

# Request for Decision Bylaw Amendment Application

File No: P 721 124  
Reference: Bylaw Nos. 3102 & 3103  
Date: **May 10, 2022**

**Subject:** Bylaw No. 3102 & Bylaw No. 3103 (Lizard Creek / C. H. Nelson Holdings Ltd)  
**Applicant:** C. H. Nelson Holdings Ltd  
**Agent:** Richard Haworth, Haworth Development Consulting Ltd.  
**Location:** Highway 3, directly north of Fernie Alpine Resort  
**Legal:** The east half of District Lot 4129, Kootenay District;  
The north half of District Lot 4126, Kootenay District;  
District Lot 8900, Kootenay District except (1) Parcel A (see 142795i) and (2) parts included in Plans R368, 17500 and EPP88294; and  
Part of District Lot 4130, Kootenay District except (1) Reference Plan 66648i, (2) the right of way of the Crows Nest Southern Railway as shown on Plan B15 and (3) parts included in Plans 1021, 1339 and EPP88294

**Proposal:** To amend the OCP and zoning designation of the properties to permit future subdivision. The proposed OCP designation change is from RR, Rural Resource and RE, Resort Expansion to SH, Small Holdings and OSRT, Open Space, Recreation and Trails and the proposed zoning designation change is from RR-60, Rural Resource Zone and RR-8, Rural Residential (Country) Zone to RR-1, Rural Residential (Estate) Zone and PG-2, Parks and Recreation Zone. **The application is also amending three Official Community Plan sections that would ensure the policies are in keeping with the future intended use of the property should the application be approved; specifically the lands would no longer be considered for inclusion in the FAR OCP.**

**Development Agreement:** The applicants are offering to register on title several development commitments to provide further clarity about how the land will be used and developed. Commitments to be registered in the interest of the RDEK are described below.

- Limit development to a maximum of 75 residential lots. **Should all or part of the Lands be subject to a City of Fernie boundary expansion the density limit would apply to the portion of the Lands within the municipal boundary.**
- Within the RR-1 Zone, “two-family dwellings” will be prohibited. Only single-family dwellings and secondary suites will be permitted.
- Within the PG-2 Zone, the only uses permitted will be those uses complementary to use of the land for park, public recreation, conservation and open space and uses permitted under Section 4.03 of the Elk Valley Zoning Bylaw.
- Requiring all homes and properties to be constructed / developed and maintained in accordance with the terms of the RDEK’s standard wildfire hazard development permit requirements (because the Elk Valley OCP does not contain a wildfire hazard DPA).

**Development  
Agreement -  
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- A statutory right of way in favour of RDEK to ensure the public's right to access the PG-2 zoned lands by foot, ski, snowshoe or bicycle and where a statutory right of way has been registered for public access over a private lot (including the Nordic ski loop and other trails constructed over a private lot). This covenant may specify a timeframe for public access to the lands, such as between 5am and midnight. This covenant shall be substantially similar to covenant CA1547821 registered over lands known as Island Lake Lodge.
- As a condition of subdivision the new lots must be connected to a community sewage system and the owner must provide hydrants to fight fire within the development as determined by a qualified professional in the field.

Commitments to be registered in the interest of the non-for-profit Society that will oversee the Galloway Lands Recreation Fund (The entity overseeing this fund will be comprised of homeowners and members of local recreation and conservation groups) are described below:

- Within the RR-1 Zone, "horticulture" and the "keeping of farm animals" will be prohibited (to reduce potential wildlife conflicts). For the purposes of the covenant, 'horticulture' will mean growing of flowers or vegetables for commercial purposes. Personal residential vegetable and flower gardens will be permitted.
- A 'no disturbance' covenant to prohibit any land disturbance, tree removal, new trails, and any other further development in the PG-2 lands within 100 m of the ordinary high-water mark of Lizard Creek with the exception of road construction as required by the MOTI and maintenance and use of existing trails (including replacement and reconstruction).
- A 'no disturbance' covenant over the PG-2 zoned land (except the Lizard Creek corridor – see above) to prohibit tree removal and land disturbance except for trail development and trail amenities, roads and parking areas intended for trail access.
- A 'no disturbance' covenant over that portion of each residential lot which lies outside of the identified building envelope to limit tree removal, prohibit fencing which restricts the movement of wildlife, and to prohibit earthworks or land disturbance outside of the building envelope. Exceptions to this will be construction and maintenance of the driveway between the frontage road and the building envelope.

The RDEK shall also be named on these covenants to prevent discharge or modification and has no obligation to enforce the covenants.

In addition to the above, the applicant is proposing to register a covenant in favour of MOTI to require a Traffic Impact Assessment prior to subdivision approval, and a Statutory Right of Way, not less than 25 m in width, that will allow future construction of a road connecting the Cedars development (via Sunshine Lane) to Fernie Alpine Resort. If MOTI does not accept this right-of-way then either the RDEK or the City of Fernie can accept it.

**Options:**

1. THAT Bylaw No. 3102 cited as “Regional District of East Kootenay – Elk Valley Official Community Plan Bylaw No. 2532, 2014 – Amendment Bylaw No. 11, 2021 (Lizard Creek / C.H. Nelson Holdings Ltd.)” be introduced and further, that the Board is satisfied that the OCP consultation identified in the staff report is appropriate.
2. THAT Bylaw No. 3103 cited as “Regional District of East Kootenay – Elk Valley Zoning Bylaw No. 829, 1990 – Amendment Bylaw No. 98, 2021 (Lizard Creek / C.H. Nelson Holdings Ltd.)” be introduced and further, THAT a development agreement containing the items identified in the May 10, 2022 staff report be registered on title prior to bylaw adoption.
3. THAT Bylaw No. 3102 cited as “Regional District of East Kootenay – Elk Valley Official Community Plan Bylaw No. 2532, 2014 – Amendment Bylaw No. 11, 2021 (Lizard Creek / C.H. Nelson Holdings Ltd.)” not proceed.
4. THAT Bylaw No. 3103 cited as “Regional District of East Kootenay – Elk Valley Zoning Bylaw No. 829, 1990 – Amendment Bylaw No. 98, 2021 (Lizard Creek / C.H. Nelson Holdings Ltd.)” not proceed.
5. THAT Bylaw No. 3102 & Bylaw No. 3103 be referred to staff for further information from the applicant.

**Recommendation: Option 5**

The majority of the lands have been designated for resort expansion. As the resort developer is not proposing to acquire the lands and is instead expanding the resort in a southerly direction, a change in OCP designation is appropriate. The subject land is a large, high profile property containing many environmentally sensitive areas and important wildlife attributes, in addition to supporting significant year round public recreation use. The property is currently privately owned managed forest and can be managed in accordance with applicable provincial regulations. There is presently no permanent mechanism in place to prevent clear cut logging, protect environmentally sensitive areas or ensure public access to the property.

The proposal strives to balance the OCP’s conservation objectives with rural residential development policies while permitting continued public access to the lands for non-motorized recreation.

The proposal meets the principles of conservation subdivision design, although required 1 ha size lots due to onsite servicing.

If the property were developed with community water and/or sewer systems then smaller lots would be possible, potentially enhancing conservation objectives. New information from the agent indicates a commitment to connection to a community sewer system. With the amendment to provide connection to a community sewer system, smaller lots are possible which could enhance conservation objectives.

**Recommendation – cont'd** The applicant should now give consideration to modifying the development proposal to permit smaller lots within a reduced development footprint. A reduction of parcel size and a smaller overall development footprint could address some of the concerns raised. Most significantly it might remove the need to extend the development north of the Lizard Creek tributary, thereby reducing the potential for creating a 'habitat island' of Mt. Fernie Park, and enhancing significant areas of primary and secondary conservation concern north of this stream by reducing the riparian impacts, promoting wildlife movement and preserving habitat areas.

Staff recognize that further delay of the Bylaws will require additional time of staff and the Board. However, the commitment to community servicing requires additional time to weigh the impact and opportunities for the proposed development. A one month delay will allow for discussion with the applicant and potential refinement of the development proposal. This will help to ensure that the process is transparent and recognizes that opportunities to amend the Bylaw after a public hearing are limited.

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**Property Information:**

**Current OCP Designation:** RR, Rural Resource and RE, Resort Expansion

**Proposed OCP Designation:** SH, Small Holdings and OSRT, Open Space, Recreation and Trails

**OCP Policies (Residential):**

- A limited increase in the number of new lots, generally reflective of the existing rural character of the surrounding parcels, within the plan area is supported. Except as identified within for the specific locations identified in subsection 4.3(1)(c) or Sections 4.3(3)-(11).
- In addition to the policies identified for specific Subareas within Sections 4.3(3)-(11), all rezoning applications within the plan area will be reviewed on an individual basis in relation to the following considerations:
  - Compatibility of the proposed lot size and density with existing and surrounding land uses, parcel sizes, local rural character and lifestyle;
  - The capability to provide onsite disposal in accordance with provincial requirements;
  - Potential impacts of the proposal on the quality and quantity of existing groundwater resources;
  - Integration of the Conservation Subdivision Design provisions outlined in subsection 4.3(1)(d);
  - Identification and mitigation of development impacts on environmentally sensitive areas including grasslands, connectivity corridors, wetlands and riparian areas and old growth forests, in accordance with Section 10 of this plan concerning environmental considerations;
  - Susceptibility to natural and geotechnical hazards and integration of hazard mitigation strategies, in accordance with

**Property  
Information -  
cont'd:**

- Section 11 of this plan area concerning development constraints; and
- For land located within the ALR, potential impacts or benefits of the proposed subdivision on the agricultural capability and suitability of both the parcel proposed for subdivision and on neighbouring parcels.
- To minimize disturbance to environmentally sensitive areas (ESAs) and preserve agricultural land, future development is encouraged to consider the integration of Conservation Subdivision Design principles by:
    - Identifying and protecting conservation areas such as riparian areas, wetlands, Class 1 ungulate winter range, wildfire corridors, wildlife habitat areas, steep slopes, woodlands, agricultural land and buffers;
    - Clustering development into nodes of smaller lots in order to preserve larger contiguous ESAs 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.
  - Development is encouraged to recognize and integrate opportunities to retain and maximize the viewsapes.

**Fernie Alpine Resort Fringe Subarea Residential Policies:**

- A variety of land uses associated with resort activities such as resort recreation, commercial accommodation, residential development and other related resort land uses are supported.
- Prior to any resort recreation development activities in the Fernie Alpine Resort Fringe Subarea, the parcels under consideration for development must be included in the Fernie Alpine Resort OCP.
- Prior to any resort recreation development activities in the Fernie Alpine Resort Fringe Subarea, a study of anticipated traffic impacts should be completed. The study should address impacts resulting from the proposed development activity such as traffic congestion, safety issues, and increased volume on Highway 3 between the City of Fernie and Fernie Alpine Resort. In addition, the study should identify the timing of the infrastructure upgrades necessary to address the impacts. Infrastructure upgrades should be completed as recommended in the traffic impact study in conjunction with the development activity.

**OCP Policies (Miscellaneous):**

- The provision of a broad spectrum of outdoor recreation opportunities, suitable for both residents and tourists, that respect the need to protect resource values, is supported.

**Property  
Information -  
cont'd:**

- The development of a trail connecting Mt Fernie Park Road and Fernie Alpine Resort that is not adjacent to the highway is supported. The trail is intended to provide an aesthetic walking and biking access route from the south end of Anderson Road to Fernie Alpine Resort. At the time of drafting of this plan, the route of this trail, which has yet to be specifically identified, would first cross a parcel on the south side of Anderson Road located within the City of Fernie boundaries. Existing development plans for this parcel incorporate the trail.

To facilitate development of the trail, rezoning for the following parcels should consider the integration of strategies that enable development of the trail:

- The North Half of District Lot 4126, Kootenay District; and
  - The East Half of District Lot 4129, Kootenay District.
- Prior to the creation of additional mountain biking and hiking trails in the Fernie area, the development of a trails master plan which coordinate trail planning for municipal and rural areas, and includes input from stakeholders such as the Fernie Trails Alliance, is encouraged in order to limit the impact of trail development on wildlife, environmental values and other users.
  - The development of a Nordic ski area located between Mt Fernie Park Road and Fernie Alpine Resort is supported. The trail developer is encouraged to consider accommodating summer use for proposed trails in the planning and development process.
  - Development in the plan area should consider the impact of associated water usage requirements on groundwater resources.
  - Development is encouraged to avoid streams, wetlands and riparian areas and to provide appropriate development setbacks and buffer areas.
  - Future development should minimize disturbance to the integrity of environmentally sensitive areas (ESAs). ESAs within the plan area include, but are not limited to, habitat of red and blue listed species and areas identified on Schedules E1-E3 such as wetlands and riparian areas, grassland ecosystems, old growth forests, and wildlife habitat areas.
  - Applications for rezoning of parcels which include land rated as high for interface fire hazard on Schedule I will be considered with respect to the following FireSmart principles, as appropriate to the nature of the application:
    - Ability to integrate fire fuel modified areas including an area of a minimum of 10 metres in radius to be maintained clear of combustible material surrounding buildings and structures;
    - Integration and promotion of building materials that minimize the risk of fires starting or spreading;
    - Provision of a minimum of 2 vehicular access/egress routes to allow for simultaneous access for emergency equipment and evacuation of people;

**Property  
Information -  
cont'd:**

- Availability of sufficient water capacity for firefighting activities;
  - The implementation of phasing or staging of development to minimize the interface fire risk; and
  - Availability of firefighting equipment and trained personnel as appropriate for the proposed development.
- The use of compact development footprints is encouraged within the plan area.
  - Portions of Galloway Lumber's Managed Forest 37 are generally supported for future resort expansion and rural use, should they be removed from the managed forest classification.

**Current Zone Designation:** RR-60, Rural Resource Zone (minimum parcel size: 60 ha) and RR-8, Rural Residential (Country) Zone (minimum parcel size: 8 ha)

**Proposed Zone Designation:** RR-1, Rural Residential (Estate) Zone (minimum parcel size: 1 ha) and PG-2 Parks and Recreation Zone

**Parcel Size:** Total Application Area - 185 ha (457 ac)  
Proposed Parcel Size: 1 ha to 1.6 ha residential parcels

**Density:**

Existing: The parcel is currently vacant.

Proposed: The proposal is for a maximum 75 lot subdivision. Each parcel is permitted one single family dwelling.

**ALR Status:** Not within the ALR

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

**BC Assessment:** Managed Forest (Vacant) The land has operated as managed forest for more than 16 years. The lands will be removed from the private managed forest program on a phased basis as development of the property proceeds.

**Water and Sewer Services:** Individual onsite wells are proposed. The applicants are proposing to connect the new lots to a community sewer system. They additionally commit to provision of hydrants for fire fighting within the development. These commitments are based on further discussion with Resorts of the Canadian Rockies and will permit connection to their system for water for fire fighting and sewage disposal, or development of stand-alone systems.

**Flood Hazard Rating:** The portion of DL 8900 that is east of Highway 3 is within the Elk River Floodplain. This portion of the property is proposed as park space where no residential development will occur. A small portion of DL 4130, along Lizard Creek, is within a fan hazard zone and has a flood hazard rating of "G". This area is also proposed as park space where no residential development will occur.

**Professional  
Studies:**

A **Transportation Impact Assessment** was completed by Bunt & Associates dated August 27, 2021. The assessment looked at conceptual trip generation and distribution projections, access locations, the overall road network, sight distances, collision history, current traffic volumes, intersection analysis, and active transportation (walking cycling etc). This report was completed in the summer of 2021, and useable internal road network traffic count data on Fernie Ski Hill (FSH) Road west of Highway was not available; MOTI has confirmed that an addendum could be submitted in early 2022 that will assess the traffic conditions for the internal intersections of Timberline Crescent & FSH Road, Highline Drive & FSH Road, and Highline Drive & Boomerang Way. Final decisions regarding road locations and improvements rest with MOTI and are normally completed by the developer during the subdivision phase.

A Winter Addendum was submitted dated March 23, 2022. The summary of that report is attached in the supporting documents. The study noted that the proposed development would generate a very small amount of traffic, 16 trips in AM peak hours, 21 trips in PM peak hours and 28 trips in weekend peak hours. However, it should be noted that the consultants derived these trip generation rates assuming that the lots are for recreational homes.

A **Groundwater Feasibility Assessment** was completed by Western Water Associates Ltd. dated July 23, 2021. The assessment concluded that the average driller-reported well yield for wells completed in bedrock near the site is 9 US gallons per minute, which is substantially above the Subdivision Servicing Bylaw requirement of 0.42 US gpm. Overall, the groundwater development potential for the contemplated subdivision, utilizing individual onsite domestic wells, is favourable. While not specifically being considered, it is likely that high-capacity community supply wells could be constructed on the property, at low elevation near the Elk River, which could be used as a community water source for some or all of the development.

Six **Technical Memorandums** were submitted from Cascade Environmental Resource Group Ltd. all dated March 25, 2022, focusing on responding to letters and presentations submitted to the RDEK by local special interest groups. The application states that MOTI has indicated that a geotechnical assessment of the lands will be required as a condition of subdivision for residential use of the lands. Summaries from each memorandum are as follows:

- Overall the Galloway Lands would represent a small area (0.01%) of built-up area in the Elk Valley. The Galloway Lands is unlikely to contribute to the cumulative effects on grizzly bear as the subject property is unlikely to contain young forest, high quality habitat for grizzly bears. Should adequate mitigation measures be followed the proposed development is unlikely to contribute to cumulative effects on aquatic habitat. As the old growth forest on the Galloway Lands will be protected, no contribution to the cumulative effects to old growth forest is expected.



**Professional  
Studies - cont'd:**

- Development is outside of required and recommended riparian setbacks. The risk to westslope cutthroat habitat will be mitigated by maintaining the setbacks proposed in the application and applying Best Management Practices for development through sediment and erosion protection mitigation measure and water quality monitoring during construction. The loss of wildlife movement through the lands will be minimized by the conservation subdivision design. The impact to wildlife population has not been assessed yet. No development will occur within 120 m of the Mt. Fernie Provincial Park Boundary. Therefore, the development is not expected to create an edge effect.
- Based on telemetry data, grizzly bears cross through the Lands less often than surrounding areas and identified it as having low movement potential, except the southeast corner which has moderate movement potential. Currently, the forest between Fernie Alpine Resort and the closest residential development is 750 m wide, where a 6000 m corridor is recommended for residential development to not negatively impact grizzly bears. The existing trails further reduce the effective corridor width.
- Overall, the Galloway Lands are not an identified wildlife corridor. However, telemetry data show that grizzly occasionally use the Lands to move across the landscape.

The proposed development has the potential to increase the zone of influence for grizzly bear and may reduce the movement of grizzly bear and other wildlife in the vicinity of the development. The response of ungulates to residential development is highly variable and could result in a positive effect.

- It is possible that the development would increase human-wildlife conflict. In order to minimize this potential, residents of the Galloway Lands should follow bear smart approaches, removing bear attractants and keeping dogs on-leash outside of building envelopes. A Wildlife Management Plan should be prepared prior to commencement of the construction phase. There are no anticipated impacts from permitted and professionally installed septic systems to Lizard Creek.
- Potential impacts of developing the site in relation to the park boundary include an ecological edge effect from anthropogenic development negatively influencing ecological conditions within a protected area. Parks and protected areas are designated a 100 m target buffer distance if in an undeveloped state. Current designs have an approximate 100m secondary conservation natural forested buffer to park boundaries from building envelopes, which is beyond the minimum distances edge effect zones observed for all impact factors and beyond the maximum effect for mammal response.

A report named **Recommendations for Wildfire Hazard Reduction** was completed by B.A. Blackwell & Associates and dated February 28, 2022. Recommendations include:

- reduce the vulnerability of the buildings to wildfire using FireSmart compliant materials;

**Professional  
Studies - cont'd:**

- reduce fuel within 100 m FireSmart Priority Zones around the buildings;
- increase availability of water supplies and its availability to firefighters;
- application of sprinkler systems when water supply is scarce and
- facilitating evacuation of residents from the area and its accessibility to firefighters during wildfire.

The application states that all recommendations will be met as part of the development of Galloway Lands.

A letter from Mulyk Consulting Inc. dated January 4, 2022 reviewed the application and concluded that use of onsite individual lot wastewater treatment and dispersal fields for the proposed subdivision is considered favorable. Individual onsite sewerage systems must comply with and adhere to the BC Public Health Act – Sewerage System Regulation.

**Additional  
Information:**

- In addition to the covenants offered, and in lieu of public amenity contributions (since the OCP has no policies regarding these) the applicant would like to initiate and contribute to a recreation fund in which 2% of the first sale price of each lot is put into a fund for development and maintenance of trails and trail infrastructure on the private lands in the area.
- In addition to the initial 2% of each initial lot sale (which will come from the developer), the developer will require a perpetual contribution of 1% of the sale price each subsequent time one of these lots sells to a new owner. The anticipated value of this fund from the proposed development will be in the range of \$0.5 million and the additional 1% contribution over time will help keep funds available as properties sell into the future. The applicant has not confirmed the mechanism for administration of this fund but the RDEK will not be involved.
- The application states that there are no permanent buildings or other structures on the lands, except for a Nordic skiing bridge across Lizard Creek.
- The land is currently utilized by the Nordic Society for Nordic skiing. Two loops comprising approximately 5.5 km are trackset for skiing each winter. These trails connect to additional trails to the north of the Cedars development lands. The lands are also used by the local community for mountain biking and walking with several trails located on the upper portion of the property. The proposal notes the applicant's intention to maintain the Nordic skiing north loop in essentially the same location. The Galloway Loop will be partially relocated to accommodate placement of homesites and roads. Design and location of all Nordic ski trails will be undertaken in cooperation with the Fernie Nordic Society. The applicant also notes its commitment to retention of a mountain bike trail network. Design and construction of new mountain bike trails will be completed in cooperation with the Fernie Trail Alliance.

**Additional  
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- Assessment of the land started with identifying Primary and Secondary conservation areas, following conservation subdivision design principles. Primary conservation areas include the Lizard Creek riparian corridor, alluvial fans, old growth forest and steep slopes (over 30%). Secondary conservation areas include smaller creeks, buffers along Crown lands and Mt. Fernie Provincial Park, lesser steep slopes (15-30%) and additional lands best suited to conservation. This assessment was completed by the owner/applicant and not a qualified environmental professional.
- The application states that assessment of the property has demonstrated the existence of black bear and grizzly bear utilizing the Lizard Creek drainage and lands extending up the lesser creek drainages and to Mt. Fernie Provincial Park. These areas have been identified as potential connectivity corridors and will be preserved to the greatest extent possible through the proposed covenant areas.
- The application states that approximately 95 ha or 51% of the total parcel area is proposed for protection through zoning as park. Additional protected lands are also proposed within the individual development parcels. All together, these protected conservation lands comprise approximately 130 ha or 70% of the total parcel area.
- A combination of public road and common access lots are proposed for internal road access.

Access to the development is proposed via Fernie Ski Hill Road to Highline Drive to Boomerang Way and Snow Pines Road. Dedication of a right of way for a future road connection to the City, if required, is included.

- The applicant has identified two potential emergency access routes. A potential north emergency access could cross Lizard Creek and connect to the south end of Sunset Lane in the Cedars community. A potential south access could connect to Highway 3 near the Lizard Creek bridge. The locations of these potential emergency access routes are conceptual in nature.
- The application states that while effort has been taken to prepare a plan that represents the vision for development of the lands, additional ground-truthing is required prior to final subdivision design. Modification to road design, lot layout and boundaries of conservation area / greenspaces are to be expected.
- The application states that development of the lands will be phased based on market demand and to ensure that construction on the property proceeds in a logical manner. Based on current market demand the applicant anticipates bringing between 10 and 20 building lots to market at a time.
- The application notes that horticulture and the keeping of farm animals could conflict with wildlife in the area and are not considered an appropriate use in this area.

**Additional Information - cont'd:**

- Regarding comments from City of Fernie staff, unlike the Brenner's Road area where the RDEK has been attempting to manage the lands in anticipation of a future boundary expansion, the Galloway lands are not identified for future City expansion by RDEK. As a result, the RDEK has not anticipated higher density, fully serviced development in this location. If incorporating this parcel in the City of Fernie is the intention, then doing so while it remains undeveloped would be most efficient.
- The application noted the concerns expressed by the RDEK Board of Directors regarding the life cycle of development costs. The application states that water and sewer infrastructure and cost of road maintenance are the largest potential expenses for a municipality. The proposed services are onsite and there is no cost to the RDEK for maintenance of these utilities. Further roads within the development are proposed to be a mixture of public and private. Private roads are constructed by the developer at no cost to the public. Public roads are constructed by the developer to MoTI standards. These roads are maintained by MoTI through a contractor. A portion of the property taxes paid by the property owners will pay for maintenance of these roads.

**Consultation:**

Section 475 of the *Local Government Act* requires that local government consider the depth and breadth of consultation to be undertaken with persons or organizations that it considers may be affected by the proposed OCP amendment. Consultation completed to date for this amendment includes referral of the bylaw to the following organizations.

In addition, the applicant has met individually with community interest groups and hosted an online open house to share information about the proposal and answer questions.

**APC Area A:** Supported (reviewed the original submission in November, 2021)

**Referral Agencies:**

An additional information package was sent out to referral agencies for a second round of comments on April 13, 2022.

- **Interior Health Authority:** Not supported as proposed (see attached letter)
- **Transportation & Infrastructure:** Interests Unaffected
- **Environment:** The Ministry of Environment has requested an extension to provide comments on the additional information until the end of May to ensure wildlife biologists on staff have a chance to review the information. Staff has advised that comments must be received prior to the public hearing and will become part of the public hearing report.
- **Ktunaxa Nation Council:** The Ktunaxa Nation Council will not be commenting on this referral (first referral comments).  
No response has been received from the second referral
- **School District No. 5:** No comment to date
- **Telus:** No objection

**Consultation –  
cont'd:**

- **City of Fernie:** Not supported by staff (see attached letter with staff comments)
- **BC Parks:** See attached letter.
- **Resorts of the Canadian Rockies:** Generally supportive if specific concerns are addressed: 1) a hydrology study should be completed to ensure no negative impacts to the resort's community water sources and the study should include possible effects of septic field outflows, and 2) traffic impact assessment which considers that the resort has a single access and also that future development at the resort should not be impacted by the proposed vehicle access to the development (see attached letter)

In addition, the RDEK is in receipt of 75 unsolicited letters signed by 82 members of the public. Many of the letters are from homeowners at Fernie Alpine Resort. The letters either express reservations about the project or outright opposition.

The most commonly referenced concerns include the environmental impact of the septic systems on Lizard Creek and groundwater, and traffic and road network impacts within the resort. A wide range of other environmental impact and land use planning concerns are also raised in the correspondence including the potential impact on fish and wildlife, the lack of affordable housing, and rural sprawl.

**Documents  
Attached:**

- Bylaws
- Location Map
- Land Use Map
- OCP Designation Map
- Zone Designation Map
- Zone Regulations
- Proposal
- IHA letter
- City of Fernie letter
- RCR letter
- BC Parks letter
- Summaries of Additional Information provided by the Applicant
- Letter from the Applicant

**RDEK  
Contact:**

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