

Request for Decision Bylaw Amendment Application

File No: P 724 571
Reference: Bylaw No. 3359
Date: June 19, 2025

Subject: Bylaw No. 3359 (Windermere North / McGregor)
Applicant: Judy and Lyle McGregor
Agent: Jessie Blakley
Location: 461 Lakeview Place, Windermere North
Legal: Lot A, District Lot 4347, Kootenay District Plan NEP67223
(PID: 024-839-892)

Proposal: To amend the text of the zoning bylaw to permit placement and seasonal residential use of a recreational vehicle with a roof, covered deck and three outbuildings without establishment of a principal use on the property.

Development Agreement: The owners have offered to register a covenant on the property stating that the current uses (identified in the above proposal) will cease to be permitted if the property is sold or transferred to new owners.

Options:

1. THAT Bylaw No. 3359 cited as “Regional District of East Kootenay – Columbia Valley Zoning Bylaw No. 3255, 2023 – Amendment Bylaw No. 21, 2024 (Windermere North / McGregor)” be introduced.
2. THAT Bylaw No. 3359 cited as “Regional District of East Kootenay – Columbia Valley Zoning Bylaw No. 3255, 2023 – Amendment Bylaw No. 21, 2024 (Windermere North / McGregor)” not proceed.

Recommendation: Option 2

This is a residential neighborhood, with most of the properties along the street containing dwellings that comply with RDEK regulations. There are other avenues that may be more appropriate to pursue to construct a dwelling on the property, such as a development variance permit application to reduce setback requirements or to meet floodplain regulations. The use of an RV as a permanent residential unit is not supported, even with the intended seasonal nature of the proposal.

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

OCP Policies:

- A mix of residential densities is supported within the plan area.
- Bylaw amendment applications for residential development should address the following:
 - (i) Compatibility of the proposed development with surrounding land uses, parcel sizes, local rural character and lifestyle;
 - (ii) Access to the development and proposed internal road networks;

**Property
Information -
cont'd:**

- (iii) Demonstrate the use of Conservation Subdivision Design principles where appropriate, such as:
 - (a) Identifying 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;
 - (b) Clustering development into nodes of smaller lots in order to preserve larger contiguous environmentally sensitive areas and agricultural zones; and
 - (c) Utilizing compact neighbourhood design with dwelling units built in close proximity to each other to minimize the overall development footprint and required infrastructure.
 - (iv) Integrate FireSmart Principles.
- Development is encouraged to recognize and integrate opportunities to retain and maximize the viewscales.

Zone Designation: R-1, Single Family Residential Zone; minimum parcel size is 555 m².

Parcel Size: 0.1 ha (0.23 ac)

Density: The R-1 zone permits one single family dwelling and one secondary suite within a principal dwelling per parcel. The parcel currently has one recreational vehicle and accessory outbuildings.

ALR Status: Not within the ALR

Interface Fire Hazard Rating: Low, within the Windermere fire protection area

BC Assessment: Residential (Residential outbuilding only)

Water and Sewer Services: The property does not have a water source and there is an onsite sewage disposal system that the recreational vehicle is connected to. The applicants have stated that they bring in drinking water and have a pump pulling water from the lake. They do not have a water licence for pumping from the lake.

Flood Hazard Rating: The property is adjacent to Lake Windermere. Development must comply with floodplain management provisions.

**Professional
Studies:**

None

**Additional
Information:**

- The zoning regulations the property is currently not in compliance with are:
 - Up to two recreational vehicles can be parked and stored accessory to a lawfully established and ongoing permitted use.
 - Recreational vehicles may only be used as a residential use where specifically designated in the general regulations.
 - Accessory buildings cannot be constructed without a principal use being established on the property.
 - The principal use to which a recreation vehicle or accessory building may be accessory is not established on this property.

**Additional
Information
cont'd:**

- The application states that the owners applied for a building permit historically and it was not approved as it did not meet setback requirements. As an alternative a recreational vehicle was established on the property. There is not a building permit file attached to the property in the RDEK's digital record system.
- The applicants provided supporting documentation that is attached to this staff report. This information includes signatures from neighbours that the owners collected to support their application. These signatures have been provided prior to the RDEK completing public notifications as identified below for this application.
- The applicants have offered a restrictive covenant stating that the current uses cease to be permitted if the property is sold or transferred to new owners. The concern with this option is the need for monitoring when the property has been sold or transferred. A Temporary Use Permit would provide a means for the applicants to continue to use the RV on property, with specific timelines set out for expiry or renewal and would be a more practical approach if the intent is not to approve the requested use for the long term.

Consultation:

Under revised section 464 (3) of the *Local Government Act* a local government must not hold a public hearing on a zoning bylaw if:

- a) an OCP is in effect for the area that is subject of the zoning bylaw;
- b) the bylaw is consistent with the OCP;
- c) the sole purpose of the bylaw is to permit a development that is, in whole or in part, a residential development; and
- d) the residential component of the development accounts for at least half of the gross floor area of all buildings and other structures proposed as part of the development.

Section 467 (1) of the *Local Government Act* specifies that if a local government decides to not hold, or is prohibited from holding, a public hearing, it must provide notice to the public prior to first reading of the bylaw. Notice must be provided in accordance with the RDEK Public Notice Regulation Bylaw and the applicable requirements of section 466 of the *Local Government Act*.

Publication Date: May 29, 2025 issue of the Columbia Valley Pioneer

Notice Mailing Date: May 9, 2024

Notices Mailed: 16

Response to Notice and Advertising: Three responses have been received from the notification process. Two letters express support for the application and one letter expresses support conditional on an expiration date being established.

APC Area F & G: Support not recommended

**Consultation
cont'd:**

Referral Agencies:

- **Interior Health Authority:** The property is very confined and constrained for onsite services and there is not a lot of unencumbered space available for the purpose of onsite sewerage disposal. IHA recommends that prior to approval of this application the RDEK require the property owner to protect an area for a reserve/backup sewerage disposal system in perpetuity under a restrictive covenant. It is also noted that if any of the existing sewerage disposal system is located under the covered deck that the applicant reconsiders the deck location.
- **Transportation & Transit:** The Ministry has no concerns with the bylaw change, however the owner is limited to one access only and all buildings or structures must be outside the setback area.
- **Environment:** The Ministry of Environment clarified that domestic purpose use does not require a water licence in BC. If the use does not fit under the definition of domestic purpose, then a water licence is required. Generally speaking, the definition of domestic purpose means the use of water for household purposes by the occupants of one or more private dwellings located on a single parcel including without limitation the following uses: drinking water, food preparation and sanitation, fire prevention, providing water to animals or poultry and irrigation of a garden not exceeding 1 000 m²
- **Ktunaxa Nation Council:** No response
- **Shuswap Band:** No response
- **School District No. 6:** No response
- **Telus:** No response

**Documents
Attached:**

- Bylaw
- Location Map
- Land Use Map
- Zone Designation Map
- Aerial Photo
- Letter from Applicant with Neighbour Signatures
- Site Plan
- Site Photos
- IHA Referral Response
- Ministry of Environment Referral Response
- Public Submissions

**RDEK
Contact:**

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