**

Krista Gilbert, Planning Technician
Phone: 250-489-0314
Email: kgilbert@rdek.bc.ca

Permittee: Trace and Katherina Marlow

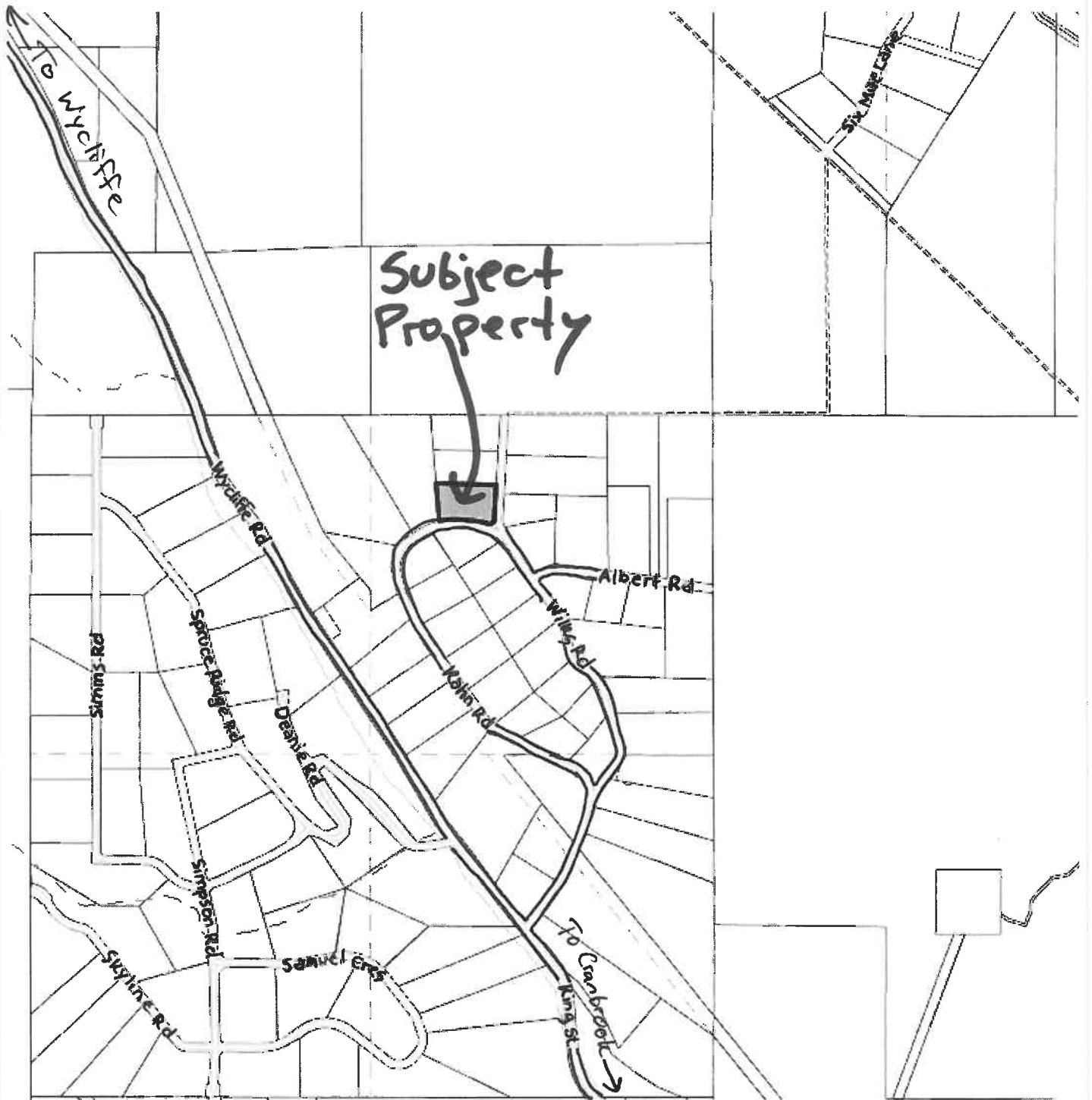
1. This Development Variance Permit is issued subject to compliance with all RDEK bylaws applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Permit applies to and only to those lands described below:

Lot 17, District Lot 10352, Kootenay District Plan 7892
[PID: 010-403-051]
3. Regional District of East Kootenay – Electoral Area C South Zoning & Floodplain Management Bylaw No. 2913, 2019, Section 1.08 (2)(a) which requires a home based business to be conducted wholly within a dwelling unit or accessory building, with no external storage of materials, containers or finished product, and no exterior evidence of the home based business, is varied permit the temporary external placement of up to three boats in association with a home based business.
4. The lands described herein shall be developed strictly in accordance with the terms and conditions of this Permit and in substantial compliance with the development variance permit application received on November 21, 2019.
5. This Permit shall come into force on the date of an authorizing resolution passed by the RDEK.
6. This Permit is not a building permit.
7. If development authorized by this Permit does not commence within two years of the issue date of this Permit, the Permit shall lapse.
8. A notice pursuant to Section 503(1) of the *Local Government Act* shall be filed in the Land Title Office and the Registrar shall make a note of the filing against the title of the land affected.
9. It is understood and agreed that the RDEK has made no representations, covenants, warranties, guarantees, promises, or agreement (verbal or otherwise) with the developer other than those in this Permit.
10. This Permit shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

Authorizing Resolution No. **adopted by the Board of the Regional District of East Kootenay on the day of , 2020.**

Shannon Moskal
Corporate Officer

Location Map



Notes:

500 0 250 500 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 11-1-2019 12:01 PM

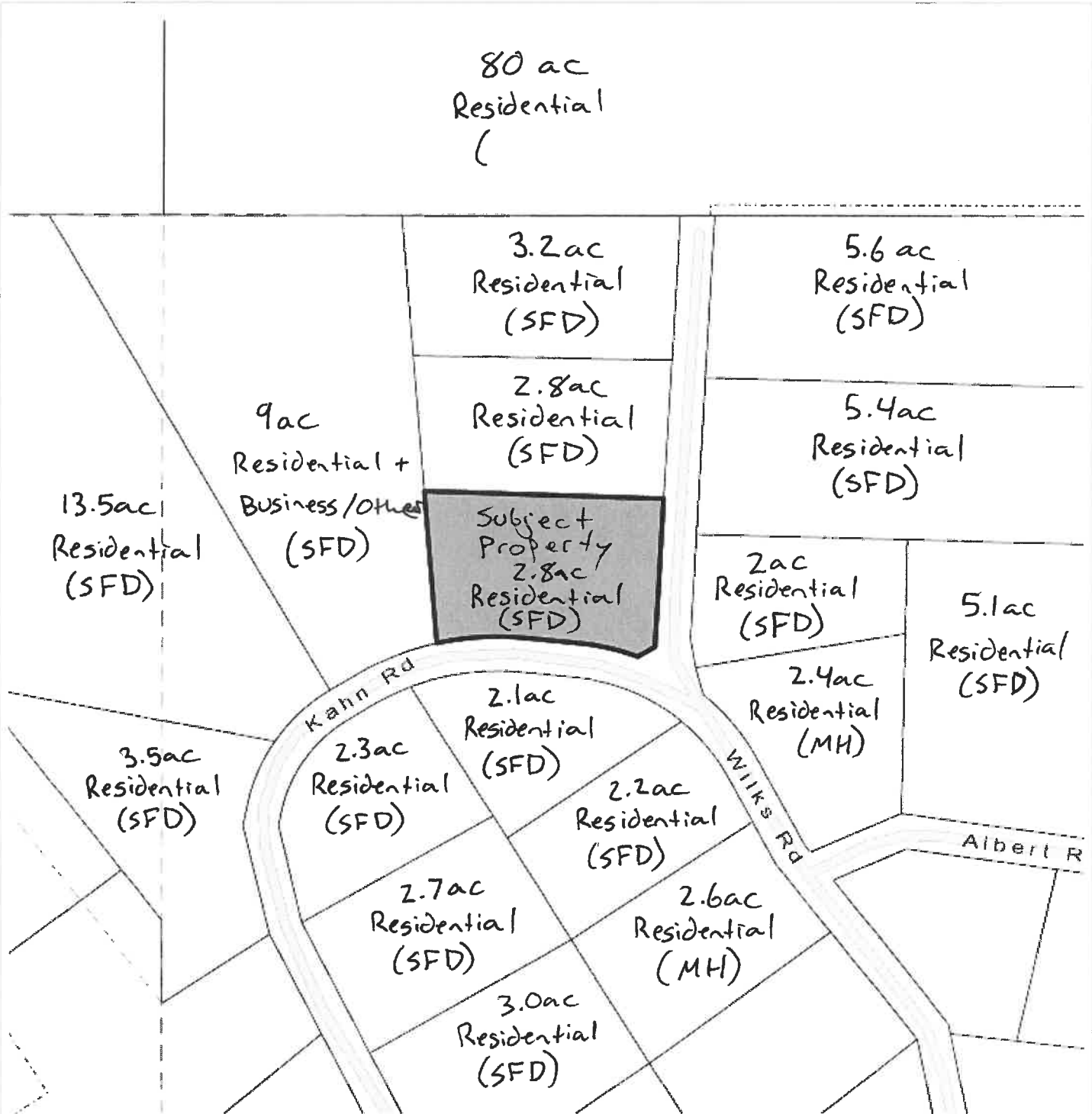
Scale = 1: 20,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Land Use Map



Notes:

125 0 63 125 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 11-1-2019 12:02 PM

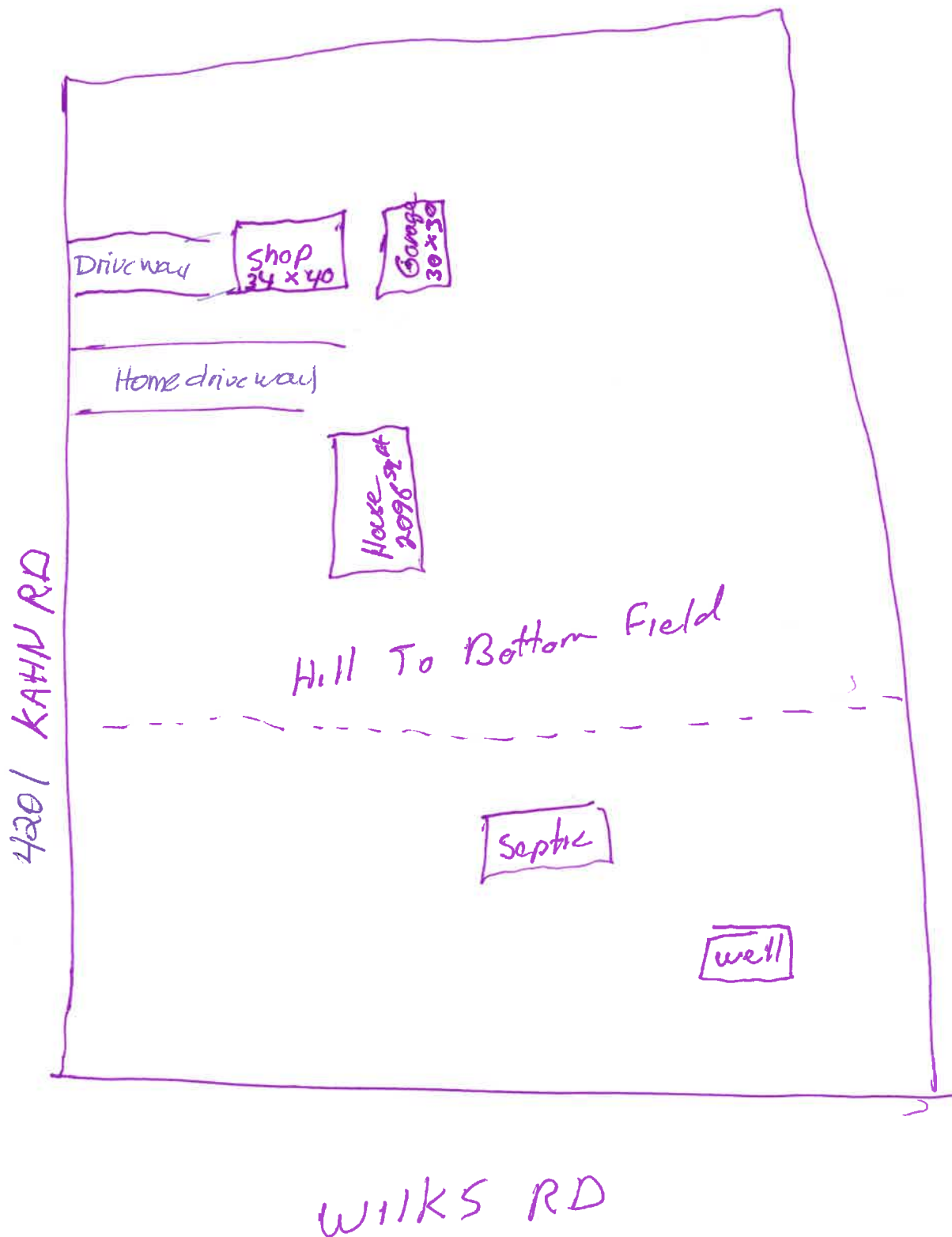
Scale = 1: 5,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Site Plan



Request for Decision Development Variance Permit Application

File No: P 719 554
Reference: DVP 45-19
Date: December 23, 2019

Subject: DVP No. 45-19 (Windermere / Kachur and Stringer)
Applicant: Kenneth Kachur and Terry-Lynn Stringer
Agent: Craig @ Craig Design Ltd.
Location: Windermere Rd in Windermere
Legal: Strata Lot 10, District Lot 8, KD, Plan NES3319

Proposal: To increase the maximum permitted height for a principal building from 9.0 m to 9.5 m to permit construction of a single family.

Options:

1. THAT Development Variance Permit No. 45-19 (Windermere / Kachur and Stringer) be granted.
2. THAT Development Variance Permit No. 45-19 (Windermere / Kachur and Stringer) be refused.

Recommendation: Option #1

A bylaw housekeeping amendment has been drafted to amend how mono-pitch roof styles are measured for height and this change is being included in the rewrite of the Upper Columbia Valley Zoning Bylaw. A similar bylaw amendment regarding mono-pitched roof height has been adopted in other RDEK Zoning Bylaws. If the proposed roof was able to be considered under the pending new bylaw, it would comply.

Contrary to the agent's submission stating that staff are subjectively applying the bylaw, the measurement of height is being applied consistently on all four elevations of the building. The agent's submission is correct in that the current definition of height in the bylaw penalizes more modern forms of architectural design, which is why it is being amended.

Property Information: **OCP Designation:** R-SF, Residential Low Density, which supports single family residential subdivisions, duplexes and manufactured home parks.

OCP Policy:

- To support a range of housing types and densities within the plan area reflective of the diverse needs of both resident and non-resident homeowners that make up the plan area.

Zone Designation: R-1, Single Family Residential Zone

Parcel Area: 900 m² (9687 ft²)

Density: One single family dwelling is permitted per lot

ALR Status: Not within the ALR

BC Assessment: Residential (vacant)

**Property
Information
– cont'd:**

Flood Hazard Rating: The property is within the floodplain of Lake Windermere and is within a special policy area for flood hazard from Jane Creek. The hazard rating is 'F' which means, "Flooding by moderate velocity flows possible; may include the stable areas of alluvial and debris fans of moderate size streams, small streams with steeper slopes, or the stable transition zone of larger alluvial and debris flow fans." Any building must meet a minimum elevation of 1.0 m above the natural ground surface and 0.6 m above any obstruction that could cause ponding, appropriate scour protection and siting of habitable areas by a suitably qualified professional and minimum FPS distances from all watercourses, lakes, ponds, marsh areas and reservoirs applied.

Water / Sewer Services: East Side Lake Windermere Water, private community sewer

Interface Fire Hazard Rating: Low; within the Lake Windermere fire protection area.

**Additional
Information:**

The RDEK is currently working on a housekeeping amendment to change how mon-pitch roof designs are measured for height and, if this change is adopted for the Columbia Valley area, this residence will comply.

Consultation:

Advisory Commissions:

APC Area F & G: Support recommended

Response(s) to Notice: Notices were mailed on December 3, 2019 to all property owners within 100 m of the subject property. No notices were returned as undeliverable and no letters have been received.

**Documents
Attached:**

- Permit
- Location Map
- Land Use Map
- Proposal

**RDEK
Contact:**

Tracy Van de Wiel, Planning Technician
Phone: 250-489-0306
Email: tvandewiel@rdek.bc.ca

Permittees: Kenneth Kachur & Terry Lynn Stringer

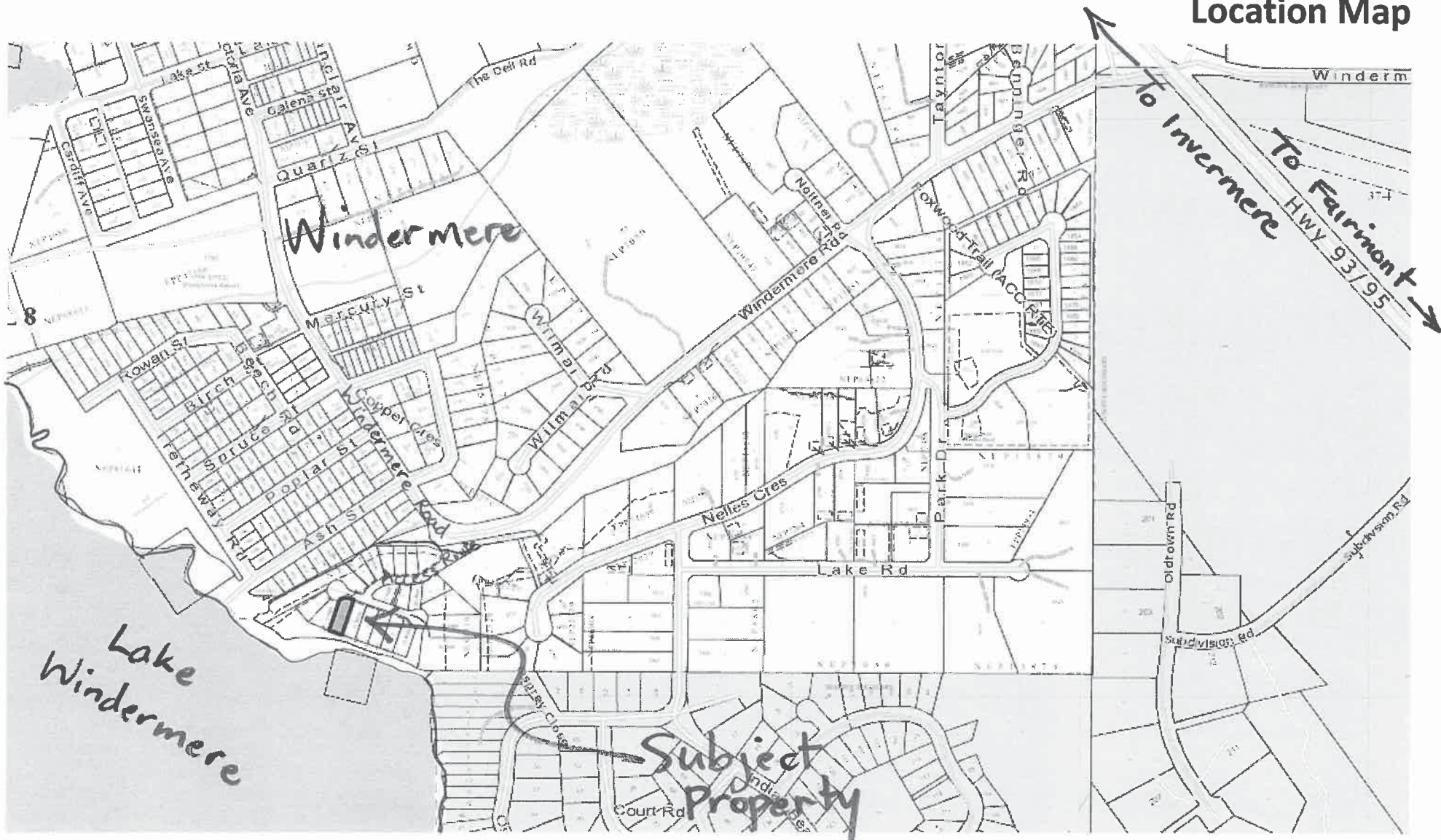
1. This Development Variance Permit is issued subject to compliance with all RDEK bylaws applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Permit applies to and only to those lands described below:

Strata Lot 10, District Lot 8, Kootenay District, Plan NES3319 (PID: 027-249-433)
3. Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992, Section 7.03 (6)(a) which permits a maximum height of a principal building of 9.0 m is varied to increase the maximum permitted height from 9.0 m to 9.5 m to permit construction of a single family dwelling.
4. The lands described herein shall be developed strictly in accordance with the terms and conditions of this Permit and in substantial compliance with the drawings submitted in the Development Variance Permit application received October 31, 2019.
5. This Permit shall come into force on the date of an authorizing resolution passed by the RDEK.
6. This Permit is not a building permit.
7. If development authorized by this Permit does not commence within two years of the issue date of this Permit, the Permit shall lapse.
8. A notice pursuant to Section 503(1) of the *Local Government Act* shall be filed in the Land Title Office and the Registrar shall make a note of the filing against the title of the land affected.
9. It is understood and agreed that the RDEK has made no representations, covenants, warranties, guarantees, promises, or agreement (verbal or otherwise) with the developer other than those in this Permit.
10. This Permit shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

Authorizing Resolution No. **adopted by the Board of the Regional District of East Kootenay on the day of , 2020.**

Shannon Moskal
Corporate Officer

Location Map



Land Use Map



Excerpts from Application

Architecturally, the Bylaw demonstrates traditional building forms and massing, however market trends, including architectural building forms, widely support a more Contemporary or Modern design aesthetic. As a result, the inclusion of flat, low slope and 'Shed Roof' forms are commonly utilized. The submission reflects a Contemporary architectural styling that incorporates the use of 'Shed' style roof forms, however our design approach was sensitive to, and respectful of, the Zoning Bylaw intent.

With a fundamental understanding of the height parameters as outlined by Ms. Brenda Kolendrander, the proposed residence uses the gable roof form in its primary building massing as demonstrated below:

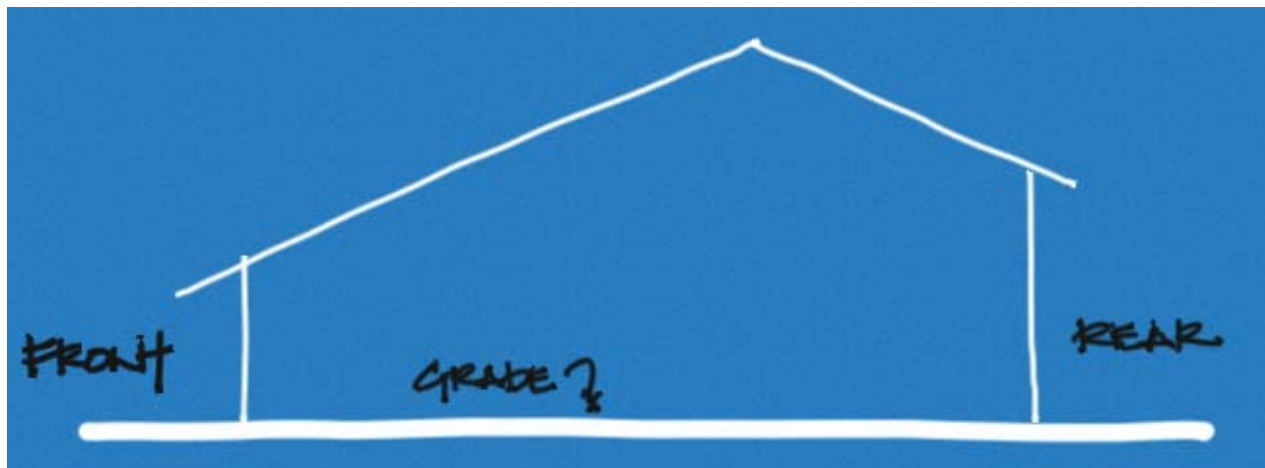


Image 1 : similar 'Gable Roof' form - consistent with the BP application

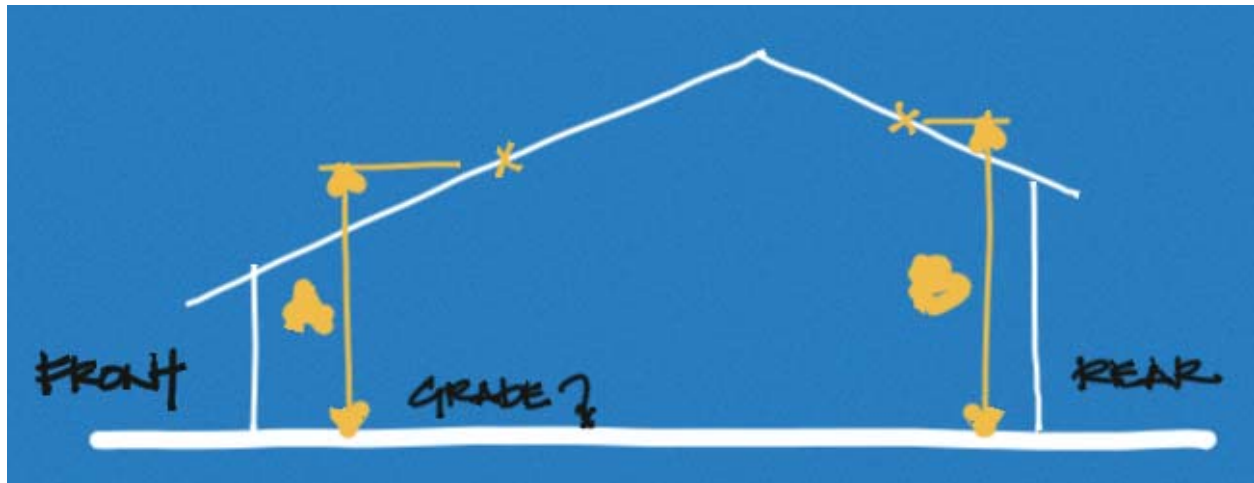


Image 2 : Height calculation as per Zoning Bylaw where,
A = height for front and sides and,
B = height for rear and sides.

(NOTE: provided the values for A & B meet the zoning requirements, the building form is **CONFORMING** to height.)

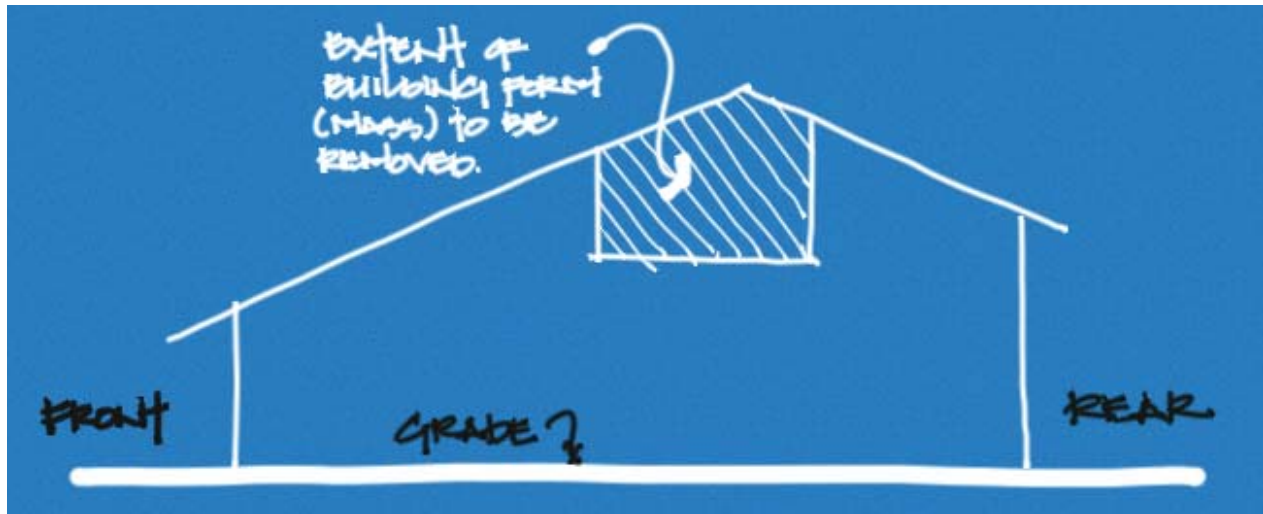


Image 3 : similar 'Gable Roof' form - consistent with the BP application - demonstrating the massing omission. This is where the gable form is broken into a shed roof typology.

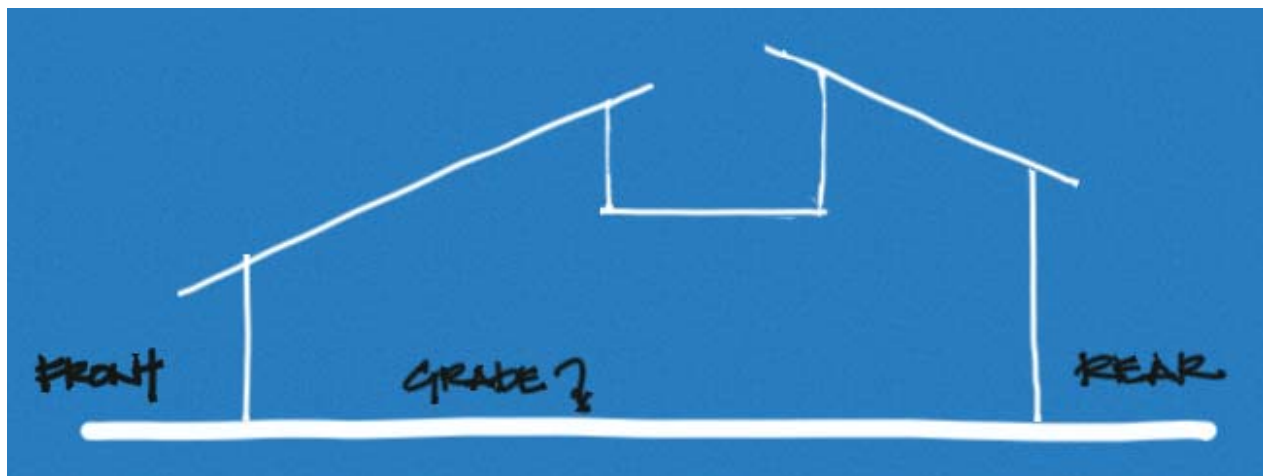


Image 4 : The resulting building shape reflecting the massing omission noted in Image 3, and when removed, demonstrates the use of 'Shed Roofs'. Worthy of note is that the number of roof planes equals that of the 'Gable Roof' form and, the newly defined 'Shed Roof' forms, remain in the same location as those of the 'Gable Roof' form.

(NOTE: although the building form fits within the same shape as Image 2, it's determined to be **NON-CONFORMING** for height, based upon internal interpretation.)

The Development Permit Variance application is due to the submitted BP application FAILING the internal interpretation for height. The Zoning Bylaw intent for height is subjective when not applied against 'Gable Roof' forms, as it isn't defined or applied per the definition and/or supporting graphic.

Whether or not the internal interpretation of height specific to the use of 'Shed Roof' forms is applied appropriately, it is the Applicants contention that the height proposed in the BP documentation merits discretionary approval. As the proposed building form in the BP application fits within the similar, and conforming 'Gable Roof' building form, we believe the orientation of the 'Shed Roof' form is respectful of the desired 'Gable Roof' shape.

We respectfully submit that the proposed BP application is not negligently disregarding the Zoning Bylaw or, argumentatively, the documents intent. A concerted effort has been made to bring forward an application that supports the goals of the Developer and Regional District in conjunction with the home-owners requirements.

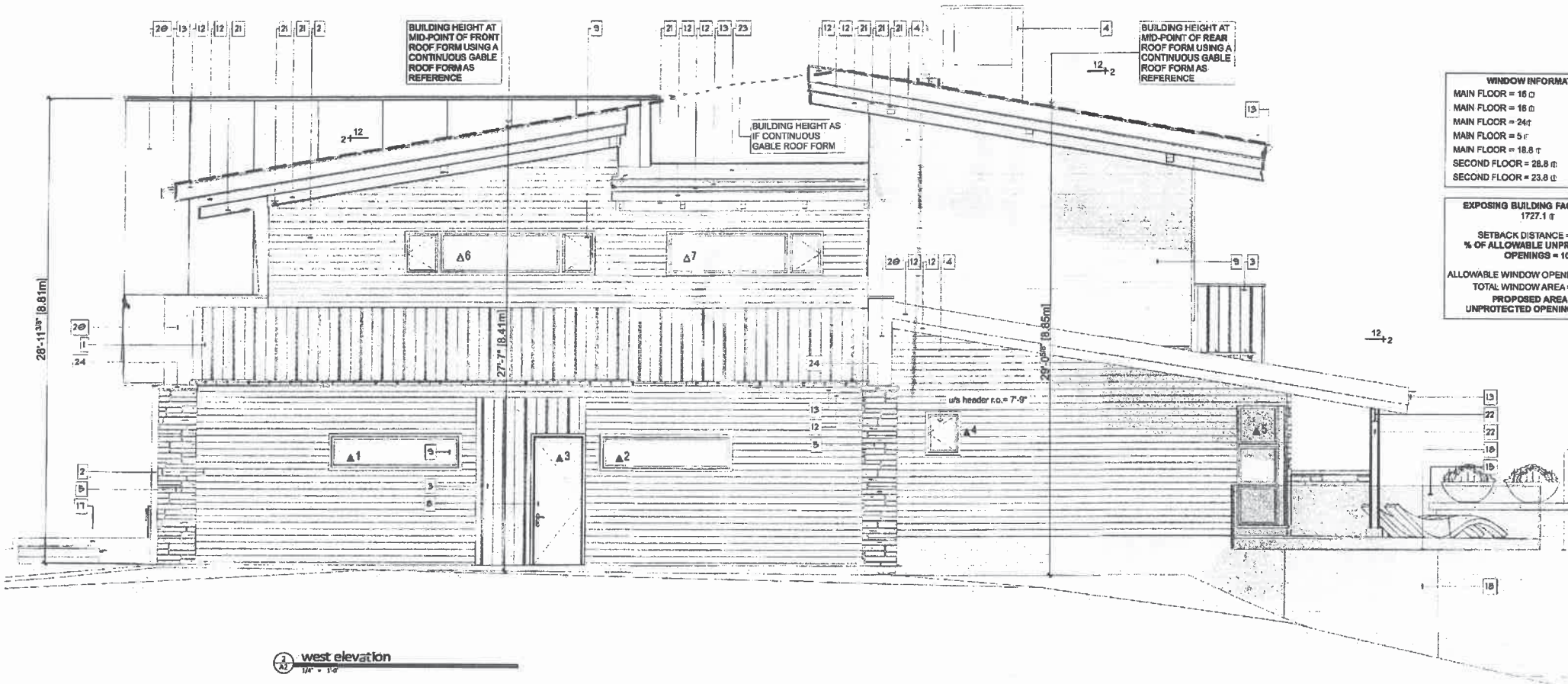
Kindly advise should additional materials or documentation be required.

Respectfully,

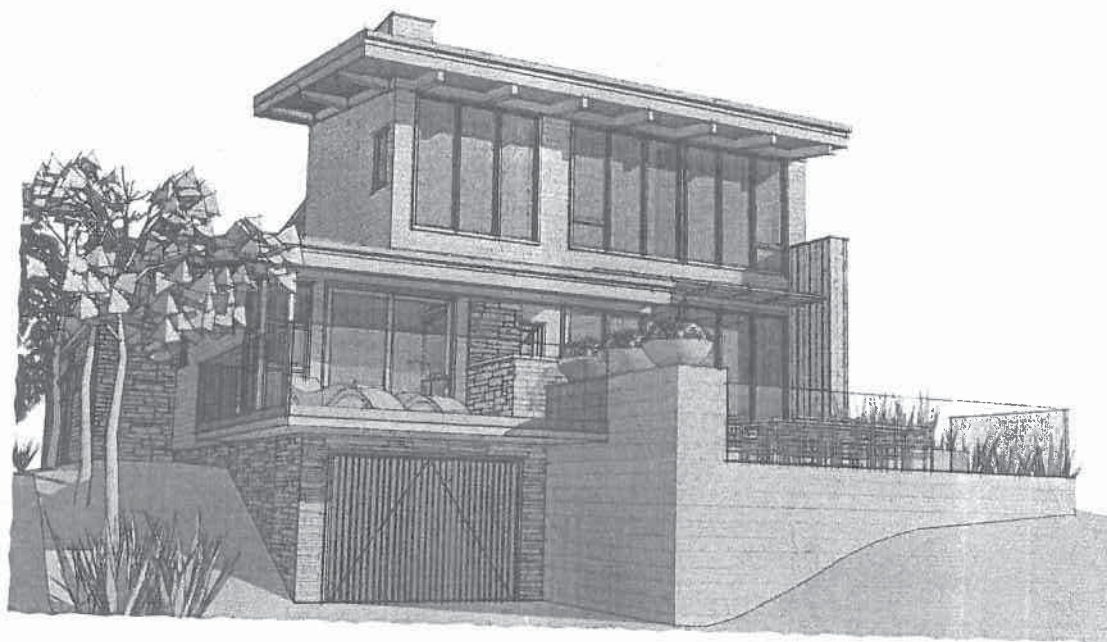
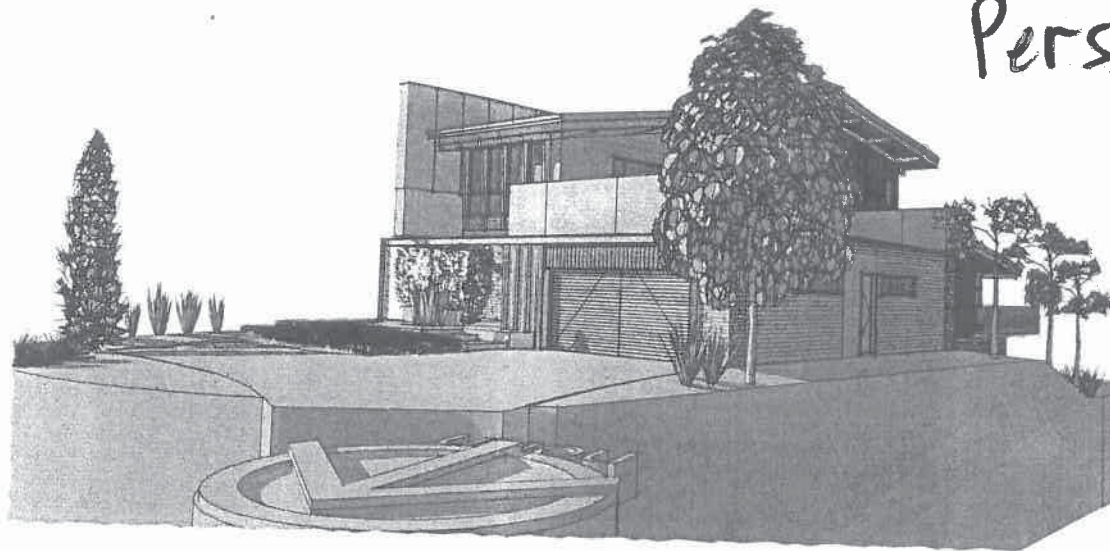
A handwritten signature in black ink, appearing to read 'CB', with a stylized flourish at the end.

Craig Bischke, Principal
&craig design ltd.

Elevation Plan



Perspectives



8. doors - Cossins - insulated steel - 'Dark Brown'
9. windows - Cossins - triple pane Low E - metal clad wood - 'Dark Brown'
10. entry soffit - 1x6 tongue & grove cedar - 'Light Cherry'
11. soffit - Hardi Soffit panels - vented Cedarmill - 'Honeycombe'
12. fascia - HardiTrim boards - 5/4 NT3 smooth - 'Night Grey'
13. eavestrough - pre-finished metal - 6 commercial style - 'Charcoal Grey'
- 13A. downspouts - pre-finished metal - 6 commercial style - 'Charcoal Grey'
14. cedar timber - 'natural'
15. railing - monolithic glass c/w stainless steel supports
16. -
17. walkway & steps - concrete w/contr joints - as per Owner
18. flat - terraces - concrete w/control joints - as per Owner.
18. vertical - concrete board form - pattern as per constr. assemblies.
19. driveway - asphalt
20. metal siding - feature Truten application
21. wood timbers - cedar 'Natural' c/w Truten end caps
22. steel beams, columns & exposed fasteners - Truten
23. low slope roofing - torch on bitumen
24. masonry caps - natural limestone - 'Grey'

20

24

14

5

22

6

16'-9 5/8" [5.11m]



perspectives

1' = 1'-0"

Request for Decision Development Variance Permit Application

File No: P 719 429
Reference: DVP 46-19
Date: December 23, 2019

Subject: DVP No. 46-19 (Wycliffe / Odarich and Klekowski)
Applicant: Amber Odarich and Tim Klekowski
Agent: Amber Odarich
Location: 9620 Highway 95A in Wycliffe, Porteous Road area
Legal: Lot 6, District Lot 1204, KD, Plan 8740

Proposal: Vary Section 1.14 (2) of the Electoral Area E Zoning Bylaw to increase the maximum width permitted (including additions) for a dwelling for a relative requiring care, from 9.0 m to 10.6 m to permit a deck.

Options:

1. THAT Development Variance Permit No. 46-19 (Wycliffe / Odarich and Klekowski) be granted.
2. THAT Development Variance Permit No. 46-19 (Wycliffe / Odarich and Klekowski) be refused.

Recommendation: **Option #1**
No negative impacts are anticipated.

**Property
Information:**

OCP Designation: LH, Large Holdings

OCP Objectives:

- Maintain the rural and agricultural nature of the plan area by only considering new residential proposals if they are appropriately located and compatible with adjacent land uses so as not to compromise environmental and agricultural values.

Zone Designation: RR-2, Rural Residential (Small Holding) Zone; minimum parcel area requirement is 2 ha.

Parcel Area: 2.1 ha (5.28 acres)

Density: One single family dwelling or duplex is permitted per parcel. A dwelling for a relative requiring care is a permitted use.

ALR Status: Within the ALR

BC Assessment: Residential with a SFD

Water / Sewer Services: Onsite

Interface Fire Hazard Rating: Moderate, not within a fire protection area

Property Information – cont'd:	Flood Hazard Rating: Subject property is not within a flood hazard rating area.
Additional Information:	<ul style="list-style-type: none">▪ The deck was constructed without a building permit.
Consultation:	Advisory Commissions: APC Area E: Support recommended Response(s) to Notice: 11 notices were mailed on November 29, 2019 to all property owners within 100 m. No notices were returned and one response has been received indicating support for the proposal (letter attached).
Documents Attached:	<ul style="list-style-type: none">▪ Permit▪ Location Map▪ Land Use Map▪ Zone Regulations▪ Proposal
RDEK Contact:	Tracy Van de Wiel, Planning Technician Phone: 250-489-0306 Email: tvandewiel@rdek.bc.ca

Permittee: Amber Odarich and Tim Klekowski

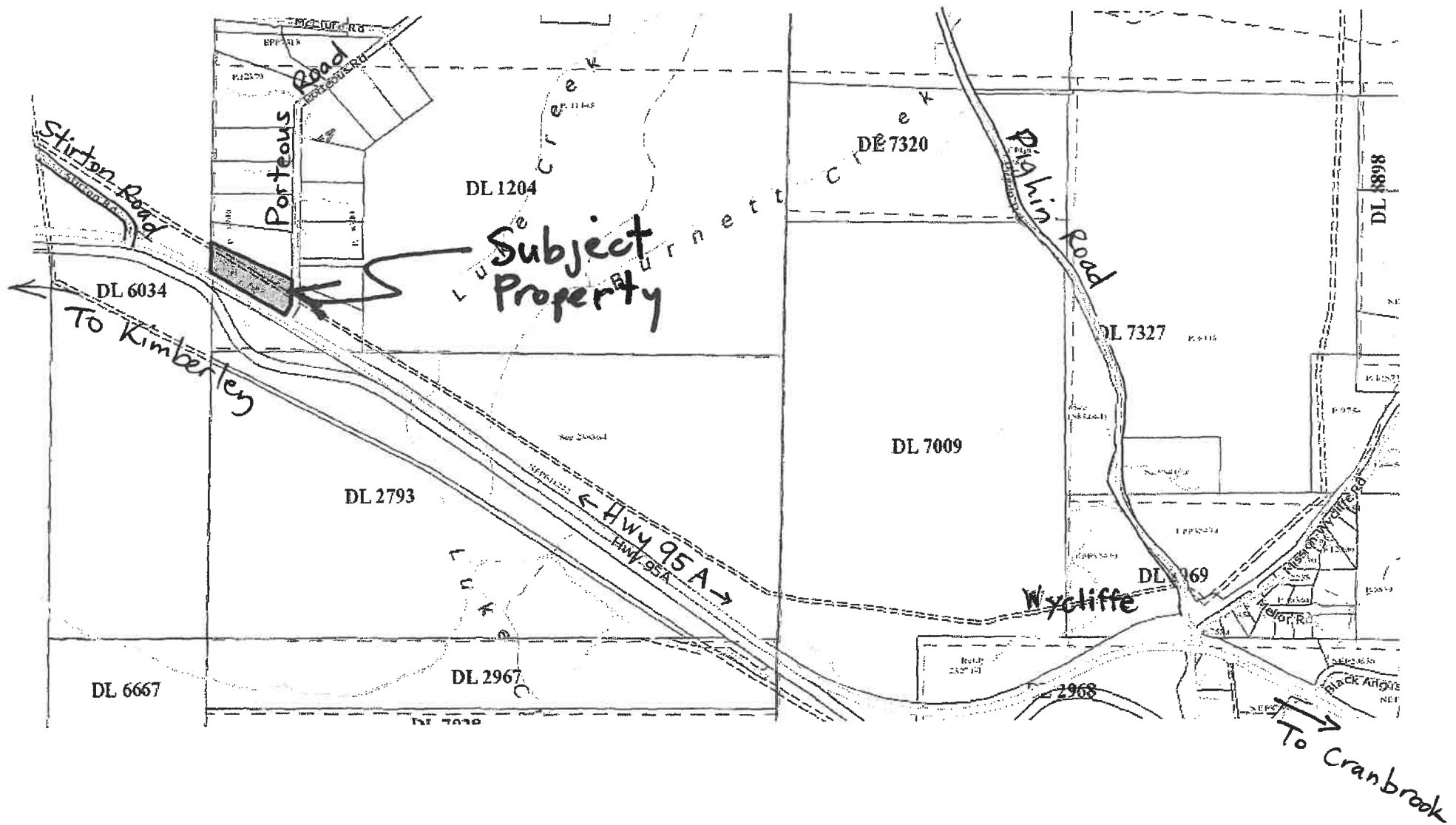
1. This Development Variance Permit is issued subject to compliance with all RDEK bylaws applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Permit applies to and only to those lands described below:

Lot 6, District Lot 1204, Kootenay District Plan 8740
[PID: 013-235-621]
3. Regional District of East Kootenay – Electoral Area E Zoning and Floodplain Management Bylaw No. 2502, Section 1.14 (2) which permits a maximum width of 9.0 m (including additions) for a temporary dwelling for a relative requiring care, is varied to increase the maximum width permitted from 9.0 m to 10.6 m to permit a sun deck.
4. The lands described herein shall be developed strictly in accordance with the terms and conditions of this Permit and in substantial compliance with the development variance permit application received on November 7, 2019.
5. This Permit shall come into force on the date of an authorizing resolution passed by the RDEK.
6. This Permit is not a building permit.
7. If development authorized by this Permit does not commence within two years of the issue date of this Permit, the Permit shall lapse.
8. A notice pursuant to Section 503(1) of the *Local Government Act* shall be filed in the Land Title Office and the Registrar shall make a note of the filing against the title of the land affected.
9. It is understood and agreed that the RDEK has made no representations, covenants, warranties, guarantees, promises, or agreement (verbal or otherwise) with the developer other than those in this Permit.
10. This Permit shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

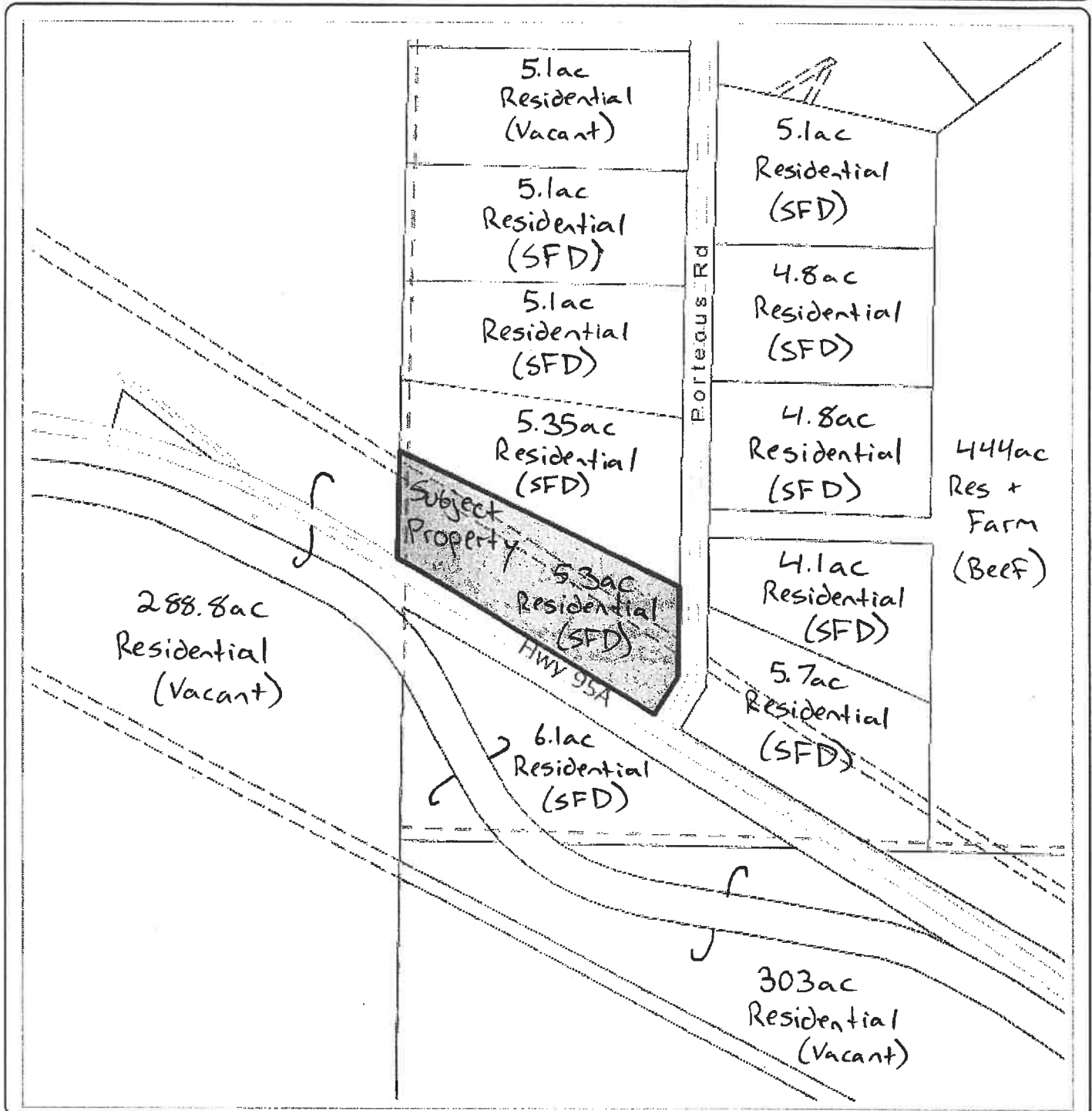
Authorizing Resolution No. _____ **adopted by the Board of the Regional District of East Kootenay on the** _____ **day of** _____ **, 2020.**

Shannon Moskal
Corporate Officer

Location Map



Land Use Map



Notes:

165 0 83 165 Meters

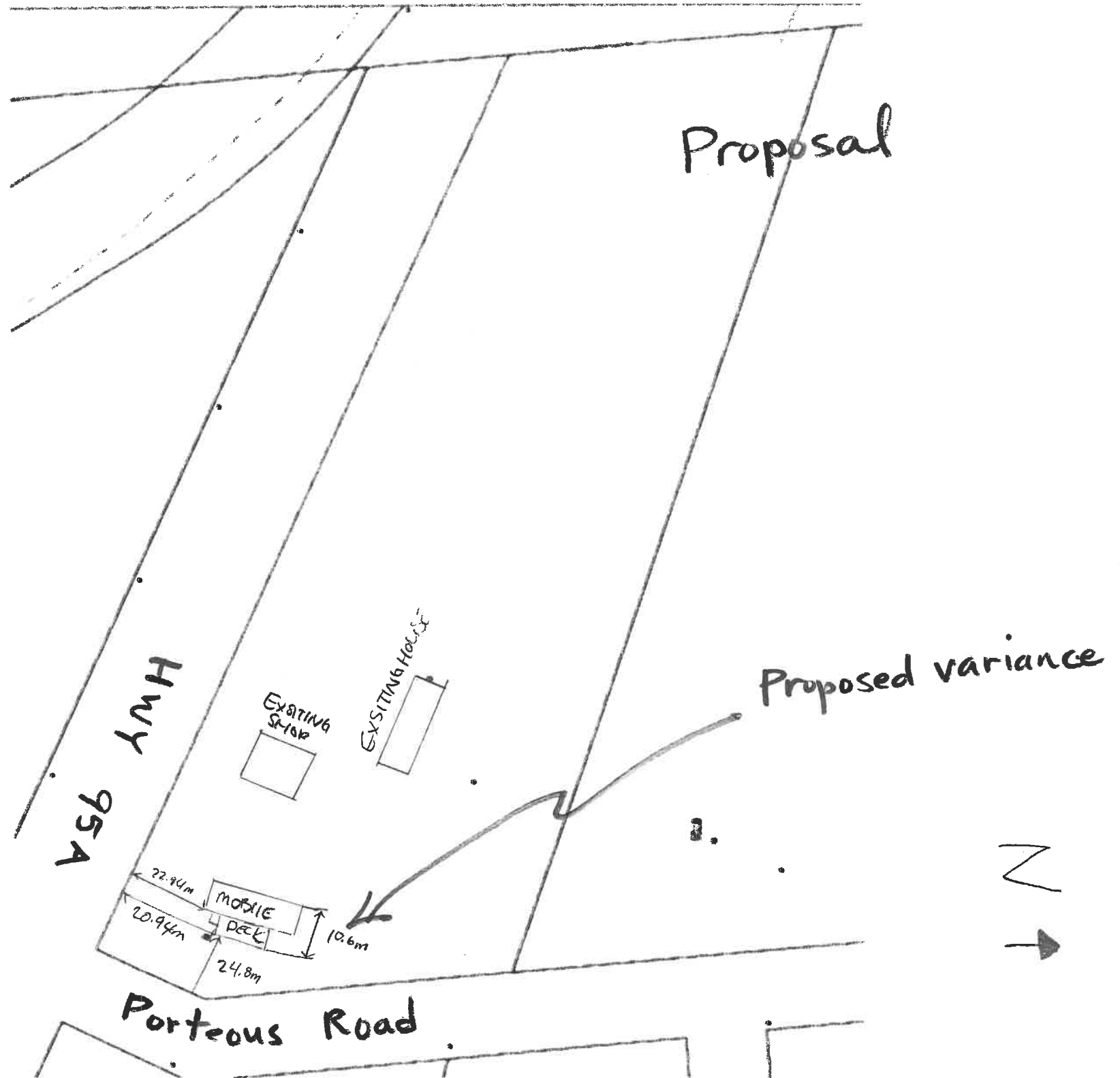
WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 12-12-2018 9:43 AM

Scale = 1:6,616



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.



EXISTING PROPERTY

Not to scale

SHOP

WELL

MOBILE HOME

DECK

SEPTIC

HIGHWAY 95

PORTEOUS ROAD

RECEIVED

NOV 07 2019

Regional District of
East Kootenay



Proposal
Detail

21.54

22.94
20.94

28.23

24.23

6.6m

4m

6.6m

Letter from
neighbour

Tracy Van de Wiel

From: rc grieve [REDACTED]
Sent: December-09-19 12:50 PM
To: Tracy Van de Wiel
Subject: Development variance permit no.46-19

We, Ross and Colleen Grieve, support Amber Odarich and Tim Klekowski application to increase the maximum width permitted (including additions) for a dwelling for a relative requiring care from 9.0 to 10.6 m, to permit a deck.

For more information we can be reached at [REDACTED]

Sent from my iPhone

Request for Decision Temporary Use Permit

File No: P 719 311
Reference: TUP 2-19
Date: January 3, 2020

Subject: TUP 2-19 Mayook / EarthRite Industries Ltd.
Applicant: EarthRite Industries Ltd.
Agent: Kris Pickering
Location: Highway 3/93, Mayook area
Legal: Lot 1, District Lot 2313A, Kootenay District Plan EPP54560

Proposal: A Temporary Use Permit to allow for the storage of up to 1000 truckloads of off-premise wood mulch prior to transportation to the Skookumchuck Pulp Mill and the parking and maintenance of associated chip hauling trucks.

Options:

1. THAT the EarthRite Industries Ltd. Temporary Use Permit to allow the storage of wood mulch and the parking and maintenance of up to 6 highway trucks and trailers on property located on Highway 3/93 in the Mayook area be granted.
2. THAT the EarthRite Industries Ltd. Temporary Use Permit to allow the storage of wood mulch and the parking and maintenance of up to 6 highway trucks and trailers on property located on Highway 3/93 in the Mayook area be refused.
3. THAT the EarthRite Industries Ltd. Temporary Use Permit to allow the storage of wood mulch and the parking and maintenance of up to 6 highway trucks and trailers on property located on Highway 3/93 in the Mayook area be amended and granted, subject to following permit conditions (*conditions as identified by the Board*):_____.

Recommendation: Option # 1

The storage and transportation of wood chips it not anticipated to impact neighbouring properties any more than existing permitted uses such as gravel extraction, processing and hauling. However, due to concerns being expressed by the neighbours, the Board may wish to consider the imposition of certain permit conditions to mitigate potential impacts (such as operating hours, shorter term) and to ensure compliance with any conditions of the permit (such as posting of security).

**Property
Information:**

OCP Designation: RR, Rural Resource

OCP Objectives and Policies:

- To provide an opportunity for temporary land use applications to be considered within the plan area.
- Ensure temporary land uses are compatible with adjacent land uses.

**Property
Information -
cont'd:**

- Temporary Use Permits will be considered throughout the plan area.
- An application for a temporary use permit will be considered in relation to:
 - (a) demonstration that the use is temporary or seasonal in nature;
 - (b) compatibility with the existing land use;
 - (c) compatibility with surrounding land use;
 - (d) potential conflict with agricultural or resource-based activities;
 - (e) potential conflict with adjacent land uses;
 - (f) potential impact on fish or wildlife habitat;
 - (g) provision of adequate servicing for water and sewage disposal;
 - (h) duration of the proposed temporary land use; and
 - (i) relevant policies within other sections of this plan.
- The permit may be issued subject to conditions such as, but not limited to:
 - (a) the buildings, structures or area of land that may be used for the temporary use;
 - (b) the period of applicability of the permit;
 - (c) required site rehabilitation upon cessation of the use;
 - (d) other business or operating conditions to mitigate the impacts of the temporary use.

Zoning Designation: RR-8, Rural Residential (Country); minimum parcel size is 8 ha. Permitted uses include: farm operation; grading, washing, screening, crushing and transporting of sand and gravel resources extracted from the parcel; forest management; and portable sawmill.

Parcel Area: 11.6 ha (28.7 ac)

Density: One single family dwelling per parcel

ALR Status: Not within the ALR

BC Assessment: Residential and light industrial (Vacant & Improved)

Interface Fire Hazard Rating: Low to moderate; not within a fire protection area

Flood Hazard Rating: Not within a floodplain or flood hazard rating area

Water / Sewer Services: Onsite

**Additional
Information:**

- The applicant has stated that the wood mulch is collected from various locations around the East Kootenay and stored on the property until the Skookumchuck Pulp Mill is able to take the product. The wood will be stored in two piles, one on the south end of the property near the BC Hydro power station and another in the northwest part of the property.
- The applicant has stated that the six highway trucks that transport the wood mulch to and from the subject property are expected to make two trips to and from the property per day.

**Additional
Information
cont'd:**

- The application states that the area utilized for wood mulch storage is approximately 0.6 ha separated into two piles on the subject property. The area identified for truck parking and the maintenance shop is approximately 0.4 ha.
- The operation is not full time and occurs at irregular hours throughout the day between 5am and 7pm.
- The applicant has stated that dust is expected to be minimal with the loading and unloading of the wood mulch. However, a 11,000 litre tank is on site and there is a well on the property should an issue arise.
- The applicant applied for and received a controlled access permit from the Ministry of Transportation and Infrastructure for the subject property in 2017, which allows access for up to 6 haul trucks (truck and pup) per day in addition to residential traffic serving one dwelling.

Consultation:

Advisory Commissions:

APC C: Not supported due to concerns related to the increased truck traffic and lack of a turning lane off the highway.

Response(s) to Notice: 5 notices were mailed on December 3, 2019 to all property owners within 100 m of the subject property. No notices were returned as undeliverable and one response has been received expressing opposition to the proposal for the reasons outlined in the attached letter.

**Documents
Attached:**

- Permit
- Location Map
- Land Use Map
- OCP Designation Map
- Zone Designation Map
- Proposal
- Aerial Photo
- Response Letter

**RDEK
Contact:**

Krista Gilbert, Planning Technician
Phone: 250-489-0314
Email: kgilbert@rdek.bc.ca

Temporary Use Permit

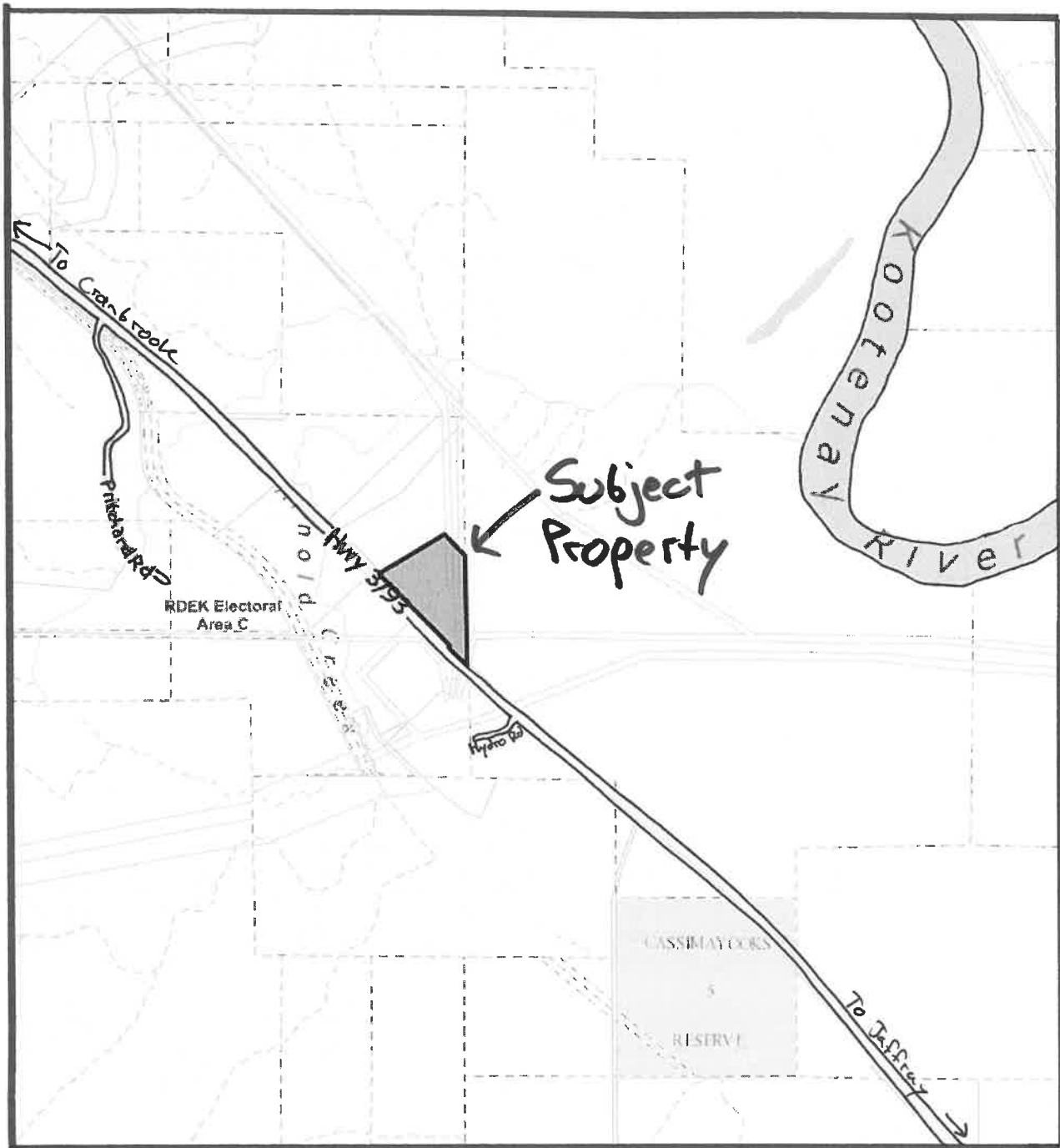
Permittee: EarthRite Industries Ltd.

1. This Temporary Use Permit, notwithstanding any zoning bylaw, allows the temporary use on Lot 1, District Lot 2313A, Kootenay District, Plan EPP54560 in strict accordance with the terms and conditions herein.
2. The temporary use allowed by this Permit is for the storage of off-premise wood mulch prior to transportation to the Skookumchuck Pulp Mill and for the parking and maintenance of associated chip hauling trucks.
3. The development of the subject property shall be in substantial compliance with information provided in the Temporary Use Permit application received February 1, 2019.
4. This Permit shall expire three (3) years from the date of issuance.
5. Upon expiry of this Permit, the temporary use shall be discontinued and removed, and the site restored to its natural state.
6. It is understood and agreed that this Permit does not imply approval for future rezoning of the land for commercial use.
7. It is understood and agreed that the RDEK has made no representations, covenants, warranties, guarantees, promises, or agreement (verbal or otherwise) with the property owner other than those in this Permit.
8. The development allowed by this permit is subject to all other RDEK Bylaws.

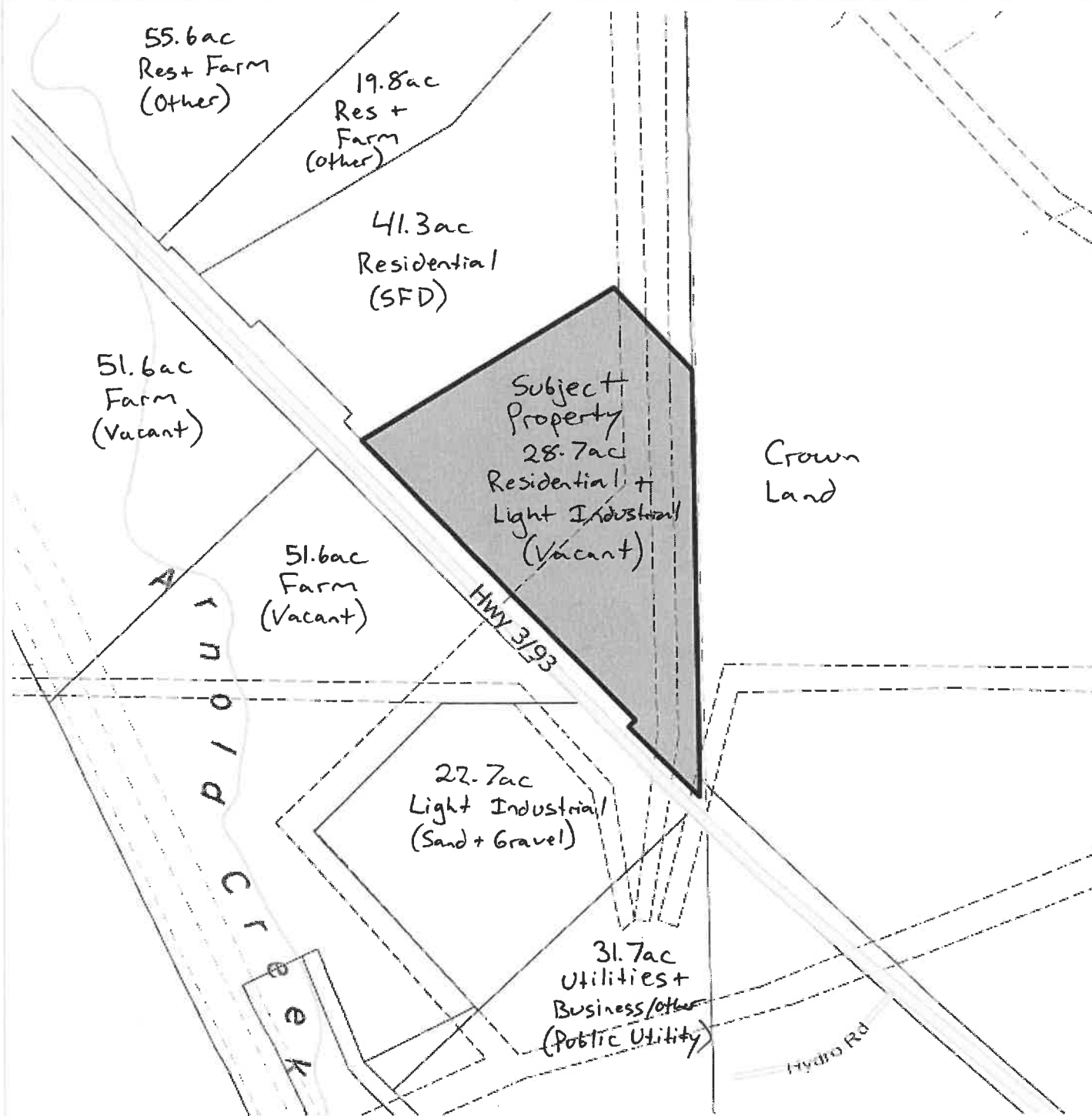
Authorizing Resolution No. **adopted by the Board of the Regional District of East Kootenay on the day of , 2020.**

Shannon Moskal
Corporate Officer

Location Map



Land Use Map



Notes:

250 0 125 250 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 2-26-2019 10:20 AM

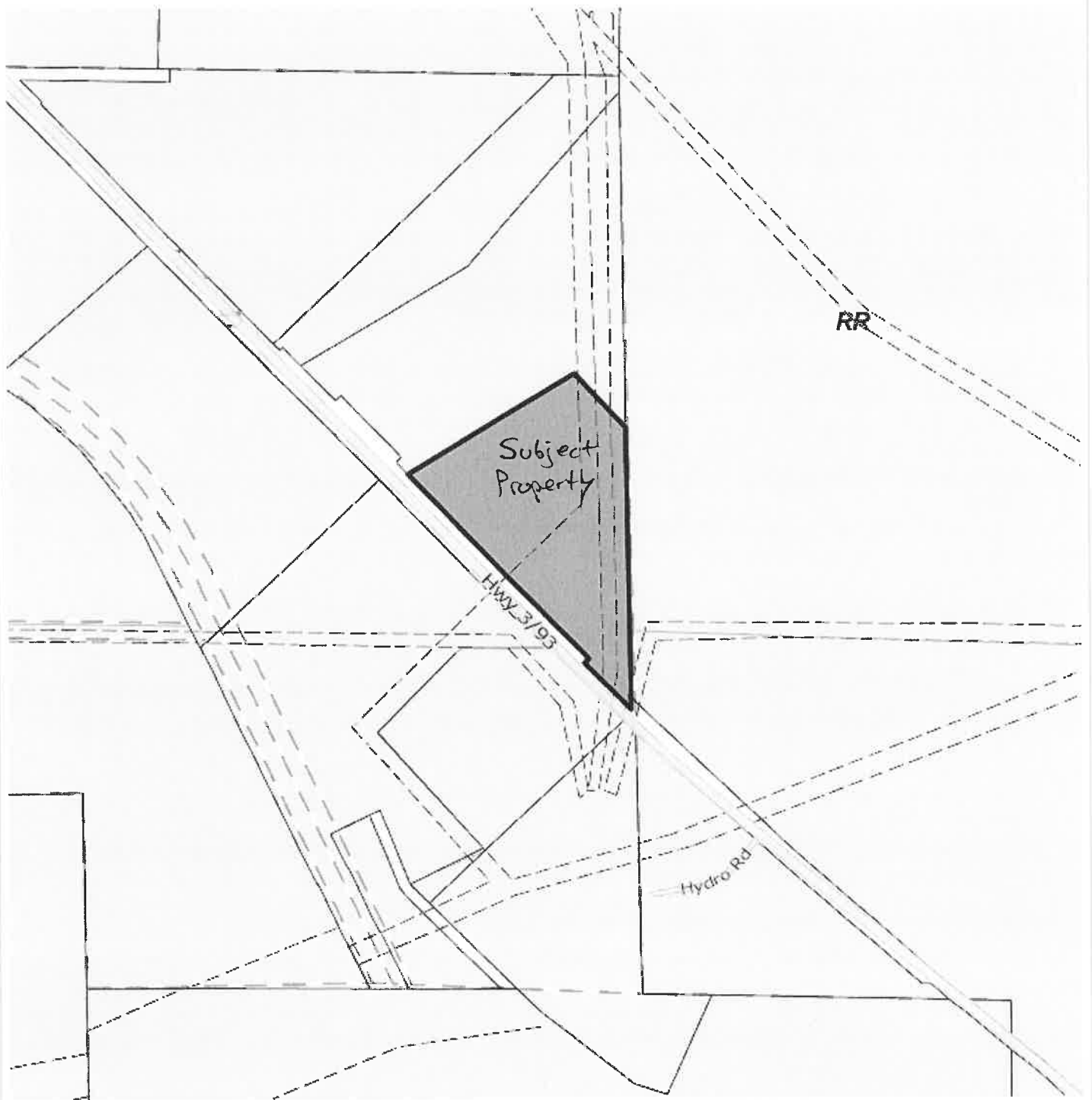
Scale = 1: 10,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

OCP Designation Map



Notes:

375 0 188 375 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 2-26-2019 2:08 PM

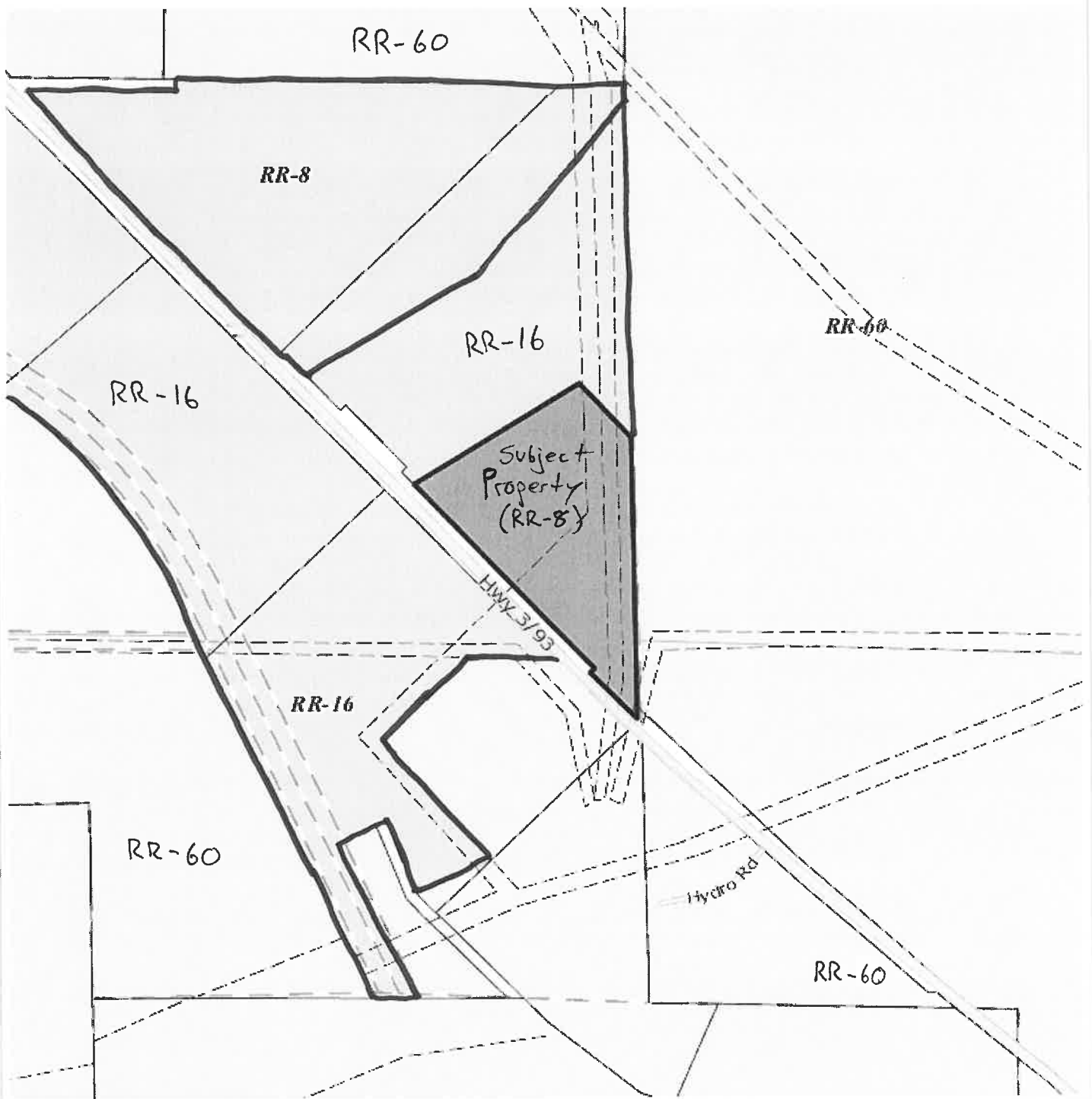
Scale = 1: 15,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Zone Designation Map



Notes:

375 0 188 375 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 2-26-2019 2:08 PM

Scale = 1: 15,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Aerial Photo



Notes:

125 0 63 125 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 11-26-2019 12:53 PM

Scale = 1: 5,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Krista Gilbert

From: Rhonda Elzinga [REDACTED]
Sent: December 28, 2019 1:07 PM
To: Krista Gilbert
Subject: Earthrite Industries Temporary Use Permit

We, nearby neighbors of the current Earthrite Industries INDUSTRIAL site, have been witnessing their blatant disregard for government regulations and zoning bylaws for quite some time. We have also been aware of the overly lenient handling of these issues by the Regional District.

Upon study of the RDEK's handling of this particular entrepreneurs past dealings it has become obvious that a disturbing cycle has been playing out that has allowed him to believe that he will never be held accountable for ignoring the rules set out by our local government.

Earthrite is now applying to do what they have been unlawfully doing from the beginning. They are currently operating a trucking company on this rural residential land. These are not gravel trucks but Chip trucks.

They have already stored many tons of off-premise wood mulch on this site. In 2018 they were hired by the City of Lethbridge to haul 26,400 metric tons of wood waste from the Alberta landfill to Skookumchuck pulp mill. Earthrite did not haul all of the wood waste directly to the mill but instead stored much of it on their RURAL RESIDENTIAL land here in Mayook. No fire abatement plans, no plans to deal with invasive species, no leachate control plans were in place.

If they are claiming that this a home based business, I will point out that there is no home on this property.

We do not support the acceptance of Earthrite industries application for a Temporary use Permit for storage of off premise wood mulch or the parking and maintenance of up to six highway trucks and trailers.

The woodwaste is a serious fire hazard and it will be very interesting to see who our house insurance companies find liable if a fire starts at this site. We have raised the concern so the ball's in your court.

In regards to the six highway trucks that already operate from this site. I have been visiting at a home 2 doors down from the site on many occasions and found there was enough noise to make me think I was in an industrial park, not a rural farming community.

If the RDEK chooses to allow for this permit, is there going to be a bond required? The bond would need to be large enough to insure that the site is properly cleaned up when the permit is finished. Choosing to trust that this will be completed may not be a good idea as the residents of the Bull River area will attest to the fact that his sawmill site is quite an eyesore still today.

Once again we ask, "Who is going to police this site?"

Frank and Rhonda Elzinga

Request for Decision Natural Resource Operations Referral

File No: P 151 400
Reference: 539917
Date: December 20, 2019

Subject: Crown Land Licence of Occupation – Ta Ta Creek / Kootenay Dirt Riders
Applicant: Alex Buterman
Location: Crown Land in the vicinity of Ta Ta Creek
Legal: Various

Proposal: A Crown land application pursuant to Sections 56 & 57 of the *Forest and Range Practices Act* to establish a recreation trail / site to allow construction (where required) and maintenance of 65 km +/- of trails in the vicinity of Ta Ta Creek and to construct a designated camping / staging area and designate the trails and staging area as a recreation site.

Options:

1. THAT the Ministry of Forests, Lands, Natural Resource Operations and Rural Development be advised that the RDEK supports the Kootenay Dirt Riders Crown Land Licence of Occupation for a trails and staging area recreation site in the Ta Ta Creek area.
2. THAT the Ministry of Forests, Lands, Natural Resource Operations and Rural Development be advised that the RDEK does not support the Kootenay Dirt Riders Crown Land Licence of Occupation for a trails and staging area recreation site in the Ta Ta Creek area.

Recommendation: **Option #1:** Establishing the existing trails and staging area as a recreation site will give Recreation Sites and Trails BC the needed tools to further engage collaboratively with the Kootenay Dirt Riders Association in ongoing improvements and recreation management in the area. Recreation Sites and Trails BC will ensure the proposed recreation site designation is consistent with ALC regulations.

Property Information: **OCP Designation:** RR, Rural Resource; includes agricultural, rural residential and rural resource land uses with parcel sizes 8.0 ha and larger. The RR designation also recognizes the use of these lands for public utility use, resource extraction, green space and recreation.

OCP Policies:

- Efforts to minimize conflicts between motorized and non-motorized recreation users of Crown land within the plan area are supported.
- The Regional District encourages management of Crown land in an environmentally responsible manner which:
 - a) Protects surface and groundwater sources;
 - b) Manages forest ingrowth;
 - c) Minimize risk of interface fire and wildfire;
 - d) Enhances wildlife habitat;
 - e) Protects views and scenery;
 - f) Protects watershed ecological values, including waterfowl and fish and their corresponding habitat; and,

**Property
Information -
cont'd:**

- g) Maintains diverse plant communities by managing invasive plants.

Zoning Designation: Most of the identified area is zoned RR-60, Rural Resource Zone, minimum parcel size: 60 ha. Wildland use is permitted. Some portions of the identified land are unzoned.

Parcel Size: The area affected is approx. 250 ha. 65 kms +/- of trails plus camping and staging area

Density: N/A

ALR Status: Mostly within. Pursuant to ALC Act BC Regulation 30/2019 Section 16, a recreation site established under Section 56 of the *Forest and Range Practices Act*, is permitted.

BC Assessment: N/A

Water / Sewer Services: Onsite. The referral states that the applicants propose to install a pit-toilets in the camping / staging area

Interface Fire Hazard Rating: Ranging from low to high. Crown land is serviced by the BC Wildfire Service.

Flood Hazard Rating: The proposed trail network crosses several creeks and is in the vicinity of several waterbodies.

**Crown Land
Management
Plans:**

N/A

**Lake Management
Plans:**

N/A

**Shoreline
Management
Guidelines:**

N/A

**Additional
Information:**

- The area is proposed to be designated as an established recreation site under FRPA Section 56 (establishing recreation sites or trails on Crown Land).
- The proposed recreation area is intended for all user groups and the general public.

Consultation:

APC Area E: Not supported

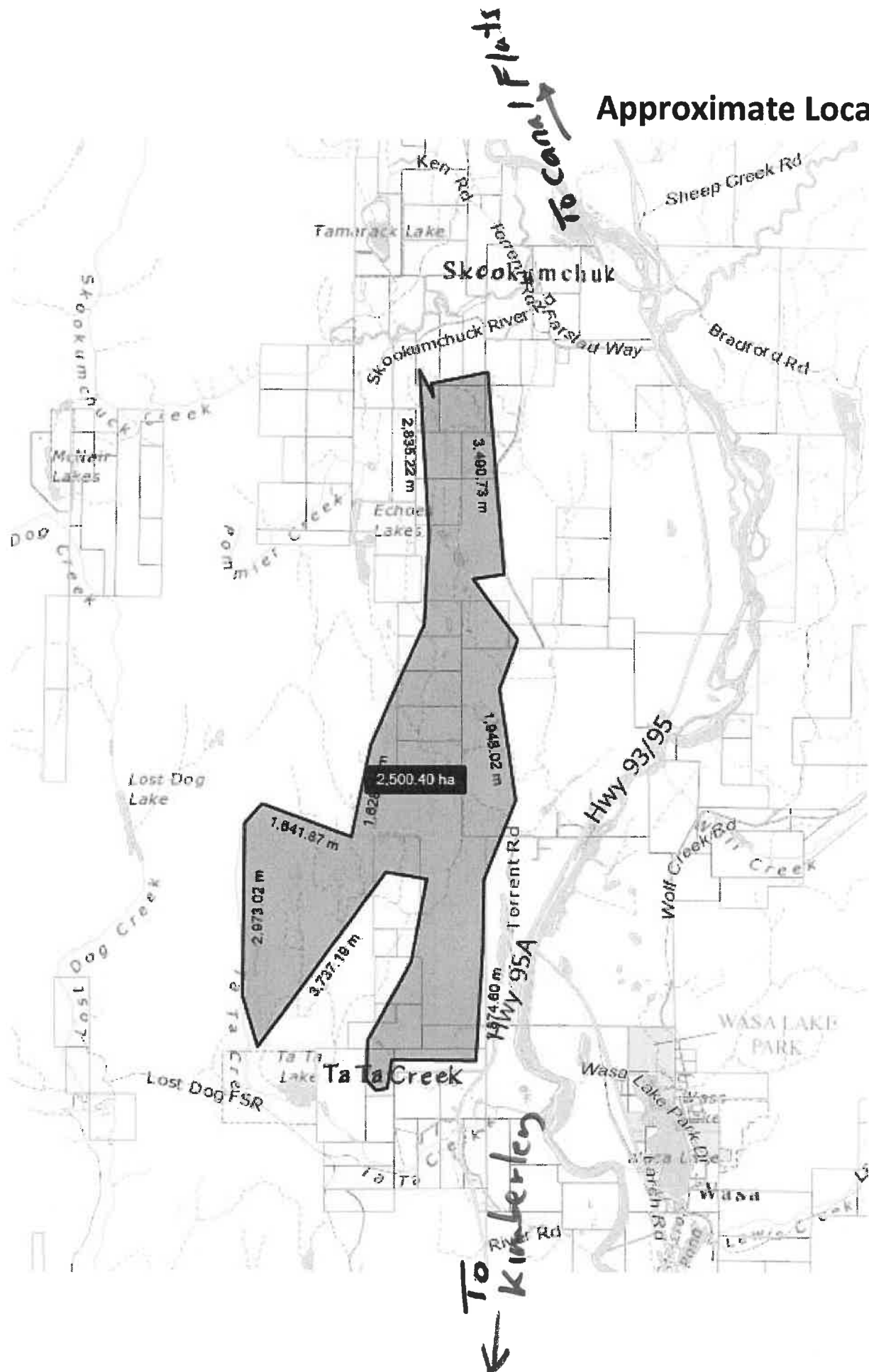
**Documents
Attached:**

- Location Map
- Proposal
- Maps Provided by Applicant

**RDEK
Contact:**

Tracy Van de Wiel, Planning Technician
Phone: 250-489-0306
Email: tvandewiel@rdek.bc.ca

Approximate Location





16660-20/260438 Tata Creek

July 15, 2019

Dear Recreation Land Referral Recipients

The Kootenay Dirt Riders Association (KDRA) has submitted an application to formally establish an existing dirt bike trail network (~65 km) and to build a designated camping/staging area in the Tata Creek area. This land referral is to designate the trail network as a British Columbia recreation trail and to designate the area highlighted in yellow on the map as a British Columbia recreation site.

The proposed recreation trails will provide beginner to intermediate trails for off road motorcycling and promote a family friendly riding opportunity. By designating these informal trails, it will allow for focused management and application of Recreation Sites and Trails BC standards and regulations. As well, the proposed recreation site will formalize the existing uncontrolled camping and provide adequate facilities for camping ie pit toilets. The complete Section 57 application form is included in the referral package with further details.

A trail inventory was completed in 2017 which identified portions of trail that have problems with sustainability or connectivity which will be considered for mitigation. The Tata Creek Recreation Trail Inventory and Assessment is available for review for stakeholders looking for that level of information. Chapter 10 of the *Recreation Manual* and the Great Trails: Providing Quality OHV Trails and Experiences are the industry standards that will apply to this proposed trail network if approved.

The application is made under Section 57 of the *Forest and Range Practices Act (FRPA)* (allowing construction, rehabilitation, and maintenance) and will subsequently be designated as an established Recreation Trail under FRPA Section 56 (establishing Recreation Sites or Trails on Crown Land). The designation will give Recreation Sites and Trails BC (RSTBC) the needed tools to further engage collaboratively with the Kootenay Dirt Riders Association in the ongoing improvements and recreation management in the area.

KDRA is an active non-profit stewardship group promoting responsible off-road motorcycling in the Tata Creek area. If authorization proceeds, the club will be required to enter into a 10 year Partnership Agreement with Recreation Sites and Trails BC for stewardship and maintenance of these proposed dirt bike trails. KDRA is committed to providing leadership for sustainable trails that can be enjoyed by all ages and abilities.

I welcome your comments on the proposed trail network and camping/staging area.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Lisa Cox', with a stylized flourish at the end.

Lisa Cox
Recreation Officer
Rocky Mountain District
Recreation Sites and Trails Branch



Ministry of Forests, Lands,
Natural Resource Operations
and Rural Development

Proposal for Construction or Maintenance of Trails or Recreation Facilities on Crown Land

For Office Use Only (form for applications from the public pursuant to section 57, *Forest and Range Practices Act*)

Date Received	Received By	Recreation District	File no (if applicable)

All applications must include a completed application form, and for proposals involving previously 'un-managed' trails or facilities or new trails or facilities, the application must also include a general location map, a specific location map and submission of digital geo-spatial information as described in the *Application Information and Guidelines* associated with this Form. **Incomplete applications will not be considered.**

Part 1. Proponent Name and Contact Information

Proponent Name:

FULL LEGAL NAME of Individual(s), Organization or Society

Kootenay Dirt Riders Association

Proponent Mailing Address:

8983 Highway 95A
Kimberley B.C.
V1A 3M5

Contact Name for Organization or Society:

Alex Buterman

Proponent Contact Numbers:

[Redacted] Cell

Phone:

Daytime Phone:

Fax:

Email Address:

Part 2. General Proposal Description

Purpose or intended use of proposed trail or recreation facility: To establish, maintain and protect habitat for motorcycle use in the Tata Creek area. To have an area to be enjoyed and respected for future dirtbike use in a sustainable, forward thinking way. To work with the existing infrastructure to produce + provide safe, sustainable trail systems.

Brief description of proposed trail or recreation facility and any work or activities planned:

To enhance and cohabitate motorcycle terrain with existing eco-systems and interests. To create a three phase approach to the area: ① - maintain and improve existing trails, ② To establish a riding area that has outdoor toilets, camping area and safe staging Area, ③ To uphold stewardship and Responsibility for future and existing riding Community.

Location of proposed trail or recreation facility:

Tata creek area B.C. NAD 1983 UTM Zone 11N

This proposal is for: (refer to *Application Information and Guidelines* for explanation of proposal types)

Authorization under Section 57 of the *Forest and Range Practices Act* to construct, rehabilitate or maintain a trail or recreation facility on Crown land: (please select one choice from each column)

- ☐ construction
☐ maintenance
☐ rehabilitation

- ☐ a managed trail or recreation facility
☐ an unmanaged trail or recreation facility
☐ a new trail or recreation facility

For an existing trail, is it a Heritage Trail or known to have heritage, or historic values?

- ☐ designated Heritage Trail
☐ known Historic or Heritage Value
☒ no known heritage values

Part 3. Detailed Trail or Recreation Facility Description

Approximate trail or recreation facility size:

Proposed work start dates:

Approximate trail or facility length x width:

Proposed work completion dates:

Describe the anticipated or proposed trail or recreation facility uses (check all that apply):

- ☒ Camping ☒ Picknicking ☐ Fishing ☐ Hiking ☐ Mountain Biking ☐ Horseback Riding ☐ Cross Country Skiing
☐ Boating ☐ Snowmobiling ☐ ATV's (ORVs) ☒ Trail bikes (Motorized) ☐ Other _____ (Please Specify)

Are you aware of any potential land conflicts or constraints, including overlap with private property, grazing leases, provincial parks or protected areas, Old Growth Management Areas, or is the proposed trail or recreation facility located within a community watershed?

- ☐ Yes ☒ No Describe: Possible cattle grazing tenure, Possible horse back riding tenure

Identify any construction or maintenance guidelines or standards that will be followed when conducting works, any infrastructure that will be required, or signage to be installed:

Any work that would be done on existing trails would have warning flagging or signage that trail maintenance was in affect. All work performed will be approved by proper Authority before starting any work

Describe any significant water features including creeks, streams, rivers or wetlands the proposed recreation trail or facility might cross or potentially impact, and how you plan to protect these areas:

We will work with professional support to decommission trails that affect water features. We will work to re route, bridge over water features.

Digital geo-spatial information provided with application

Format: ☐ gpx file ☐ shape file ☐ kml file (must be based on field collected gps data)

File name(s):

Maps & Photos Included

- ☐ General Location Map
☐ Specific Location Map
☐ Colour Photographs

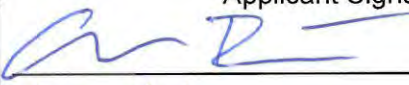
(see *Application Process Information Package* for spatial data requirements and map requirements associated with this application)

Part 4. Additional Information

Describe any discussions or communications with potentially impacted stakeholders, interest holders or First Nations regarding this proposal: Members of our board of KDRA have had successful conversations with immediate neighbors to the tata creek area. We have been met with optimism that someone credible will be taking a responsible approach

Describe your or your organization's capacity and commitment for ongoing maintenance of the proposed trail or recreation facility, should it be approved: KDRA is a growing organization, members of KDRA will be assigned to trail maintenance teams that will do work on existing trails to ensure the risk is controlled by design, trails are environmentally sustainable and within the limits of the agreement with the Ministry. Our goal with KDRA is to pass down a legacy of riding in the East Kootenays to future generations

(attach additional pages as necessary, including any letters of support from stakeholders, summaries of correspondence, etc)

<p>Applicant Signature</p>  <p>Alex Boterman</p> <p>Printed Name of Applicant</p>	<p>April 5/2019</p> <p>Date</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------

PLEASE RETAIN A COPY OF THIS APPLICATION FOR YOUR RECORDS

NOTE: The information you provide will be subject to the *Freedom of Information and Protection of Privacy Act*. If you have any questions regarding the treatment of your personal information, please contact the Office of the Information & Privacy Commissioner for British Columbia. Visit www.oipc.bc.ca/ for more information.

The submission of this form does not in any manner convey any rights to use or occupy Crown land.

FrontCounter BC Contact Information

Phone

Call FrontCounter BC toll free at: **1-877-855-3222**
Call from outside North America at: **++1-778-372-0729**

Email


FrontCounterBC@gov.bc.ca

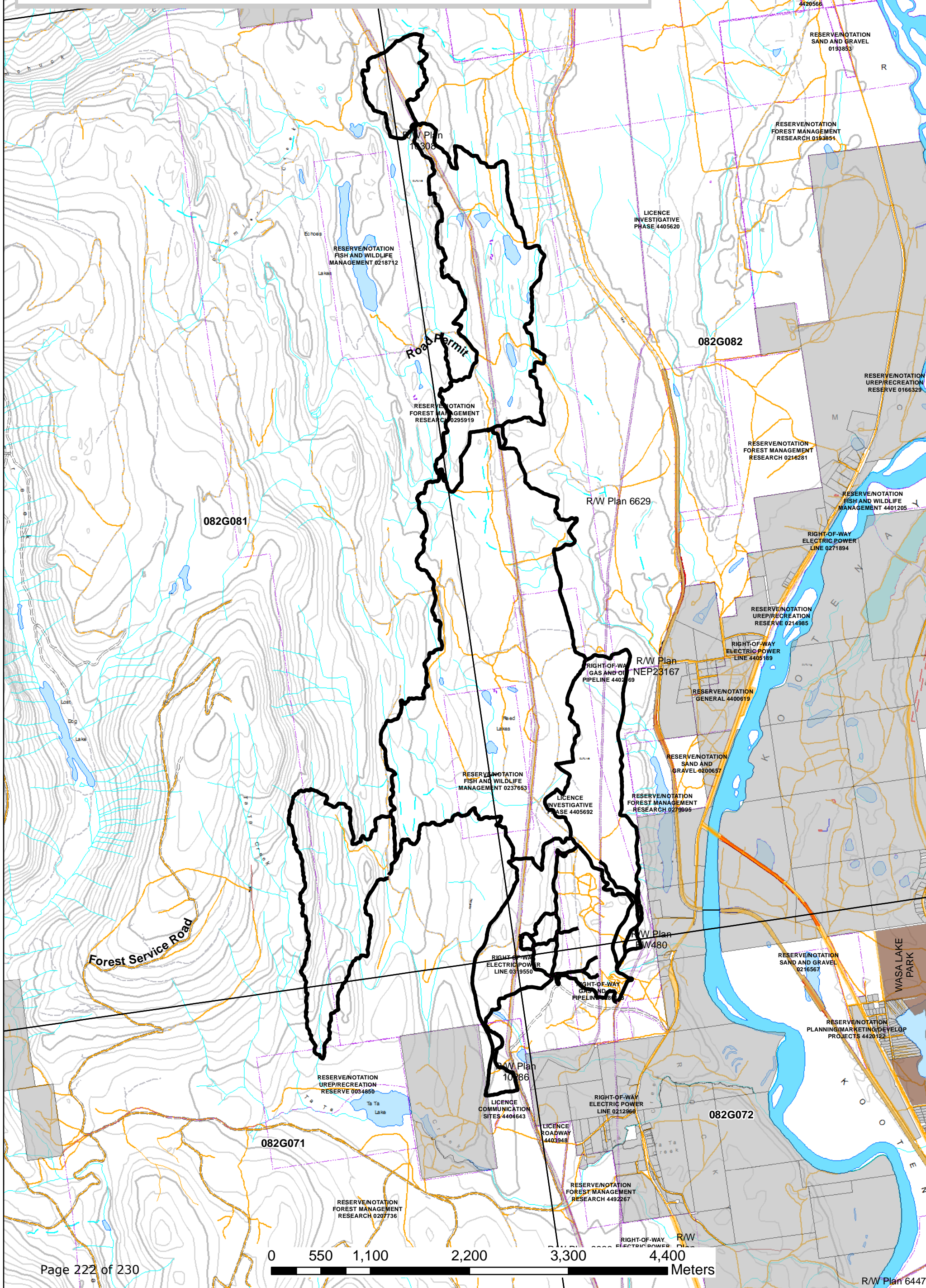
Website

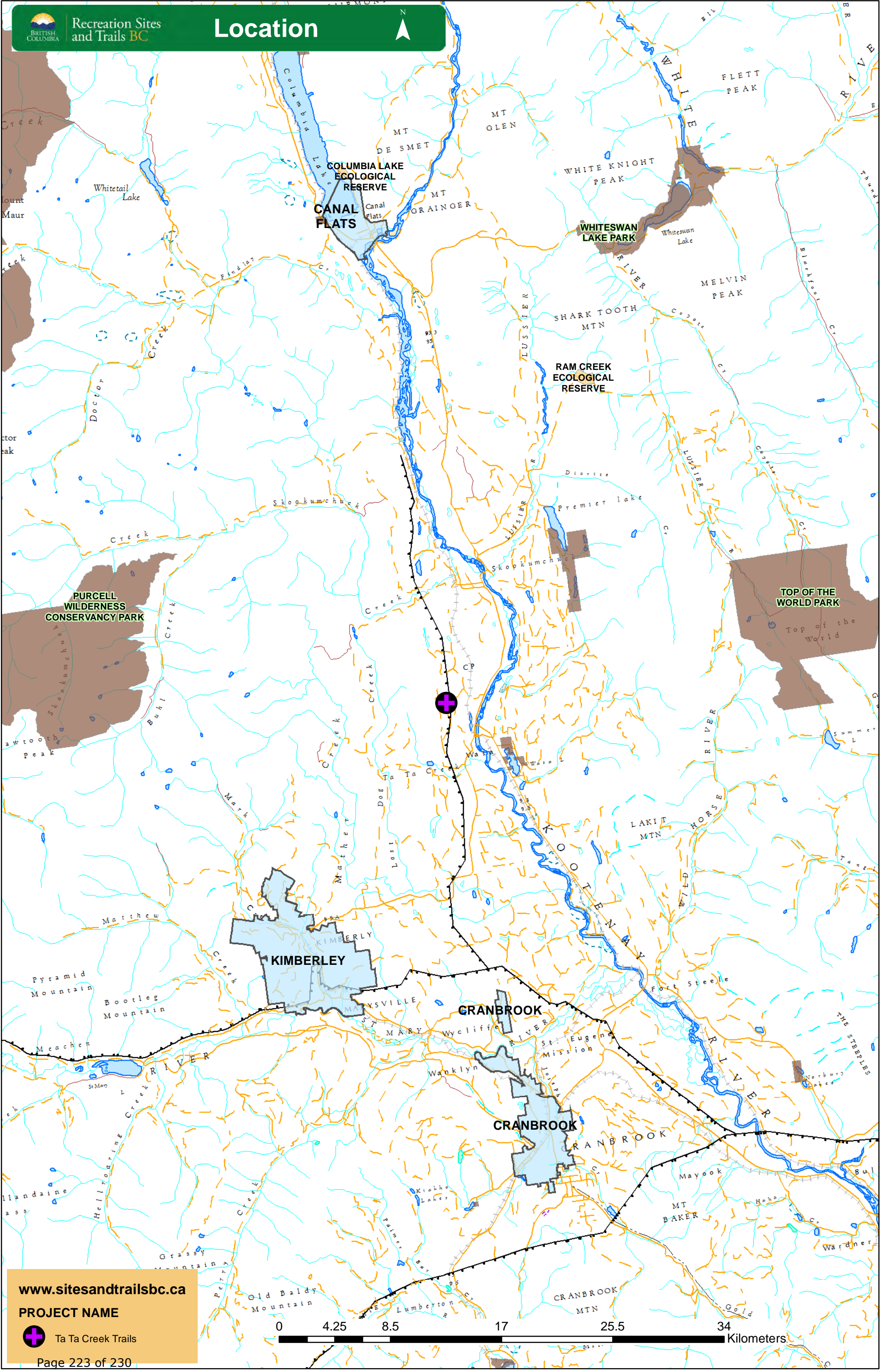
For information on the nearest FrontCounter BC location, or other information regarding your Natural Resource Application, visit

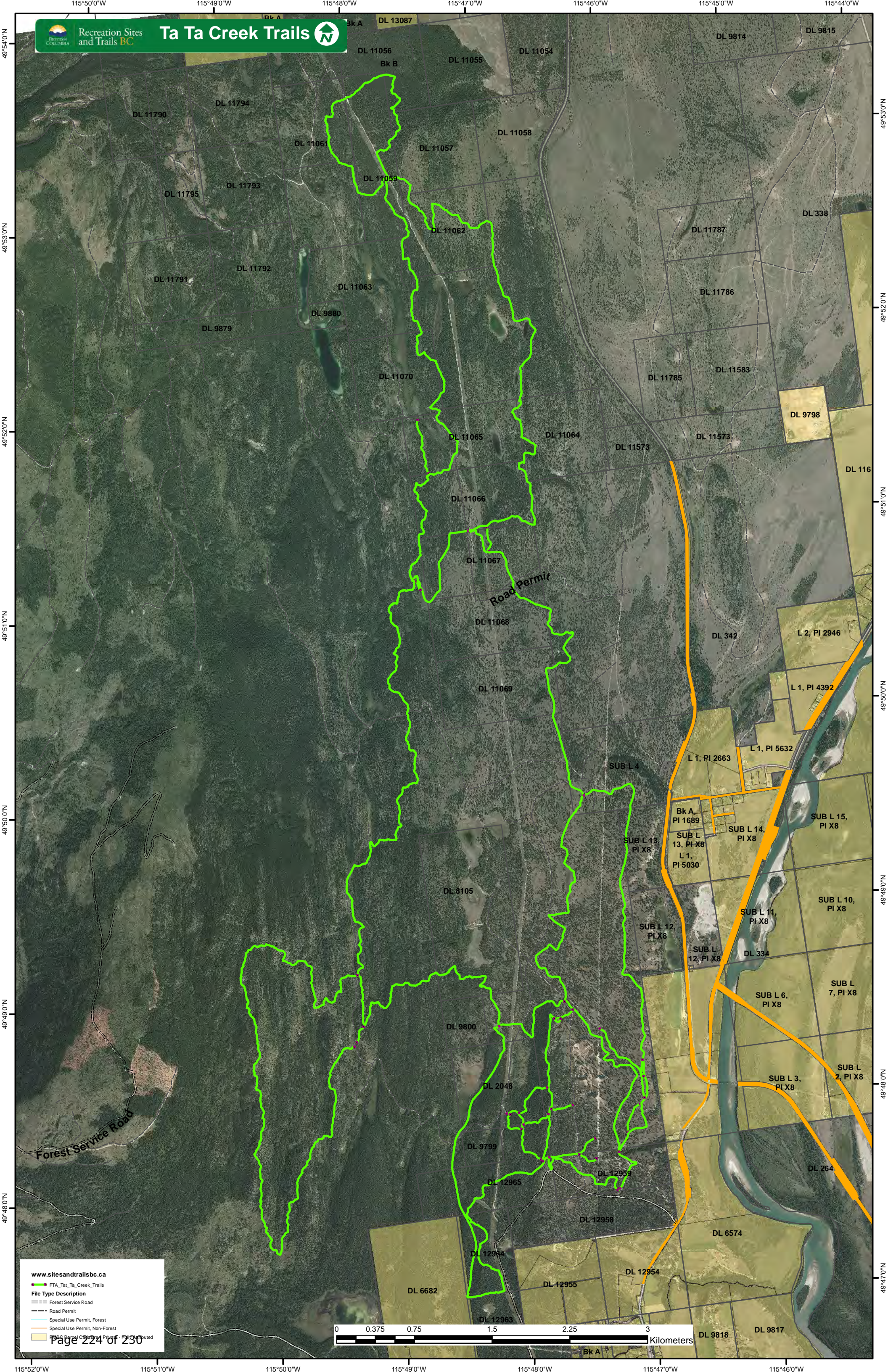
<http://www.frontcounterbc.gov.bc.ca/>

MAP OF: REC260438 Ta Ta Creek

<p>Recreation District Rocky Mountain (RDRM)</p>	<p>Natural Resource District Rocky Mountain</p>	<p>(shown in bold black)</p> 	<p>MAP PROJ: NAD 1983 BC Env Albers</p>
<p>1:38,000 at 11x17 Size</p> <p>Map Sheet: 082G081</p>	<p>UTM 11: 587602 east 5516684 north</p> <p>Project Type: Trail</p>	<p>R/W WIDTH (m): 10 LENGTH (km): 38.502343</p>	<p>Drawn By: B. Dowdoff Date: 2019-06-07</p>

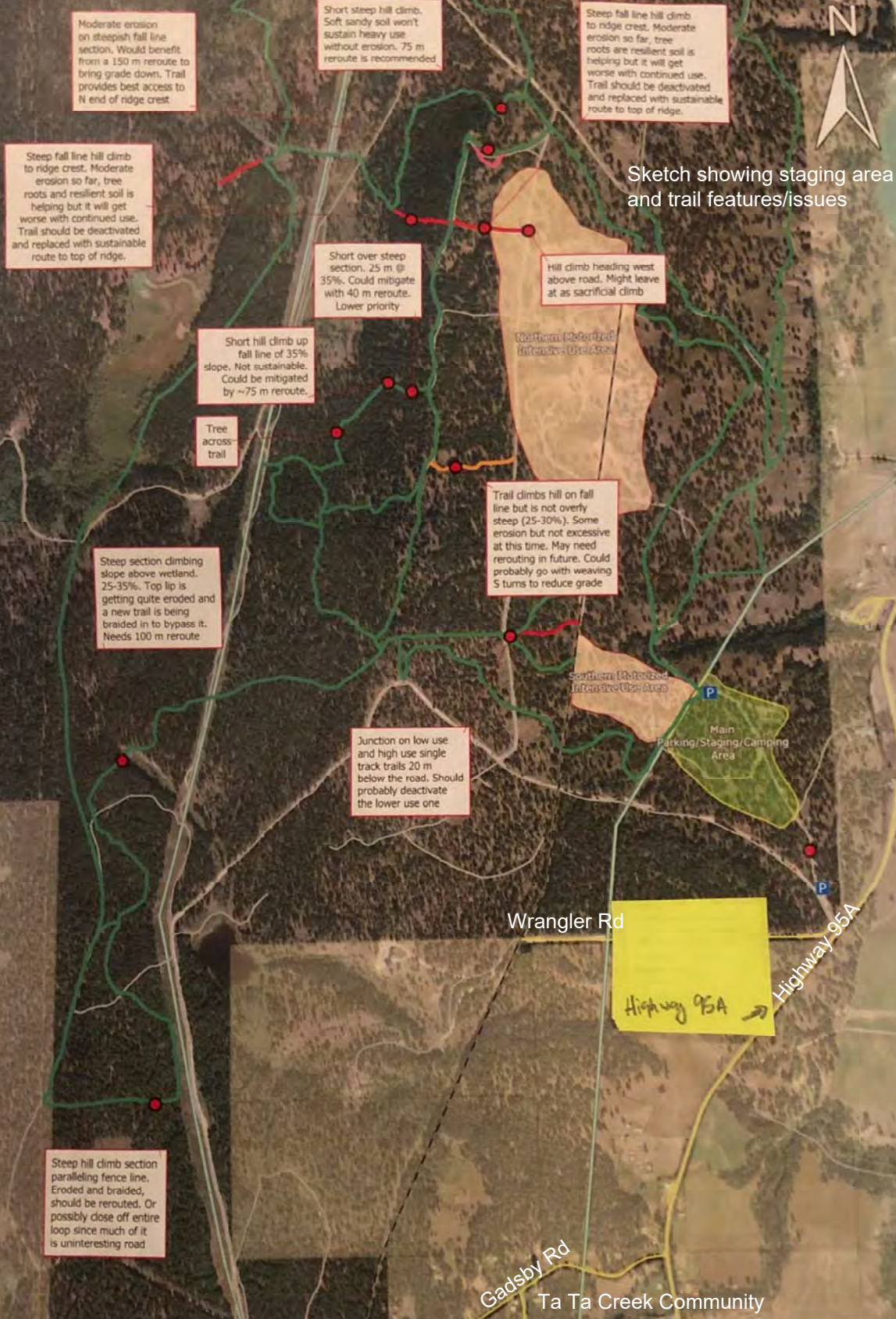








Sketch showing staging area and trail features/issues



Request for Decision

File No: P 151 090

Date December 17, 2019
Author Andrew McLeod, Development Services Manager
Subject Kootenay River Tributaries – Vessel Operation Restriction Regulations

REQUEST

Consider the letter received from St. Eugene Golf Resort and Casino.

OPTIONS

1. THAT St. Eugene Resort and Casino be thanked for their letter regarding motor restrictions on the Upper Kootenay River tributaries and advised that the RDEK is not aware of any work the East Kootenay River Alliance has undertaken in regards to establishing motor boat restrictions on the tributaries of the Kootenay River.
2. (As directed by the Board)

RECOMMENDATION

Option 1.

BACKGROUND/ANALYSIS

The attached letter requests that the RDEK support and help lead an initiative of the East Kootenay River Alliance to ban motor boats from the classified tributaries of the Kootenay River.

The Manager has had one conversation with a representative of the above organization in the summer of 2019. During that conversation, the federal Ministry of Transportation's Local Authorities Guide for Vessel Operation Restriction Regulations (VORR) was discussed. The Guide places an emphasis on the need to consult widely about the nature of the boating issue as well exploring, testing and evaluating non-regulatory options before making an application for a federal regulatory change. Staff is not aware of what if any work may have been undertaken by East Kootenay River Alliance in this regard.

Only a government organization, including local governments, are eligible to apply for a VORR. The process to establish a regulation is very onerous and has on-going legal obligations for the regulation sponsor. For example, the Province's application to regulate power driven vessels and towing on the main stem of the Columbia River and adjacent wetlands was over a decade-long process. In addition, the existing VORR regulations that the RDEK is responsible for, has required us to purchase and install regulatory signage and buoys.

To sponsor a VORR application and work with a local non-profit towards this purpose is a major project that will require considerable time and resources over several years. The work will need to be considered as part of the RDEK's strategic plan and project priorities.



RECEIVED

NOV 27 2019

Regional District of
East Kootenay

SEM Resort LP
7777 Mission Road
Cranbrook, BC.
V1C 7E5

To RDEK Board of Directors:

In recent year we and our guests have noticed an increase of motorized vessels, primarily jet boats, on the upper Kootenay tributaries, especially the lower St. Mary's river but also the upper St. Mary's river the Bull River, the Lussier River, the White River, the Skookumchuck and the Kootenay above Canal Flats. The St. Eugene Golf Resort & Casino is concerned about this for the following reasons:

- 1) Potential environmental impacts;
- 2) Safety concerns for non-motorized users
- 3) The degradation of our wild and scenic rivers and the negative impact on our business operations.

Environmental Concerns

These Kootenay tributary streams have exceptional fisheries value, and this is a major attraction for many of our guests. These streams have been identified as special by the province that has listed them as Class 2, Classified Water *"to maintain the unique fishing opportunities provided by these waters, which contribute significantly to the province's reputation as a world class fishing destination."* Classified Waters require anglers to purchase a special daily license yet despite these restrictions, anglers travel from all over the world to enjoy the excellent fishing and wilderness values the rivers offer.

In addition to angling, these rivers provide habitat corridors linking low elevation winter range to high elevation summer range. These critical corridors are often only a narrow sliver of habitat and the St. Eugene Golf Resort & Casino is worried that operating large, extremely loud vessels up the center of this sliver of habitat will compromise negatively impact sensitive wildlife populations and nesting birds including the heron rookery that resides on our property.

Safety Concerns

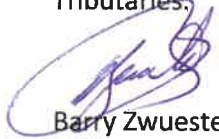
Anglers, recreational paddlers, professional raft guides and numerous guests and residents enjoy tubing, swimming, canoeing, kayaking and paddle boarding on the upper Kootenay tributaries. One thing all these users have in common is that they are floating down the river. Jet boats require a minimum speed of 35 km/h to become maneuverable, and they often travel at speeds exceeding 60 km/h. On narrow, winding rivers which are often braided this represents a serious threat to the safety of existing users.

Degradation of Natural Setting and Impact on Business Operations

A major attraction for our guests is the opportunity to relax in a natural setting. The tranquility of the river is integral to experience we offer. The opportunity to camp, golf, walk, birdwatch and host events such as weddings and conferences hinge on the integrity of our rivers and the quiet experiences they afford.

Each of the tributaries to the Upper Kootenay already have roads on one or both banks with numerous bridge crossings which allow access. Motors are not required to enjoy this resource and their use on these systems reduces the natural splendor of the area and is not consistent with the experience we offer at the St. Eugene Golf Resort & Casino.

For these reasons, we recommend that the RDEK Board of Directors, support the resolution put forward by the East Kootenay River Alliance to prohibit motors on the Upper Kootenay River Tributaries.



Barry Zwueste,
Chief Executive Officer

RDEK No Power Boat Resolution :
Presented by the East Kootenay River Alliance

Whereas the Elk River and Moyie river presently have a motor prohibition which were put in place for safety reasons.

Whereas the use of power boats poses a severe safety risk for other non- motorized river users on all Kootenay tributaries in the East Kootenays .

Whereas powered boats only operate and maneuver affectively when they are under full power and traveling quickly which poses the safety issues.

Whereas the province of B.C. has deemed that the Classified waters of the East Kootenay are special and need special protection as stated in the fishing regulations on page 8.

“The classified waters of B.C. are highly productive trout streams. These streams are classified as either Class I or Class II and are listed in the Water-Specific Tables for each Region. The Classified Waters Licensing System was created to protect the unique fishing opportunities provided by these waters, which contribute significantly to the province’s reputation as a world-class fishing destination.”

Whereas The classified rivers of the East Kootaney – Kootenay River tributaries to be included are: St Mary River (excluding St Marys Lake) , Bull River , Shookumchuk River , and the White/Kootenay rivers above the confluence of the Kootenay-White rivers.

Whereas in addition to these rivers, the Lussier, Findlay and Wildhorse rivers also contain Native Cutthroat, Burbot and Bull trout and require protection as well and should be included in this prohibition.

Whereas powered boat usage in rivers and streams has been indentified in many Scientific studies to be detrimental to all forms of aquatic life, including aquatic insect which are killed by the pressure produced by the jet thrust and bow pressure. Juvenile fish species are also harmed as they are literally thrown out of the river (due to power boat wash action) on to the banks because of their proximity to the shore to avoid the strong currents of the many streams.

Be it resolved that: The RDEK support the East Kootenay River Alliance to extend the motor boat ban on the Elk and Moyie rivers to the other Classified rivers of East Kootenays including St Mary River (excluding St Marys Lake) , Bull River , Shookumchuk River , and the White/Kootenay rivers above the confluence of the Kootenay-White rivers.

Be it further resolved: that the RDEK support the East Kootenay River Alliance with their expertise to holding public meetings and meet with other levels of government, provincially and federally, to achieve this goal.

Be it further resolved: That the RDEK consider the addition of the WildHorse, Lussier and Findlay rivers to this prohibition as well as these afore-mentioned streams