



Regional District of Central Kootenay  
RURAL AFFAIRS COMMITTEE  
Open Meeting Agenda

**Date:** Wednesday, July 19, 2023  
**Time:** 9:00 am  
**Location:** Hybrid Model - In-person and Remote

Directors will have the opportunity to participate in the meeting electronically. Proceedings are open to the public.

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Pages

**1. WEBEX REMOTE MEETING INFO**

To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote (hybrid model).

**Meeting Time:**

9:00 a.m. PST

**Join by Video:**

<https://nelsonho.webex.com/nelsonho/j.php?MTID=mfbf36f8952d1b549864fe174e312ddb3>

**Join by Phone:**

1-844-426-4405 Canada Toll Free  
+1-604-449-3026 Canada Toll (Vancouver)

**Meeting Number (access code):** 774 127 6934

**Meeting Password:** 8gM9KS8BSnv

**In-Person Location:** RDCK Head Office - Board Room, 202 Lakeside Drive, Nelson BC

**2. CALL TO ORDER**

Chair Jackman called the meeting to order at \_\_\_\_ a.m.

**3. TRADITIONAL LANDS ACKNOWLEDGEMENT STATEMENT**

We acknowledge and respect the indigenous peoples within whose traditional lands we are meeting today.

**4. ADOPTION OF THE AGENDA**

**RECOMMENDATION:**  
The agenda for the July 19, 2023 Rural Affairs Committee meeting be adopted as circulated.

**5. DELEGATIONS**  
No Delegations.

**6. PLANNING & BUILDING**

**6.1 BUILDING BYLAW CONTRAVENTION - NATURE'S GALLERY LIMITED** 14 - 19  
**File No.: 3135-20-G-707.05662.200-BP21819**  
**3838 Highway 3B – Manufactured Home**  
**(Nature's Gallery Limited, Inc.# 0814650)**  
**Electoral Area G**

The Committee Report dated March 31, 2023 from Dan Siminoff, Building/Plumbing Official, re: Building Bylaw Contravention – Nature's Gallery Limited, has been received.

**RECOMMENDATION:**  
That it be recommended to the Board:  
  
That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 3838 Highway 3B, Electoral Area G and legally described as LOT 2, PLAN NEP13779, DISTRICT LOT 1237, KOOTENAY LAND DISTRICT MANUFACTURED HOME REG. # 98880., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

**6.2 BUILDING BYLAW CONTRAVENTION - NATURE'S GALLERY LIMITED** 20 - 25  
**File No.: 3135-20-G-707.05662.200-BP21819**  
**3838 Highway 3B - Two Accessory Buildings**  
**(Nature's Gallery Limited, Inc. #0814650)**  
**Electoral Area G**

The Committee Report dated March 31, 2023 from Dan Siminoff, Building/Plumbing Official, re: Building Bylaw Contravention - Nature's Gallery Limited, has been received.

**RECOMMENDATION:**



That it be recommended to the Board:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 3838 Highway 3B, Electoral Area G and legally described as LOT 2, PLAN NEP13779, DISTRICT LOT 1237, KOOTENAY LAND DISTRICT MANUFACTURED HOME REG. # 98880., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

**6.3 BUILDING BYLAW CONTRAVENTION - MALCOLM & BERNAR**

26 - 32

**File No.: 3135-20- H-707.21865.950 BP24353**  
**3802 Little Slocan South Road**  
**(Mark Malcolm & Raffaella Bernar)**  
**Electoral Area H**

The Committee Report dated March 24, 2023 from Dan Siminoff, Building/Plumbing Official, re: Building Bylaw Contravention – Malcolm & Bernar, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 3802 Little Slocan South Road, Electoral Area H and legally described as LOT 1, PLAN NEP1572, DISTRICT LOT 6897, KOOTENAY LAND DISTRICT PARCEL B, (SEE K10975), and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

**6.4 BUILDING BYLAW CONTRAVENTION - NEISH**

33 - 39

**File No.: 3135-20-H-710.02271.000-SWO00223**  
**8670 Highway 6**  
**(Ronald & Lisa Neish)**  
**Electoral Area H**

The Committee Report dated March 23, 2023 from Graeme Wood, Building/Plumbing Official, re: Building Bylaw Contravention – Neish, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 8670 Highway 6, Electoral Area H and legally described as DISTRICT LOT 7538, KOOTENAY LAND DISTRICT, EXCEPT PLAN EPP56094., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

**6.5 BUILDING BYLAW CONTRAVENTION - STEENHOFF**

40 - 46

**File No.: 3135-20- H-710.02136.670-SWO00226**  
**260 Wilson Creek Road**  
**(Darrell Steenhoff)**  
**Electoral Area H**

The Committee Report dated April 20, 2023 from Graeme Wood, Building/Plumbing Official, re: Building Bylaw Contravention - Steenhoff, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 260 Wilson Creek Road, Electoral Area H and legally described as LOT B, PLAN EPP30385, DISTRICT LOT 4877, KOOTENAY LAND DISTRICT, and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

**6.6 BUILDING BYLAW CONTRAVENTION - EVANS**

47 - 54

**File No.: 3135-20-I-709.05749.300-BP021431**  
**1726 Thrums East Rd – Accessory Building**  
**(Dobie & Alisha Evans)**  
**Electoral Area I**

The Committee Report dated March 23, 2023 from Tony Hadfield, Building/Plumbing Official, re: Building Bylaw Contravention - Evans, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of

the *Community Charter* by the Regional District Board relating to land at 1726 Thrums East Road, Electoral Area I and legally described as LOT C, PLAN NEP68184, DISTRICT LOT 1239, KOOTENAY LAND DISTRICT MANUFACTURED HOME REG. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

**6.7 BUILDING BYLAW CONTRAVENTION - EVANS**  
**File No.: 3135-20-I-709.05749.300-BP024256**  
**1726 Thrums East Road - Deck Only**  
**(Dobie & Alisha Evans)**  
**Electoral Area I**

55 - 62

The Committee Report dated March 23, 2023 from Tony Hadfield, Building/Plumbing Official, re: Building Bylaw Contravention - Evans, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 1726 Thrums East Road, Electoral Area I and legally described as LOT C, PLAN NEP68184, DISTRICT LOT 1239, KOOTENAY LAND DISTRICT MANUFACTURED HOME REG. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

**6.8 BUILDING BYLAW CONTRAVENTION - EVANS & MCLEAN**  
**File No.: 3135-20-I-709.05749.300-BP023217**  
**1726 Thrums East Rd – Manufactured Home**  
**(Dobie Evans & Ronald Mclean)**  
**Electoral Area I**

63 - 68

The Committee Report dated March 23, 2023 from Tony Hadfield, Building/Plumbing Official, re: Building Bylaw Contravention - Evans & Mclean, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at

1726 Thrums East Road, Electoral Area I and legally described as LOT C, PLAN NEP68184, DISTRICT LOT 1239, KOOTENAY LAND DISTRICT MANUFACTURED HOME REG. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

**6.9 BUILDING BYLAW CONTRAVENTION - SOUKOCHOFF**

69 - 74

**File No.: 3135-20- I-709.09464.500-BP21826**  
**2048 McDaniels Road**  
**(Shiryl & William Soukochoff)**  
**Electoral Area I**

The Committee Report dated April 13, 2023 from Tony Hadfield, Building/Plumbing Official, re: Building Bylaw Contravention - Soukochoff, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 2048 McDaniels Road, Electoral Area I and legally described as LOT B, PLAN NEP18933, DISTRICT LOT 8942, KOOTENAY LAND DISTRICT, and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

**6.10 DEVELOPMENT VARIANCE PERMIT - WHITE**

75 - 89

**File No.: V2302J - White**  
**3040 Charleston Avenue**  
**(Dave & Bonnie White)**  
**Electoral Area J**

The Committee Report dated June 27, 2023 from Sadie Chezenko, Planner, re: Development Variance Permit - White, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Board APPROVE the issuance of Development Variance Permit V2302J to Blanche and Dave White for the property located at 3040 Charleston Avenue, Electoral Area J and legally described LOT 12, BLOCK 3, DISTRICT LOT 301A, KOOTENAY DISTRICT PLAN 1197 (PID: 017-218-977) to vary Section 605 (1) of *RDCK Zoning Bylaw No. 1675, 2004* and Section 605 (4) of *RDCK Zoning Bylaw No. 1675, 2004* in order to reduce the southern interior lot line setback from 2.5 m to 1.0 m, and the front yard

setback from 4.5 m to 1.6 m.

**6.11 SUBDIVISION IN THE AGRICULTURAL LAND RESERVE - OGILVIE**

90 - 106

**File No.: A2305AC - Ogilvie**  
**1150 Wigen Road and Duck Lake Road**  
**(Barbara Ogilvie & Harley Ogilvie)**  
**Electoral Area's A & C**

The Committee Report dated June 27, 2023 from Sadie Chezenko, Planner, re: Subdivision In The Agricultural Land Reserve - Ogilvie, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Board SUPPORT application A2305AC for the proposed boundary adjustment subdivision in the Agricultural Land Reserve proposed by Barbara and Gordon Ogilvie for the properties located at 1150 Wigen Road, Wynndel – Electoral Area A and Duck Lake Road, Wynndel – Electoral Area C and legally described as BLOCK 148, DISTRICT LOT 9551, KOOTENAY DISTRICT (PID: 016-456-921) and LOT 2, DISTRICT LOT 15150, KOOTENAY DISTRICT PLAN 2765, EXCEPT PLAN EPP70120 (PID: 015-087-361).

**6.12 SUBDIVISION IN THE AGRICULTURAL LAND RESERVE – HALE**

107 - 122

**File No.: A2208E**  
**6810 Harrop-Procter Road**  
**(Holly Hale and Robert Hale)**  
**Electoral Area E**

***Rural Affairs Committee***

***Referred January 18, 2023 to April 19, 2023***

***Referred April 19, 2023 to May 17, 2023***

***Referred May 17, 2023 to June 14, 2023***

***Referred June 14, 2023 to July 19, 2023***

The Committee Report dated June 28, 2023 from Zachari Giacomazzo, Planner, re: Subdivision In The Agricultural Land Reserve – Hale, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Board NOT SUPPORT regarding application A2208E for the proposed subdivision in the Agricultural Land Reserve proposed by Holly Hale for the property located at 6810 Harrop-Procter Road, Electoral Area E and legally described as LOT B, DISTRICT LOT 306, KOOTENAY PLAN 731D, EXCEPT PART INCLUDED IN PLAN 5526 (PID: 013-614-762).

**6.13 SUBDIVISION IN THE AGRICULTURAL LAND RESERVE - CONROY**

123 - 138

**File No.: A2303I – Conroy**

**2335 Pass Creek Road  
(Ben Conroy)  
Electoral Area I**

The Committee Report dated June 27, 2023 from Sadie Chezenko, Planner, re: Subdivision in the Agricultural Land Reserve - Conroy, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Board NOT SUPPORT application A2303I for the proposed subdivision in the Agricultural Land Reserve proposed by Ben Conroy for property located at 2335 Pass Creek Road, Electoral Area I and legally described as LOT 3, DISTRICT LOT 8640, KOOTENAY DISTRICT PLAN NEP20936 (PID: 018-541-933).

**6.14 SUBDIVISION IN THE AGRICULTURAL LAND RESERVE - YAREMCIO**

139 - 156

**File No.: A2304K – Yaremciio  
350 Lower Inonoaklin North Branch Road  
(Donald & Kathryn Yaremciio)  
Electoral Area K**

The Committee Report dated June 30, 2023 from Zachari Giacomazzo, Planner, re: Subdivision In The Agricultural Land Reserve - Yaremciio, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Board NOT SUPPORT regarding application A2304K for the proposed subdivision in the Agricultural Land Reserve proposed by Kathryn and Donald Yaremciio for the property located at 350 Lower Inonoaklin North Branch Road, Electoral Area K and legally described as LOT 4, DISTRICT LOT 8132, KOOTENAY DISTRICT PLAN 16455 (PID: 007-974-264).

**6.15 NON-FARM USE IN THE AGRICULTURAL LAND RESERVE - DUCHARME & JACKSON**

157 - 179

**File No.: A2306B – Ducharme  
3951 32 Street  
(Christopher Ducharme and Matthew Jackson)  
Electoral Area B**

The Committee Report dated June 27, 2023 from Sadie Chezenko, Planner, re: Non-Farm Use In The Agricultural Land Reserve - Ducharme & Jackson, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Board NOT SUPPORT application A2306B for the purposes of a Non-Farm Use in the The Agricultural Land Reserve proposed by Christopher Ducharme and Matthew Jackson for property located at 3951 32nd Street, Electoral Area B and legally described as LOT 3, PLAN NEP2872, DISTRICT LOT 812, KOOTENAY LAND DISTRICT (PID: 014-660-431).

- 6.16 STRATA TITLE CONVERSION - 1377323 BC LTD.** 180 - 193  
**File No.: ST2301E – 1377323 BC LTD.**  
**1155 Insight Drive**  
**(1377323 BC Ltd.)**  
**Electoral Area E**

The Committee Report dated June 30, 2023 from Zachari Giacomazzo, Planner, re: Strata Title Conversion - 1377323 BC Ltd., has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Board PROVIDE APPROVAL IN PRINCIPLE of Strata Title Conversion ST2301E for the property located at 1155 Insight Drive, Electoral Area E and legally described as LOT A, DISTRICT LOT 5665, KOOTENAY DISTRICT PLAN NEP66434, EXCEPT PLAN NEP68359 (PID 024-736-449) for the conversion of the existing building to 16 strata units.

- 6.17 ZONING BYLAW & COMMUNITY PLAN BYLAW AMENDMENT - HASCARL** 194 - 255  
**File No.: Z2303K - Hascarl**  
**948 Highway 6**  
**(Kelly & Neil Hascarl)**  
**Electoral Area K**

The Committee Report dated June 27, 2023 from Zachari Giacomazzo, Planner, re: Zoning Bylaw & Community Plan Bylaw Amendment - Hascarl, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That NO FURTHER ACTION be taken regarding *Regional District of Central Kootenay Zoning Amendment Bylaw No. 2906, 2023* being a bylaw to amend the *Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004*.

**RECOMMENDATION:**

That it be recommended to the Board:

That NO FURTHER ACTION be taken regarding *Regional District of Central Kootenay Electoral Area K – The Arrow Lakes Official Community Plan Amendment Bylaw No. 2907, 2023* being a bylaw to amend *Electoral Area K – The Arrow Lakes Official Community Plan Bylaw No. 2022, 2009*.

- 6.18 KOOTENAY LAKE DEVELOPMENT PERMIT AREA REVIEW – PUBLIC** 256 - 322

## ENGAGEMENT UPDATE

The Committee Report dated May 31, 2023 from Corey Scott, Planner, re: Kootenay Lake Development Permit Area Review - Public Engagement Update, has been received.

### **RECOMMENDATION:**

That it be recommended to the Board:

That the Board direct staff to continue with the Kootenay Lake Development Permit Area Review Work Plan and begin drafting bylaw amendments for Environmental Development Permit Areas in Electoral Areas A, D, E, and F, as described in the Committee Report “KOOTENAY LAKE DPA REVIEW – PUBLIC ENGAGEMENT UPDATE”, dated May 31, 2023.

## 6.19 UNSIGHTLY PROPERTY BYLAW - TESSIER

File No.: 3310-20-22-25-G-05557.120

1864 Airport Road  
(Carl & Erin Tessier)  
Electoral Area G

### *Rural Affairs Committee*

*Referred August 17, 2022 to October 12, 2022*

*Referred October 12, 2022 to December 7, 2022*

*Referred December 7, 2022 to May 17, 2023*

*Referred May 17, 2023 to June 14, 2023*

*Referred June 14, 2023 to July 19, 2023*

**NOTE:** Staff are recommending referral to the August 16, 2023 Rural Affairs Committee meeting. The property owner has entered into a new compliance agreement, and staff are currently monitoring.

### **RECOMMENDATION:**

That it be recommended to the Board:

That the following motion BE REFERRED to the August 16, 2023 Rural Affairs Committee meeting:

That the Regional Board authorize Bylaw Enforcement to enter onto the property located at 1864 Airport Road, Electoral Area G and legally described as: LOT 2, PLAN NEP 14561, DISTRICT LOT 1236, KOOTENAY LAND DISTRICT. PID: 009-996-800, with a contractor to remove all offending matter with all cost incurred by the RDCK being billed to the property owners identified as Mr. Carl Tessier and Ms. Erin Tessier.

### **RECOMMENDATION:**

That it be recommended to the Board:

That the following motion BE REFERRED to the August 16, 2023 Rural Affairs Committee meeting:



All cost incurred be added to the property tax as taxes in arrears should the property owners identified as Mr. Carl Tessier and Ms. Erin Tessier not pay the bill by December 31st of the year the cleanup occurs at 1864 Airport Road, Electoral Area G and legally described as: LOT 2, PLAN NEP14561, DISTRICT LOT 1236, KOOTENAY LAND DISTRICT. PID: 009-996-800.

**6.20 UNSIGHTLY PROPERTY AMENDMENT BYLAW NO. 2903, 2023**

323 - 338

File No.: UNSIGHTLY PROPERTY BYLAW NO. 1687, 2004  
Electoral Area's A & D

The Committee Report dated June 21, 2023 from Pamela Guille, Bylaw Enforcement Officer, re: Unsightly Property Amendment Bylaw No. 2903, 2023, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the *Regional District of Central Kootenay Unsightly Property Amendment Bylaw No. 2903, 2023* is hereby read a FIRST, SECOND, and THIRD time by content.

**RECOMMENDATION:**

That it be recommended to the Board:

That the *Regional District of Central Kootenay Unsightly Property Amendment Bylaw No. 2903, 2023*, be ADOPTED and the Chair and Corporate Officer are authorized to sign same.

**7. ENVIRONMENTAL SERVICES**

No Items.

**8. RURAL ADMINISTRATION**

**8.1 COMMUNITY WORKS FUND APPLICATION – REGIONAL DISTRICT OF CENTRAL KOOTENAY “CANYON LISTER FIRE HALL INFRASTRUCTURE UPGRADE PROJECT”**

339 - 349

File No.: 1850-20-CW-289  
Electoral Area B

The Committee Report dated July 4, 2023 from Micah Nakonechny, Grants Coordinator, re: RDCK Community Works Fund Application - Regional District of Central Kootenay “Canyon Lister Fire Hall Infrastructure Upgrade Project”, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

THAT the Community Works Fund application submitted by the Regional District of Central Kootenay for the project titled “Canyon Lister Fire Hall Infrastructure Upgrade” in the amount of \$69,949.20 be approved and

that funds be disbursed from Community Works Funds allocated to Electoral Area B.

- 8.2 COMMUNITY WORKS FUND APPLICATION – KOOTENAY REGION ASSOCIATION FOR COMMUNITY LIVING “49.14 KW SOLAR PROJECT TO POWER LOW INCOME HOUSING”**  
**File No.: 1850-20-CW-287**  
**Electoral Area C**

350 - 360

The Committee Report dated April 24, 2023 from Micah Nakonechny, Grants Coordinator, re: Community Works Fund Application - Kootenay Region Association For Community Living “49.14 KW Solar Project To Power Low Income Housing”, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

THAT the Community Works Fund application submitted by Kootenay Association for Community Living for the project titled “49.14 kW Solar Project to power low income housing” in the amount of \$12,500 be approved and that funds be disbursed from Community Works Funds allocated to Electoral Area C.

- 8.3 COMMUNITY WORKS FUND APPLICATION – REGIONAL DISTRICT OF CENTRAL KOOTENAY “PASS CREEK FIRE HALL INFRASTRUCTURE UPGRADE PROJECT”**  
**File No.: 1850-20-CW-288**  
**Electoral Area I**

361 - 371

The Committee Report dated July 4, 2023 from Micah Nakonechny, Grants Coordinator, re: Community Works Fund Application – Regional District Of Central Kootenay “Pass Creek Fire Hall Infrastructure Upgrade Project”, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

THAT the Community Works Fund application submitted by the Regional District of Central Kootenay for the project titled “Pass Creek Fire Hall Infrastructure Upgrade” in the amount of \$42,000 be approved and that funds be disbursed from Community Works Funds allocated to Electoral Area I.

**9. PUBLIC TIME**

The Chair will call for questions from the public and members of the media at \_\_\_\_\_ a.m./p.m.

**10. ADJOURNMENT**

**RECOMMENDATION:**

The meeting be adjourned at \_\_\_\_\_



# Committee Report

## Notice on Title

**Date of Report:** Mar 31, 2023  
**Date & Type of Meeting:** July 19, 2023 , Rural Affairs Committee  
**Author:** Dan Siminoff\_Bulding/Plumbing Official  
**Subject:** NOTICE ON TITLE REPORT  
**File:** 3135-20-G-707.05662.200-BP21819  
**Electoral Area:** G  
**Registered Owners:** Nature's Gallery Limited, Inc.# 0814650  
**Civic Address:** 3838 Highway 3B – Manufactured Home  
**Legal Description:** Lot 2 Plan Nep13779 District Lot 1237 Kootenay Land District  
Manufactured Home Reg. # 98880.  
**Zoning:** Unzoned  
**ALR:** No

### SECTION 1: EXECUTIVE SUMMARY

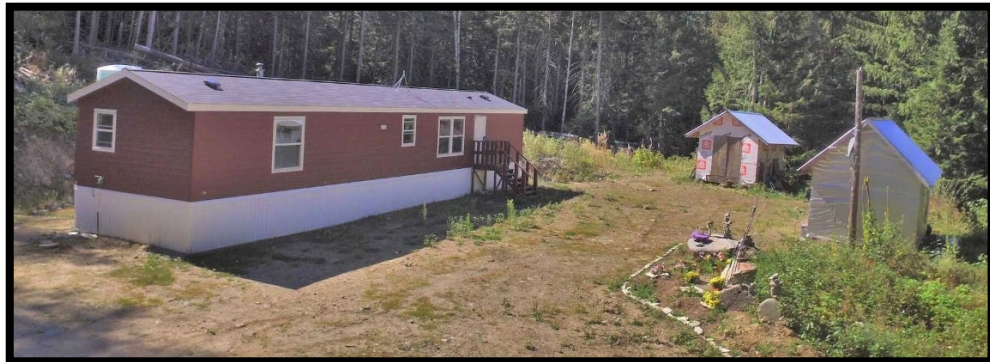
The purpose of this report is for the RDCK Board to consider placing a Notice on Title on the above noted property as a consequence of a building bylaw contravention-**Expired permit.**

NOTE: The RDCK has initiated two NoT reports simultaneously for this one property.

### SECTION 2: BACKGROUND/ANALYSIS

Sep 12, 2014	Building Permit BP21819 was issued.
Jan 28, 2016	No inspection letter sent.
Aug 29, 2017	Pending expiry letter sent.
Sep 12, 2017	Owner called, requesting an extension on his BPs; he advised he is a retired veteran with health issues and is currently unable to cope with the process. Building Department (BD) advised an inspection would be necessary to renew the permit and that the department could help him to go through the process. Owner said he would call back before the end of the month.
Oct 02, 2017	Final expiry letter sent.
Oct 05, 2017	Owner called to let us know that the MH is not being lived in. BD suggested that the permit be cancelled under such time they are ready to hook up the utilities and move in and we would consider the MH as storage.
Oct 17, 2017	Owner called about expired permits and his health issues; BD told him we'd connect in a few months.
Feb 05, 2020	BD manager (BM) emailed the Owner, hoping to arrange an inspection. BM presumes that no compliance will ultimately be achieved and refers to Notice on Title (NoT).

Feb 12, 2020 Building Official (BO) conducted a site visit to talk to the Owner after no response by phone or email; the Owner was uncooperative during the visit. BO gave his card to respond about an inspection time.



Mar 04, 2020 BO met with Owner at Salmo Village office to discuss the Permit situation, and wants to follow up in two weeks. BO to follow up Mar 18 set in calendar.

Jan 25, 2022 BO observed that the house was for sale; Contacted the Owner to inform them of their responsibility to disclose to potential purchasers that these buildings have yet to be approved for any occupancy or use pending completion of a building permit and may be recommended for placement of a NoT to this effect.

Mar 31, 2023 No Further contact from the Owner. No inspection to date. Property Title remains in name of Nature Gallery Limited, Inc. #0814650.

### SECTION 3: DETAILED ANALYSIS

#### 3.1 Financial Considerations – Cost and Resource Allocations:

**Included in Financial Plan:**  Yes  No **Financial Plan Amendment:**  Yes  No  
**Debt Bylaw Required:**  Yes  No **Public/Gov't Approvals Required:**  Yes  No

In keeping with past practice, and further to Building Bylaw Section 22, the following estimate of penalties and costs are provided:

Notice on Title Removal Fee	\$750.00
RDCK Building Permit Fee based upon total value of construction in the case of a Stop Work Order (estimated)	\$1500.00
Penalty as per Clause 22.3 of Building Bylaw (25% of the Building Permit fee) minimum	\$200.00

#### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

1. Section 57 Community Charter;
2. BC Building Code;
3. RDCK Policy # 400-01-03 Action for Compliance – Notice on Title Procedures;
4. Building Bylaw Contravention – This contravenes RDCK Building Bylaw 2200, Section 6.1 No person shall commence or continue any construction, alteration, reconstruction, demolition, removal, relocation or change the occupancy of any building, structure or plumbing system or other work related to construction unless a building official has issued a valid and subsisting permit for the work.

### 3.3 Environmental Considerations

N/A

### 3.4 Social Considerations:

N/A

### 3.5 Economic Considerations:

N/A

### 3.6 Communication Considerations:

N/A

### 3.7 Staffing/Departmental Workplace Considerations:

N/A

### 3.8 Board Strategic Plan/Priorities Considerations:

N/A

## SECTION 4: OPTIONS & PROS / CONS

1. Do not accept recommendation as presented – the property will remain in contravention of the BC Building Code and RDCK Building Bylaw.
2. Accept recommendation as presented – file Notice on Title.

## SECTION 5: RECOMMENDATIONS

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 3838 Highway 3b Electoral Area G, legally described as Lot 2 Plan Nep13779 District Lot 1237 Kootenay Land District Manufactured Home Reg. # 98880., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

Respectfully submitted,

Dan Siminoff\_Building/Plumbing Official

Digitally approved by John Southam for BO

## CONCURRENCE

Chris Gainham/Building Manager

Digitally approved by Chris Gainham

Sangita Sudan/General Manager of Development and Community Sustainability Services

Digitally approved by Sangita Sudan

Stuart J. Horn/Chief Administrative Officer

Digitally approved by Stuart J. Horn



**BY REGISTERED MAIL**

File: 3135-20-3135-20-G-707.05662.200-BP21819

**REGISTERED OWNERS:**

Nature's Gallery Limited, Inc. # 0814650  
3838 Highway 3b  
Ross Spur BC, V0G 1L1

**SUBJECT:** Notice on Title

**CIVIC ADDRESS:** 3838 Highway 3b

The Rural Affairs Committee members (RAC) hereby invite you to attend and address their meeting, the **Jul 19, 2023** RAC Committee. To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote.

**Date:** Jul 19, 2023

**Time:** 9:00 a.m. PST

**Hybrid Meeting:** **In-Person Location** - RDCK Board Room, 202 Lakeside Drive, Nelson, BC  
**Remote Attendance** - Please visit [rdck.ca](http://rdck.ca) for meeting call-in information

At this time, committee members will consider making a recommendation to the Regional District Board to direct the Corporate Officer to file a Notice, in the Land Title Office under Section 57 of the *Community Charter*, against the above noted property.

Please advise in advance whether you and/or a representative, who may be legal council, will be present at the Rural Affairs Committee meeting by contacting the Administration Department at (250) 352-1575 or by email [chopkyns@rdck.bc.ca](mailto:chopkyns@rdck.bc.ca) **no less than 3 business days prior to the meeting.**

Should you have no objection to the filing of the subject Notice, please sign and return the attached statement in the stamped, self-addressed envelope. All owners named on the statement must sign this statement. This will allow the Corporate Officer to proceed with filing of the Notice against your property in the Land Title Office. A copy of the Notice will be forwarded for your records.

A copy of the building official's report relative to your property is attached for your reference, as well as a copy of Section 57 of the *Community Charter*.

In order to avoid a Notice on Title, you must contact the building department to resolve concerns noted in the building official's report **no later than 3 business days prior** to the meeting. For specific building inspection inquiries respecting the above, you may contact the writer at either 1-800-268-7325 or (250) 352-8156.

Yours truly,

Notice on Title 00734– Nature's Gallery Limited, Inc.# 0814650  
3838 Highway 3b

Building Official

Enclosures

CC: Electoral Director Area G





## REGIONAL DISTRICT OF CENTRAL KOOTENAY

### FILING OF SECTION 57 NOTICE

Building / Plumbing Official  
Regional District of Central Kootenay  
Box 590  
202 Lakeside Drive  
NELSON, BC  
V1L 5R4

I, Nature's Gallery Limited, Inc.# 0814650 hereby confirm that we have no objection to the Corporate Officer of the Regional District of Central Kootenay filing a Notice in the Land Title Office under Section 57 of the *Community Charter* against our/my property legally described as Lot 2 Plan Nep13779 District Lot 1237 Kootenay Land District Manufactured Home Reg. # 98880.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Nature's Gallery Limited, Inc.# 0814650

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Nature's Gallery Limited, Inc.# 0814650



# Committee Report

## Notice on Title

**Date of Report:** Mar 31, 2023  
**Date & Type of Meeting:** Jul 19, 2023 , Rural Affairs Committee  
**Author:** Dan Siminoff\_Bulding/Plumbing Official  
**Subject:** NOTICE ON TITLE REPORT  
**File:** 3135-20-G-707.05662.200-BP21819  
**Electoral Area:** G  
**Registered Owners:** Nature's Gallery Limited, Inc. #0814650  
**Civic Address:** 3838 Highway 3B  
**Legal Description:** Lot 2 Plan Nep13779 District Lot 1237 Kootenay Land District  
Manufactured Home Reg. # 98880.  
**Zoning:** Unzoned  
**ALR:** No

### SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the RDCK Board to consider placing a Notice on Title on the above noted property as a consequence of a building bylaw contravention-**Expired permit.**

NOTE: The RDCK has initiated two NoT reports simultaneously for this one property

### SECTION 2: BACKGROUND/ANALYSIS

Oct 01, 2014	Building Permit BP21820 was issued.
Jan 28, 2016	No inspection letter sent.
Oct 24, 2016	No inspection letter sent.
Aug 29, 2017	Pending expiry letter sent
Sep 12, 2017	Owner called, requesting an extension on his BPs; he advised he is a retired veteran with health issues and is unable to cope with the process. Building Department (BD) advised an inspection would be necessary to renew the permit and that the department could help him to go through the process. Owner said he would call back before the end of the month.
Oct 17, 2017	Owner called about expired permits and health issues; BD told him we'd connect in a few months.
Oct 31, 2017	Final expiry letter sent.
Jun 26, 2019	Building Official (BO) called to follow up; contact said he would call back because he is too busy to answer the phone.
Nov 02, 2020	BO made a follow-up call; still awaiting an answer.



Jan 25, 2022 BO observed that the property was for sale; BO contacted the Owner to inform them of their responsibility to disclose to potential purchasers that these buildings have yet to be approved for any occupancy or use pending completion of a building permit. BO may be recommend placement of a Notice On Title to this effect.

Mar 31, 2023 No Further contact from the Owner. No inspection to date. Property Title remains in name of Nature Gallery Limited, Inc. #0814650.

### SECTION 3: DETAILED ANALYSIS

#### 3.1 Financial Considerations – Cost and Resource Allocations:

**Included in Financial Plan:**  Yes  No      **Financial Plan Amendment:**  Yes  No  
**Debt Bylaw Required:**  Yes  No      **Public/Gov't Approvals Required:**  Yes  No

In keeping with past practice, and further to Building Bylaw Section 22, the following estimate of penalties and costs are provided:

Notice on Title Removal Fee	\$750.00
RDCK Building Permit Fee based upon total value of construction in the case of a Stop Work Order (estimated)	\$1500.00
Penalty as per Clause 22.3 of Building Bylaw (25% of the Building Permit fee) minimum	\$200.00

#### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

1. Section 57 Community Charter;
2. BC Building Code;
3. RDCK Policy No. 400-01-03 Action for Compliance – Notice on Title Procedures;
4. Building Bylaw Contravention – This contravenes RDCK Building Bylaw 2200, Section 6.1 No person shall commence or continue any construction, alteration, reconstruction, demolition, removal, relocation or change the occupancy of any building, structure or plumbing system or other work related to construction unless a building official has issued a valid and subsisting permit for the work.

#### 3.3 Environmental Considerations

N/A

#### 3.4 Social Considerations:

N/A

### 3.5 Economic Considerations:

N/A

### 3.6 Communication Considerations:

N/A

### 3.7 Staffing/Departmental Workplace Considerations:

N/A

### 3.8 Board Strategic Plan/Priorities Considerations:

N/A

## SECTION 4: OPTIONS & PROS / CONS

1. Do not accept recommendation as presented – the property will remain in contravention of the BC Building Code and RDCK Building Bylaw.
2. Accept recommendation as presented – file Notice on Title.

## SECTION 5: RECOMMENDATIONS

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 3838 Highway 3b Electoral Area G, legally described as Lot 2 Plan Nep13779 District Lot 1237 Kootenay Land District Manufactured Home Reg. # 98880., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

Respectfully submitted,  
Dan Siminoff\_Building/Plumbing Official  
Digitally approved by John Southam for BO

## CONCURRENCE

Chris Gainham/Building Manager  
Digitally approved by Chris Gainham  
Sangita Sudan/General Manager of Development and Community Sustainability Services  
Digitally approved by Sangita Sudan  
Stuart J. Horn/Chief Administrative Officer  
Digitally approved by Stuart J. Horn



**BY REGISTERED MAIL**

File: 3135-20-3135-20-G-707.05662.200-BP21819

**REGISTERED OWNERS:**

Nature's Gallery Limited, Inc. #0814650  
3838 Highway 3B  
Ross Spur BC, V0G 1L1

**SUBJECT:** Notice on Title

**CIVIC ADDRESS:** 3838 Highway 3b

The Rural Affairs Committee members (RAC) hereby invite you to attend and address their meeting, the **Jul 19, 2023** RAC Committee. To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote.

**Date:** Jul 19, 2023

**Time:** 9:00 a.m. PST

**Hybrid Meeting:** **In-Person Location** - RDCK Board Room, 202 Lakeside Drive, Nelson, BC  
**Remote Attendance** - Please visit [rdck.ca](http://rdck.ca) for meeting call-in information

At this time, committee members will consider making a recommendation to the Regional District Board to direct the Corporate Officer to file a Notice, in the Land Title Office under Section 57 of the *Community Charter*, against the above noted property.

Please advise in advance whether you and/or a representative, who may be legal council, will be present at the Rural Affairs Committee meeting by contacting the Administration Department at (250) 352-1575 or by email [chopkyns@rdck.bc.ca](mailto:chopkyns@rdck.bc.ca) **no less than 3 business days prior to the meeting.**

Should you have no objection to the filing of the subject Notice, please sign and return the attached statement in the stamped, self-addressed envelope. All owners named on the statement must sign this statement. This will allow the Corporate Officer to proceed with filing of the Notice against your property in the Land Title Office. A copy of the Notice will be forwarded for your records.

A copy of the building official's report relative to your property is attached for your reference, as well as a copy of Section 57 of the *Community Charter*.

In order to avoid a Notice on Title, you must contact the building department to resolve concerns noted in the building official's report **no later than 3 business days prior** to the meeting. For specific building inspection inquiries respecting the above, you may contact the writer at either 1-800-268-7325 or (250) 352-8156.

Yours truly,

Notice on Title 00735– Nature's Gallery Limited, Inc. # 0814650  
3838 Highway 3B

Building Official

Enclosures

CC: Electoral Director Area G



## REGIONAL DISTRICT OF CENTRAL KOOTENAY

### FILING OF SECTION 57 NOTICE

Building / Plumbing Official  
Regional District of Central Kootenay  
Box 590  
202 Lakeside Drive  
NELSON, BC  
V1L 5R4

I, Nature's Gallery Limited, Inc.No. 0814650 hereby confirm that we have no objection to the Corporate Officer of the Regional District of Central Kootenay filing a Notice in the Land Title Office under Section 57 of the *Community Charter* against our/my property legally described as Lot 2 Plan Nep13779 District Lot 1237 Kootenay Land District Manufactured Home Reg. # 98880.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Nature's Gallery Limited, Inc. #0814650

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Nature's Gallery Limited, Inc. #0814650



# Committee Report

## Notice on Title

**Date of Report:** Mar 24, 2023  
**Date & Type of Meeting:** Jul 19, 2023, Rural Affairs Committee  
**Author:** Dan Siminoff\_Bulding/Plumbing Official  
**Subject:** NOTICE ON TITLE REPORT  
**File:** 3135-20- H-707.21865.950 BP24353  
**Electoral Area:** H  
**Registered Owners:** Mark Edward Malcolm and Raffaella Bernar  
**Civic Address:** 3802 Little Slocan South Road  
**Legal Description:** Lot 1 Plan Nep1572 District Lot 6897 Kootenay Land District Parcel B, (See K10975)  
**Zoning:** Unzoned  
**ALR:** Yes

### SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the RDCK Board to consider placing a Notice on Title on the above noted property as a consequence of a building bylaw contravention-**Expired permit.**

### SECTION 2: BACKGROUND/ANALYSIS

**May 18, 2006** Building Permit BP893 was issued to place a foundation for a manufactured home, and BP892 to place a doublewide manufactured home.

**Jan 24, 2007** Final Inspection completed, re-inspection required; deficiencies provided to Owner.

**Mar 09, 2009** BP renewed; porch around the front and partial sides require a new Building Permit.

**May 29, 2012** BP6234 issued to complete Building Permits 862 and 893 (foundation and manufactured home).

**Mar 24, 2015** Expiry notice sent.

**May 29, 2015** BP6234 expired.

**May 28, 2015** Final expiry notice sent.

**Jun 11, 2015** BP6234 renewed for one year.

**Mar 31, 2016** Expiry notice sent.

**May 29, 2016** BP6234 expired.

**May 26, 2016** Final expiry notice sent.

**Jul 07, 2016** Final Inspection failed; re-inspection required; deficiencies provided to Owner.





- Dec 06, 2017** Letter sent advising the Board will consider placing a Notice on Title.
- Feb 16, 2017** No further contact, health and safety concerns unknown; Building permit expired May 29, 2016; Creation of NoT00538.
- Mar 23, 2018** BP Application completed and paid.
- Apr 11, 2018** Committee Report being considered by RAC to place a Notice on Title; withdrawn Mar 15, 2018, Building Department (BD) contacted Owner; she will be into the office to apply for a replacement permit for BP6234 to allow completion. Owner agreed to backdate the replacement permit to May 29, 2016, to create a new expiry of May 29, 2019. Mme Bernar also agreed to Inspection Mar 22, 2018, to confirm the deficiencies.
- Mar 23, 2018** BP 6234 Replaced by BP24353.
- Apr 05, 2018** Inspection scheduled.
- Apr 09, 2018** Final Inspection failed.



- Feb 12, 2019** Pending expiry letter sent.
- Jun 03, 2019** Final expiry letter sent.
- Feb 26, 2020** Building Official sent an email about the construction and site visit status.
- Mar 16, 2021** BD sent Owner application and deficiencies; if there is no application within a month, BP24353 will be recommended for NOT. Remaining deficiencies include inadequate guard-rails on upper deck, handrail and guard required on interior basement steps, non-code compliant guard on both rear and side entrance.
- Mar 24, 2023** No further contact from the Owner.

**SECTION 3: DETAILED ANALYSIS**

**3.1 Financial Considerations – Cost and Resource Allocations:**  
**Included in Financial Plan:**  Yes  No      **Financial Plan Amendment:**  Yes  No  
**Debt Bylaw Required:**  Yes  No      **Public/Gov’t Approvals Required:**  Yes  No

In keeping with past practice, and further to Building Bylaw Section 22, the following estimate of penalties and costs are provided:

Notice on Title Removal Fee	\$750.00
RDCK Building Permit Fee based upon total value of construction in the case of a	
Stop Work Order (estimated)	\$1500.00
Penalty as per Clause 22.3 of Building Bylaw (25% of the Building Permit fee) minimum	\$200.00

### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

1. Section 57 Community Charter;
2. BC Building Code;
3. RDCK Policy No. 400-01-03 Action for Compliance – Notice on Title Procedures;
4. Building Bylaw Contravention – This contravenes RDCK Building Bylaw 2200, Section 13.3.3 the permit shall expire and the rights of the owner shall terminate in the event and at the time that either of the above conditions is not met or in any event thirty-six months after the date the permit was issued.

### 3.3 Environmental Considerations

N/A

### 3.4 Social Considerations:

N/A

### 3.5 Economic Considerations:

N/A

### 3.6 Communication Considerations:

N/A

### 3.7 Staffing/Departmental Workplace Considerations:

N/A

### 3.8 Board Strategic Plan/Priorities Considerations:

N/A

## SECTION 4: OPTIONS & PROS / CONS

1. Do not accept recommendation as presented – the property will remain in contravention of the BC Building Code and RDCK Building Bylaw.
2. Accept recommendation as presented – file Notice on Title.

## SECTION 5: RECOMMENDATIONS

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 3802 Little Slokan South Road Electoral Area H, legally described as Lot 1 Plan Nep1572 District Lot 6897 Kootenay Land District Parcel B, (See K10975), and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

Respectfully submitted,  
Dan Siminoff\_Building/Plumbing Official

Notice on Title 00715– Mark Edward Malcolm and Raffaella Bernar  
3802 Little Slocan South Road

Digitally approved by John Southam for BO

## CONCURRENCE

Chris Gainham/Building Manager

Digitally approved by Chris Gainham

Sangita Sudan/General Manager of Development and Community Sustainability Services

Digitally approved by Sangita Sudan

Stuart J. Horn/Chief Administrative Officer

Digitally approved by Stuart J. Horn



**BY REGISTERED MAIL**

File: 3135-20-H-707.21865.950 BP24353

**REGISTERED OWNERS:**

Mark Edward Malcolm & Raffaella Bernar  
Site 16a Comp 39 RR 1  
Winlaw BC, V0G 2J0

**SUBJECT:** Notice on Title

**CIVIC ADDRESS:** 3802 Little Slokan South Road

The Rural Affairs Committee members (RAC) hereby invite you to attend and address their meeting, the **Jul 19, 2023** RAC Committee. To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote.

**Date:** Jul 19, 2023  
**Time:** 9:00 a.m. PST  
**Hybrid Meeting:** **In-Person Location** - RDCK Board Room, 202 Lakeside Drive, Nelson, BC  
**Remote Attendance** - Please visit [rdck.ca](http://rdck.ca) for meeting call-in information

At this time, committee members will consider making a recommendation to the Regional District Board to direct the Corporate Officer to file a Notice, in the Land Title Office under Section 57 of the *Community Charter*, against the above noted property.

Please advise in advance whether you and/or a representative, who may be legal council, will be present at the Rural Affairs Committee meeting by contacting the Administration Department at (250) 352-1575 or by email [chopkyns@rdck.bc.ca](mailto:chopkyns@rdck.bc.ca) **no less than 3 business days prior to the meeting.**

Should you have no objection to the filing of the subject Notice, please sign and return the attached statement in the stamped, self-addressed envelope. All owners named on the statement must sign this statement. This will allow the Corporate Officer to proceed with filing of the Notice against your property in the Land Title Office. A copy of the Notice will be forwarded for your records.

A copy of the building official's report relative to your property is attached for your reference, as well as a copy of Section 57 of the *Community Charter*.

In order to avoid a Notice on Title, you must contact the building department to resolve concerns noted in the building official's report **no later than 3 business days prior** to the meeting. For specific building inspection inquiries respecting the above, you may contact the writer at either 1-800-268-7325 or (250) 352-8156.

Yours truly,

Building Official

Notice on Title 00715– Mark Edward Malcolm and Raffaella Bernar  
3802 Little Slocan South Road

Enclosures

CC: Electoral Area H Director



## REGIONAL DISTRICT OF CENTRAL KOOTENAY

### FILING OF SECTION 57 NOTICE

Building / Plumbing Official  
Regional District of Central Kootenay  
Box 590  
202 Lakeside Drive  
NELSON, BC  
V1L 5R4

We, Mark Edward Malcolm and Raffaella Bernar hereby confirm that we have no objection to the Corporate Officer of the Regional District of Central Kootenay filing a Notice in the Land Title Office under Section 57 of the *Community Charter* against our/my property legally described as Lot 1 Plan Nep1572 District Lot 6897 Kootenay Land District Parcel B, (See K10975).

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Mark Edward Malcolm

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Raffaella Bernar



# Committee Report

## Notice on Title

**Date of Report:** Mar 23, 2023  
**Date & Type of Meeting:** Jul 19, 2023, Rural Affairs Committee  
**Author:** Graeme Wood\_Building/Plumbing Official  
**Subject:** NOTICE ON TITLE REPORT  
**File:** 3135-20-H-710.02271.000-SWO00223  
**Electoral Area/Municipality:** H  
**Registered Owners:** Neish, Ronald W  
 Neish, Lisa J  
**Civic Address:** 8670 Highway 6  
**Legal Description:** District Lot 7538 Kootenay Land District Except Plan Epp56094  
**Zoning:** Unzoned  
**ALR:** No

### SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the RDCK Board to consider placing a Notice on Title on the above noted property as a consequence of a building bylaw contravention-**Commencing construction without a valid building permit.**

### SECTION 2: BACKGROUND/ANALYSIS

- May 17, 2022** Building Department (BD) received a complaint for an unpermitted building on a property.
- May 18, 2022** Building Official (BO) placed a Stop Work Order (SWO00223) on the structure for Commencing construction prior to obtaining a valid building permit.

**REGIONAL DISTRICT OF CENTRAL KOOTENAY**  
**NOTICE OF WORK NOT IN ACCORDANCE WITH REGIONAL DISTRICT BYLAWS**

NAME.....*Bill*.....LOCATION.....  
 ADDRESS.....*Red Mountain Rd (next to 8595)*.....  
 CONSTRUCTION TYPE.....*Storage*.....

All construction with the Regional District of Central Kootenay is subject to applicable Building and Zoning Bylaws.

**BUILDING PERMITS ARE REQUIRED FOR ALL STRUCTURES!**

It is the **OWNERS RESPONSIBILITY** to inquire and obtain a permit for the contemplated construction of work within the Regional District of Central Kootenay.

**Please contact the Building Department within 14 days upon posting of this notice at the office location indicated:**

<input type="checkbox"/> <b>NELSON OFFICE:</b> Box 590, 202 Lakeside Dr., Nelson, B.C. V1L 5R4 1-800-268-7325 Ph.: 250-352-8155 Fax 250-352-9300	<input type="checkbox"/> <b>NAKUSP OFFICE:</b> Box 358, 204 6th Ave. Nakusp, B.C. V0G 1R0 Ph.: 250-265-4111 Fax: 250-265-2203
<input type="checkbox"/> <b>CRESTON OFFICE:</b> 531B 16th Ave. S., Creston, B.C. V0B 1G5 Ph.: 250-428-5717 Fax: 250-428-3408	<input type="checkbox"/> <b>KASLO OFFICE:</b> 413 4th Street, Kaslo, B.C. V0G 1M0 Ph/Fax: 250-353-9614

BUILDING OFFICIAL'S COMMENTS: *Application supplied. Contact Building official as discussed.*

Posting Date: *May 18/22* Time: *10 am*  
 Building Official: *G.Wood*



Notice on title 00731– Neish, Ronald W and Neish, Lisa J  
8670 Highway 6



- |                     |   |
|---------------------|---|
| <b>May 18, 2022</b> | BO supplied a Building Permit application and sent Owner email with a list of Engineers for structures.         |
| <b>Jun 22, 2022</b> | Building Official (BO) BD sent an Infraction Notice as a Second Notice for contravening Building Bylaw No.2200. |
| <b>Feb 13, 2023</b> | BO recommends Notice on Title.  |
| <b>Mar 23, 2023</b> | No Further contact from the Owner.  |



### SECTION 3: DETAILED ANALYSIS

#### 3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan:  Yes  No      Financial Plan Amendment:  Yes  No  
Debt Bylaw Required:  Yes  No      Public/Gov't Approvals Required:  Yes  No

In keeping with past practice, and further to Building Bylaw Section 22, the following estimate of penalties and costs are provided:

Notice on Title Removal Fee	\$750.00
RDCK Building Permit Fee based upon total value of construction in the case of a Stop Work Order (estimated)	\$1500.00
Penalty as per Clause 22.3 of Building Bylaw (25% of the Building Permit fee) minimum	\$200.00

#### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

1. Section 57 Community Charter;
2. BC Building Code;
3. RDCK Policy No. 400-01-03 Action for Compliance – Notice on Title Procedures;
4. Building Bylaw Contravention – This contravenes RDCK Building Bylaw 2200, Section 6.1 No person shall commence or continue any construction, alteration, reconstruction, demolition, removal, relocation or change the occupancy of any building, structure or plumbing system or other work related to construction unless a building official has issued a valid and subsisting permit for the work.

#### 3.3 Environmental Considerations

N/A

#### 3.4 Social Considerations:

N/A

#### 3.5 Economic Considerations:

N/A

#### 3.6 Communication Considerations:

N/A

#### 3.7 Staffing/Departmental Workplace Considerations:

N/A

#### 3.8 Board Strategic Plan/Priorities Considerations:

N/A

### SECTION 4: OPTIONS & PROS / CONS

1. Do not accept recommendation as presented – the property will remain in contravention of the BC Building Code and RDCK Building Bylaw.
2. Accept recommendation as presented – file Notice on Title.

## SECTION 5: RECOMMENDATIONS

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 8670 Highway 6 Electoral Area H, legally described as District Lot 7538 Kootenay Land District Except Plan Epp56094., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

Respectfully submitted,  
Graeme Wood\_Building/Plumbing Official  
Digitally approved by John Southam for BO

## CONCURRENCE

Chris Gainham/Building Manager  
Digitally approved by Chris Gainham  
Sangita Sudan/General Manager of Development and Community Sustainability Services  
Digitally approved by Sangita Sudan  
Stuart J. Horn/Chief Administrative Officer  
Digitally approved by Stuart J. Horn



**BY REGISTERED MAIL**

File: 3135-20- H-710.02271.000-SWO00223

**REGISTERED OWNERS:**

Neish, Ronald W and Neish, Lisa J  
Box 501  
Rankin Inlet, NU X0C 0G0

**SUBJECT:** Notice on Title

**CIVIC ADDRESS:** 8670 Highway 6

The Rural Affairs Committee members (RAC) hereby invite you to attend and address their meeting, the **Jul 19, 2023** RAC Committee. To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote.

**Date:** Jul 19, 2023  
**Time:** 9:00 a.m. PST  
**Hybrid Meeting:** **In-Person Location** - RDCK Board Room, 202 Lakeside Drive, Nelson, BC  
**Remote Attendance** - Please visit [rdck.ca](http://rdck.ca) for meeting call-in information

At this time, committee members will consider making a recommendation to the Regional District Board to direct the Corporate Officer to file a Notice, in the Land Title Office under Section 57 of the *Community Charter*, against the above noted property.

Please advise in advance whether you and/or a representative, who may be legal council, will be present at the Rural Affairs Committee meeting by contacting the Administration Department at (250) 352-1575 or by email [chopkyns@rdck.bc.ca](mailto:chopkyns@rdck.bc.ca) **no less than 3 business days prior to the meeting.**

Should you have no objection to the filing of the subject Notice, please sign and return the attached statement in the stamped, self-addressed envelope. All owners named on the statement must sign this statement. This will allow the Corporate Officer to proceed with filing of the Notice against your property in the Land Title Office. A copy of the Notice will be forwarded for your records.

A copy of the building official's report relative to your property is attached for your reference, as well as a copy of Section 57 of the *Community Charter*.

In order to avoid a Notice on Title, you must contact the building department to resolve concerns noted in the building official's report **no later than 3 business days prior** to the meeting. For specific building inspection inquiries respecting the above, you may contact the writer at either 1-800-268-7325 or (250) 352-8156.

Yours truly,

Building Official

Notice on title 00731– Neish, Ronald W and Neish, Lisa J  
8670 Highway 6

Enclosures

CC: Electoral Area H Director



## REGIONAL DISTRICT OF CENTRAL KOOTENAY

### FILING OF SECTION 57 NOTICE

Building / Plumbing Official  
Regional District of Central Kootenay  
Box 590  
202 Lakeside Drive  
NELSON, BC  
V1L 5R4

We, Neish, Ronald W and Neish, Lisa J hereby confirm that we have no objection to the Corporate Officer of the Regional District of Central Kootenay filing a Notice in the Land Title Office under Section 57 of the *Community Charter* against our/my property legally described as District Lot 7538 Kootenay Land District Except Plan Epp56094.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Neish, Ronald W

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Neish, Lisa J



# Committee Report

## Notice on Title

**Date of Report:** Apr 20, 2023  
**Date & Type of Meeting:** Jul 19, 2023, Rural Affairs Committee  
**Author:** Graeme Wood\_Building/Plumbing Official  
**Subject:** NOTICE ON TITLE REPORT  
**File:** 3135-20- H-710.02136.670-SWO00226  
**Electoral Area:** H  
**Registered Owners:** Steenhoff, Darrell H  
**Civic Address:** 260 Wilson Creek Rd  
**Legal Description:** Lot B Plan Epp30385 District Lot 4877 Kootenay Land District  
**Zoning:** Unzoned  
**ALR:** No

### SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the RDCK Board to consider placing a Notice on Title on the above noted property as a consequence of a building bylaw contravention-**Commencing construction without a valid building permit.**

### SECTION 2: BACKGROUND/ANALYSIS

**Jun 23, 2022** Stop Work Order (SWO00226) was issued for the following reason: Commencing construction prior to obtaining a valid building permit. Construction was noted by the building official to be within the required 30 meter setback from the natural boundary of Wilson Creek. The Building Official also noted that the 3.0 meter Flood Construction Level has not been met.

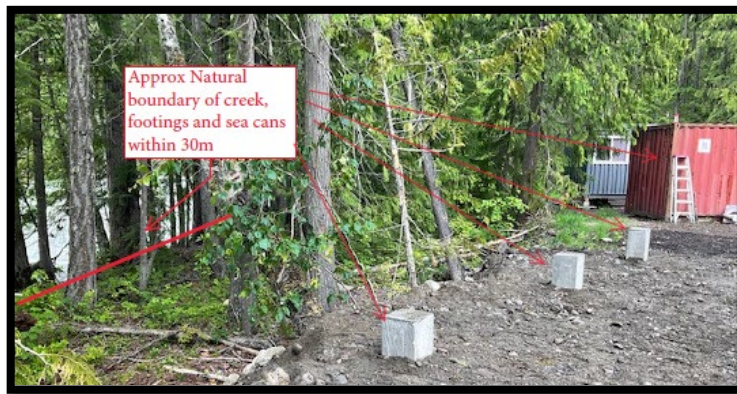




Notice on Title 00740 – Steenhoff, Darrell H  
260 Wilson Creek Rd



**Jun 23, 2022** Planning Department sent a letter regarding floodplain information.



**Oct 3 2022** No correspondence from Owner Building Official recommending Notice on Title (NoT).  
**Feb 15 2023** Photo of as-built Feb 15, 2023, attached.  
**Feb 16, 2023** SWO00226 second notice was issued.



**Apr 20, 2023** No Further contact from the Owner.

### SECTION 3: DETAILED ANALYSIS

#### 3.1 Financial Considerations – Cost and Resource Allocations:

**Included in Financial Plan:**  Yes  No      **Financial Plan Amendment:**  Yes  No  
**Debt Bylaw Required:**  Yes  No      **Public/Gov't Approvals Required:**  Yes  No

In keeping with past practice, and further to Building Bylaw Section 22, the following estimate of penalties and costs are provided:

Notice on Title Removal Fee	\$750.00
RDCK Building Permit Fee based upon total value of construction in the case of a Stop Work Order (estimated)	\$1500.00
Penalty as per Clause 22.3 of Building Bylaw (25% of the Building Permit fee) minimum	\$200.00

#### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

1. Section 57 Community Charter;
2. BC Building Code;
3. RDCK Policy No. 400-01-03 Action for Compliance – Notice on Title Procedures;
4. Building Bylaw Contravention – This contravenes RDCK Building Bylaw 2200, Section
  - 6.1 No person shall commence or continue any construction, alteration, reconstruction, demolition, removal, relocation or change the occupancy of any building, structure or plumbing system or other work related to construction unless a building official has issued a valid and subsisting permit for the work.
  - 4.3 It is the full and sole responsibility of the owner (and where the owner is acting through a representative, the representative) to carry out the work, in respect of which a permit is issued under this Bylaw, in compliance with the Building Code, this Bylaw and other applicable enactments respecting safety.
  - 13.3.3 The permit shall expire and the rights of the owner shall terminate in the event and at the time that either of the above conditions is not met or in any event thirty-six months after the date the permit was issued.



### 3.3 Environmental Considerations

N/A

### 3.4 Social Considerations:

N/A

### 3.5 Economic Considerations:

N/A

### 3.6 Communication Considerations:

N/A

### 3.7 Staffing/Departmental Workplace Considerations:

N/A

### 3.8 Board Strategic Plan/Priorities Considerations:

N/A

## SECTION 4: OPTIONS & PROS / CONS

1. Do not accept recommendation as presented – the property will remain in contravention of the BC Building Code and RDCK Building Bylaw.
2. Accept recommendation as presented – file Notice on Title.

## SECTION 5: RECOMMENDATIONS

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 260 Wilson Creek Rd Electoral Area H, legally described as Lot B Plan Epp30385 District Lot 4877 Kootenay Land District, and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

Respectfully submitted,

Graeme Wood\_Building/Plumbing Official

Digitally approved by Graeme Wood

## CONCURRENCE

Chris Gainham/Building Manager

Digitally approved by Chris Gainham

Sangita Sudan/General Manager of Development and Community Sustainability Services

Digitally approved by Sangita Sudan

Stuart J. Horn/Chief Administrative Officer

Digitally approved by Stuart J. Horn



**BY REGISTERED MAIL**

File: 3135-20- H-710.02136.670-SWO00226

**REGISTERED OWNERS:**

Steenhoff, Darrell H

**SUBJECT:** Notice on Title

**CIVIC ADDRESS:** 260 Wilson Creek Rd

The Rural Affairs Committee members (RAC) hereby invite you to attend and address their meeting, the **Jul 19, 2023** RAC Committee. To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote.

**Date:** Jul 19, 2023  
**Time:** 9:00 a.m. PST  
**Hybrid Meeting:** **In-Person Location** - RDCK Board Room, 202 Lakeside Drive, Nelson, BC  
**Remote Attendance** - Please visit [rdck.ca](http://rdck.ca) for meeting call-in information

At this time, committee members will consider making a recommendation to the Regional District Board to direct the Corporate Officer to file a Notice, in the Land Title Office under Section 57 of the *Community Charter*, against the above noted property.

Please advise in advance whether you and/or a representative, who may be legal council, will be present at the Rural Affairs Committee meeting by contacting the Administration Department at (250) 352-1575 or by email [chopkyns@rdck.bc.ca](mailto:chopkyns@rdck.bc.ca) **no less than 3 business days prior to the meeting.**

Should you have no objection to the filing of the subject Notice, please sign and return the attached statement in the stamped, self-addressed envelope. All owners named on the statement must sign this statement. This will allow the Corporate Officer to proceed with filing of the Notice against your property in the Land Title Office. A copy of the Notice will be forwarded for your records.

A copy of the building official's report relative to your property is attached for your reference, as well as a copy of Section 57 of the *Community Charter*.

In order to avoid a Notice on Title, you must contact the building department to resolve concerns noted in the building official's report **no later than 3 business days prior** to the meeting. For specific building inspection inquiries respecting the above, you may contact the writer at either 1-800-268-7325 or (250) 352-8156.

Yours truly,

Building Official

Enclosures

Notice on Title 00740 – Steenhoff, Darrell H  
260 Wilson Creek Rd

CC: Electoral Area H Director Walter Popoff



## REGIONAL DISTRICT OF CENTRAL KOOTENAY

### FILING OF SECTION 57 NOTICE

Building / Plumbing Official  
Regional District of Central Kootenay  
Box 590  
202 Lakeside Drive  
NELSON, BC  
V1L 5R4

I, Steenhoff, Darrell H hereby confirm that we have no objection to the Corporate Officer of the Regional District of Central Kootenay filing a Notice in the Land Title Office under Section 57 of the *Community Charter* against our/my property legally described as Lot B Plan Epp30385 District Lot 4877 Kootenay Land District.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Steenhoff, Darrell H



# Committee Report

## Notice on Title

**Date of Report:** Mar 23, 2023  
**Date & Type of Meeting:** Jul 19, 2023, Rural Affairs Committee  
**Author:** Tony Hadfield \_Building/Plumbing Official  
**Subject:** NOTICE ON TITLE REPORT  
**File:** 3135-20-I-709.05749.300-BP021431  
**Electoral Area:** I  
**Registered Owners:** Evans, Dobie and Evans, Alisha  
**Civic Address:** 1726 Thrums East Rd – Accessory Building  
**Legal Description:** Lot C Plan Nep68184 District Lot 1239 Kootenay Land District  
Manufactured Home Reg. # 36149.  
**Zoning:** R2I  
**ALR:** No

### SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the RDCK Board to consider placing a Notice on Title on the above noted property as a consequence of a building bylaw contravention-**Expired permit.**

### SECTION 2: BACKGROUND/ANALYSIS

**Jan 23, 2018** Building Permit (BP) application was received to construct an accessory building (shop).  
**Sep 26, 2019** Framing Inspection completed.  
**Nov 19, 2020** Emailed expiry letter was sent, and email bounced back.  
**Jan 12, 2021** Mailed expiry letter to Owner.  
**Feb 05, 2021** Building Official visited the site; approved another one year renewal.  
**May 11, 2021** Mailed expired letter to Owner.  
**Jul 19, 2021** Owner called Building Department and confirmed he will extend shop permit for one year as it expired in February 2021.  
**Nov 01, 2021** BO approved BP to be renewed for one year, and the new expiry date is May 31, 2022.



**Mar 23, 2023** No Further contact from the Owner

### SECTION 3: DETAILED ANALYSIS

#### 3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan:  Yes  No      Financial Plan Amendment:  Yes  No  
Debt Bylaw Required:  Yes  No      Public/Gov't Approvals Required:  Yes  No

In keeping with past practice, and further to Building Bylaw Section 22, the following estimate of penalties and costs are provided:

Notice on Title Removal Fee	\$750.00
RDCK Building Permit Fee based upon total value of construction in the case of a Stop Work Order (estimated)	\$1500.00
Penalty as per Clause 22.3 of Building Bylaw (25% of the Building Permit fee) minimum	\$200.00

#### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

1. Section 57 Community Charter;
2. BC Building Code;
3. RDCK Policy No. 400-01-03 Action for Compliance – Notice on Title Procedures;
4. Building Bylaw Contravention – This contravenes RDCK Building Bylaw 2200, Section 13.3.3 the permit shall expire and the rights of the owner shall terminate in the event and at the time that either of the above conditions is not met or in any event thirty-six months after the date the permit was issued.

#### 3.3 Environmental Considerations

N/A

#### 3.4 Social Considerations:

N/A

#### 3.5 Economic Considerations:

N/A

#### 3.6 Communication Considerations:

N/A

#### 3.7 Staffing/Departmental Workplace Considerations:

N/A

#### 3.8 Board Strategic Plan/Priorities Considerations:

N/A

### SECTION 4: OPTIONS & PROS / CONS

1. Do not accept recommendation as presented – the property will remain in contravention of the BC Building Code and RDCK Building Bylaw.
2. Accept recommendation as presented – file Notice on Title.

Notice on Title 00686 – Evans, Dobie and Evans, Alisha  
1726 Thrums East Rd

## SECTION 5: RECOMMENDATIONS

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 1726 Thrums East Rd Electoral Area I, legally described as Lot C Plan Nep68184 District Lot 1239 Kootenay Land District Manufactured Home Reg. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

Respectfully submitted,  
Tony Hadfield\_Building/Plumbing Official  
Digitally approved by John Southam for BO

## CONCURRENCE

Chris Gainham/Building Manager  
Digitally approved by Chris Gainham  
Sangita Sudan/General Manager of Development and Community Sustainability Services  
Digitally approved by Sangita Sudan  
Stuart J. Horn/Chief Administrative Officer  
Digitally approved by Stuart J. Horn



**BY REGISTERED MAIL**

File: 3135-20-I-709.05749.300-BP021431

**REGISTERED OWNERS:**

Evans, Dobie and Evans, Alisha  
1726 Thrums Rd  
Castlegar BC, V1N 4N4

**SUBJECT:** Notice on Title

**CIVIC ADDRESS:** 1726 Thrums East Rd

The Rural Affairs Committee members (RAC) hereby invite you to attend and address their meeting, the **Jul 19, 2023** RAC Committee. To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote.

**Date:** Jul 19, 2023  
**Time:** 9:00 a.m. PST  
**Hybrid Meeting:** **In-Person Location** - RDCK Board Room, 202 Lakeside Drive, Nelson, BC  
**Remote Attendance** - Please visit [rdck.ca](http://rdck.ca) for meeting call-in information

At this time, committee members will consider making a recommendation to the Regional District Board to direct the Corporate Officer to file a Notice, in the Land Title Office under Section 57 of the *Community Charter*, against the above noted property.

Please advise in advance whether you and/or a representative, who may be legal council, will be present at the Rural Affairs Committee meeting by contacting the Administration Department at (250) 352-1575 or by email [chopkyns@rdck.bc.ca](mailto:chopkyns@rdck.bc.ca) **no less than 3 business days prior to the meeting.**

Should you have no objection to the filing of the subject Notice, please sign and return the attached statement in the stamped, self-addressed envelope. All owners named on the statement must sign this statement. This will allow the Corporate Officer to proceed with filing of the Notice against your property in the Land Title Office. A copy of the Notice will be forwarded for your records.

A copy of the building official's report relative to your property is attached for your reference, as well as a copy of Section 57 of the *Community Charter*.

In order to avoid a Notice on Title, you must contact the building department to resolve concerns noted in the building official's report **no later than 3 business days prior** to the meeting. For specific building inspection inquiries respecting the above, you may contact the writer at either 1-800-268-7325 or (250) 352-8156.

Yours truly,

Building Official



Notice on Title 00686 – Evans, Dobie and Evans, Alisha  
1726 Thrums East Rd

Enclosures

CC: Electoral Area I Director



## REGIONAL DISTRICT OF CENTRAL KOOTENAY

### FILING OF SECTION 57 NOTICE

Building / Plumbing Official  
Regional District of Central Kootenay  
Box 590  
202 Lakeside Drive  
NELSON, BC  
V1L 5R4

We, Evans, Dobie and Evans, Alisha hereby confirm that we have no objection to the Corporate Officer of the Regional District of Central Kootenay filing a Notice in the Land Title Office under Section 57 of the *Community Charter* against our/my property legally described as Lot C Plan Nep68184 District Lot 1239 Kootenay Land District Manufactured Home Reg. # 36149.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Evans, Dobie

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Evans, Alisha



File No: 3135-20-«FolioNumbers»

[Click here to enter a date.](#)

«Name1»«Name2»  
«MailingAddress»

Dear «Name1»and «Name2»:

**RE: FILING OF NOTICE IN LAND TITLE OFFICE UNDER SECTION 57 OF THE COMMUNITY CHARTER**  
«LongLegals»

We wish to advise that the Board, at its meeting held [Click here to enter a date.](#), adopted the following resolution:

[Click here to enter text.](#)

Pursuant to Resolution [Click here to enter text.](#), a Notice has been forwarded to the Land Title Office for filing against your property, a copy of which is attached for your records.

The Community Charter offers the following avenues of resolution respecting removal of the Notice:

- 58(1) “On receiving a report from a building inspector that the condition that gave rise to the filing of the notice under section 57(3) has been rectified, the corporate officer must file a cancellation notice and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates.”
- 58(2) “An owner of land with respect to which a notice has been filed under section 57(3), may apply to the council for a resolution that the note be cancelled.”
- 58(3) “After hearing an applicant under subsection (2), the council may pass a resolution directing the corporate officer to file a cancellation notice.”

We also wish to bring to your attention that pursuant to Regional District of Central Kootenay Building Bylaw No. 2200, 2010, you will be charged an Administrative Fee of \$750.00 for removal of the “Notice on Title”.

If you have any questions, please contact the Building Inspection Department at 250.352.8155.

Sincerely

Sangita Sudan  
General Manger of Development Services

Notice on Title 00686 – Evans, Dobie and Evans, Alisha  
1726 Thrums East Rd

Attachment

c.c. BC Assessment Authority  
Interior Health Authority, Nelson



# Committee Report

## Notice on Title

**Date of Report:** Mar 23, 2023  
**Date & Type of Meeting:** Jul 19, 2023, Rural Affairs Committee  
**Author:** Tony Hadfield\_Building/Plumbing Official  
**Subject:** NOTICE ON TITLE REPORT  
**File:** 3135-20-I-709.05749.300-BP024256  
**Electoral Area:** I  
**Registered Owners:** Evans, Dobie and Evans, Alisha  
**Civic Address:** 1726 Thrums East Rd--Deck Only  
**Legal Description:** Lot C Plan Nep68184 District Lot 1239 Kootenay Land District  
Manufactured Home Reg. # 36149.  
**Zoning:** R2I  
**ALR:** No

### SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the RDCK Board to consider placing a Notice on Title on the above noted property as a consequence of a building bylaw contravention-**Work has not been carried out in accordance with the BC Building Code**

NOTE: The RDCK has initiated three NoT reports simultaneously for this one property

### SECTION 2: BACKGROUND/ANALYSIS

**Apr 14, 2014** A building permit (BP) application was received to construct a deck, site plan and drawing were not provided at the time of application.

**Jun 02, 2014** Stop Work Order (SWO) posted on the construction of a deck.

**Jun 13, 2014** BP21431 was issued for the deck's construction.

**Aug 17, 2015** Last inspection letter sent to Owner.

**Aug 24, 2015** Owner called to let us know that he had an engineer look at the deck and will call for an inspection later.

**Feb 27, 2017** BB renewed for one year from the expiry date.

**Jul 09, 2018** BP renewed for another year.

**Apr 10, 2018** Pending expiry letter sent to Owner.

**Apr 26, 2018** Framing inspection failed: Framing is acceptable for most of the deck except the ridge beam needs support at the house end. P.Eng will provide a report but no report received to date

**Jun 27, 2018** Final expiry letter sent to Owner.

**Jul 02, 2019** Final expiry letter sent to Owner.

**Nov 19, 2020** Emailed Owner expiry letter for BP21431 and BP024256

**Jan 04, 2021** Email no longer valid; mailed expiry letter to Owner. The Building Officials (BO) recommends Notice on Title (NoT), posted Do Not Occupy and SWO.



- Jan 04, 2021** BO recommends not renewing or opening a new permit; we will need complete plans, engineering letter or Schedule B.
- Feb 09, 2021**
- Jul 19, 2021** BO posts a Do Not Occupy notice on the deck  
 Owner called and is working on getting structural still for the other buildings
- Mar 23, 2023** No further contact from Owner.

**SECTION 3: DETAILED ANALYSIS**

**3.1 Financial Considerations – Cost and Resource Allocations:**

**Included in Financial Plan:**  Yes  No      **Financial Plan Amendment:**  Yes  No  
**Debt Bylaw Required:**  Yes  No      **Public/Gov’t Approvals Required:**  Yes  No

In keeping with past practice, and further to Building Bylaw Section 22, the following estimate of penalties and costs are provided:

Notice on Title Removal Fee	\$750.00
RDCK Building Permit Fee based upon total value of construction in the case of a Stop Work Order (estimated)	\$1500.00
Penalty as per Clause 22.3 of Building Bylaw (25% of the Building Permit fee) minimum	\$200.00

**3.2 Legislative Considerations (Applicable Policies and/or Bylaws):**

1. Section 57 Community Charter;
2. BC Building Code;
3. RDCK Policy No. 400-01-03 Action for Compliance – Notice on Title Procedures;
4. Building Bylaw Contravention – This contravenes RDCK Building Bylaw 2200, Section 4.3 It is the full and sole responsibility of the owner (and where the owner is acting through a representative, the

Notice on Title 00697 – Evans, Dobie and Alisha Dobie  
1726 Thrums East Rd

representative) to carry out the work, in respect of which a permit is issued under this Bylaw, in compliance with the Building Code, this Bylaw and other applicable enactments respecting safety.

### 3.3 Environmental Considerations

N/A

### 3.4 Social Considerations:

N/A

### 3.5 Economic Considerations:

N/A

### 3.6 Communication Considerations:

N/A

### 3.7 Staffing/Departmental Workplace Considerations:

N/A

### 3.8 Board Strategic Plan/Priorities Considerations:

N/A

## SECTION 4: OPTIONS & PROS / CONS

1. Do not accept recommendation as presented – the property will remain in contravention of the BC Building Code and RDCK Building Bylaw.
2. Accept recommendation as presented – file Notice on Title.

## SECTION 5: RECOMMENDATIONS

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 1726 Thrums East Rd Electoral Area I, legally described as Lot C Plan Nep68184 District Lot 1239 Kootenay Land District Manufactured Home Reg. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

Respectfully submitted,  
Tony Hadfield\_Building/Plumbing Official  
Digitally approved by John Southam for BO

## CONCURRENCE

Chris Gainham/Building Manager  
Digitally approved by Chris Gainham  
Sangita Sudan/General Manager of Development and Community Sustainability Services  
Digitally approved by Sangita Sudan  
Stuart J. Horn/Chief Administrative Officer  
Digitally approved by Stuart J. Horn



**BY REGISTERED MAIL**

File: 3135-20-I-709.05749.300-BP024256

**REGISTERED OWNERS:**

Evans, Dobie and Evans, Alisha  
1726 Thrums Rd  
Castlegar BC, V1N 4N4

**SUBJECT:** Notice on Title

**CIVIC ADDRESS:** 1726 Thrums East Rd

The Rural Affairs Committee members (RAC) hereby invite you to attend and address their meeting, the **Jul 19, 2023** RAC Committee. To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote.

**Date:** Jul 19, 2023

**Time:** 9:00 a.m. PST

**Hybrid Meeting:** **In-Person Location** - RDCK Board Room, 202 Lakeside Drive, Nelson, BC  
**Remote Attendance** - Please visit [rdck.ca](http://rdck.ca) for meeting call-in information

At this time, committee members will consider making a recommendation to the Regional District Board to direct the Corporate Officer to file a Notice, in the Land Title Office under Section 57 of the *Community Charter*, against the above noted property.

Please advise in advance whether you and/or a representative, who may be legal council, will be present at the Rural Affairs Committee meeting by contacting the Administration Department at (250) 352-1575 or by email [chopkyns@rdck.bc.ca](mailto:chopkyns@rdck.bc.ca) **no less than 3 business days prior to the meeting.**

Should you have no objection to the filing of the subject Notice, please sign and return the attached statement in the stamped, self-addressed envelope. All owners named on the statement must sign this statement. This will allow the Corporate Officer to proceed with filing of the Notice against your property in the Land Title Office. A copy of the Notice will be forwarded for your records.

A copy of the building official's report relative to your property is attached for your reference, as well as a copy of Section 57 of the *Community Charter*.

In order to avoid a Notice on Title, you must contact the building department to resolve concerns noted in the building official's report **no later than 3 business days prior** to the meeting. For specific building inspection inquiries respecting the above, you may contact the writer at either 1-800-268-7325 or (250) 352-8156.

Yours truly,

Building Official



Notice on Title 00697 – Evans, Dobie and Alisha Dobie  
1726 Thrums East Rd

Enclosures

CC: Electoral Area I Director



## REGIONAL DISTRICT OF CENTRAL KOOTENAY

### FILING OF SECTION 57 NOTICE

Building / Plumbing Official  
Regional District of Central Kootenay  
Box 590  
202 Lakeside Drive  
NELSON, BC  
V1L 5R4

We, Evans, Dobie and Evans, Alisha hereby confirm that we have no objection to the Corporate Officer of the Regional District of Central Kootenay filing a Notice in the Land Title Office under Section 57 of the *Community Charter* against our/my property legally described as Lot C Plan Nep68184 District Lot 1239 Kootenay Land District Manufactured Home Reg. # 36149.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Evans, Dobie

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Evans, Alisha



File No: 3135-20-«FolioNumbers»

[Click here to enter a date.](#)

«Name1»«Name2»  
«MailingAddress»

Dear «Name1»and «Name2»:

**RE: FILING OF NOTICE IN LAND TITLE OFFICE UNDER SECTION 57 OF THE COMMUNITY CHARTER**  
«LongLegals»

We wish to advise that the Board, at its meeting held [Click here to enter a date.](#), adopted the following resolution:

[Click here to enter text.](#)

Pursuant to Resolution [Click here to enter text.](#), a Notice has been forwarded to the Land Title Office for filing against your property, a copy of which is attached for your records.

The Community Charter offers the following avenues of resolution respecting removal of the Notice:

- 58(1) “On receiving a report from a building inspector that the condition that gave rise to the filing of the notice under section 57(3) has been rectified, the corporate officer must file a cancellation notice and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates.”
- 58(2) “An owner of land with respect to which a notice has been filed under section 57(3), may apply to the council for a resolution that the note be cancelled.”
- 58(3) “After hearing an applicant under subsection (2), the council may pass a resolution directing the corporate officer to file a cancellation notice.”

We also wish to bring to your attention that pursuant to Regional District of Central Kootenay Building Bylaw No. 2200, 2010, you will be charged an Administrative Fee of \$750.00 for removal of the “Notice on Title”.

If you have any questions, please contact the Building Inspection Department at 250.352.8155.

Sincerely

Notice on Title 00697 – Evans, Dobie and Alisha Dobie  
1726 Thrums East Rd

Sangita Sudan  
General Manger of Development Services

Attachment

c.c. BC Assessment Authority  
Interior Health Authority, Nelson



# Committee Report

## Notice on Title

**Date of Report:** Mar 23, 2023  
**Date & Type of Meeting:** Jul 19, 2023, Rural Affairs Committee  
**Author:** Tony Hadfield \_Building/Plumbing Official  
**Subject:** NOTICE ON TITLE REPORT  
**File:** 3135-20-I-709.05749.300-BP023217  
**Electoral Area:** I  
**Registered Owners:** Evans, Dobie  
 Mclean, Ronald  
**Civic Address:** 1726 Thrums East Rd – Manufactured Home  
**Legal Description:** Lot C Plan Nep68184 District Lot 1239 Kootenay Land District  
 Manufactured Home Reg. # 36149.  
**Zoning:** R2I  
**ALR:** No

### SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the RDCK Board to consider placing a Notice on Title on the above noted property as a consequence of a building bylaw contravention-**Expired Permit**

NOTE: The RDCK has initiated three NoT reports simultaneously for this one property

### SECTION 2: BACKGROUND/ANALYSIS

**Aug 30, 2016** Building Permit (BP) application was received for placing a manufactured home (MH).  
**Dec 12, 2016** BP23217 was issued to establish a MH.  
**Nov 14, 2016** Received complaint that Owner is building a shop, advised Bylaw enforcement.  
**Apr 26, 2018** Rough-In-Plumbing inspection completed. MH snow load of 65 PSF is not adequate.  
**Oct 17, 2019** First expiry notice sent.  
**Jan 03, 2020** Final expiry notice sent.



**Mar 23, 2023** No Further contact from Owner.

### SECTION 3: DETAILED ANALYSIS

#### 3.1 Financial Considerations – Cost and Resource Allocations:

**Included in Financial Plan:**  Yes  No      **Financial Plan Amendment:**  Yes  No  
**Debt Bylaw Required:**  Yes  No      **Public/Gov't Approvals Required:**  Yes  No

Notice on Title 00685– Evans, Dobie and Mclean, Ronald  
1726 Thrums East Rd

In keeping with past practice, and further to Building Bylaw Section 22, the following estimate of penalties and costs are provided:

Notice on Title Removal Fee	\$750.00
RDCK Building Permit Fee based upon total value of construction in the case of a Stop Work Order (estimated)	\$1500.00
Penalty as per Clause 22.3 of Building Bylaw (25% of the Building Permit fee) minimum	\$200.00

### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

1. Section 57 Community Charter;
2. BC Building Code;
3. RDCK Policy No. 400-01-03 Action for Compliance – Notice on Title Procedures;
4. Building Bylaw Contravention – This contravenes RDCK Building Bylaw 2200, Section 4.3 It is the full and sole responsibility of the owner (and where the owner is acting through a representative, the representative) to carry out the work, in respect of which a permit is issued under this Bylaw, in compliance with the Building Code, this Bylaw and other applicable enactments respecting safety.

### 3.3 Environmental Considerations

N/A

### 3.4 Social Considerations:

N/A

### 3.5 Economic Considerations:

N/A

### 3.6 Communication Considerations:

N/A

### 3.7 Staffing/Departmental Workplace Considerations:

N/A

### 3.8 Board Strategic Plan/Priorities Considerations:

N/A

## SECTION 4: OPTIONS & PROS / CONS

1. Do not accept recommendation as presented – the property will remain in contravention of the BC Building Code and RDCK Building Bylaw.
2. Accept recommendation as presented – file Notice on Title.

## SECTION 5: RECOMMENDATIONS

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 1726 Thrums East Rd Electoral Area I,

Notice on Title 00685– Evans, Dobie and Mclean, Ronald  
1726 Thrums East Rd

legally described as Lot C Plan Nep68184 District Lot 1239 Kootenay Land District Manufactured Home Reg. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

Respectfully submitted,  
Tony Hadfield\_Building/Plumbing Official  
**Digitally approved by John Southam for BO**

## CONCURRENCE

Chris Gainham/Building Manager

**Digitally approved by Chris Gainham**

Sangita Sudan/General Manager of Development and Community Sustainability Services

**Digitally approved by Sangita Sudan**

Stuart J. Horn/Chief Administrative Officer

**Digitally approved by Stuart J. Horn**



**BY REGISTERED MAIL**

File: 3135-20-I-709.05749.300-BP023217

**REGISTERED OWNERS:**

Evans Dobie and Mclean, Ronald  
1726 Thrums Rd  
Castlegar BC, V1N 4N4

**SUBJECT:** Notice on Title

**CIVIC ADDRESS:** 1726 Thrums East Rd

The Rural Affairs Committee members (RAC) hereby invite you to attend and address their meeting, the **Jul 19, 2023** RAC Committee. To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote.

**Date:** Jul 19, 2023

**Time:** 9:00 a.m. PST

**Hybrid Meeting:** **In-Person Location** - RDCK Board Room, 202 Lakeside Drive, Nelson, BC  
**Remote Attendance** - Please visit [rdck.ca](http://rdck.ca) for meeting call-in information

At this time, committee members will consider making a recommendation to the Regional District Board to direct the Corporate Officer to file a Notice, in the Land Title Office under Section 57 of the *Community Charter*, against the above noted property.

Please advise in advance whether you and/or a representative, who may be legal council, will be present at the Rural Affairs Committee meeting by contacting the Administration Department at (250) 352-1575 or by email [chopkyns@rdck.bc.ca](mailto:chopkyns@rdck.bc.ca) **no less than 3 business days prior to the meeting.**

Should you have no objection to the filing of the subject Notice, please sign and return the attached statement in the stamped, self-addressed envelope. All owners named on the statement must sign this statement. This will allow the Corporate Officer to proceed with filing of the Notice against your property in the Land Title Office. A copy of the Notice will be forwarded for your records.

A copy of the building official's report relative to your property is attached for your reference, as well as a copy of Section 57 of the *Community Charter*.

In order to avoid a Notice on Title, you must contact the building department to resolve concerns noted in the building official's report **no later than 3 business days prior** to the meeting. For specific building inspection inquiries respecting the above, you may contact the writer at either 1-800-268-7325 or (250) 352-8156.

Yours truly,

Building Official



Notice on Title 00685– Evans, Dobie and Mclean, Ronald  
1726 Thrums East Rd

Enclosures

CC: Electoral Area I Director



## REGIONAL DISTRICT OF CENTRAL KOOTENAY

### FILING OF SECTION 57 NOTICE

Building / Plumbing Official  
Regional District of Central Kootenay  
Box 590  
202 Lakeside Drive  
NELSON, BC  
V1L 5R4

We, Evans, Dobie and Mclean, Ronald hereby confirm that we have no objection to the Corporate Officer of the Regional District of Central Kootenay filing a Notice in the Land Title Office under Section 57 of the *Community Charter* against our/my property legally described as Lot C Plan Nep68184 District Lot 1239 Kootenay Land District Manufactured Home Reg. # 36149.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Evans, Dobie

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Mclean, Ronald



# Committee Report

## Notice on Title

**Date of Report:** Apr 13, 2023  
**Date & Type of Meeting:** Jul 19, 2023, Rural Affairs Committee  
**Author:** Tony Hadfield\_Building/Plumbing Official  
**Subject:** NOTICE ON TITLE REPORT  
**File:** 3135-20- I-709.09464.500-BP21826  
**Electoral Area:** I  
**Registered Owners:** Soukochoff, Shiryl  
Soukochoff, William  
**Civic Address:** 2048 McDaniels Rd Pass Creek BC  
**Legal Description:** Lot B Plan Nep18933 District Lot 8942 Kootenay Land District  
**Zoning:** 1675-R2I  
**ALR:** NO

### SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the RDCK Board to consider placing a Notice on Title on the above noted property as a consequence of a building bylaw contravention-Expired permit.

### SECTION 2: BACKGROUND/ANALYSIS

**Oct 01, 2014** Building Official (BO) discussed the requirement for engineering for glass panels for roof with the contractor.

**Sep 23, 2014** Building Permit BP21826 was issued.

**Feb 18, 2016** No inspection letter sent.

**Aug 29, 2017** Pending expiry letter sent.

**Oct 31, 2017** Final expiry letter sent.

**Feb 19, 2018** Letter sent to Owner advising the Board will consider placing a Notice On Title (NoT)

**Mar 08, 2018** BO conducted a site visit and renewed permit for one year from the expiry date; project requires the land area to be brought up so that the deck won't need a railing.

**Aug 28, 2018** Pending expiry letter sent.

**Oct 30, 2018** Final expiry letter sent.

**Mar 15, 2023** Owner came in to inquire about building another structure; Building Department (BD) assistant noticed an expired permit and advised Owner.

**Mar 16, 2023** BO posted a Stop Work Order; if no application is received by Mar 31, 2023, BD recommending NoT.



Apr 19, 2023 No Further contact from the Owner.

**SECTION 3: DETAILED ANALYSIS**

**3.1 Financial Considerations – Cost and Resource Allocations:**

**Included in Financial Plan:**  Yes  No      **Financial Plan Amendment:**  Yes  No  
**Debt Bylaw Required:**  Yes  No      **Public/Gov’t Approvals Required:**  Yes  No

In keeping with past practice, and further to Building Bylaw Section 22, the following estimate of penalties and costs are provided:

Notice on Title Removal Fee	\$750.00
RDCK Building Permit Fee based upon total value of construction in the case of a Stop Work Order (estimated)	\$1500.00
Penalty as per Clause 22.3 of Building Bylaw (25% of the Building Permit fee) minimum	\$200.00

**3.2 Legislative Considerations (Applicable Policies and/or Bylaws):**

1. Section 57 Community Charter;
2. BC Building Code;
3. RDCK Policy No. 400-01-03 Action for Compliance – Notice on Title Procedures;
4. Building Bylaw Contravention – This contravenes RDCK Building Bylaw 2200, Section 13.3.3 The permit shall expire and the rights of the owner shall terminate in the event and at the time that either of the above conditions is not met or in any event thirty-six months after the date the permit was issued.

**3.3 Environmental Considerations**

N/A

**3.4 Social Considerations:**

N/A

**3.5 Economic Considerations:**

N/A

**3.6 Communication Considerations:**

N/A

**3.7 Staffing/Departmental Workplace Considerations:**

N/A

**3.8 Board Strategic Plan/Priorities Considerations:**

N/A

**SECTION 4: OPTIONS & PROS / CONS**

1. Do not accept recommendation as presented – the property will remain in contravention of the BC Building Code and RDCK Building Bylaw.
2. Accept recommendation as presented – file Notice on Title.

**SECTION 5: RECOMMENDATIONS**

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 2048 Mcdaniels Rd Pass Creek Bc Electoral Area I, legally described as Lot B Plan Nep18933 District Lot 8942 Kootenay Land District , and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

Respectfully submitted,  
Tony Hadfield\_Building/Plumbing Official  
Digitally approved by John Southam for BO

**CONCURRENCE**

Chris Gainham/Building Manager  
Digitally approved by Chris Gainham  
Sangita Sudan/General Manager of Development and Community Sustainability Services  
Digitally approved by Sangita Sudan  
Stuart J. Horn/Chief Administrative Officer  
Digitally approved by Stuart J. Horn



**BY REGISTERED MAIL**

File: 3135-20- I-709.09464.500-BP21826

**REGISTERED OWNERS:**

Soukochoff, Sheryl and William  
2048 McDaniels Rd  
Pass Creek BC

**SUBJECT:** Notice on Title

**CIVIC ADDRESS:** 2048 McDaniels Rd Pass Creek Bc

The Rural Affairs Committee members (RAC) hereby invite you to attend and address their meeting, the **Jul 19, 2023** RAC Committee. To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote.

**Date:** Jul 19, 2023  
**Time:** 9:00 a.m. PST  
**Hybrid Meeting:** **In-Person Location** - RDCK Board Room, 202 Lakeside Drive, Nelson, BC  
**Remote Attendance** - Please visit [rdck.ca](http://rdck.ca) for meeting call-in information

At this time, committee members will consider making a recommendation to the Regional District Board to direct the Corporate Officer to file a Notice, in the Land Title Office under Section 57 of the *Community Charter*, against the above noted property.

Please advise in advance whether you and/or a representative, who may be legal council, will be present at the Rural Affairs Committee meeting by contacting the Administration Department at (250) 352-1575 or by email [chopkyns@rdck.bc.ca](mailto:chopkyns@rdck.bc.ca) no less than 3 business days prior to the meeting.

Should you prefer not to attend the RAC meeting and have no objection to the filing of the subject Notice, please sign and return the attached statement in the stamped, self-addressed envelope. All owners named on the statement must sign this statement. This will allow the Corporate Officer to proceed with filing of the Notice against your property in the Land Title Office. A copy of the Notice will be forwarded for your records.

A copy of the building official's report relative to your property is attached for your reference, as well as a copy of Section 57 of the *Community Charter*.

In order to avoid a Notice on Title, you must contact the building department to resolve concerns noted in the building official's report **no later than 3 business days prior** to the meeting. For specific building inspection inquiries respecting the above, you may contact the writer at either 1-800-268-7325 or (250) 352-8156.

Yours truly,

Building Official

Notice on Title 00738 – Soukochoff, Shiryl and William  
2048 McDaniels Rd

Enclosures

CC: Electoral Area I Director Andy Davidoff



## REGIONAL DISTRICT OF CENTRAL KOOTENAY

### FILING OF SECTION 57 NOTICE

Building / Plumbing Official  
Regional District of Central Kootenay  
Box 590  
202 Lakeside Drive  
NELSON, BC  
V1L 5R4

We, Soukochoff, Shiryl and William hereby confirm that we have no objection to the Corporate Officer of the Regional District of Central Kootenay filing a Notice in the Land Title Office under Section 57 of the *Community Charter* against our/my property legally described as Lot 44 Plan Nep5486 District Lot 8773 Kootenay Land District Except Plan Nep82064.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Soukochoff, Shiryl

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Soukochoff, William





# Committee Report

**Date of Report:** June 27, 2023  
**Date & Type of Meeting:** July 19, 2023, Rural Affairs Committee  
**Author:** Sadie Chezenko, Planner  
**Subject:** DEVELOPMENT VARIANCE PERMIT  
**File:** V2302J - White  
**Electoral Area/Municipality** J

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Regional Board to consider a Development Variance Permit (DVP) in Electoral Area 'J' in Robson to reduce two setbacks for a roof structure over an existing mobile home, as follows:

- The front (northern) setback from 4.5 metres to 1.6 metres and;
- The interior side (southern) setback from 2.5 meters to 1.0 meters

Staff recommend that the Board approve the Development Variance Permit.

## SECTION 2: BACKGROUND/ANALYSIS

### GENERAL INFORMATION

<b>Property Owners:</b> Dave and Bonnie White
<b>Property Location:</b> 3040 Charleston Avenue, Robson, Electoral Area 'J'
<b>Legal Description:</b> Lot 12 Block 3 District Lot 301A Kootenay District Plan 1197 (PID: 017-218-977)
<b>Property Size:</b> 0.08 ha (0.2 acres)
<b>Current Zoning:</b> Suburban Residential (R1)
<b>Current Official Community Plan Designation:</b> Suburban Residential (SR)

### SURROUNDING LAND USES

<b>North:</b> Suburban Residential (R1)
<b>East:</b> Suburban Residential (R1)
<b>South:</b> Suburban Residential (R1)
<b>West:</b> Suburban Residential (R1)

### Background Information and Subject Property

The subject property is located in Electoral Area 'J' in Robson. The property has an existing dwelling, shed, carport, driveway and garden. The dwelling is a 1414 sqft mobile home and addition, which was placed on the lot in its current position in 1982. This mobile home is used as the primary residence of the owner. The applicant has indicated that while the mobile home is generally in good shape, it does need a new roof to seal the structure and create a pitch for snow loads. The proposal is to construct a 1680 sqft roof structure over the

mobile home and addition in its existing position. Due to the existing location of the mobile home, the applicant is requesting to reduce two setbacks:

- The front (northern) setback from 4.5 metres to 1.6 metres and;
- The interior side (southern) setback from 2.5 meters to 1.0 meters

Based on the information provided the proposed roof structure will comply with all other zoning regulations (building size, setbacks from other property lines, site coverage). Staff will confirm compliance with all applicable zoning regulations through the review of the building permit application.

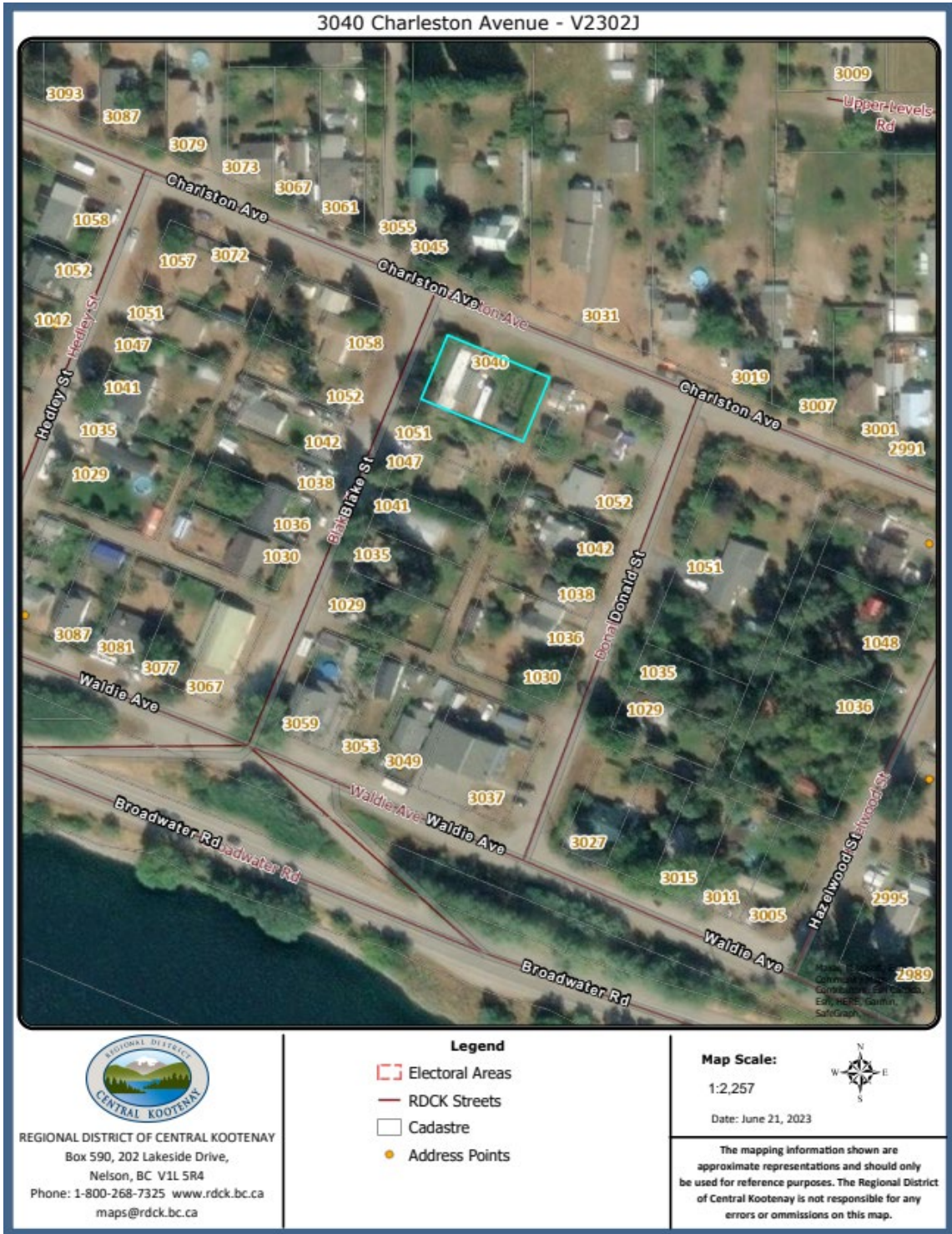


Figure 1: Location Map



3040 Charleston Avenue - V23021



REGIONAL DISTRICT OF CENTRAL KOOTENAY  
 Box 590, 202 Lakeside Drive,  
 Nelson, BC V1L 5R4  
 Phone: 1-800-268-7325 www.rdck.bc.ca  
 maps@rdck.bc.ca

**Zoning Class**

- Institutional
- Open Space
- Parks and Recreation

**Legend**

- Residential 1
- Electoral Areas
- RDCK Streets
- Cadastre
- Address Points

**Map Scale:**

1:2,257

Date: June 21, 2023



The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.

Figure 2: Zoning Map

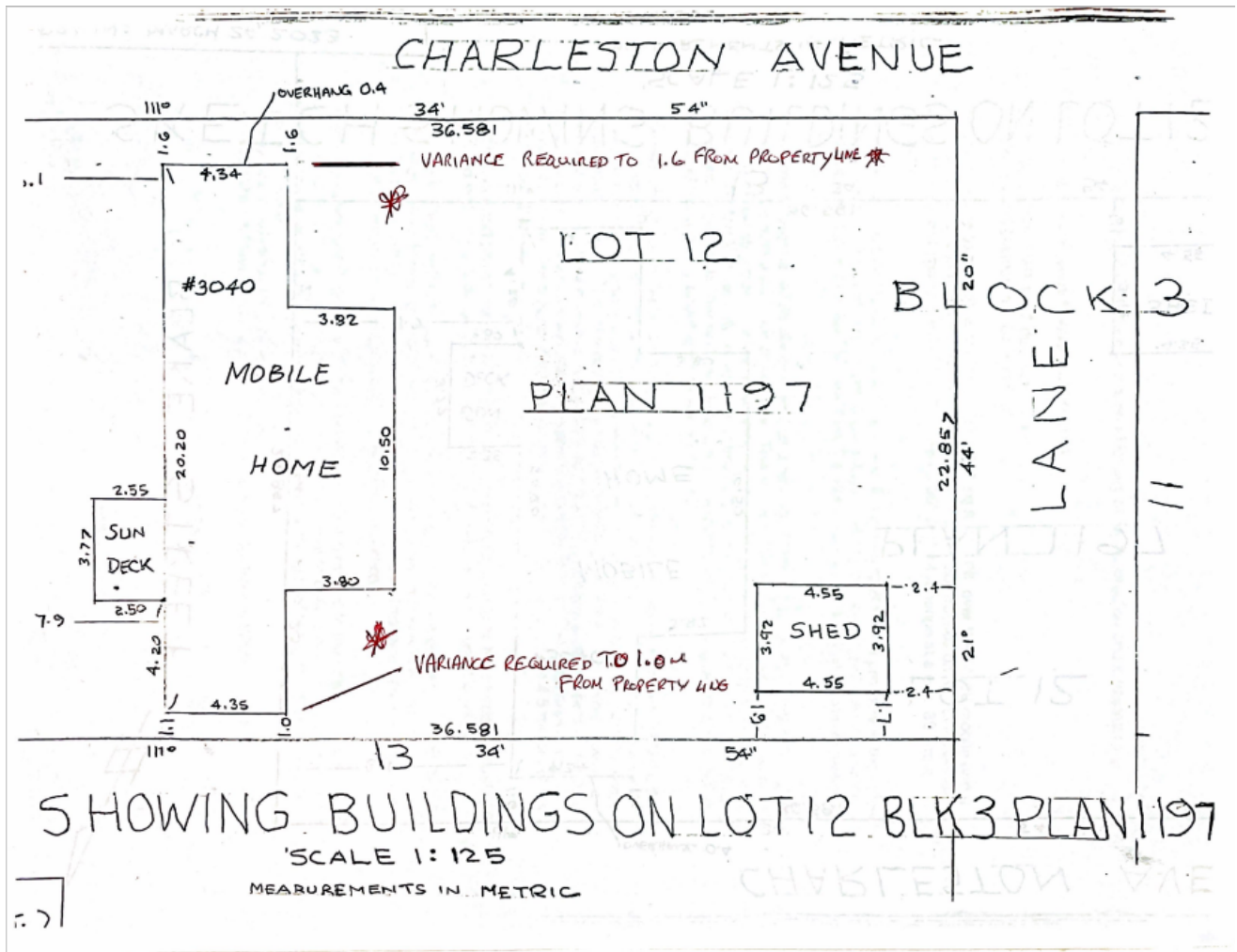


Figure 3: Site Plan





*Figure 4: View of the subject property from Charleston Road (facing southwest)*



*Figure 5: View of the southern interior lot line separating adjacent properties*

## Planning Policy

### **Kootenay-Columbia Rivers Official Community Plan Bylaw No. 1157, 1996**

#### Residential Objectives

2.1.4 To minimize conflicts between housing and other adjacent land uses.

#### Zoning Policies

3.1.3 Land use decisions for all zones shall be directed by the following criteria:

3.1.3.2 existing land use

3.1.3.6 the desirability of securing reasonable privacy for residents

### **RDCK Zoning Bylaw No. 1675, 2004**

Section 605 (1) of the Zoning Bylaw indicates that the minimum setback from an interior lot line is 2.5 metres. Section 605 (4) of the Zoning Bylaw indicates that the minimum setback from a front lot line on a parcel under 0.2 ha is 4.5 metres.

The proposal to construct a roof structure 1.0 meter from the southern interior property line and 1.6 meters from the front lot line which would contravene these requirements. This Development Variance Permit application is being submitted in order to permit the proposed siting of the roof structure over the existing mobile home in its current location.

## **SECTION 3: DETAILED ANALYSIS**

### **3.1 Financial Considerations – Cost and Resource Allocations:**

Included in Financial Plan:  Yes  No      Financial Plan Amendment:  Yes  No  
Debt Bylaw Required:  Yes  No      Public/Gov't Approvals Required:  Yes  No

The application fee has been paid in full pursuant to the Planning Fees and Procedures Bylaw No. 2457, 2015.

### **3.2 Legislative Considerations (Applicable Policies and/or Bylaws):**

Section 498 of the Local Government Act gives authority to vary provisions of a zoning bylaw provided that they do not affect use and density.

### **3.3 Environmental Considerations**

None anticipated.

### **3.4 Social Considerations:**

There was no opposition to the application which indicates that surrounding land owners do not have concerns.

### **3.5 Economic Considerations:**

None anticipated.

### **3.6 Communication Considerations:**

The application was referred to internal departments, other government agencies and surrounding property owners. No responses were received from property owners. The following responses were received from referred agencies:

#### BC Hydro

We have reviewed the attached development variance application. BC Hydro Properties has no comments on the proposal.

#### RDCK Building Department

The spatial separation requirements of the BCBC 2018 will apply to the new roof structure over the mobile home being built 1m from the property line.

Roof overhangs and soffits within 1.2m of the property line must be non-combustible type and unvented with no openings.

Within 1.2m the gable wall created by the roof trusses must have a fire resistance rating of 45 minutes.

Cladding must be non-combustible

Roof soffits shall not project to less than 0.45 m from the property line

None of the above requirements should provide an unsurmountable obstacle to the project.

#### Fortis Comments

##### Land Rights Comments

- There are no immediate concerns or requests for additional land rights, however there may be additional land rights requested stemming from changes to the existing FortisBC Electric ("FBC(E)") services, if required.

##### Operational & Design Comments

- There are FortisBC Electric ("FBC(E)") primary distribution facilities along Charleston Ave and Blake Street.
- All costs and land right requirements associated with changes to the existing servicing are the responsibility of the applicant.
- The applicant and/or property owner are responsible for maintaining safe limits of approach around all existing electrical facilities within and outside the property boundaries.
- For any changes to the existing service, the applicant must contact an FBC(E) designer as noted below for more details regarding design, servicing solutions, and land right requirements.

In order to initiate the design process, the customer must call 1-866-4FORTIS (1-866-436-7847). Please have the following information available in order for FBC(E) to set up the file when you call.

- Electrician's Name and Phone number
- FortisBC Total Connected Load Form
- Other technical information relative to electrical servicing

For more information, please refer to FBC(E)'s overhead and underground design requirements:

FortisBC Overhead Design Requirements

<http://fortisbc.com/ServiceMeterGuide>

FortisBC Underground Design Specification

<http://www.fortisbc.com/InstallGuide>

### **3.7 Staffing/Departmental Workplace Considerations:**

Should the Board support the requested variance, staff would issue the Permit and register a Notice of Permit on the property's Title. A Building Permit would then be required for the construction of the roof structure.

### **3.8 Board Strategic Plan/Priorities Considerations:**

This application falls under the operational role of Planning Services.



## SECTION 4: OPTIONS

### Planning Discussion

If approved by the Board, the applicant would construct a roof structure over an existing mobile home on the subject property. Due to the location of the existing mobile home, this requires a variance to reduce the front setback from 4.5m to 1.6m and to reduce the interior side setback from 2.5m to 1.0m. The applicant is seeking this variance so that he may build a roof structure to “seal the structure from weather and create a pitch for snow loads.”

Planning staff support the issuance of this DVP since:

- The variance is being requested in order to extend the life of the manufactured home, as that is a more feasible option for the owner than shifting the dwelling to meet the setback regulation.
- No neighbors including the adjacent property owner along the southern lot line indicated any opposition to the reduced setbacks.
- The form and character of the surrounding residential area is not significantly impacted by the request to reduce the setbacks.
- The proposed development appears to be consistent with all other zoning regulations within the RDCK’s Zoning Bylaw No. 1675, 2004.

Based on the above, staff recommend that the Board approve the issuance of the Development Variance Permit Application.

### Option 1

That the Board APPROVE the issuance of Development Variance Permit V2302J to Blanche and Dave White for the property located at 3040 Charleston Avenue and legally described Lot 12 Block 3 District Lot 301A Kootenay District Plan 1197 (PID: 017-218-977) to vary Section 605 (1) of RDCK Zoning Bylaw No. 1675, 2004 and Section 605 (4) of RDCK Zoning Bylaw No. 1675, 2004 in order to reduce the southern interior lot line setback from 2.5 m to 1.0 m, and the front yard setback from 4.5 m to 1.6 m.

### Option 2

That the Board NOT APPROVE the issuance of Development Variance Permit V2302J to Blanche and Dave White for the property located at 3040 Charleston Avenue and legally described Lot 12 Block 3 District Lot 301A Kootenay District Plan 1197 (PID: 017-218-977) to vary Section 605 (1) of RDCK Zoning Bylaw No. 1675, 2004 and Section 605 (4) of RDCK Zoning Bylaw No. 1675, 2004 in order to reduce the southern interior lot line setback from 2.5 m to 1.0 m, and the front yard setback from 4.5 m to 1.6 m

## SECTION 5: RECOMMENDATIONS

That the Board APPROVE the issuance of Development Variance Permit V2302J to Blanche and Dave White for the property located at 3040 Charleston Avenue and legally described Lot 12 Block 3 District Lot 301A Kootenay District Plan 1197 (PID: 017-218-977) to vary Section 605 (1) of RDCK Zoning Bylaw No. 1675, 2004 and Section 605 (4) of RDCK Zoning Bylaw No. 1675, 2004 in order to reduce the southern interior lot line setback from 2.5 m to 1.0 m, and the front yard setback from 4.5 m to 1.6 m.

Respectfully submitted,  
Originally signed by

Sadie Chezenko, Planner

## CONCURRENCE

Planning Manager – Digitally approved by Nelson Wight

General Manager Development & Community Sustainability Services – Digitally approved by Sangita Sudan

Chief Administrative Officer – Digitally approved by Stuart Horn.

### ATTACHMENTS:

**Attachment A – Development Variance Permit**

**Attachment B – Excerpt from *RDCK Zoning Bylaw No. 1675, 2004***



# Development Variance Permit

V2302J (White)

Date: June 27, 2023

Issued pursuant to Section 498 of the *Local Government Act*

TO: Blanche White

AGENT: Dave White

## ADMINISTRATION

1. This Development Variance Permit (DVP) is issued subject to compliance with all of the bylaws of the Regional District of Central Kootenay (RDCK) applicable thereto, except as specifically varied or supplemented by this Permit.
2. The land described shall be developed strictly in accordance with the terms and conditions and provisions of this DVP, and any plans and specifications attached to this Permit that shall form a part thereof.
3. This DVP is not a Building Permit.

## APPLICABILITY

4. This DVP applies to and only to those lands within the RDCK described below, and any and all buildings, structures and other development thereon, substantially in accordance with Schedules '1' and '2':

Address: 3040 Charleston Avenue, Robson

Legal: Lot 12 Block 3 District Lot 301A Kootenay District Plan 1197    PID (017-218-977)

## CONDITIONS

5. Development Variance

Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004, Section 605 (1) is varied as follows:

**From:** Unless otherwise stated, no principal or accessory building or structure except a fence may be located within 7.5 metres of a front or exterior side lot line or within 2.5 metres of any other lot line.

**To:** Unless otherwise stated, no principal or accessory building or structure except a fence may be located within 7.5 metres of a front or exterior side lot line or within 1.0m of the southern lot line or within 2.5 metres of any other lot line, as shown on Schedule '1' and '2' and

Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004, Section 605 (4) is varied as follows:

From: Despite Section 605(1), on all lots having a residential zone and are less than 0.2 hectares in area, the minimum setback to front or exterior lot lines shall be 4.5 metres.

To: Despite Section 605(1), on all lots having a residential zone and are less than 0.2 hectares in area, the minimum setback to exterior lot lines shall be 4.5 metres except for the front lot line which will be 1.6 meters, as shown on Schedule '1' and '2'

6. Schedule

If the holder of the DVP does not substantially start any construction or does not register the subdivision with respect to which the permit was issued within two years after the date it is issued, the permit lapses.

7. Other

Authorized resolution *[enter resolution number]* passed by the RDCK Board on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

The Corporate Seal of  
THE REGIONAL DISTRICT OF CENTRAL KOOTENAY  
was hereunto affixed in the presence of:

\_\_\_\_\_  
Aimee Watson, Board Chair

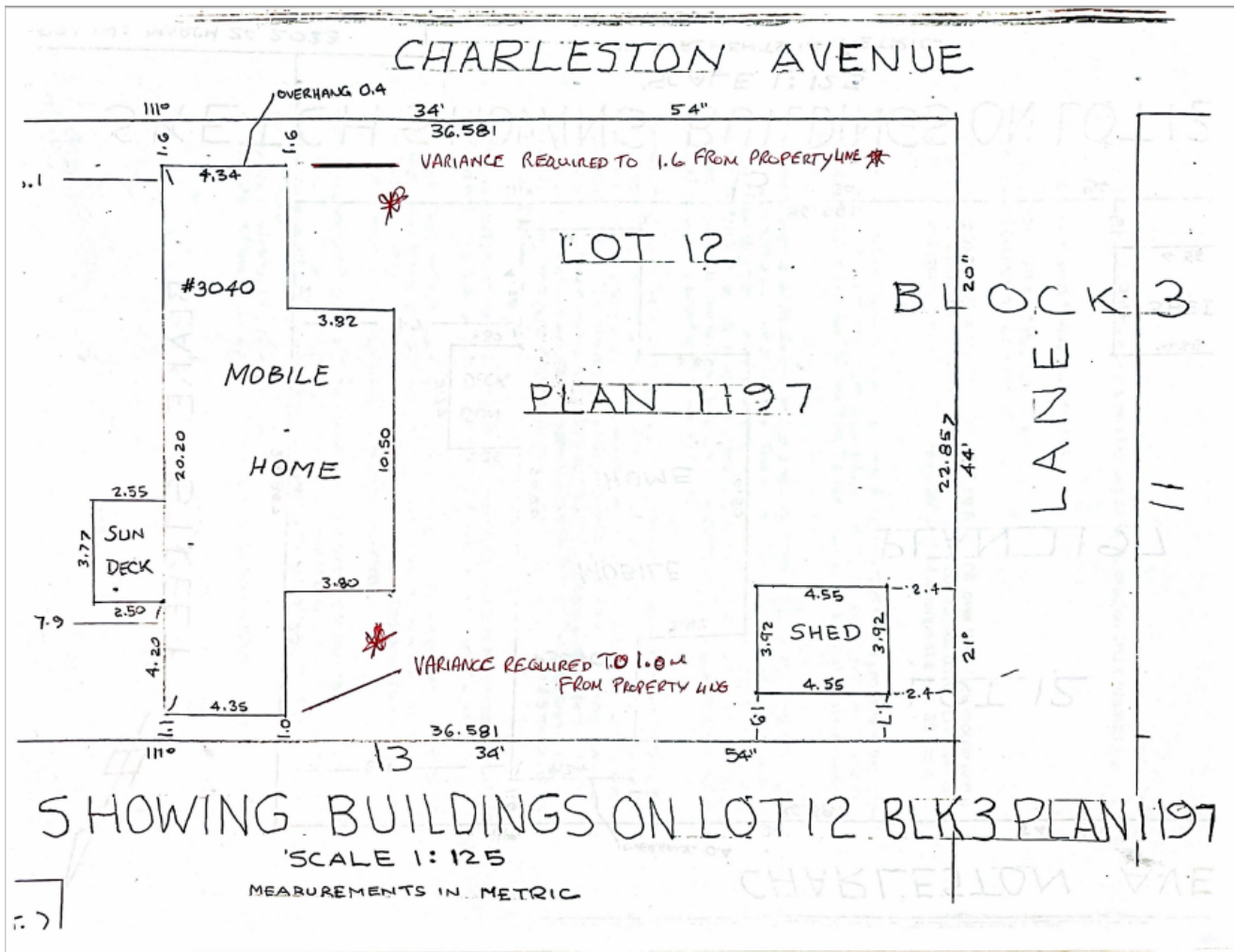
\_\_\_\_\_  
Mike Morrison, Corporate Officer

Schedule 1: Subject Property





Schedule 2: Site Plan



- 4 Despite Section 603(3), where a dwelling has been constructed across a legal property line prior to the adoption of this bylaw, lot lines may be adjusted so as to allow property owners to legitimize the structure as long as no lot is reduced in site area.
- 5 A reduction of the minimum lot size for a single lot for subdivision within any Agricultural zone shall be permitted subject to:
  - a. the lot being no smaller than 0.4 hectares in area;
  - b. where the lot is serviced by a community water system; and
  - c. where the remainder of the lot is consolidated with an adjacent property that has an agricultural tax assessment from the British Columbia Assessment Authority or is within the ALR or created under Section 514 of the *Local Government Act*.

### Subdivision Servicing Requirements

604

- 1 All subdivisions shall comply with the provisions of the *Local Services Act* and the Subdivision Regulations thereto.
- 2 All subdivisions shall be in full compliance with any Regional District of Central Kootenay Subdivision Bylaw currently in effect for the area.
- 3 All subdivisions shall comply with the *Drinking Water Protection Act*, the *Public Health Act* and the *Environmental Management Act*.

### Setback Requirements

605

- 1 Unless otherwise stated, no principal or accessory building or structure except a fence may be located within 7.5 metres of a front or exterior side lot line or within 2.5 metres of any other lot line.
- 2 Despite Section 605(1), on all lots adjacent to land zoned Agriculture, a minimum of a ten (10) metre setback shall be required from any portion of the Agricultural Land Reserve boundary.
- 3 Unless otherwise stated no portable sawmill may be located within 100 metres from a property line.
- 4 Despite Section 605(1), on all lots having a residential zone and are less than 0.2 hectares in area, the minimum setback to front or exterior lot lines shall be 4.5 metres.



# Committee Report

**Date of Report:** June 27, 2023  
**Date & Type of Meeting:** July 19, 2023, Rural Affairs Committee  
**Author:** Sadie Chezenko, Planner  
**Subject:** SUBDIVISION IN THE AGRICULTURAL LAND RESERVE  
**File:** A2305AC - Ogilvie  
**Electoral Area:** A and C

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Board to consider a request for permission under section 25 of the Agricultural Land Commission Act to subdivide agricultural land, which would allow for a boundary adjustment between two adjacent properties. The properties are entirely within the Agricultural Land Reserve (ALR) and are located at 1150 Wigen Road and Duck Lake Road in Wynndel.

Because the proposal would provide a benefit to agriculture through this improved configuration of the two subject parcels, and since no additional lots will be created, Staff recommend that the Board support this application.

## SECTION 2: BACKGROUND/ANALYSIS

### GENERAL INFORMATION

<b>Property Owner:</b> Barbara Ogilvie and Harley Ogilvie
<b>Property Location:</b> 1150 Wigen Road and Duck Lake Road in Wynndel (Electoral Area's A and C)
<b>Legal Description:</b> BLOCK 148 DISTRICT LOT 9551 KOOTENAY DISTRICT (PID: 016-456-921) and LOT 2 DISTRICT LOT 15150 KOOTENAY DISTRICT PLAN 2765 EXCEPT PLAN EPP70120 (PID: 015-087-361)
<b>Property Size:</b> 12.6 ha and 9.59 ha
<b>Current Zoning:</b> Electoral Area 'C' Comprehensive Land Use Bylaw No. 2317 - Agriculture 3 (AG3) Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315 - Agriculture 2 (AG2)
<b>Current Official Community Plan Designation:</b> Comprehensive Land Use Bylaw No. 2317 - Agriculture (AG) Comprehensive Land Use Bylaw No. 2315 - Agriculture (AG)

### SURROUNDING LAND USES

<b>North:</b> Industrial and Residential
<b>East:</b> Agriculture (within ALR), Industrial and Residential
<b>South:</b> Agriculture (within ALR)
<b>West:</b> Agriculture (within ALR)

## SITE CONTEXT AND PROPOSAL SUMMARY



The subject properties are 12.6 ha and 9.59 ha. They are both entirely located within the ALR. Both properties are classified as farms by BC Assessment. The land use designation (Official Community Plan designation) is Agricultural for both parcels. The owners would propose to redraw the boundary between the two properties. The two properties are currently located in two separate Electoral Areas (A and C).

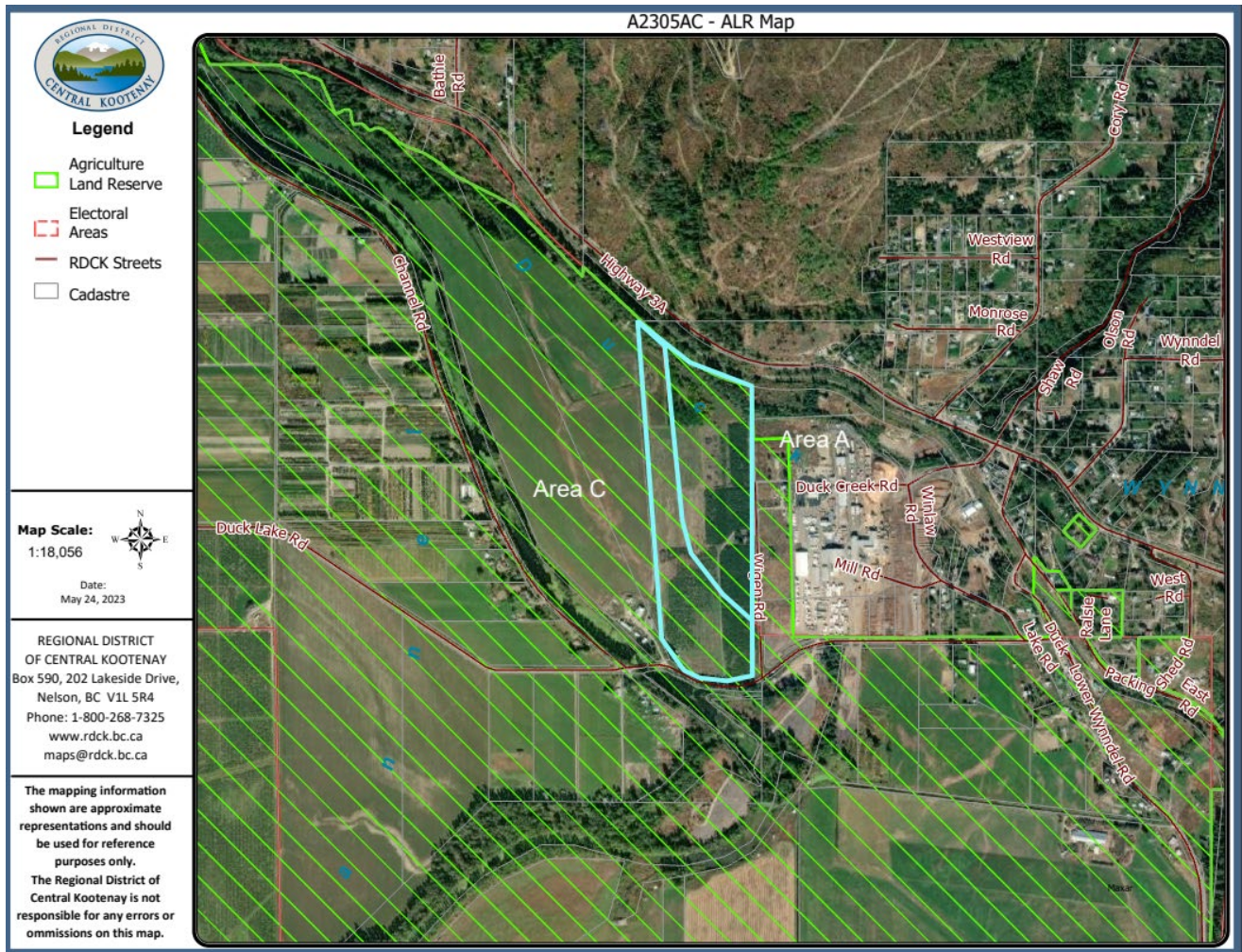


Figure 1: Overview Map showing the boundary of the ALR (green hatched area)



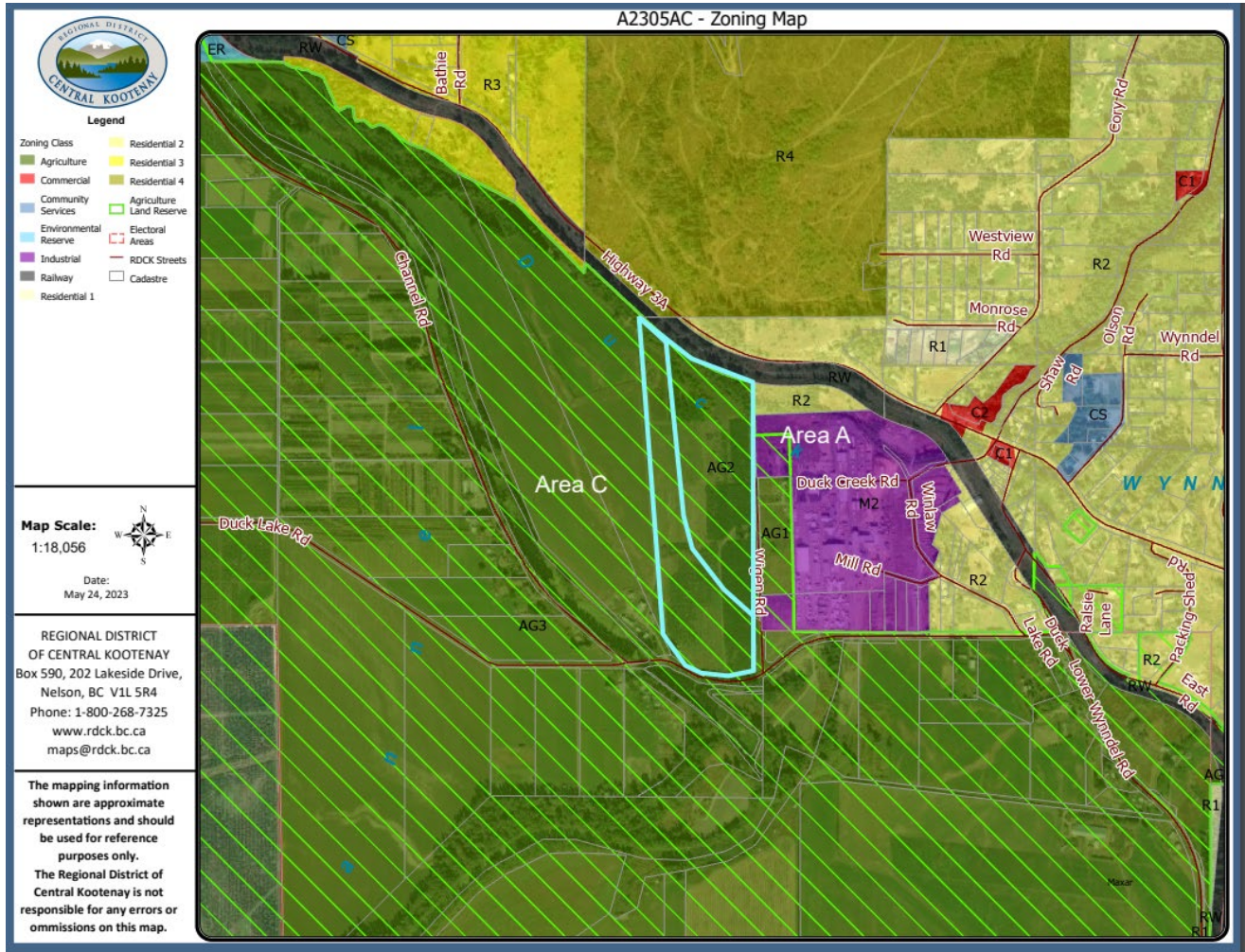


Figure 2: Zoning Map

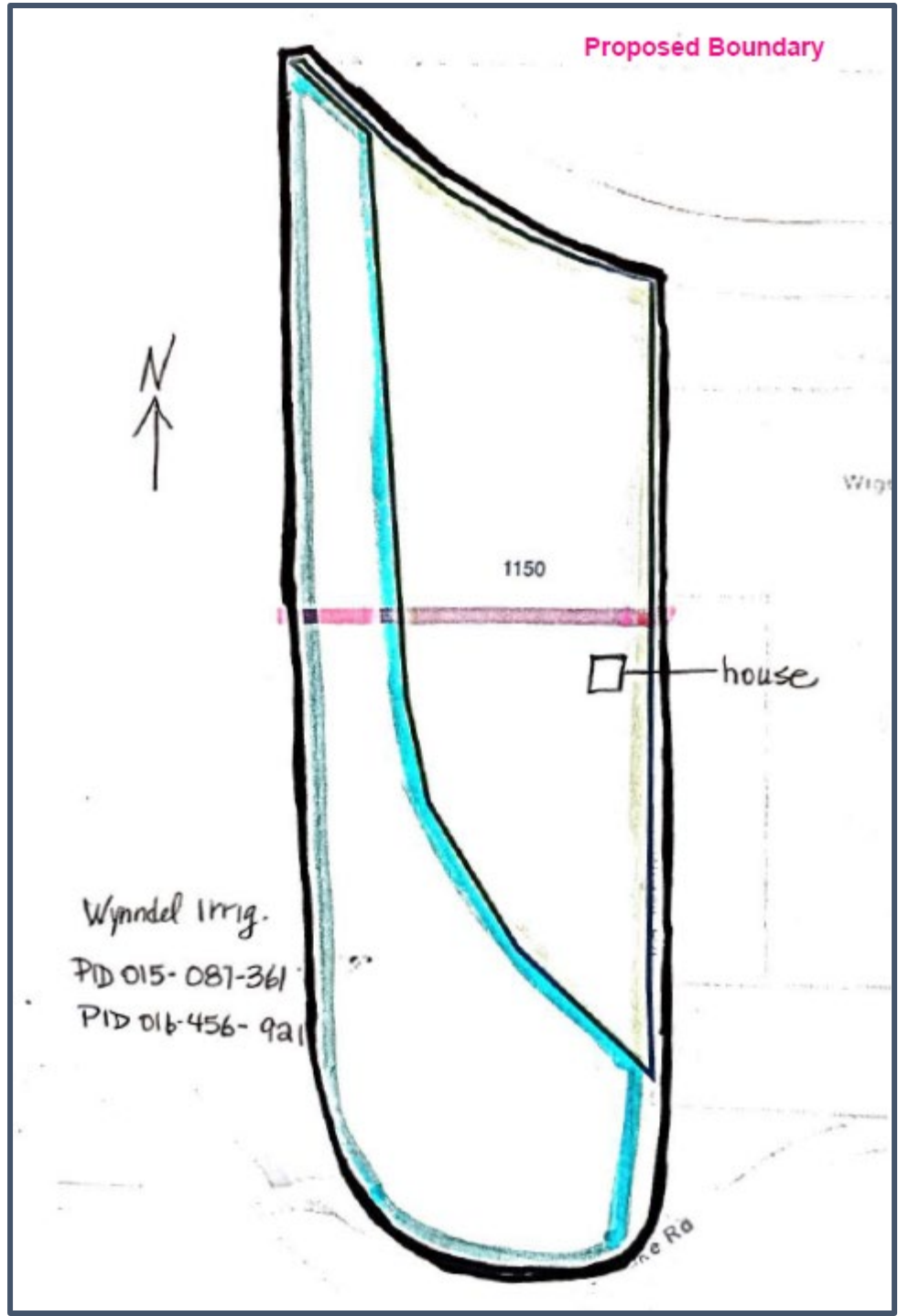


Figure 3: Site Plan showing newly proposed boundary pink line)

**Agricultural Area Plan**

In 2011, the RDCK developed an Agricultural Plan with the overall goal of increasing the quantity and quality of agricultural production in the Region.

The purpose of the Agriculture Area Plan is to ensure that the agricultural capability of the area is realized and protected as part of a secure food supply for the region. Agriculture in the Region is characterized by its diversity, with larger operations predominantly in the Creston Valley and many small-lot farms spread across the RDCK. The Plan's recommendations address all sizes and forms of farm operations. The report goes on to make several recommendations which address agricultural viability, capability and secure food supply recommendations. The recommendation relevant to this application are listed below:

**CAPABILITY RECOMMENDATION #1**

It is recommended that the RDCK continue to use land use planning tools to discourage subdivisions of agricultural land and to encourage the consolidation of contiguous smaller agricultural lots provided they do not result in additional residences (resulting in higher land values for the farm).

**CAPABILITY RECOMMENDATION #3** It is recommended that the RDCK encourage the protection of agricultural land where appropriate, through the Official Community Plan process and other land use planning tools.

**Agricultural Land Use Inventory**

The RDCK's Agricultural Land Use Inventory, 2016 (ALUI) was developed for the purpose of building a common understanding of agriculture within the RDCK. The subject property is located in an agricultural area. The subject properties currently grow cherries and apples. There are mixed vegetable farms and mixed fruit farms nearby. There are livestock operations (goats) directly adjacent to the subject property. There are also horse, sheep, lamb, dairy, bison, chicken and duck farms in the area. There are no cereal or oilseed crops in the area except for buckwheat and barley. There are a variety of nurse tree farms nearby.

Within the RDCK, 30% of the effective ALR was in farmed land cover that includes cultivated crops and barns. 23% of ALR parcels were used for farming and 77% were not used for farming.

**Agricultural Capability Rating**

The subject properties have an unimproved agricultural capability rating of Class 2,4,5 and 6 as identified in 'Figure 4.' The limitation subclasses are excess water (groundwater), inundation (flooding by streams etc) and soil moisture deficiency. The majority of the subject properties lands have the same unimproved/improved agricultural capability with the exception of the light green shown on in 'Figure 4' which has an improved agricultural capability of 2 with the limiting subclass being soil moisture deficiency. More details regarding soil classes and limitation subclasses can be found in the tables below.



Agricultural Capability - RDCK File No. A2305AC (Parcel 1)

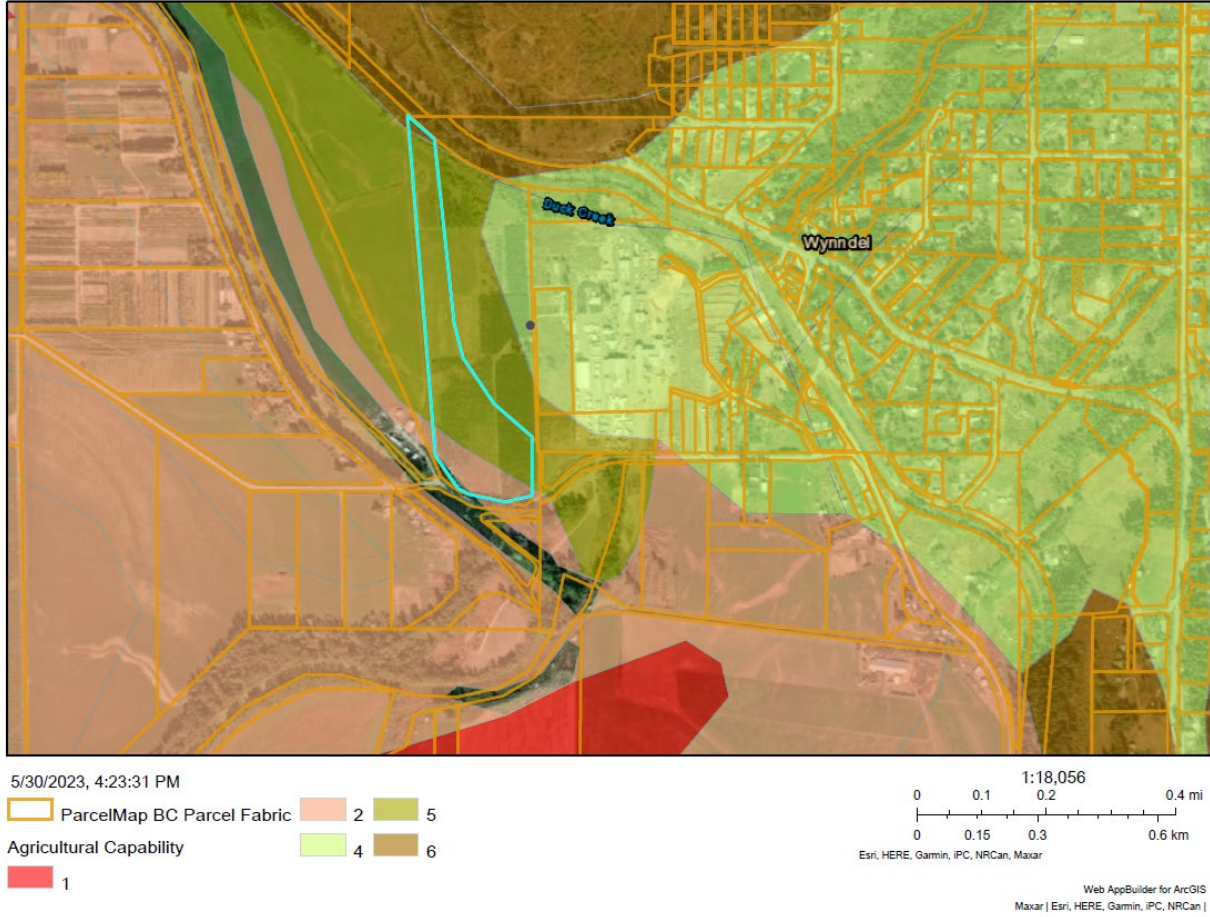


Figure 4: Unimproved Agricultural Capability Rating (Parcel 1)

Agricultural Capability - RDCK File No. A2305AC (Parcel 2)

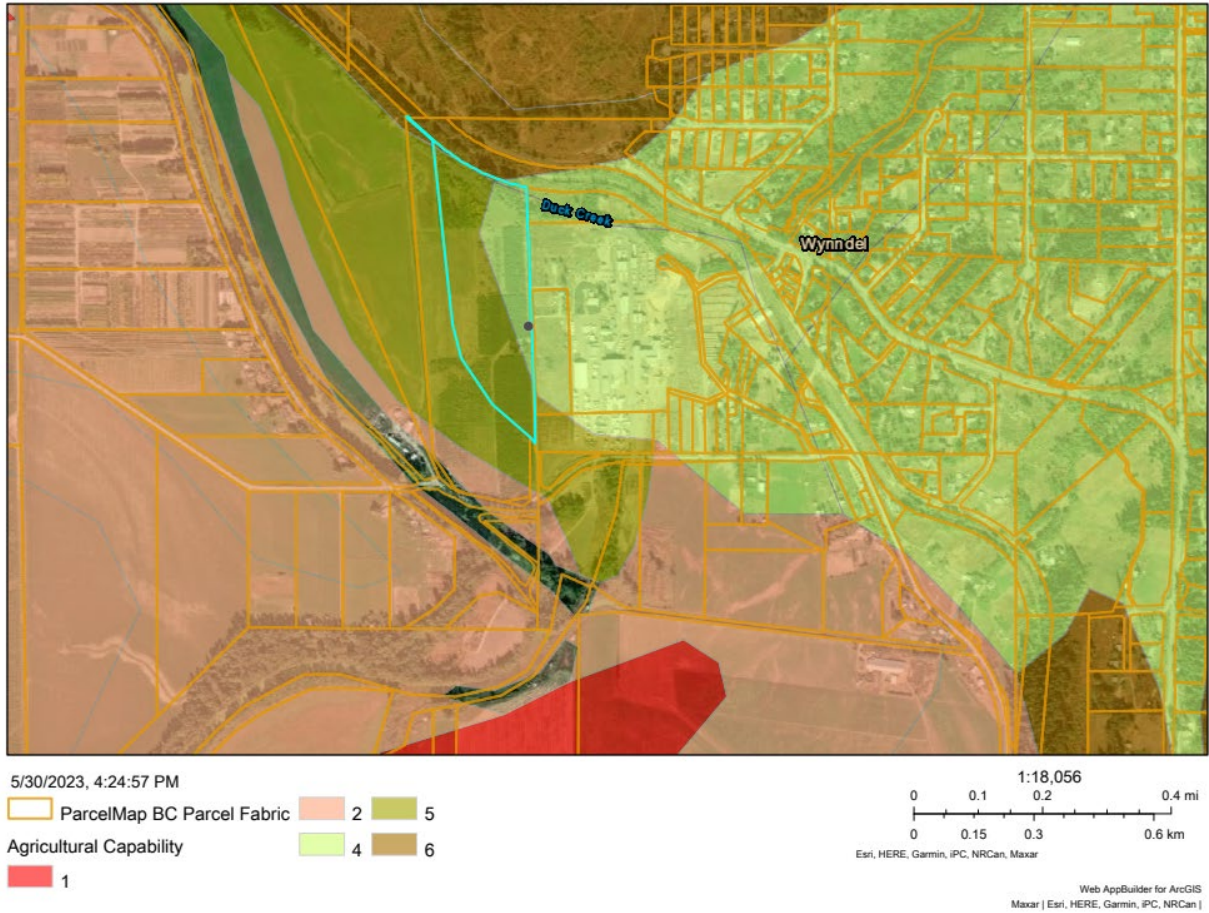


Figure 5: Unimproved Agricultural Capability Rating (Parcel 2)

Soil Class	Description
Class 2	Land in this class has minor limitations that require good ongoing management practises or slightly restrict the range of crops, or both.
Class 4	Land in this class has limitations that require special manage ment practices or severely restrict the range of crops, or both.
Class 5	Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.
Class 6	Land in this class is non-arable but is capable of producing native and or uncultivated perennial forage crops.

Limitation Subclass	Description
W	Excess water (groundwater)
I	Inundation (flooding by streams, etc.)
M	Soil moisture deficiency



### Soil Type

The Soil Resources of the Nelson Area published by the BC Ministry of Environment categorizes soils having similar agriculturally important characteristics into 'soil association descriptions'. The subject property is composed of soils from the Kuskanook and Fletcher Soil Association. The soils are described below:

Soil Class	Description
Kuskanook	Soils of the Kuskanook association have a high capability for agriculture. They represent some of the finest agricultural land in the west Kootenay region. Their main limitations are high water tables and danger to flooding. These however, are now relatively effectively controlled by diking and artificial drainage structures such as ditches and pumps.
Fletcher	Fletcher soils are mostly non-arable, however, they have some grazing potential. The main limitations are excessive stoniness and low soil moisture holding capacity.

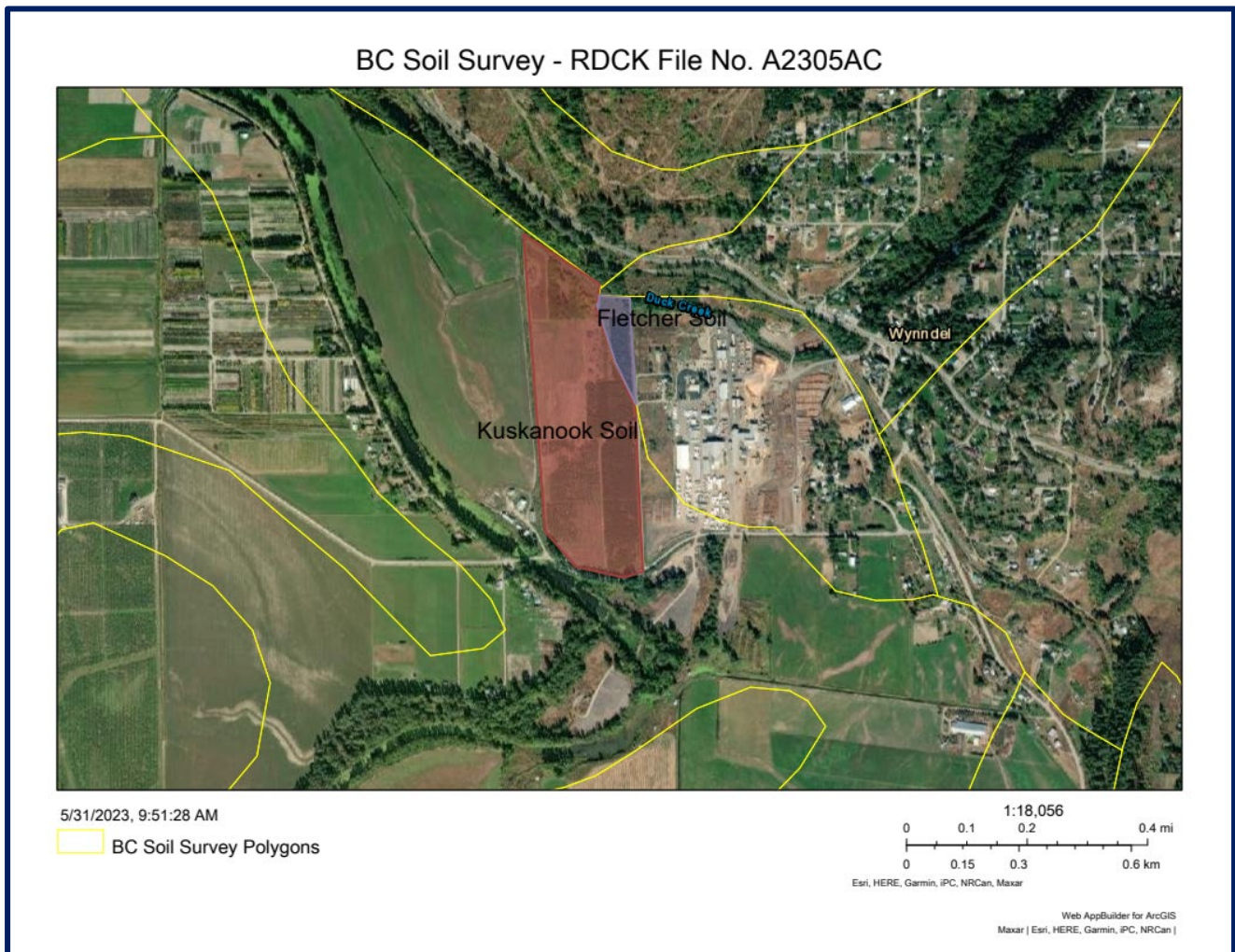


Figure 5: BC Soil Survey

### SECTION 3: DETAILED ANALYSIS

#### 3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan:  Yes  No      Financial Plan Amendment:  Yes  No  
Debt Bylaw Required:  Yes  No      Public/Gov't Approvals Required:  Yes  No

The applicant has paid the \$750 RDCK Referral Fee pursuant to the Planning Fees and Procedures Bylaw No. 2457, 2015.

#### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

This application was processed in accordance with the Planning Procedures and Fees Bylaw No. 2457, 2015.

##### Agricultural Land Commission Act (ALCA)

As per Section 25(1) of the Act, when making a decision on an application for a subdivision in the ALR the Agricultural Land Commission may do one of the following:

- (a) refuse permission;
- (b) grant permission;
- (c) grant permission for an alternative non-farm use or subdivision.

Section 25(3) of the ALCA states that a subdivision application may not proceed to the ALC unless authorized by resolution of the local government. Section 34 states that a local government may include comments and recommendations regarding an application should it resolve to forward the application to the ALC.

##### Electoral Area Boundary Considerations

If approved, the boundary adjustment proposed in this application would result in each parcel being split zoned and belonging to two electoral areas. To correct this, RDCK staff are investigating the options for a boundary redefinition between Electoral Areas 'A' and 'C' so that each parcel would be located entirely within one electoral area only and have one zoning designation only.

##### Electoral Area 'A' Parcel: East Shore of Kootenay Lake Comprehensive Land Use Bylaw No. 2315, 2013

#### 4.0 Agricultural Objectives:

4.1	To identify lands that have continuing, or future, value for agriculture.
4.2	To encourage the protection and agricultural use of land with continuing value for agriculture.
4.3	To encourage optimum use and development of agricultural activities on agricultural land associated with the production and processing of livestock, poultry, farmed game, fur bearing animals, crops, fruit, grain, vegetables, milk, eggs, honey, mushrooms, fibre crops and horticultural and aquaculture products provided the activity serves local producers and is small scale.
4.4	To encourage agricultural practices that do not adversely impact the surrounding environment; nor compromise the capability of the land for future food production.
4.5	To minimize conflict between agriculture and other land uses.
4.6	To promote the removal of lands within the Agricultural Land Reserve that is considered of marginal benefit to Agriculture.

#### 4.0 Agricultural Policies:



4.7	Encourages that the principal use of Agricultural lands shall be of an agricultural nature. In addition, the Regional Board encourages the development of small scale food processing facilities within Agricultural zones provided the facility operates in an environmentally sustainable fashion and ensure that such facilities have obtained all necessary licenses and permits from appropriate regulatory bodies.
4.8	Discourages subdivisions of agricultural land that do not benefit agriculture and encourages the consolidation of contiguous smaller agricultural lots.
4.9	Supports that the minimum lot size shall be two (2) hectares.
4.10	Will encourage food processing activities within the Plan Area, and uses secondary to, and complementary to agricultural production; such as market gardens, agritourism, farmers markets and farm gate sales.
4.11	Will support enhanced educational and training opportunities in agriculture in conjunction with local educational institutes, school districts and private initiative.
4.12	Supports the Farm Practices Protection (Right to Farm) Act
4.13	May consider accessory dwellings where there is a need for farm worker housing on an operating farm, and where the additional density can be sustainably serviced.
4.14	Supports the use of maximum setback distances for residential development and the clustering of built structures on agricultural lands to reduce the impact to agricultural potential and operations.
4.15	Encourages and promotes the Environmental Farm Plan program to farmers in the Region.

**Development Permit Area** – The Official Community Plan outlines that there is an Environmentally Sensitive Development Permit Area in place for part of this property. However, this boundary adjustment would be exempt from this application requirement as it does not involve the subdivision of land into two or more parcels as defined in the *Local Government Act*.

### Zoning

The eastern property is located in Electoral Area 'A' is zoned Agriculture 2 (AG2). The lot sizes proposed by this ALC Subdivision Application comply with the 4 hectare minimum lot area that is required in the AG2 zone.

### Electoral Area 'C' Parcel: West Creston Comprehensive Land Use Bylaw No. 2317, 2013

#### Official Community Plan

#### 3.0 Agricultural Objectives:

3.1	To preserve and promote the use of agricultural land for current and future agricultural production, and to protect this land from uses which are inconsistent with agricultural use or are incompatible with existing agricultural uses in the area.
3.2	To encourage the agricultural sector's viability by pursuing supportive land use policies within and adjacent to farming areas and to ensure adequate water and land resources for agricultural purposes with recognition of the importance of local food production.
3.3	To support agricultural land use practices that do not adversely affect the surrounding environment nor compromise the capability of the land for future food production.
3.4	To support agricultural land use practices within and adjacent to farming areas that seek to minimize conflicts between agriculture and other land uses.
3.5	To support a strategy for diversifying and enhancing farm income by creating opportunities for uses secondary to and related to agricultural use.
3.6	To encourage senior levels of government to enable and facilitate agricultural activity and industry.

3.7	To recognize distinct agricultural areas reflecting unique historical development trends, soils and climate.
3.8	To examine any ALR boundary changes in association with affected landowners.

### 3.0 Agricultural Policies:

3.9	To work with the Town of Creston on a co-operative approach to agricultural lands within the urban / rural interface that will mitigate the loss of agricultural land to future growth.
3.10	Discourages subdivisions of agricultural land that do not benefit agriculture and result in further fragmentation of agricultural land.
3.11	Will permit varying parcel sizes depending on the respective agricultural designation, but generally shall range between four (4) hectares (9.88 acres) and sixty hectares (60) hectares (148.26 acres) for land within the ALR, or no smaller than two (2) hectares (4.94 acres) for land outside of the ALR
3.12	May require that new development adjacent to agricultural areas provide sufficient buffering in the form of setbacks, fencing or landscaping.
3.13	Supports the consolidation of legal lots that may support more efficient agricultural operations.
3.14	Supports directing intensive agricultural operations to larger lots or increasing building setbacks and other possible mitigation measures to prevent potential conflicts with adjacent land uses
3.15	Will provide opportunity to diversify and enhance uses secondary to agricultural uses with home based business and industry, agri-tourism, or accessory tourist accommodation opportunities, provided that they are compatible with the agricultural character of the area.
3.16	May consider accessory dwellings where there is a need for farm worker housing on an operating farm, and where the additional density can be sustainably serviced.
3.17	Will encourage food processing activities within the Plan area, and uses secondary to, and complementary to agricultural production; such as market gardens, agritourism, farmers markets and farm gate sales.
3.18	Encourages the development of small scale food processing facilities on farm lands in Agricultural zones, provided the facility operated in an environmentally sustainable fashion and insure that such facilities have obtained all licenses and permits from the appropriate regulatory bodies.
3.19	Supports the Farm Practices Protection (Right to Farm) Act.
3.20	Supports the RDCK Agricultural Area Plan (2011).
3.21	Supports the use of maximum setback distances for residential development and the clustering of built structures on agricultural lands to reduce the impact to agricultural potential and operations
3.22	Encourages and promotes the Environmental Farm Plan program to farmers in the Region.

### Zoning

The eastern property is located in Electoral Area 'C' and is zoned Agriculture 3 (AG3). The lot sizes proposed by this ALC Subdivision Application do not comply with the 60 hectare minimum lot area that is required in the AG3 zone. However, the required minimum lot size for this lot is exempt under Section 17.11(a) of Comprehensive Land Use Bylaw No. 2317, 2013.

The **RDCK Floodplain Management Bylaw No. 2080** identifies flood construction levels and floodplain setback distances from small creeks and watercourses when considering the construction of new buildings or renovation of existing buildings.

### 3.3 Environmental Considerations

None anticipated.

### 3.4 Social Considerations:

There is no public benefit associated with the application.

### 3.5 Economic Considerations:

None anticipated.

### 3.6 Communication Considerations:

The application was referred to the Ministry of Agriculture and Food, the Creston Valley Agricultural Advisory Commission, the RDCK Building Department, Ktunaxa Nation Council and the Directors for Electoral Areas 'A' and 'C'. The following comments were received:

#### **Creston Valley Agricultural Advisory Commission**

*The Creston Valley Agricultural Advisory Commission **SUPPORT** the Agricultural Land Reserve Application to Barbara and Gordon Ogilvie for the property located at 1150 Wigen Road, Wynndel – Electoral Area 'A' and Duck Lake Road, Wynndel – Electoral Area 'C' BLOCK 148 DISTRICT LOT 9551 KOOTENAY DISTRICT (PID: 016-456-921) and LOT 2 DISTRICT LOT 15150 KOOTENAY DISTRICT PLAN 2765 EXCEPT PLAN EPP70120 (PID: 015-087-361) to adjust the boundary between the two properties.*

#### **Ktunaxa Nation Council**

*The Ktunaxa Nation Council has no further concerns with this application.*

#### **RDCK Building Department**

*No building, no building department comments*

### 3.7 Staffing/Departmental Workplace Considerations:

Following a Board resolution, staff will forward the report to the Agricultural Land Commission.

### 3.8 Board Strategic Plan/Priorities Considerations:

Not applicable.

## SECTION 4: OPTIONS

### PLANNING DISCUSSION

RDCK policy discourages subdivisions in the ALR when they result in the fragmentation of agricultural land and do not benefit agriculture. However, this application does neither. In this case, the proposal is for a boundary adjustment subdivision which will not result in additional lots. In addition, the boundary adjustment will improve the configuration of the two subject parcels which will enhance farming activity by creating a clearer boundary that can be fenced by the property owners.

The proposal is aligned with the policies of the Official Community Plan as well as the RDCK Agriculture Plan. Additionally, the proposal is consistent with all other relevant RDCK policies and regulations and was not opposed by any referral agencies that responded. As such, staff are recommending support for the application.

## **Options**

### **Option 1:**

That the Board SUPPORT application A2305AC for the proposed boundary adjustment subdivision in the Agricultural Land Reserve proposed by Barbara and Gordon Ogilvie for the properties located at 1150 Wigen Road, Wynndel – Electoral Area ‘A’ and Duck Lake Road, Wynndel – Electoral Area ‘C’ and legally described as BLOCK 148 DISTRICT LOT 9551 KOOTENAY DISTRICT (PID: 016-456-921) and LOT 2 DISTRICT LOT 15150 KOOTENAY DISTRICT PLAN 2765 EXCEPT PLAN EPP70120 (PID: 015-087-361)

### **Option 2:**

That the Board PROVIDE NO COMMENT regarding application A2305AC for the proposed boundary adjustment subdivision in the Agricultural Land Reserve proposed by Barbara and Gordon Ogilvie for the properties located at 1150 Wigen Road, Wynndel – Electoral Area ‘A’ and Duck Lake Road, Wynndel – Electoral Area ‘C’ and legally described as BLOCK 148 DISTRICT LOT 9551 KOOTENAY DISTRICT (PID: 016-456-921) and LOT 2 DISTRICT LOT 15150 KOOTENAY DISTRICT PLAN 2765 EXCEPT PLAN EPP70120 (PID: 015-087-361)

## **SECTION 5: RECOMMENDATIONS**

That the Board SUPPORT application A2305AC for the proposed boundary adjustment subdivision in the Agricultural Land Reserve proposed by Barbara and Gordon Ogilvie for the properties located at 1150 Wigen Road, Wynndel – Electoral Area ‘A’ and Duck Lake Road, Wynndel – Electoral Area ‘C’ and legally described as BLOCK 148 DISTRICT LOT 9551 KOOTENAY DISTRICT (PID: 016-456-921) and LOT 2 DISTRICT LOT 15150 KOOTENAY DISTRICT PLAN 2765 EXCEPT PLAN EPP70120 (PID: 015-087-361)

Respectfully submitted,  
Originally signed by

Sadie Chezenko, Planner

## **CONCURRENCE**

Planning Manager – Digitally approved by Nelson Wight

General Manager Development & Sustainability – Digitally approved by Sangita Sudan

Chief Administrative Officer – Digitally approved by Stuart Horn

## **ATTACHMENTS:**

**Attachment A – ALC Application**



# Provincial Agricultural Land Commission - Applicant Submission

**Application ID:** 67712

**Application Status:** Under LG Review

**Applicant:** Barbara Ogilvie , H Gordon Ogilvie

**Local Government:** Central Kootenay Regional District

**Local Government Date of Receipt:** 04/05/2023

**ALC Date of Receipt:** This application has not been submitted to ALC yet.

**Proposal Type:** Subdivision

**Proposal:** The purpose of the boundary adjustment is to make the property line easier to follow and find. If in the future it is leased to 2 different farmers or sold it would be impossible to find without surveyors and fencing.

## Mailing Address :

5291 Elsie Holmes Rd

Wynndel , BC

V0B 2N1

Canada

**Primary Phone :** (250) 402-9085

**Email :** barbogilvie1978@gmail.com

## Parcel Information

### Parcel(s) Under Application

1. **Ownership Type :** Fee Simple

**Parcel Identifier :** 015-087-361

**Legal Description :** LOT 2 DISTRICT LOT 15150 KOOTENAY DISTRICT PLAN 2765 EXCEPT PLAN EPP70120

**Parcel Area :** 10.4 ha

**Civic Address :** Duck Lake Rd, Wynndel, BC

**Date of Purchase :** 09/11/1989

**Farm Classification :** Yes

### Owners

1. **Name :** Barbara Ogilvie

**Address :**

5291 Elsie Holmes Rd

Wynndel , BC

V0B 2N1

Canada

**Phone :** (250) 402-9085

**Email :** barbogilvie1978@gmail.com

2. **Name :** H Gordon Ogilvie

**Address :**

5291 Elsie Holmes Rd  
 Wynndel , BC  
 V0B 2N1  
 Canada  
**Phone :** (250) 402-9085  
**Email :** barbogilvie1978@gmail.com

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2. **Ownership Type :** Fee Simple  
**Parcel Identifier :** 016-456-921  
**Legal Description :** BLOCK 148 DISTRICT LOT 9551 KOOTENAY DISTRICT  
**Parcel Area :** 12.1 ha  
**Civic Address :** 1150 Wigen Rd, Wynndel, BC  
**Date of Purchase :** 09/11/1989  
**Farm Classification :** Yes

**Owners**

1. **Name :** Barbara Ogilvie  
**Address :**  
 5291 Elsie Holmes Rd  
 Wynndel , BC  
 V0B 2N1  
 Canada  
**Phone :** (250) 402-9085  
**Email :** barbogilvie1978@gmail.com
  2. **Name :** H Gordon Ogilvie  
**Address :**  
 5291 Elsie Holmes Rd  
 Wynndel , BC  
 V0B 2N1  
 Canada  
**Phone :** (250) 402-9085  
**Cell :** (250) 402-9085  
**Email :** barbogilvie1978@gmail.com
- 

**Current Use of Parcels Under Application**

**1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).**

*Both of the parcels have been farmed for 20 plus years as orchards by 'Shukin Orchards' of Erickson, BC. They are planted to apple and cherry trees.*

**2. Quantify and describe in detail all agricultural improvements made to the parcel(s).**

*Drain tile was put in around mid to late 70's for proper drainage. Since the orchard went in, a perimeter elk fence is around both parcels together and irrigation has been added.*

**3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).**

*The parcel on 1150 Wigen Rd has about .5 acres with a house and yard that is rented.*

**Adjacent Land Uses**

## North

**Land Use Type:** Residential  
**Specify Activity :** Hwy 3

## East

**Land Use Type:** Industrial  
**Specify Activity :** Canford Sawmill

## South

**Land Use Type:** Agricultural/Farm  
**Specify Activity :** Farmland

## West

**Land Use Type:** Agricultural/Farm  
**Specify Activity :** Farmland

## Proposal

### 1. Enter the total number of lots proposed for your property.

12.5 ha  
 10 ha

### 2. What is the purpose of the proposal?

*The purpose of the boundary adjustment is to make the property line easier to follow and find. If in the future it is leased to 2 different farmers or sold it would be impossible to find without surveyors and fencing.*

### 3. Why do you believe this parcel is suitable for subdivision?

*As it stands both parcels make a long rectangle, it is just plain to see a straight line running east and west would simplify everything. Right now with the panhandle shape if 2 people were farming it a fence would have to be put up making it difficult for all field work, getting in machinery plus lots of weeds would end up in the fence line.*

### 4. Does the proposal support agriculture in the short or long term? Please explain.

*The proposal will still give us the same amount of land to farm in the future plus it will be so much easier for access, farming with large machinery or small. This land has been farmed and in our family for many many years, since the flats were first dyked. Back when this boundary was originally made it was because of a channel running through it, as to the panhandle shape, Grampa Wolfrum purchased the other property to give him a rectangle piece and making it easier to farm. Now 80 years later things have changed and the channel is long gone. Giving it new straight boundaries will give it easier farming if farmed by 2 farmers and not having land wasted by fences and weeds in the boundary as well as being more economical. We do need the support and approval from ALC for the Road Dedication though.*

### 5. Are you applying for subdivision pursuant to the ALC Homesite Severance Policy? If yes, please submit proof of property ownership prior to December 21, 1972 and proof of continued occupancy in the "Upload Attachments" section.

No

## **Applicant Attachments**

- Other correspondence or file information - Recent Title Parcel 1
- Other correspondence or file information - Recent Title Parcel 2
- Proposal Sketch - 67712
- Other correspondence or file information - Aerial
- Other correspondence or file information - Survey Plan
- Other correspondence or file information - Agent Authorization
- Certificate of Title - 015-087-361
- Certificate of Title - 016-456-921

## **ALC Attachments**

None.

## **Decisions**

None.





# Committee Report

**Date of Report:** June 28, 2023  
**Date & Type of Meeting:** July 19, 2023, Rural Affairs Committee  
**Author:** Zachari Giacomazzo, Planner  
**Subject:** SUBDIVISION IN THE AGRICULTURAL LAND RESERVE  
**File:** A2208E  
**Electoral Area/Municipality:** E

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Board to consider an Agricultural Land Commission (ALC) application for a proposed two lot subdivision within the Agricultural Land Reserve (ALR) at 6810 Harrop-Procter Road in Harrop, BC.

The applicant is proposing to subdivide the 1.1 hectare property into 2 lots: Lot 1 (0.23 hectare) and Lot 2 (0.8 hectare). If successful in their applications for ALC approval and subsequent subdivision, the applicant would construct a new one-family dwelling to be their primary residence on Lot 1.

Staff recommend that the Board not support the application.

## SECTION 2: BACKGROUND/ANALYSIS

### GENERAL INFORMATION

**Property Owner:** Holly J. Hale and Robert J. Hale

**Property Location:** 6810 Harrop-Procter Road, Electoral Area 'E'

**Legal Description:** LOT B DISTRICT LOT 306 KOOTENAY PLAN 731D EXCEPT PART INCLUDED IN PLAN 5526 (PID: 013-614-762)

**Property Size:** 1.1 hectares (2.6 acres)

**Current Zoning:** No applicable zoning bylaw

**Current Official Community Plan Designation:** Agriculture (AG) in Electoral Area 'E' Rural Official Community Plan Bylaw No. 2260, 2013

### SURROUNDING LAND USES

**North:** Industrial (CP rail line)

**East:** Agriculture (within ALR)

**South:** Agriculture (within ALR)

**West:** Agriculture (within ALR)

## SITE CONTEXT AND PROPOSAL SUMMARY

The subject property is 1.1 hectares in size and the entire property is located within the ALR. The property was formerly used as a small equestrian farm and there is an existing riding ring that no longer appears to be used. BC Assessment Authority does not classify the property as a Farm. The land use designation in the Electoral Area

'E' Rural Official Community Plan is Agriculture. The property is unzoned as there is no zoning bylaw in effect for Electoral Area 'E'. The owners are proposing to subdivide the property into two lots in order to create a (0.23 hectare) lot where they can build a smaller home and continue to reside in the community. The existing dwelling would be located on the (0.87 hectare) remainder portion of the lot.

This application was first considered by the Rural Affairs Committee (RAC) on January 18, 2023. At that time, the committee identified concerns regarding the 0.23 ha size of proposed Lot 1 because the lot would be serviced by an on-site wastewater (septic) system and a drilled well. The concerns mostly related to whether or not a 0.23 ha lot could accommodate a well, initial septic system, reserve/replacement septic field, house, driveway and amenity space. The applicant has not revised their proposed subdivision plan and has opted to proceed with the committee considering the proposed subdivision since it was presented at the January RAC meeting.



Figure 1: Overview Map showing the boundary of the ALR (green hatched area)

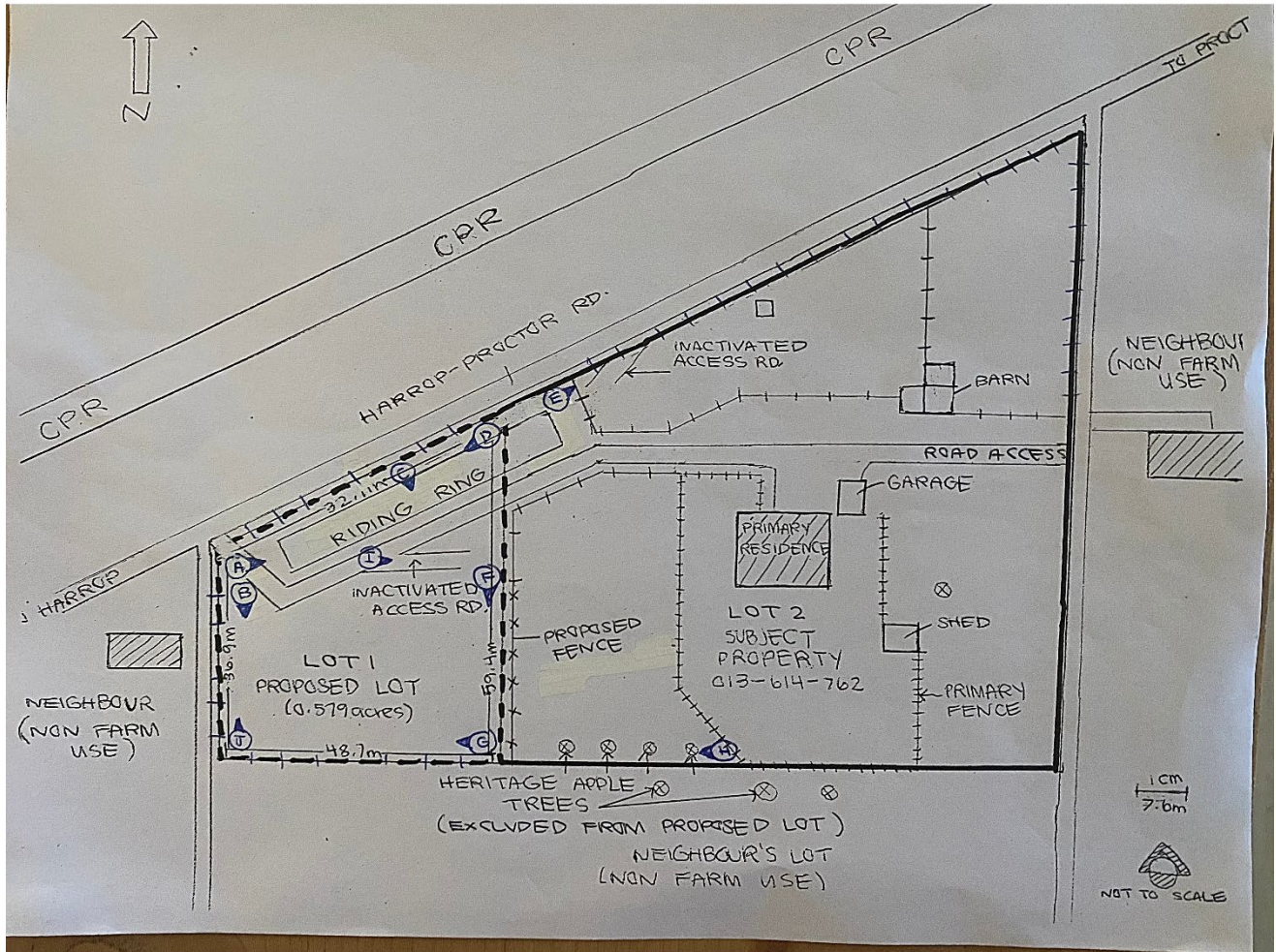


Figure 2: Proposed Subdivision Plan

### **Agricultural Area Plan**

In 2011, the RDCK developed an Agricultural Plan with the overall goal of increasing the quantity and quality of agricultural production in the Region.

The purpose of the Agriculture Area Plan is to ensure that the agricultural capability of the area is realized and protected as part of a secure food supply for the region. Agriculture in the Region is characterized by its diversity, with larger operations predominantly in the Creston Valley and many small-lot farms spread across the RDCK. The Plan's recommendations address all sizes and forms of farm operations.

Some of the issues facing farmers and food producers in the region were identified through public consultation when the Agriculture Plan was developed. Some of the issues that are relevant to the current report include:

- ongoing loss of farmland; and,
- farm income cannot support the purchase of land at residential / recreational market values.



The report goes on to make several recommendations which address agricultural viability, capability and secure food supply recommendations. The recommendation relevant to this application are listed below:

**CAPABILITY RECOMMENDATION #1**

It is recommended that the RDCK continue to use land use planning tools to discourage subdivisions of agricultural land and to encourage the consolidation of contiguous smaller agricultural lots provided they do not result in additional residences (resulting in higher land values for the farm).

**CAPABILITY RECOMMENDATION #3** It is recommended that the RDCK encourage the protection of agricultural land where appropriate, through the Official Community Plan process and other land use planning tools.

**CAPABILITY RECOMMENDATION #10**

It is recommended that the RDCK encourage the Agricultural Land Commission to update their ALR decision making guidelines incorporating criteria that acknowledges the unique characteristics of this region and the productive capabilities of smaller parcels.

**Agricultural Land Use Inventory**

The RDCK's Agricultural Land Use Inventory, 2016 (ALUI) was developed for the purpose of building a common understanding of agriculture within the RDCK.

There is some agriculture in the area, however, most of the larger lots in this area are densely forested with limited areas cleared for forage and pasture and small portions of lots used for tree fruit/mixed fruit production. There are no livestock operations directly adjacent to the subject property however there are a number of equestrian properties in the surrounding area and one property identified as a small scale llama farm. There are no cereal or oilseed crops in the area but there are small areas of mixed fruit and vegetable production.

Within the RDCK, 30% of the effective ALR was in farmed land cover that includes cultivated crops and barns. 23% of ALR parcels were used for farming and 77% were not used for farming. Farming activities includes forage and pasture, cereals and oilseeds, and tree fruits.

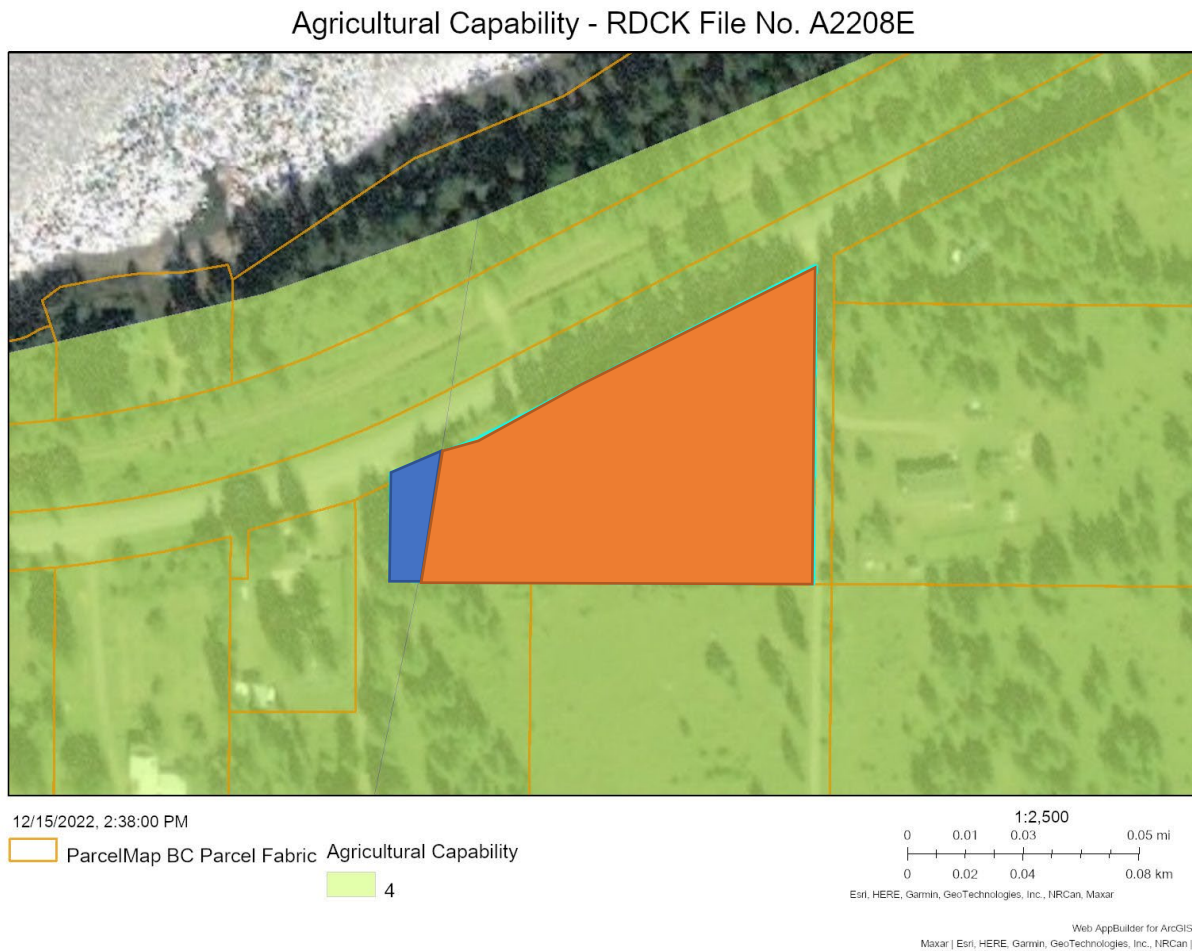
The ALUI defines the nature of farming practices. Parcel size must be considered when determining the agricultural potential of a parcel. Larger parcels usually allow farmers greater flexibility to expand or change their type of operation as the economy and markets change. Some types of agriculture can be successful on small parcels (e.g. intensive market gardens, nurseries, and poultry), however, the number of viable farming options generally decreases with a reduced parcel size. Smaller parcels are generally more costly per hectare than larger parcels, and can easily be disassembled from larger farm units and sold. Larger parcels accommodate equipment more efficiently and reduce the need to move farm equipment on public roads.

The Inventory outlines that there is evidence that small parcels are less likely than larger parcels to be utilized for farming. In the Regional District there are 1,178 ALR parcels that are less than 1 hectare. Of these parcels, 5% (60 parcels) are "Used for Farming", 21% (245 parcels) are "Available for Farming", and 74% (873 parcels) are "Unavailable for Farming". Residential use accounts for the majority of the small and "Unavailable for Farming" parcels.

Although the ALUI identifies that the Creston Valley will continue to be the hub of agriculture in the region, the continued fragmentation of larger lots elsewhere in the region can constrain agriculture opportunities and limit the type and amount of agricultural production.

**Agricultural Capability Rating**

The majority of the subject property (orange area in Figure 3) has an unimproved agricultural capability rating of Class 4-6 with the limitation subclass being soil moisture deficiency, stoniness and topography. This same portion of the subject property has an improved agricultural capability rating of Class 2-6 with the limitation subclass being minor adverse conditions, stoniness, soil moisture deficiency and stoniness. The smaller area on the west side of the subject property (blue area in Figure 3) has an unimproved agricultural capability rating of Class 3-4 with the limitation subclass being topography. The improved agricultural capability rating is also 3-4 with the limitation subclass also being topography. More details regarding soil classes and limitation subclasses can be found in the tables below.



*Figure 3: Unimproved Agricultural Capability Rating*

Soil Class	Description
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Class 2	Land in this class has minor limitations that require good ongoing management practises or slightly restrict the range of crops, or both.
Class 3	Land in this class has limitations that require moderately intensive management practises or moderately restrict the range of crops or both.
Class 4	Land in this class has limitations that require special management practices or severely restrict the range of crops, or both.
Class 5	Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.
Class 6	Land in this class is non-arable but is capable of producing native and or uncultivated perennial forage crops.

Limitation Subclass	Description
M	Soil moisture deficiency
P	Stoniness
T	Topography
X	Cumulative and minor adverse conditions

### Soil Type

The Soil Resources of the Nelson Area published by the BC Ministry of Environment categorizes soils having similar agriculturally important characteristics into 'soil association descriptions'. The subject property is composed of soils from the Skelly and Fruitvale Soil Associations. The area shaded orange in 'Figure 4' identifies the portion of the lot that is composed of 100% Skelly soil. The area shaded light purple on the western side of the property composed of 60% Skelly soil and 40% Fruitvale soil. Descriptions of each soil type are included in the following table.

Soil Class	Description
Skelly	Skelly soils are mostly unsuitable for agriculture. Where slopes are less than 30% the soils are marginally arable. The main limitations are topography and stoniness.
Fruitvale	Fruitvale soils are predominantly non-arable with low soil moisture holding capacity and excessive stoniness being the main limitations of cultivation.

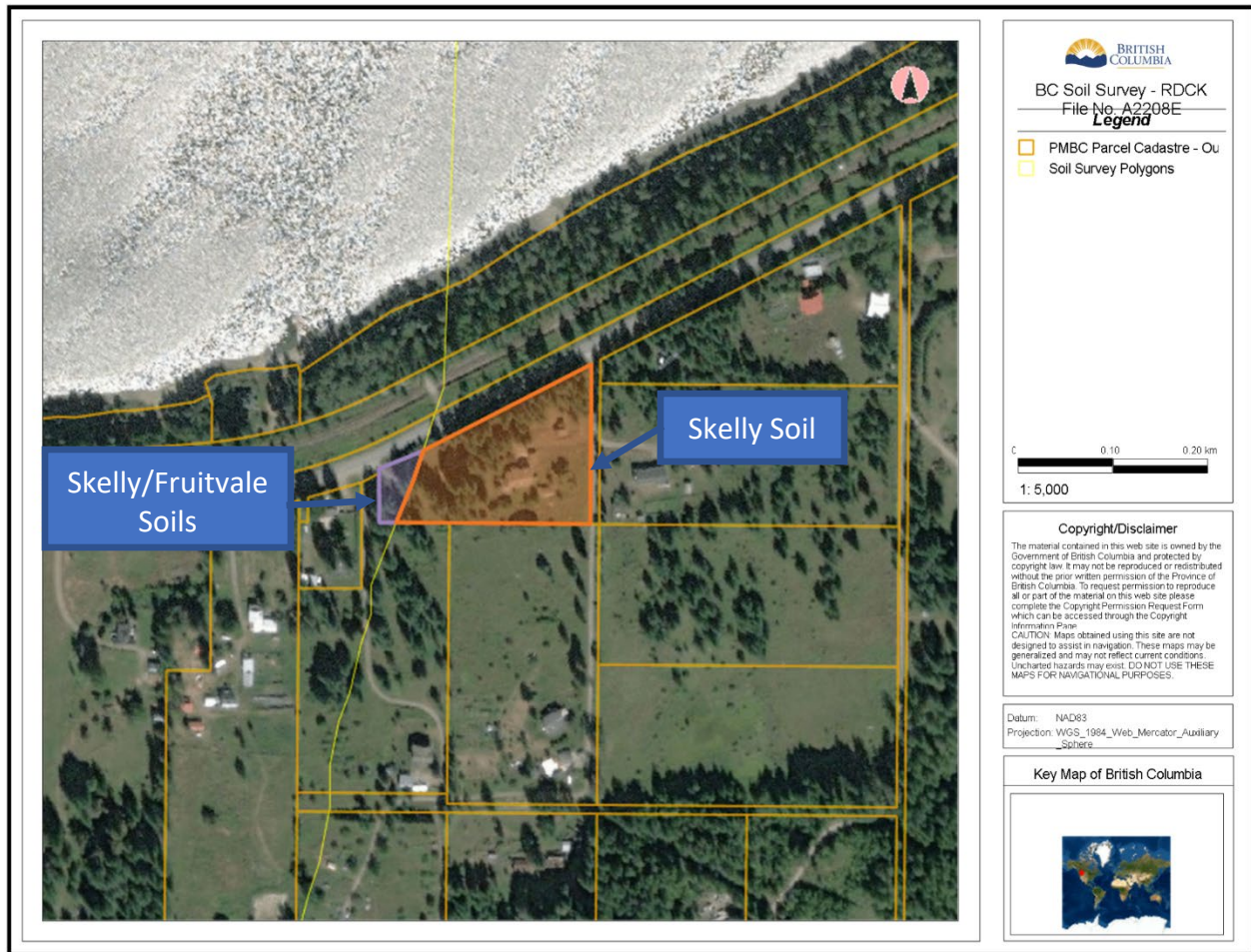


Figure 4: BC Soil Survey

## SECTION 3: DETAILED ANALYSIS

### 3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan:  Yes  No      Financial Plan Amendment:  Yes  No  
 Debt Bylaw Required:  Yes  No      Public/Gov't Approvals Required:  Yes  No

The applicant has paid the \$750 RDCK Referral Fee pursuant to the Planning Fees and Procedures Bylaw No. 2457, 2015.

### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

This application was processed in accordance with the Planning Procedures and Fees Bylaw No. 2457, 2015.

#### **Agricultural Land Commission Act (ALCA)**

As per Section 25(1) of the Act, when making a decision on an application for a subdivision in the ALR the Agricultural Land Commission may do one of the following:

- (a) refuse permission;



- (b) grant permission;
- (c) grant permission for an alternative non-farm use or subdivision.

Section 25(3) of the ALCA states that a subdivision application may not proceed to the ALC unless authorized by resolution of the local government. Section 34 states that a local government may include comments and recommendations regarding an application should it resolve to forward the application to the ALC.

### **Electoral Area 'E' Rural Official Community Plan Bylaw No. 2260, 2013**

#### **5.0 Agriculture Objectives:**

1. To preserve and promote the use of agricultural land for current and future agricultural production.
2. To minimize conflicts between agriculture and other land uses.
3. To support small farms and local food systems by creating opportunities to develop value added secondary industries to enhance farm income.
4. To encourage the agricultural sector's viability by pursuing supportive land use policies within and adjacent to farming areas and to ensure adequate water and land resources for agricultural purposes with recognition of the importance of local food production.
5. To encourage opportunities for residents to cultivate their own food on land that is not necessarily designated as agricultural.

#### **Agriculture Policies:**

1. Encourages that the principal use of lands designated as Agriculture in Schedule 'B' shall be for agricultural or rural residential use.
2. Will permit varying parcel sizes depending on the respective land use designation, but generally, shall not be smaller than 4 hectares for lands within the ALR, or smaller than 2 hectares for lands outside of the ALR.
4. Encourages the RDCK and Agricultural Land Commission (ALC) to review Provincial policies with regard to recognizing the importance of small lot agriculture and food production prevalent in the RDCK and soil improvement strategies when making decisions on Agricultural Land Reserve exclusion applications.
5. Recognizes that local agriculture contributes to local food production and the economy within the Plan area, the City of Nelson, and adjacent electoral areas.
6. Will consider supporting applications to subdivide parcels smaller than 4 hectares within the ALR, subject to approval of the ALC, in the following cases:
  - a. for a home-site severance under Provincial Acts and Statutes; where the subdivision or boundary adjustment will allow for more efficient use of agricultural land or the better utilization of farm buildings for farm purposes;
  - b. where the community interest in the subdivision of the land outweigh the community interest in the retention of the land in a larger parcel as identified in Section 5, Clause 8 above and as determined through public consultation; and
  - c. where the individual parcel sizes within the 'Agriculture' designation are subject to approval by the ALC and meet Provincial requirements for waste water disposal.



8. Encourages that all land use and subdivision of land within the ALR be in accordance with Provincial Acts and Statutes, associated regulations, and orders and decisions of the Agricultural Land Commission (ALC).
9. Will ensure that new development adjacent to agricultural areas provide sufficient buffering in the form of setbacks, fencing, and landscaping consistent with Provincial specifications.
10. Will encourage food processing activities within the Plan area, and uses secondary to and complementary to agricultural production, such as market gardens, agri-tourism, farmers markets and farm gate sales.

The **RDCK Subdivision Bylaw No. 2159** directs that each proposed lot be assessed for Type 1 septic disposal and have independent sources of water for each proposed lot.

The **RDCK Floodplain Management Bylaw No. 2080** identifies flood construction levels and floodplain setback distances from small creeks and watercourses when considering the construction of new buildings or renovation of existing buildings.

### 3.3 Environmental Considerations

None anticipated.

### 3.4 Social Considerations:

There is no public benefit associated with the application.

### 3.5 Economic Considerations:

None anticipated.

### 3.6 Communication Considerations:

The application was referred to the Ministry of Agriculture and Food, as well as the Director and Advisory Planning and Heritage Commission for Electoral Area 'E'. The following comments were received:

#### **Ministry of Agriculture & Food – Land Use Planner and Regional Agrologist**

*Thank you for providing Ministry of Agriculture and Food (Ministry) staff the opportunity to comment on File A2208E that proposes to subdivide the 1.03 ha Subject Property into two parcels measuring 0.8 ha and 0.23 ha. From an agricultural planning perspective, Ministry staff offer the following comments:*

- *The Subject Property is located within a large block of land in the Agricultural Land Reserve (ALR), is entirely within the ALR and is currently not used for agriculture.*
- *The purpose of the proposed subdivision is to create an additional parcel (0.23 ha parcel) for the aging landowners to construct a modular home and sell the remainder (0.8 ha parcel) to provide an opportunity to aspiring landowners to commence a farming operation.*
- *The applicants have not provided a plan or information regarding whether agricultural production will occur on the newly created 0.8 ha parcel and as such, there is a chance that both parcels may simply be used as rural residential or recreational properties in the future.*
- *Generally, subdivision results in increased ALR land fragmentation and provincial data consistently shows that smaller parcels are less likely to be farmed than larger parcels. Further, subdivision and the creation*

*of smaller parcels can also erode long term agricultural and economic potential of the parcels and increase land cost per acre which limits future farm business opportunities. Further, increased residential development in the ALR can result in increased land use complaints related to normal farm practices.*

- *Ultimately, the proposed subdivision does not appear to be beneficial for agriculture in the short or long term.*

### **Electoral Area 'E' Advisory Planning and Heritage Commission**

*The following was discussed:*

- *Building a small home will have a lesser impact*
- *The agricultural assets will remain with the larger tract of land*
- *Overall minimal negative impact on useable agricultural land*
- *No major objections other than the possibility that it will set a precedent*

*Recommendation:*

*That the Advisory Planning and Heritage Commission SUPPORT the Agricultural Land Reserve Application to Hale for the property located 6810 Harrop-Procter Road, Harrop and legally described as LOT B DISTRICT LOT 306 KOOTENAY PLAN 731D EXCEPT PART INCLUDED IN PLAN 5526 (PID: 013-614-762) for subdivision.*

### **3.7 Staffing/Departmental Workplace Considerations:**

Following a Board resolution, staff will forward the report to the Agricultural Land Commission.

### **3.8 Board Strategic Plan/Priorities Considerations:**

Not applicable.

## **SECTION 4: OPTIONS**

### **PLANNING DISCUSSION**

The subject property is located in an area that has moderate agricultural capability and it is not currently used for agriculture. In the past the property was used as a small equestrian farm however there no longer appears to be any active equestrian uses. The overall agricultural capability of the property is considered moderate and would require special management practices in order to support intensive agriculture in the form of arable crops. The limited lot size (1.1 hectares) does not provide the ability to support substantial crop production or operate a significant livestock operation however there is potential for market gardens and the existing agricultural structures on the property (e.g. two small animal shelters, small barn, fenced grazing area) could support a small-scale livestock operation. The applicant has indicated that their proposal preserves the opportunity for future agricultural uses because all of the existing agricultural structures would remain on "Lot 2" which would be the larger lot with the existing dwelling.

There is no zoning bylaw in effect for Electoral Area 'E' therefore there is nothing compelling the property owner to use the land for agriculture and there are no zoning regulations in place to prevent property owners from using the land for recreational or rural residential uses. If there was a zoning bylaw in effect for the area, the zoning regulations could provide assurances that there would be minimal impact to useable agricultural land. For example, this could be done by establishing "Farm Residential Footprint" regulations for agricultural land which would limit the area of the lot that can be used for residential uses on agricultural land. Based on the foregoing

and the lack of zoning regulations for the subject property, it is important to refer back to the work that was completed through the development of the Electoral Area 'E' Official Community Plan and the RDCK Agriculture Area Plan. These policy documents establish objectives, policies and recommendations that discourage the subdivision of agricultural land and recommend that the RDCK use land use planning tools to encourage the consolidation of smaller lots to provide future opportunities for agricultural uses.

Based on the current RDCK land use regulations, the applicants could build a second dwelling on the existing 2.6 hectare lot without the benefit of an ALC subdivision application, however the additional residence could not exceed 90 m<sup>2</sup>. If the Board were to support the application and subsequently the ALC were to approve the proposed subdivision the applicant would be able to build a dwelling that is larger than 90 m<sup>2</sup>. This would allow land within the ALR to be eroded further by constructing a larger dwelling and requiring a larger area for on-site servicing (i.e. private well and septic systems), driveways, parking areas and storage areas that are generally associated with residential uses.

Staff has been consistent in not supporting applications for subdivision that fragment the ALR land base, particularly where broad public interest and agricultural benefit is not demonstrated. The RDCK's Agricultural Area Plan recommends that the RDCK continue to use land use planning tools to discourage subdivisions of agricultural land. Only 2.5% of the RDCK's land base is suitable for agriculture. Once the land is shifted to another use (i.e. rural residential development) it is virtually impossible to return it to agriculture.

If the Board were to support this proposed subdivision application, the residential density of an existing agricultural property would be doubled, and it is possible that the most suitable agricultural lands would be used for the infrastructure required for residential uses. The policy direction from the Official Community Plan is to support the retention of suitable farm land within the Agricultural Land Reserve and the Agriculture Area Plan recommends that the RDCK use land use planning tools to discourage subdivisions of agricultural land and rather, encourage the consolidation of contiguous smaller agricultural lots provided they do not result in additional residences.

For all of the above reasons, staff recommend that the Board not support the application.

### **Options**

#### **Option 1:**

That the Board NOT SUPPORT regarding application A2208E for the proposed subdivision in the Agricultural Land Reserve proposed by Holly Hale for the property located at 6810 Harrop-Procter Road, Electoral Area 'E' and legally described as LOT B DISTRICT LOT 306 KOOTENAY PLAN 731D EXCEPT PART INCLUDED IN PLAN 5526 (PID: 013-614-762).

#### **Option 2:**

That the Board PROVIDE NO COMMENT regarding application A2208E for the proposed subdivision in the Agricultural Land Reserve proposed by Holly Hale for the property located at 6810 Harrop-Procter Road, Electoral Area 'E' and legally described as LOT B DISTRICT LOT 306 KOOTENAY PLAN 731D EXCEPT PART INCLUDED IN PLAN 5526 (PID: 013-614-762).

## SECTION 5: RECOMMENDATIONS

That the Board NOT SUPPORT regarding application A2208E for the proposed subdivision in the Agricultural Land Reserve proposed by Holly Hale for the property located at 6810 Harrop-Procter Road, Electoral Area 'E' and legally described as LOT B DISTRICT LOT 306 KOOTENAY PLAN 731D EXCEPT PART INCLUDED IN PLAN 5526 (PID: 013-614-762).

Respectfully submitted,

Originally signed by

Zachari Giacomazzo, Planner

## CONCURRENCE

Planning Manager – Digitally approved by Nelson Wight

General Manager Development & Sustainability – Digitally approved by Sangita Sudan

Chief Administrative Officer – Digitally approved by Stuart Horn

## ATTACHMENTS:

Attachment A – ALC Application



# Provincial Agricultural Land Commission - Applicant Submission

**Application ID:** 66263

**Application Status:** Under LG Review

**Applicant:** Holly Hale , Robert Hale

**Agent:** Holly Hale

**Local Government:** Central Kootenay Regional District

**Local Government Date of Receipt:** 10/14/2022

**ALC Date of Receipt:** This application has not been submitted to ALC yet.

**Proposal Type:** Subdivision

**Proposal:** This application is a proposal to subdivide the Subject Property to produce a small, 0.23 hectare parcel (Lot 1) which will have the least impact on the agricultural potential of both properties. Due to the aging of current property owners, we are no longer able to support or manage farm or agricultural land and seek to purchase a small modular home to be placed on Lot 1. This will allow for new, energetic owners to fulfill Lot 2's potential and continue use for farm or agriculture. Subdividing off Lot 1 will not negatively impact the agricultural use of Subject Property as a whole.

## Agent Information

**Agent :** Holly Hale

**Mailing Address :**

[REDACTED]

**Primary Phone :** [REDACTED]

**Mobile Phone :** [REDACTED]

**Email :** [REDACTED]

## Parcel Information

### Parcel(s) Under Application

1. **Ownership Type :** Fee Simple

**Parcel Identifier :** 013-614-762

**Legal Description :** LOT B DISTRICT LOT 306 KOOTENAY DISTRICT PLAN 731D EXCEPT PART INCLUDED IN PLAN 5526

**Parcel Area :** 1.04 ha

**Civic Address :** 6810 Harrop Procter Rd.

**Date of Purchase :** 07/01/1989

**Farm Classification :** No

**Owners**

1. **Name :** [REDACTED]

Address :

[Redacted Address]

Phone :

Cell :

Email :

2. Name :

Address :

[Redacted Address]

Phone :

Cell :

**Current Use of Parcels Under Application**

**1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).**

*No current agriculture*

**2. Quantify and describe in detail all agricultural improvements made to the parcel(s).**

*Two small animal shelters, small barn and fencing adequate for two horses built on North-East side of property in 1993.*

*Small fenced grazing area located West of primary residence built in 1993.*

*Minimal improvements since.*

*All excluded from Proposed Lot and would remain with Subject Property*

**3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).**

*Primary residence, built in 1993, approx. 1740 square feet.*

*Detached garage/work shop, approx. 308 square feet.*

*Heavily landscaped yard with large perennials surrounding primary residence*

*Small tool shed/workshop located within landscaped yard of primary residence*

**Adjacent Land Uses**

**North**

**Land Use Type:** Transportation/Utilities

**Specify Activity :** Harpor Procter Road, CPR Railway Tracks

**East**

**Land Use Type:** Residential

**Specify Activity :** Single-family dwelling, non-farm use

**South****Land Use Type:** Residential**Specify Activity :** Single-family dwelling, non-farm use**West****Land Use Type:** Residential**Specify Activity :** Single-family dwelling, non-farm use**Proposal****1. Enter the total number of lots proposed for your property.**

0.23 ha

0.81 ha

**2. What is the purpose of the proposal?**

*This application is a proposal to subdivide the Subject Property to produce a small, 0.23 hectare parcel (Lot 1) which will have the least impact on the agricultural potential of both properties. Due to the aging of current property owners, we are no longer able to support or manage farm or agricultural land and seek to purchase a small modular home to be placed on Lot 1. This will allow for new, energetic owners to fulfill Lot 2's potential and continue use for farm or agriculture. Subdividing off Lot 1 will not negatively impact the agricultural use of Subject Property as a whole.*

**3. Why do you believe this parcel is suitable for subdivision?**

*Lot 1 is a small, sloping, treed parcel of land which will suit the needs of the current land owners as we need a small, single story dwelling that will accommodate growing health concerns. Lot 1 has its own road access, which reduces the impact from driveway development and preserve the integrity of the land.*

*Lot 2 has road access from both the North East side of the property off of a current easement, as well as a previous access road from Harrop Procter Road, as pictured in photo E. Lot 2 will contain all farm and agriculture buildings on property, as well as accommodate enough grazing room for potential farm use in future.*

*By allowing the subdivision of this land, the ALR will encourage new owners who may be interested in agriculture and have the means to improve and maintain the property which would coincide ALR's values.*

*Lot 1 has excluded all heritage apple trees, as well as farm and agricultural buildings to remain with Lot 2 to preserve agricultural use going forward. The size of Lot 1 leaves enough acreage for farm or agriculture use on Lot 2.*

**4. Does the proposal support agriculture in the short or long term? Please explain.**

*This proposal supports agriculture in the short term as Lot 2 currently has all agricultural structures, such as barn and multiple animal shelters, and basic fencing that would allow immediate use of land for farm use if desired by next owners. This subdivision would also benefit in the long term, as current owners are no longer able to use property for farm or agricultural use, or maintain/improve current land, which may lead to further degradation- making it more difficult in future for new landowners to reclaim land for farm use.*

**5. Are you applying for subdivision pursuant to the ALC Homesite Severance Policy? If yes, please submit proof of property ownership prior to December 21, 1972 and proof of continued occupancy in the "Upload Attachments" section.**

No



## **Applicant Attachments**

- Agent Agreement - Holly Hale
- Proposal Sketch - 66263
- Site Photo - LOT B Perimeter
- Professional Report - LOT 2, B, F
- Other correspondence or file information - Agent Auth
- Other correspondence or file information - Agent Auth 2
- Certificate of Title - 013-614-762

## **ALC Attachments**

None.

## **Decisions**

None.



# Committee Report

**Date of Report:** June 27, 2023  
**Date & Type of Meeting:** July 19, 2023 - Rural Affairs Committee  
**Author:** Sadie Chezenko, Planner  
**Subject:** Subdivision in the Agricultural Land Reserve  
**File:** A23031 – Conroy  
**Electoral Area/Municipality:** I

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Board to consider an Agricultural Land Commission (ALC) application for a two lot subdivision of a 20.04 hectare (ha) parcel within the Agricultural Land Reserve (ALR) at 2335 Pass Creek Road in Pass Creek, BC. The proposed lot sizes are 13.54 ha and 6.5 ha.

Applications for subdivision that fragment the ALR land base, particularly where broad public interest and agricultural benefit are not demonstrated are not supported by RDCK policy. As such, Staff recommend that the Board not support the application.

## SECTION 2: BACKGROUND/ANALYSIS

### GENERAL INFORMATION

<b>Property Owner:</b> Ben Conroy
<b>Property Location:</b> 2335 Pass Creek Road, Pass Creek, Electoral Area 'I'
<b>Legal Description:</b> LOT 3 DISTRICT LOT 8640 KOOTENAY DISTRICT PLAN NEP20936 (PID: 018-541-933)
<b>Property Size:</b> 20.04 hectares (49.52 acres)
<b>Current Zoning:</b> Agriculture 4 (AG4), Zoning Bylaw 1675
<b>Current Official Community Plan Designation:</b> Kootenay Columbia Rivers, Official Community Plan Bylaw No. 1157, 1996 – Agriculture (AG)

### SURROUNDING LAND USES

<b>North:</b> Residential - R3I and R2I
<b>East:</b> Agricultural - AG4 (within ALR)
<b>South:</b> Residential - R2I
<b>West:</b> Residential - R2I

## SITE CONTEXT AND PROPOSAL SUMMARY

The subject property is 20.04 hectares (ha) in size and is entirely located within the ALR. There is cattle and hay production on the site and BC Assessment Authority classifies it as a Farm. The land use designation (Official Community Plan designation) is Agricultural and the parcel is zoned Agriculture 4 (AG4). If approved, the applicant proposes to subdivide the property into two lots. The proponent indicated that he would sell the 6.5 ha parcel with the existing dwelling. The proponent also indicated that he would keep the 13.54 ha parcel. His intent would be to build a new residence on the western side of that parcel and continue to farm a portion of it.

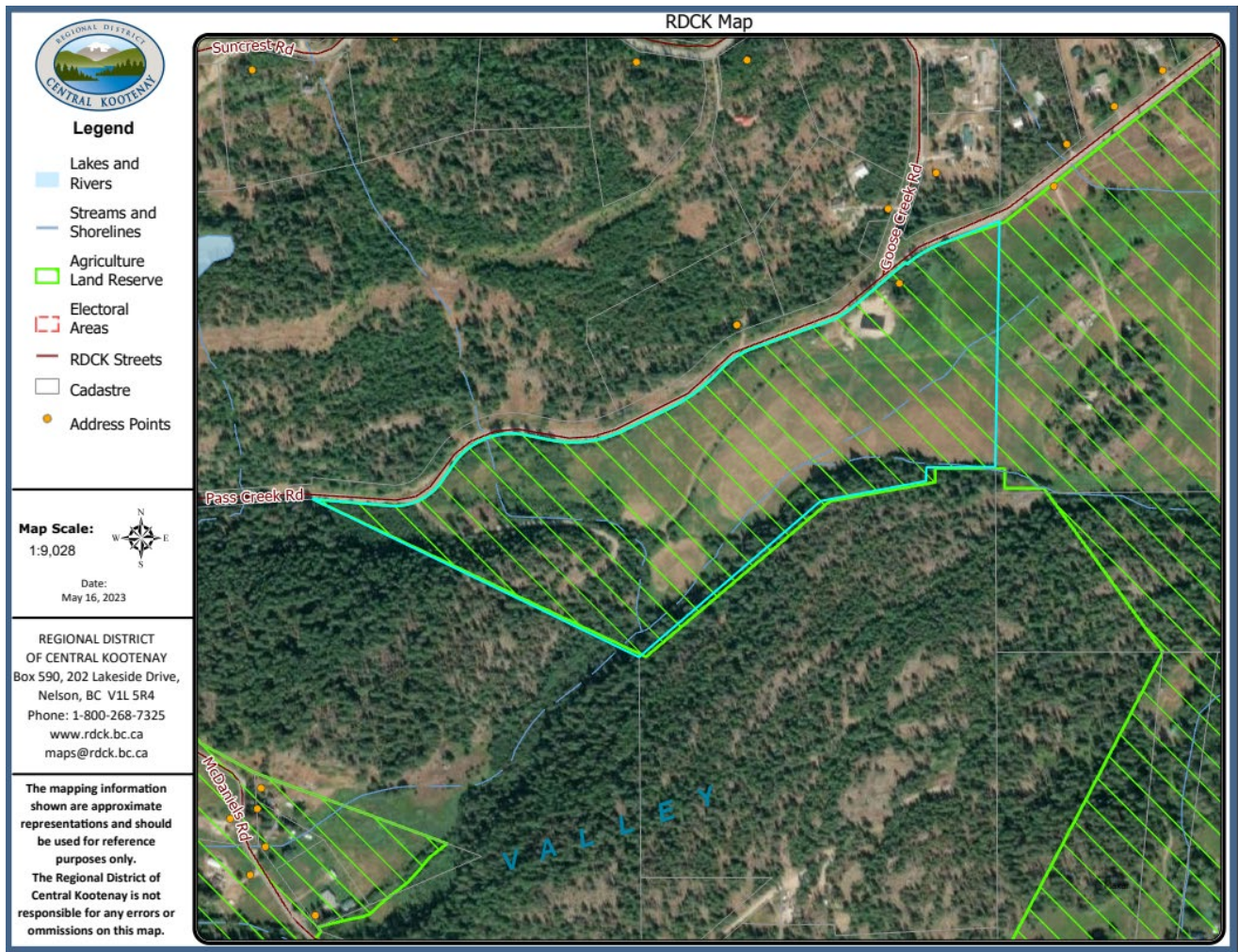


Figure 1: Overview Map showing the boundary of the ALR (green hatched area)



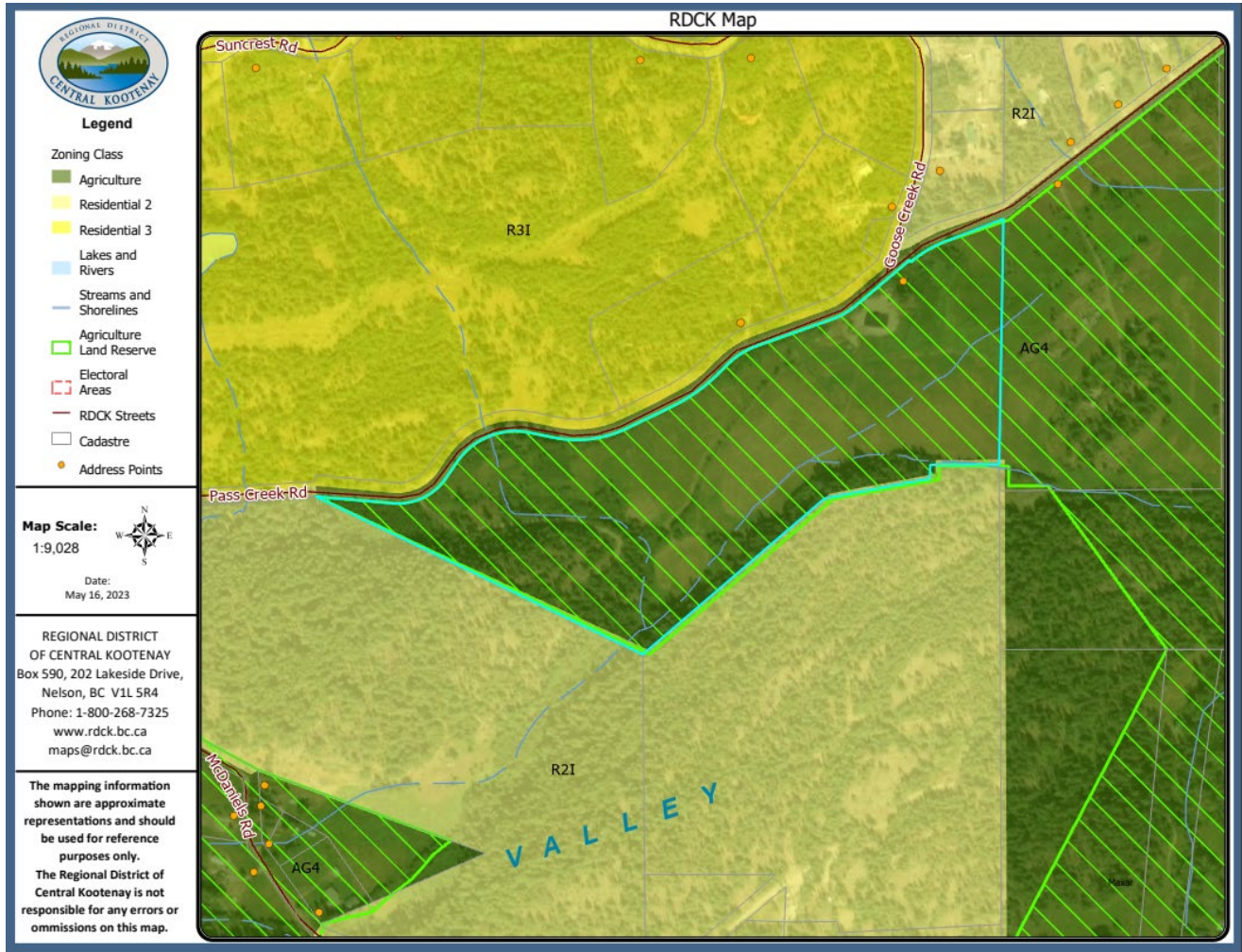


Figure 2: Zoning Map

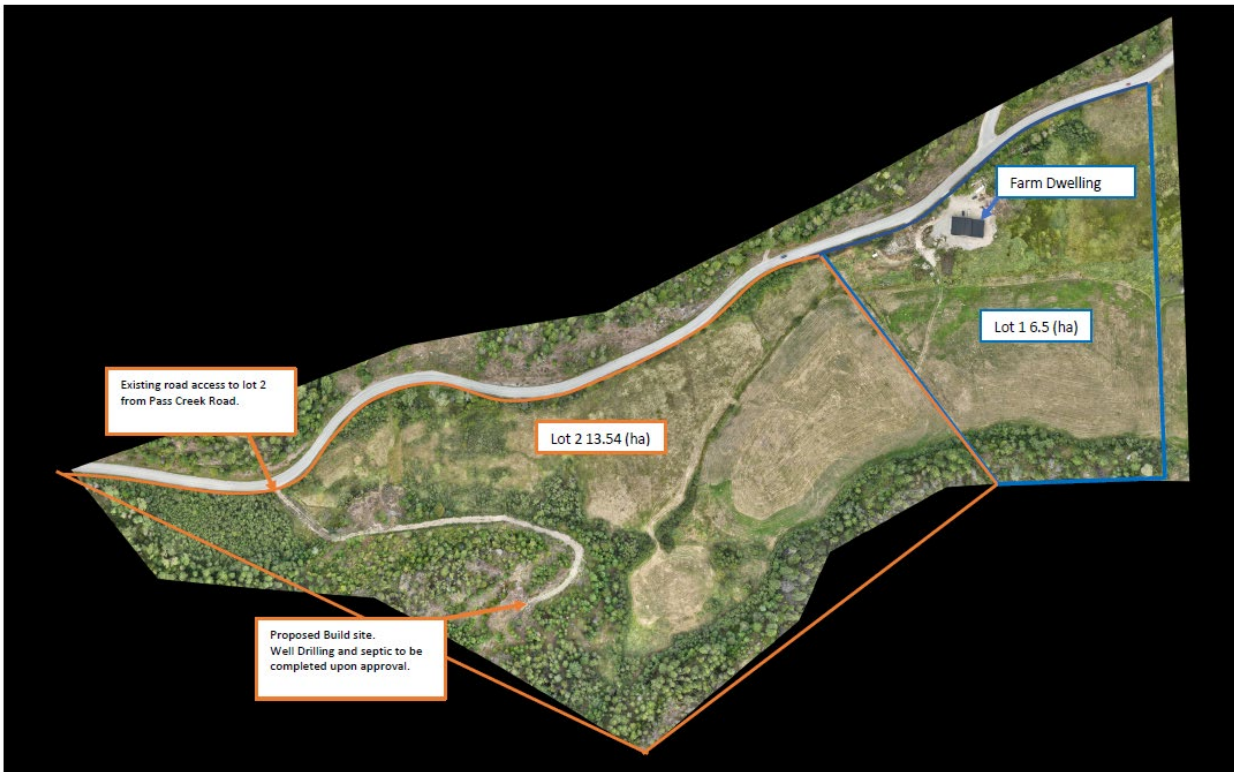


Figure 3: Site Plan

### **Agricultural Area Plan**

In 2011, the RDCK developed an Agricultural Plan with the overall goal of increasing the quantity and quality of agricultural production in the Region.

The purpose of the Agriculture Area Plan is to ensure that the agricultural capability of the area is realized and protected as part of a secure food supply for the region. Agriculture in the Region is characterized by its diversity, with larger operations predominantly in the Creston Valley and many small-lot farms spread across the RDCK. The Plan's recommendations address all sizes and forms of farm operations.

Some of the issues facing farmers and food producers in the region were identified through public consultation when the Agriculture Plan was developed. Some of the issues that are relevant to the current report include:

- ongoing loss of farmland; and,
- farm income cannot support the purchase of land at residential / recreational market values.

The report goes on to make several recommendations which address agricultural viability, capability and secure food supply recommendations. The recommendation relevant to this application are listed below:

### **CAPABILITY RECOMMENDATION #1**

It is recommended that the RDCK continue to use land use planning tools to discourage subdivisions of agricultural land and to encourage the consolidation of contiguous smaller agricultural lots provided they do not result in additional residences (resulting in higher land values for the farm).

**CAPABILITY RECOMMENDATION #3** It is recommended that the RDCK encourage the protection of agricultural land where appropriate, through the Official Community Plan process and other land use planning tools.

### **CAPABILITY RECOMMENDATION #10**

It is recommended that the RDCK encourage the Agricultural Land Commission to update their ALR decision making guidelines incorporating criteria that acknowledges the unique characteristics of this region and the productive capabilities of smaller parcels.

### **Agricultural Land Use Inventory**

The RDCK's Agricultural Land Use Inventory, 2016 (ALUI) was developed for the purpose of building a common understanding of agriculture within the RDCK. There is some agriculture in the area including forage, herb, tree fruits and hay crops. There are livestock operations on the subject property and in the surrounding area. There are no cereal or oilseed crops in the area but there are small areas of mixed vegetable crops including on the subject property.

Within the RDCK, 30% of the effective ALR was in farmed land cover that includes cultivated crops and barns. 23% of ALR parcels were used for farming and 77% were not used for farming.

The Agricultural Land Use Inventory defines the nature of farming practices. Parcel size must be considered when determining the agricultural potential of a parcel. Larger parcels usually allow farmers greater flexibility to expand or change their type of operation as the economy and markets change. Some types of agriculture can be successful on small parcels (e.g. intensive market gardens, nurseries, and poultry), however, the number of viable farming options generally decreases with a reduced parcel size. Smaller parcels are generally more costly per hectare than larger parcels, and can easily be disassembled from larger farm units and sold. Larger parcels accommodate equipment more efficiently and reduce the need to move farm equipment on public roads.

The Inventory outlines that there is evidence that small parcels are less likely than larger parcels to be utilized for farming. In the Regional District there are 1,178 ALR parcels that are less than 1 hectare. Of these parcels, 5% (60 parcels) are "Used for Farming", 21% (245 parcels) are "Available for Farming", and 74% (873 parcels) are "Unavailable for Farming". Residential use accounts for the majority of the small and "Unavailable for Farming" parcels.

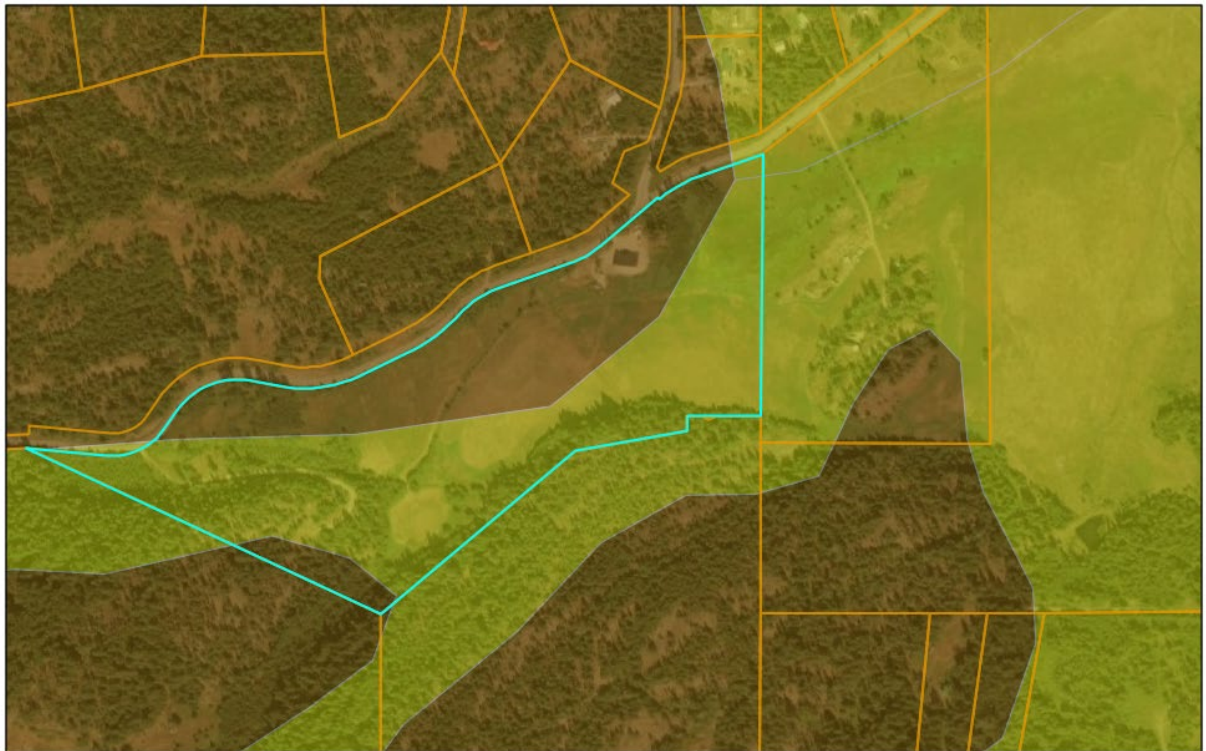
Although the ALUI identifies that the Creston Valley will continue to be the hub of agriculture in the region, the continued fragmentation of larger lots elsewhere in the region can constrain agriculture opportunities and limit the type and amount of agricultural production.

### **Agricultural Capability Rating**

The subject property has an unimproved agricultural capability rating of Class 5 and Class 7 (identified as the green and brown shaded areas in 'Figure 4') with the limitation being excess water, topography and shallow soil over bedrock and/or bedrock outcroppings. The portion of the subject property identified in green has an improved agricultural capability rating of Class 4-5. The limitation subclass is topography and excess water. More details regarding soil classes and limitation subclasses can be found in the tables below.



### Agricultural Capability - RDCK File No. A23031

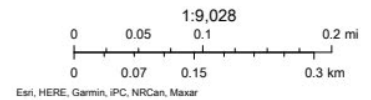


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ParcelMap BC Parcel Fabric 7

Agricultural Capability

5



Web AppBuilder for ArcGIS  
Maxar | Esri, HERE, Garmin, IPC, NRCAN |

Figure 4: Unimproved Agricultural Capability Rating

Soil Class	Description
Class 4	Land in this class has limitations that require special management practices or severely restrict the range of crops, or both.
Class 5	Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.
Class 7	Land in this class has no capability for arable or sustained natural grazing.

Limitation Subclass	Description
R	Shallow soil over bedrock and/or bedrock outcroppings
T	Topography
W	Excess water (groundwater)

### Soil Type

The Soil Resources of the Nelson Area published by the BC Ministry of Environment categorizes soils having similar agriculturally important characteristics into 'soil association descriptions'. The subject property is composed of soils from the Avis and Glenlily Soil Association. The shaded areas in 'Figure 5' identifies the portions of the lot that are composed of 80% Avis soil and 20% Glenlily soil. Descriptions of each soil type are included in table below:

Soil Class	Description
Avis	Avis soils are widely variable in texture, stoniness and wetness. Most non-flooding, stone-free map units are very suitable for agricultural production. The region has a shortage of good agricultural land making these soils valuable for agricultural use.
Glenlily	Glenlily soils have low capability for agricultural use. Low soil moisture holding capacity and severe stoniness limit the range of crops possible. Irrigation is required for most crops.

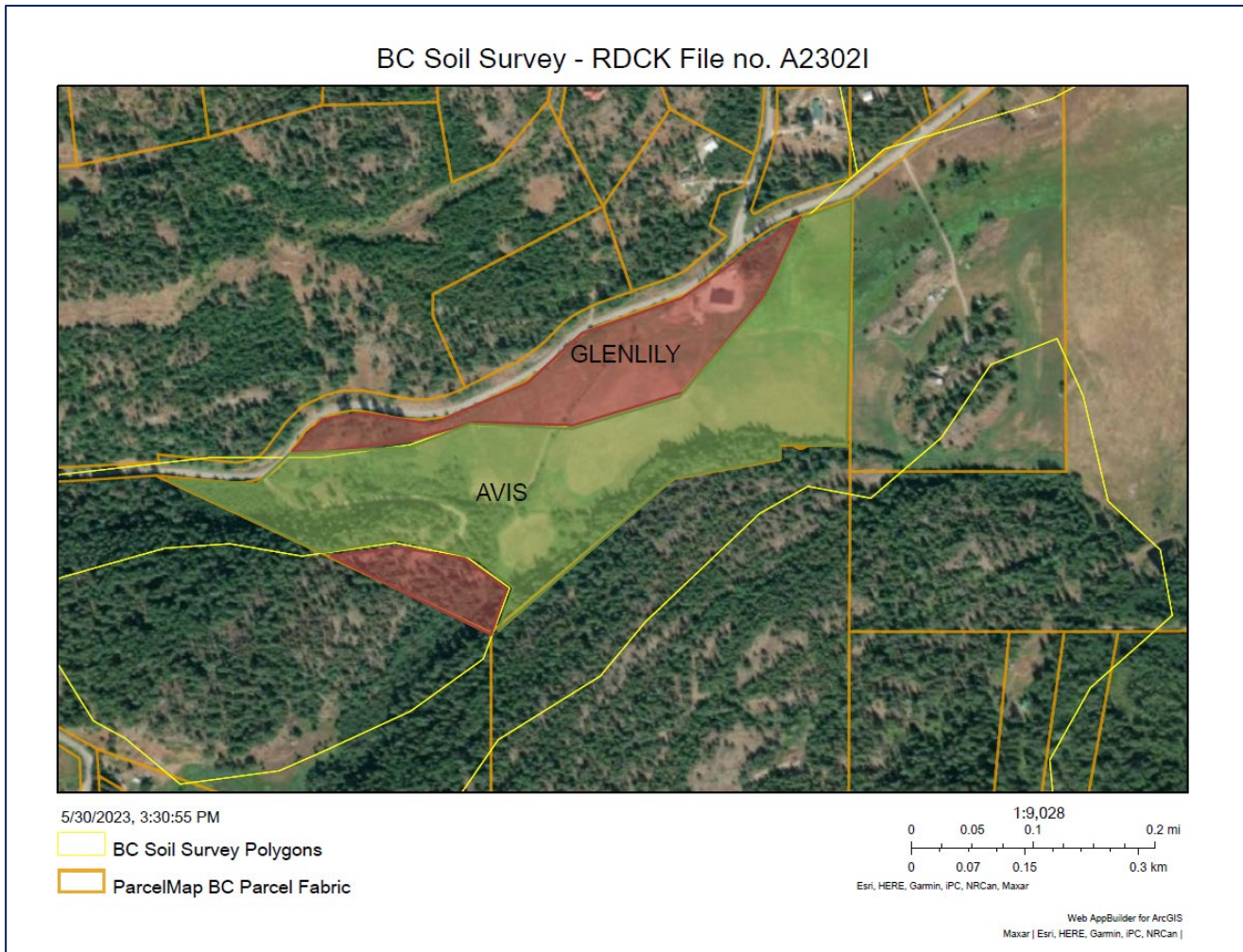


Figure 5: BC Soil Survey Map

**Archaeological Potential**

A portion of the subject property is noted as having ‘high’ archaeological potential (Study: ARROW; ID: 84; Permit: 1996). Staff have advised the property owner that archaeological sites (both recorded and unrecorded) are protected under the Heritage Conservation Act and must not be altered or damaged without a permit from the Archaeology Branch. If any land-altering development is planned for the property, owners and operators should be notified that if an archaeological site is encountered during development, activities must be halted and the Archaeology Branch contacted at 250-953-3334 for direction.

The Archaeology Branch provided the following comments regarding this proposal: *“Generally if there is high potential for archaeological material, we recommend an archaeological impact assessment is completed under a HCA S12.2 Inspection permit. For subdivision this can be different as there may not be proposed impacts or ground disturbance. The AOA should include specific management recommendations addressing potential for impacts to archaeological sites. For subdivision with Ministry of Transportation we are required to identify encumbrances in advance of subdivision so there is generally an AIA. Any further comment from us would be dependent on the results and management recommendations of the AOA.”*

**SECTION 3: DETAILED ANALYSIS**

**3.1 Financial Considerations – Cost and Resource Allocations:**

**Included in Financial Plan:**  Yes  No      **Financial Plan Amendment:**  Yes  No  
**Debt Bylaw Required:**  Yes  No      **Public/Gov’t Approvals Required:**  Yes  No

The applicant has paid the \$750 RDCK Referral Fee pursuant to the Planning Fees and Procedures Bylaw No. 2457, 2015.

**3.2 Legislative Considerations (Applicable Policies and/or Bylaws):**

This application was processed in accordance with Planning Fees and Procedures Bylaw No. 2457, 2015.

**Agricultural Land Commission Act (ALCA)**

As per Section 25(1) of the Act, when making a decision on an application for a subdivision in the ALR the Agricultural Land Commission may do one of the following:

- (a) refuse permission;
- (b) grant permission;
- (c) grant permission for an alternative non-farm use or subdivision.

Section 25(3) of the ALCA states that a subdivision application may not proceed to the ALC unless authorized by resolution of the local government. Section 34 states that a local government may include comments and recommendations regarding an application should it resolve to forward the application to the ALC.

**Kootenay-Columbia Rivers Official Community Plan Bylaw No. 1157, 1996**

**2.3 Agricultural Objectives:**

<b>2.3.1</b>	To identify lands with continuing value for agriculture.
<b>2.3.2</b>	To encourage the protection and agricultural use of land with continuing value for agriculture.
<b>2.3.3</b>	To encourage optimum use and development of agricultural activities on agricultural land.
<b>2.3.4</b>	To encourage agricultural practices that do not adversely affect the surrounding environment nor compromise the capability of the land for future food production.

<b>2.3.5</b>	To minimize conflicts between agriculture and other land uses.
<b>2.3.6</b>	To propose options for the marketing of locally produced agricultural products.
<b>2.3.7</b>	To promote buffered cluster development to maximize the preservation of suitable agricultural land within the Agricultural Land Reserve.

### 3.4 Agricultural Policies:

<b>3.4.1</b>	The principal use of lands designated as Agriculture on Schedule 'B' - Land Use Designations shall be agriculture.
<b>3.4.2</b>	All land within the Agricultural Land Reserve shall be zoned for agricultural use unless otherwise approved by the Agricultural Land Commission.
<b>3.4.3</b>	All land use and subdivision of land within the Agricultural Land Reserve shall be in accordance with the provisions of the B.C. Agricultural Land Commission Act, associated regulations, orders and decisions of the Agricultural Land Commission.
<b>3.4.4</b>	Unless the need for additional dwellings is in conjunction with the agricultural operation, only one dwelling shall be permitted per lot unless approved by the Agricultural Land Commission.
<b>3.4.5</b>	The average lot size for subdivision of Agricultural land shall be two (2) hectares.
<b>3.4.12</b>	The Board of the Regional District shall support the retention of suitable farm land within the Agricultural Land Reserve.

#### **RDCK Zoning Bylaw No. 1675, 2004**

The subject property is zoned Agriculture 4 (AG4) in Zoning Bylaw No. 1675. The lot sizes proposed by this ALC Subdivision Application comply with the 2 hectare minimum lot area that is required in the AG4 zone.

The **RDCK Subdivision Bylaw No. 2159** directs that each proposed lot be assessed for Type 1 septic disposal and have independent sources of water for each proposed lot.

### **3.3 Environmental Considerations**

None anticipated.

### **3.4 Social Considerations:**

There is no public benefit associated with the application.

### **3.5 Economic Considerations:**

None anticipated.

### **3.6 Communication Considerations:**

The application was referred to various groups including the Ministry of Agriculture and Food, as well as the Director for Electoral Area 'I'. The following comments were received:

#### **Ministry of Agriculture & Food – Land Use Planner and Regional Agrologist**

*Thank you for providing Ministry of Agriculture and Food (Ministry) staff the opportunity to comment on File A23031 that proposes to subdivide the 20 ha Subject Property into two parcels measuring 13.5 ha and 6.5 ha. From an agricultural planning perspective, Ministry staff offer the following comments:*



- *The Subject Property is located within a large block of land in the Agricultural Land Reserve (ALR), is entirely within the ALR and approximately 12.1 ha is used for hay production and grazing for 7-10 beef cattle.*
- *The proposed subdivision is primarily being requested for financial reasons as the landowner intends to sell the 6.5 ha parcel.*
- *Subdivision and the creation of smaller lots can erode long-term agricultural potential of properties and increase land cost per acre due to increased residential and accessory structures which can limit farm business opportunities and in some cases, have been shown to increase conflict between adjacent land uses.*
- *Ministry data, through Agricultural Land Use Inventories (ALUI), consistently shows that smaller agricultural lots are less likely to be farmed.*
- *A recent 2022 Kwantlen Polytechnic University study states that in regions of B.C. reviewed, “30% of all new parcels created as a result of subdivision ceased to have a farm class status”, and “64% of all the parcels had their ownerships transferred within three years after non-farm use and subdivision applications were approved. This percentage becomes higher for subdivided parcels” (Summary Results, p.1-2).*
- *Ultimately, the proposed subdivision does not appear to be beneficial for agriculture.*

#### **Building Department Response**

No building, no building department comments  
Existing structure spatial separation should not be affected

#### **3.7 Staffing/Departmental Workplace Considerations:**

Not applicable.

#### **3.8 Board Strategic Plan/Priorities Considerations:**

Not applicable.

### **SECTION 4: OPTIONS & PROS / CONS**

#### **PLANNING DISCUSSION**

The subject property is located in an area that has moderate agricultural capability and it is currently used for residential and agricultural purposes. Although the overall agricultural capability of the property is considered moderate and may not be able to support intensive agriculture in the form of arable crops, the overall lot size (20.04 hectares) provides the ability to operate agricultural activities on the property that may not be feasible on a smaller parcel.

In the ALC application, the applicant indicated that a subdivision is being sought for financial reasons. The applicant indicated that if the subdivision is approved, he would sell the lot with the existing dwelling and build himself a new dwelling on the larger parcel on which he would continue farming. The applicant indicated that the subdivision would support ongoing farming, however there is nothing to prevent the proposed lots from being used for residential purposes and not for farming. The creation of smaller agricultural parcels are correlated with less agricultural activity. The agricultural capability of the proposed lot would further be eroded by the site area that is required for a dwelling, on-site servicing requirements (i.e. private well and septic systems), driveways, parking areas and storage areas.

Planning Services has been consistent in not supporting applications for subdivision that fragment the ALR land base, particularly where broad public interest and agricultural benefit is not demonstrated. The RDCK's Agricultural Area Plan recommends that the RDCK continue to use land use planning tools to discourage subdivisions of agricultural land. Only 2.5% of the RDCK's land base is suitable for agriculture. Once the land is shifted to another use (i.e. rural residential development) it is virtually impossible to return it to agriculture. For all of the above reasons, staff recommend that the Board not support the application.

### **Options**

#### **Option 1:**

That the Board NOT SUPPORT application A23031 for the proposed subdivision in the Agricultural Land Reserve proposed by Ben Conroy for property located at 2335 Pass Creek Road, Electoral Area 'I' and legally described as LOT 3 DISTRICT LOT 8640 KOOTENAY DISTRICT PLAN NEP20936 (PID: 018-541-933).

Should the Board choose to not support the application, it would not be forwarded to the ALC for a decision, in accordance with the RDCK Planning Procedures and Fees Bylaw and the *Agricultural Land Commission Act*.

#### **Option 2:**

That the Board PROVIDE NO COMMENT regarding application A22051 regarding application A23031 for the proposed subdivision in the Agricultural Land Reserve proposed by Ben Conroy for property located at 2335 Pass Creek Road, Electoral Area 'I' and legally described as LOT 3 DISTRICT LOT 8640 KOOTENAY DISTRICT PLAN NEP20936 (PID: 018-541-933).

Should the Board choose to provide no comment on the application, it would be forwarded to the ALC for a decision, in accordance with the RDCK Planning Procedures and Fees Bylaw and the *Agricultural Land Commission Act*.

## **SECTION 5: RECOMMENDATIONS**

That the Board NOT SUPPORT application A23031 for the proposed subdivision in the Agricultural Land Reserve proposed by Ben Conroy for property located at 2335 Pass Creek Road, Electoral Area 'I' and legally described as LOT 3 DISTRICT LOT 8640 KOOTENAY DISTRICT PLAN NEP20936 (PID: 018-541-933).

Respectfully submitted,

Originally signed by

Sadie Chezenko, Planner

### **CONCURRENCE**

Planning Manager – Digitally approved by Nelson Wight

General Manager Development & Sustainability – Digitally approved by Sangita Sudan

Chief Administrative Officer – Digitally approved by Stuart Horn



**ATTACHMENTS:**  
**Attachment A – ALC Application**



# Provincial Agricultural Land Commission - Applicant Submission

**Application ID:** 67314

**Application Status:** Under LG Review

**Applicant:** Ben Conroy

**Local Government:** Central Kootenay Regional District

**Local Government Date of Receipt:** 01/19/2023

**ALC Date of Receipt:** This application has not been submitted to ALC yet.

**Proposal Type:** Subdivision

**Proposal:** The farmable arable land is greater than what I personally require for my hay and cattle hobby operation. In addition, the property as/is, is not big enough to produce a living income and has such I have to work full time to support myself and the farm! Also, the construction of my new dwelling was over budget due to price inflation caused by the covid-19 pandemic and this has caused undue hardship. Subdividing will provide myself with a more manageable sized farm that can still support my hobby farm operation. Also, this will provide financial support and options to sell lot 1 with the existing dwelling and build myself a new farm dwelling on the subdivided 13.54 ha parcel. None of the arable farm land will be impacted or changed by this subdivision into two lots as the secondary build site is on a wooded, rocky hill location that is unsuitable for any farming activity.

## **Mailing Address :**

2335 Pass Creek Road

Castlegar, BC

V1N 4T4

Canada

**Primary Phone :** (250) 513-6060

**Email :** conroyben@hotmail.com

## **Parcel Information**

### **Parcel(s) Under Application**

1. **Ownership Type :** Fee Simple

**Parcel Identifier :** 018-541-933

**Legal Description :** LOT 3 PLAN NEP20936 DISTRICT LOT 8640 KOOTENAY LAND DISTRICT

**Parcel Area :** 20.04 ha

**Civic Address :** 2335 Pass Creek Road, Castlegar BC, V1N4T4

**Date of Purchase :** 10/05/2007

**Farm Classification :** Yes

#### **Owners**

1. **Name :** Ben Conroy

**Address :**

2335 Pass Creek Road

Castlegar, BC

V1N 4T4

Canada  
**Phone :** (250) 513-6060  
**Email :** conroyben@hotmail.com

---

## Current Use of Parcels Under Application

### 1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).

*The current agriculture activity consists of 12.15 ha of hay production and livestock grazing land for 7-10 beef cattle. The hay production provides enough feed for my personal cattle over the winter and the remaining hay is sold locally to support local hobby farmers.*

### 2. Quantify and describe in detail all agricultural improvements made to the parcel(s).

*Agricultural improvements from 2007 on include, EFP Environmental Farm Plan assessment as of 2022, improved fencing, soil samples done by interior seed and fertilizer, pasture hay and grazing crop seeding was applied in 2022 based on soil sample recommendations, drainage management plan, upgraded culverts for drainage ditches and the application for water irrigation rights off the local Kinney creek stream. In addition, a farm dwelling was built and occupied in 2022.*

### 3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).

N/A

## Adjacent Land Uses

### North

**Land Use Type:** Residential

**Specify Activity :** Subdivisions and other (Non ALR lots)

### East

**Land Use Type:** Agricultural/Farm

**Specify Activity :** Hay and horses (ALR land)

### South

**Land Use Type:** Other

**Specify Activity :** Unused private land with no permanent dwelling (Non ALR)

### West

**Land Use Type:** Other

**Specify Activity :** Unused private land with no permanent dwelling (Non ALR)

## Proposal

### 1. Enter the total number of lots proposed for your property.

6.5 ha

13.54 ha

## **2. What is the purpose of the proposal?**

*The farmable arable land is greater than what I personally require for my hay and cattle hobby operation. In addition, the property as/is, is not big enough to produce a living income and has such I have to work full time to support myself and the farm! Also, the construction of my new dwelling was over budget due to price inflation caused by the covid-19 pandemic and this has caused undue hardship. Subdividing will provide myself with a more manageable sized farm that can still support my hobby farm operation. Also, this will provide financial support and options to sell lot 1 with the existing dwelling and build myself a new farm dwelling on the subdivided 13.54 ha parcel. None of the arable farm land will be impacted or changed by this subdivision into two lots as the secondary build site is on a wooded, rocky hill location that is unsuitable for any farming activity.*

## **3. Why do you believe this parcel is suitable for subdivision?**

*The additional parcel to be created will continue to support on going Hobby Farm/Agricultural use, hence it will not be lost for Farm Usage! The overall shape of the parcel provides excellent pasture range on both parcels, aswell as, access to the main road in which a drive way access road for both lots was established many years ago. The creek also runs along the south of both parcels providing water and future irrigation for both. And finally, the proposed lots will be 3 and 7 times larger than the minimum lot size requirements within the RDCK regulations for AG4 zoning. The overall size of each lot is very adequate for small to medium scale farming that could greatly benefit the region.*

## **4. Does the proposal support agriculture in the short or long term? Please explain.**

*This subdivision will not remove any property from the ALR and will support ongoing farm usage...and in the end, the opportunity may increase the overall farm production for bees, honey, vegetables, chickens, livestock, hay production and more. None of the agricultural land will be changed once the two parcels are approved. Hay and cattle will still remain.*

## **5. Are you applying for subdivision pursuant to the ALC Homesite Severance Policy? If yes, please submit proof of property ownership prior to December 21, 1972 and proof of continued occupancy in the "Upload Attachments" section.**

*No*

## **Applicant Attachments**

- Site Photo - All Site Photos
- Other correspondence or file information - BC Assessment
- Other correspondence or file information - Area Map - West Kootenay
- Proposal Sketch - 67314
- Professional Report - Drainage Management Map
- Other correspondence or file information - Property Boundary Map
- Other correspondence or file information - Property Surveyors Map
- Other correspondence or file information - Property Survey Map
- Other correspondence or file information - Application for irrigation water rights
- Professional Report - Digital Property Elevation Map
- Certificate of Title - 018-541-933

## **ALC Attachments**

None.

## **Decisions**

None.



# Committee Report

**Date of Report:** June 30, 2023  
**Date & Type of Meeting:** July 19, 2023, Rural Affairs Committee  
**Author:** Zachari Giacomazzo, Planner  
**Subject:** SUBDIVISION IN THE AGRICULTURAL LAND RESERVE  
**File:** A2304K – Yaremccio  
**Electoral Area/Municipality** K

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Board to consider an Agricultural Land Commission (ALC) application for a proposed subdivision within the Agricultural Land Reserve (ALR) at 350 Lower Inonoaklin North Branch Road approximately 8 km north of Edgewood, BC.

This proposed ALC Subdivision application seeks to subdivide an existing 10 ha lot into one 3 ha parcel and one 7 hectare parcel.

The application is not aligned with the RDCK Agriculture policies within *Electoral Area ‘K’ Official Community Plan Bylaw No. 2022, 2013* and recommendations in the RDCK Agriculture Plan. Therefore, Staff recommend that the Regional Board not support the application.

## SECTION 2: BACKGROUND/ANALYSIS

### GENERAL INFORMATION

<b>Property Owners:</b> Donald Lee Yaremccio and Kathryn Brianne Yaremccio
<b>Property Location:</b> 350 Lower Inonoaklin North Branch Road, Electoral Area ‘K’
<b>Legal Description:</b> LOT 4 DISTRICT LOT 8132 KOOTENAY DISTRICT PLAN 16455 (PID: 007-974-264)
<b>Property Size:</b> 10 hectares (24.7 acres)
<b>Current Zoning:</b> Agriculture 4 K (AG4K) in RDCK Zoning Bylaw No. 1675, 2004
<b>Current Official Community Plan Designation:</b> Agriculture (AG) in Electoral Area ‘K’ Official Community Plan Bylaw No. 2022, 2009

### SURROUNDING LAND USES

<b>North:</b> Rural Residential
<b>East:</b> Open Space (Arrow Lake)
<b>South:</b> Agriculture (within ALR)
<b>West:</b> Rural Residential and Open Space

## SITE CONTEXT AND PROPOSAL SUMMARY

The subject lands are 10 hectares in size and located approximately 8 km north of Edgewood, BC in Electoral Area ‘K’. 8.4 ha of the lot are within the ALR with a 1.6 ha portion on the west side of the property outside of the ALR. There is an existing dwelling and a pole barn on the property however the land is not currently being used



for agriculture. The applicants have indicated that the purpose of the subdivision application is to sell the proposed 3 ha lot in order to allow the property owners to invest into farming the 7 ha remainder.

Proposed ALC Subdivision (RDCK File No. A2304K)



REGIONAL DISTRICT OF CENTRAL KOOTENAY  
 Box 590, 202 Lakeside Drive,  
 Nelson, BC V1L 5R4  
 Phone: 1-800-268-7325 www.rdck.bc.ca  
 maps@rdck.bc.ca

**Legend**

-  Agriculture Land Reserve
-  Electoral Areas
-  RDCK Streets
-  Cadastre
-  Address Points

**Map Scale:**

1:5,000

Date: June 27, 2023

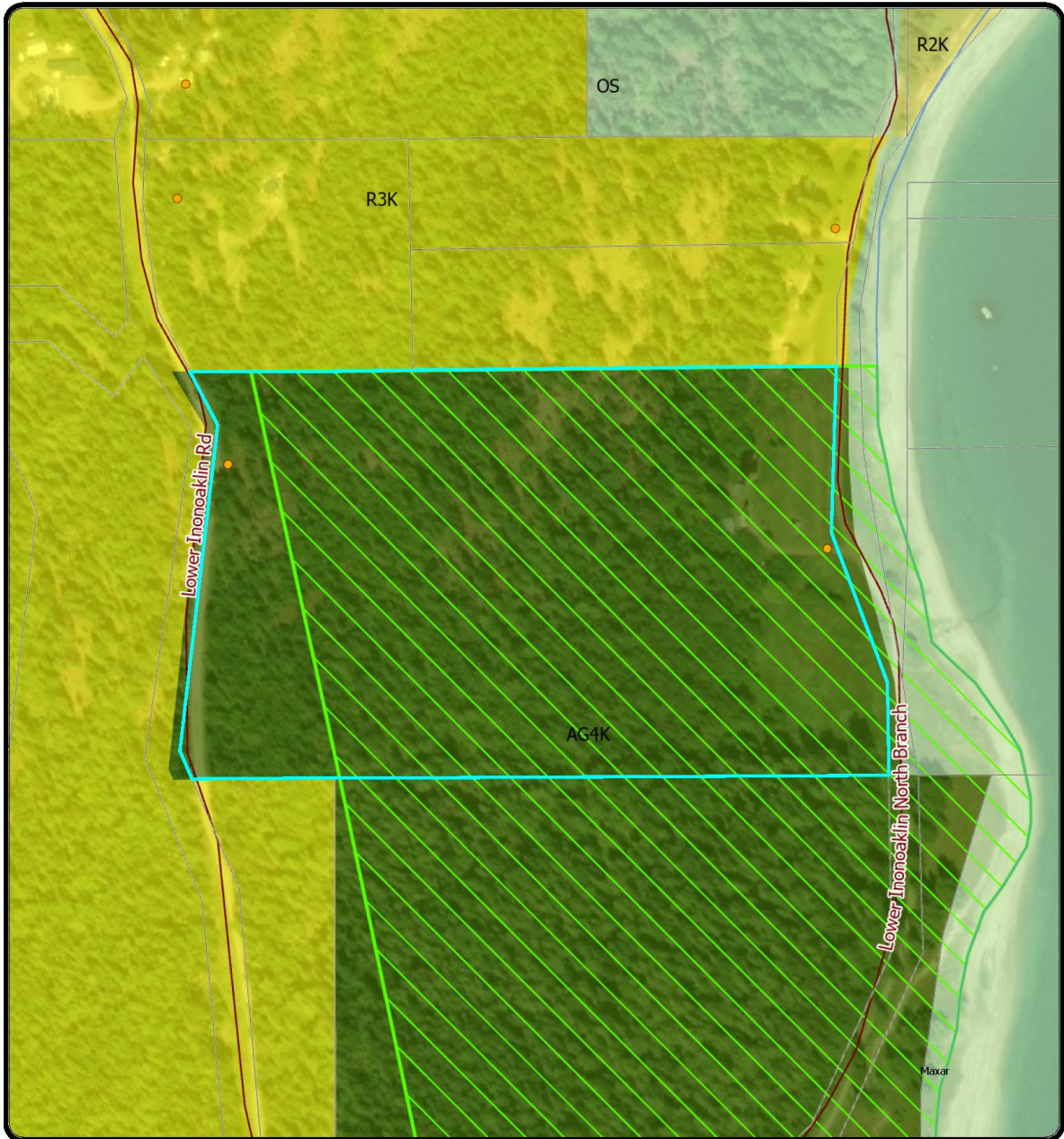


The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.

Figure 1: Overview Map showing the boundary of the ALR (green hatched area)



Proposed ALC Subdivision (RDCK File No. A2304K)



REGIONAL DISTRICT OF CENTRAL KOOTENAY  
 Box 590, 202 Lakeside Drive,  
 Nelson, BC V1L 5R4  
 Phone: 1-800-268-7325 www.rdck.bc.ca  
 maps@rdck.bc.ca

**Zoning Class**

- Agriculture
- Open Space
- Residential 2
- Residential 3
- Streams and Shorelines

**Legend**

- Agriculture Land Reserve
- Electoral Areas
- RDCK Streets
- Cadastre
- Address Points

**Map Scale:**

1:5,000

Date: June 27, 2023



The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.

Figure 2: Zoning Map

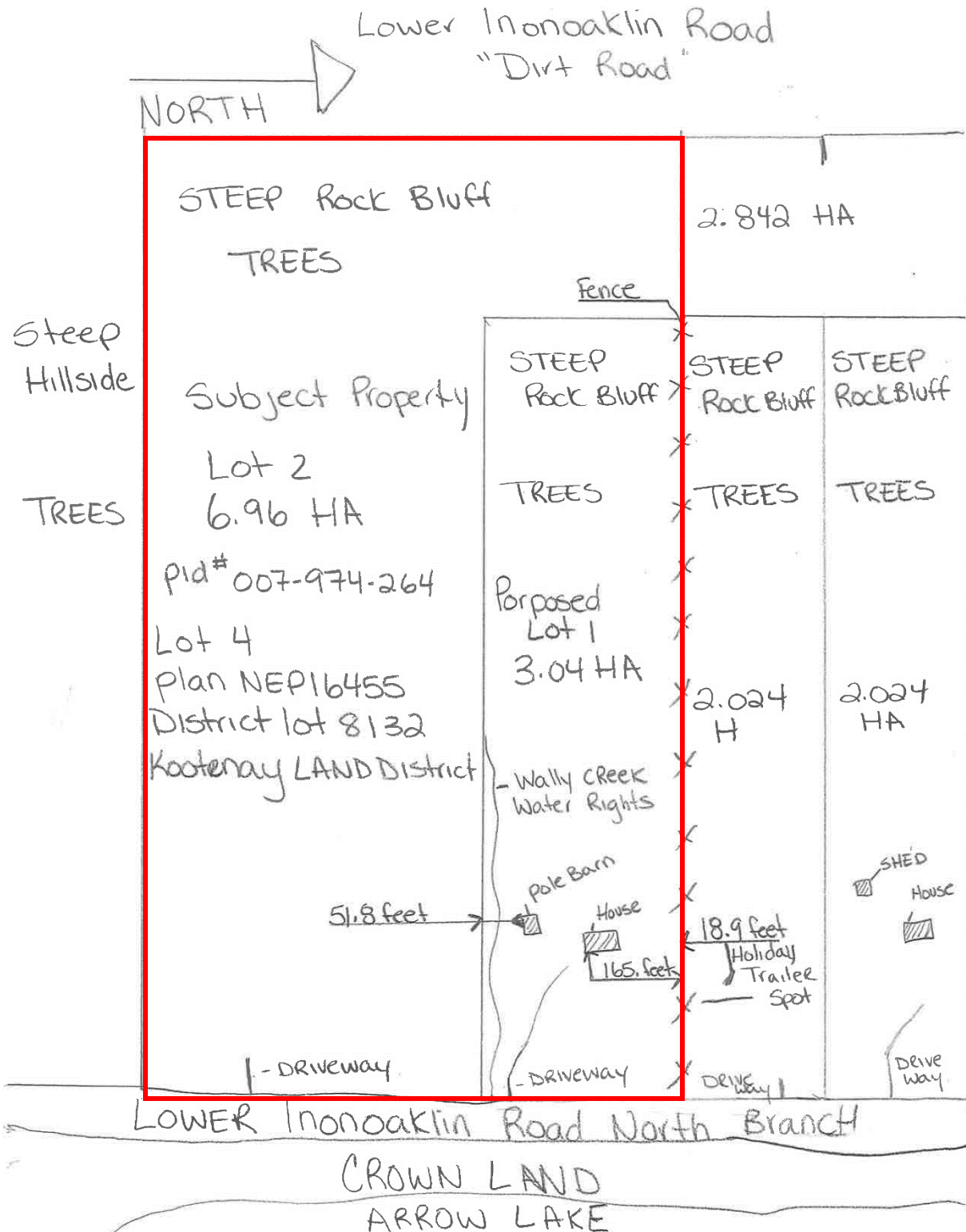


Figure 3: Proposed Subdivision Plan with subject property outlined red

### **Agricultural Area Plan**

In 2011, the RDCK developed an Agricultural Plan with the overall goal of increasing the quantity and quality of agricultural production in the Region.

The purpose of the Agriculture Area Plan is to ensure that the agricultural capability of the area is realized and protected as part of a secure food supply for the region. Agriculture in the Region is characterized by its diversity, with larger operations predominantly in the Creston Valley and many small-lot farms spread across the RDCK. The Plan's recommendations address all sizes and forms of farm operations.

Some of the issues facing farmers and food producers in the region were identified through public consultation when the Agriculture Plan was developed. Some of the issues that are relevant to the current report include:

- ongoing loss of farmland; and,
- farm income cannot support the purchase of land at residential / recreational market values.

The report goes on to make several recommendations which address agricultural viability, capability and secure food supply recommendations. The recommendation relevant to this application are listed below:

#### **CAPABILITY RECOMMENDATION #1**

It is recommended that the RDCK continue to use land use planning tools to discourage subdivisions of agricultural land and to encourage the consolidation of contiguous smaller agricultural lots provided they do not result in additional residences (resulting in higher land values for the farm).

**CAPABILITY RECOMMENDATION #3** It is recommended that the RDCK encourage the protection of agricultural land where appropriate, through the Official Community Plan process and other land use planning tools.

### **Agricultural Land Use Inventory**

The RDCK's Agricultural Land Use Inventory, 2016 (ALUI) was developed for the purpose of building a common understanding of agriculture within the RDCK.

There is some agriculture in the area, however, most of the agricultural uses in the area are forage and pasture, livestock (beef) or equestrian related uses. There are no fruit tree farms, cereal or oilseed crops or any significant vegetable production.

Within the RDCK, 30% of the effective ALR was in farmed land cover that includes cultivated crops and barns. 23% of ALR parcels were used for farming and 77% were not used for farming. Farming activities include forage and pasture, cereals and oilseeds, and tree fruits.

The ALUI defines the nature of farming practices. Parcel size must be considered when determining the agricultural potential of a parcel. Larger parcels usually allow farmers greater flexibility to expand or change their type of operation as the economy and markets change. Some types of agriculture can be successful on small parcels (e.g. intensive market gardens, nurseries, and poultry), however, the number of viable farming options generally decreases with a reduced parcel size. Smaller parcels are generally more costly per hectare than larger parcels, and can easily be disassembled from larger farm units and sold. Larger parcels accommodate equipment more efficiently and reduce the need to move farm equipment on public roads.



The Inventory outlines that there is evidence that small parcels are less likely than larger parcels to be utilized for farming. In the Regional District there are 1,178 ALR parcels that are less than 1 hectare. Of these parcels, 5% (60 parcels) are “Used for Farming”, 21% (245 parcels) are “Available for Farming”, and 74% (873 parcels) are “Unavailable for Farming”. Residential use accounts for the majority of the small and “Unavailable for Farming” parcels.

Although the ALUI identifies that the Creston Valley will continue to be the hub of agriculture in the region, the continued fragmentation of larger lots elsewhere in the region can constrain agriculture opportunities and limit the type and amount of agricultural production.

**Agricultural Capability Rating**

The majority of the subject lands do not present a high level of agricultural capability however, the south eastern portion of the lot is an existing open field with an unimproved capability rating of 3-4. This portion of the lot presently has no existing buildings or structures and is part of the proposed lot that will retained by the applicants. Please see Figure 4 for a map which shows the different portions of the subject lands with colour-coded capability ratings.

Approximately 78% of the subject property has an unimproved agricultural capability rating of Class 6-7 with the limitation subclass being topography and shallow soil over bedrock and/or bedrock outcroppings. The remaining 22% of the property has a capability rating of 3-4 with the limitation subclass being topography undesirable soil structure and soil moisture deficiency.

More details regarding soil classes and limitation subclasses can be found in the tables on page 10.

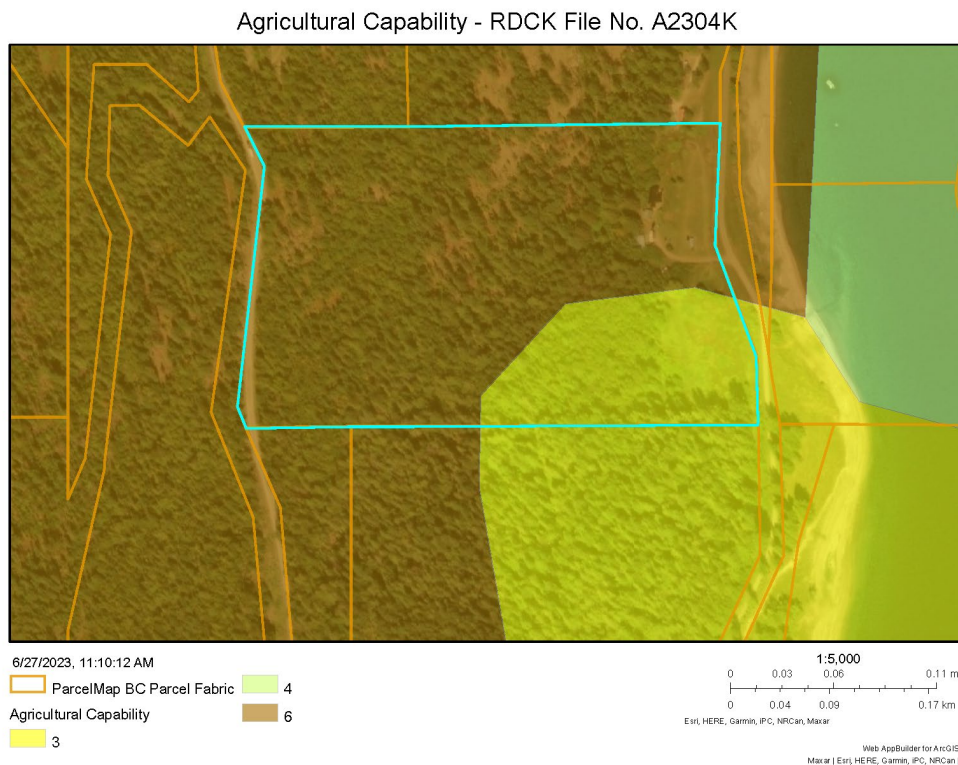


Figure 4: Unimproved Agricultural Capability Rating



Soil Class	Description
Class 3	Land in this class has limitations that require moderately intensive management practises or moderately restrict the range of crops or both.
Class 4	Land in this class has limitations that require special management practices or severely restrict the range of crops, or both.
Class 6	Land in this class is non-arable but is capable of producing native and or uncultivated perennial forage crops.
Class 7	Land in this class has no capability for arable or sustained natural grazing.

Limitation Subclass	Description
D	Undesirable soil structure
M	Soil moisture deficiency
R	Shallow soil over bedrock and/or bedrock outcroppings
T	Topography

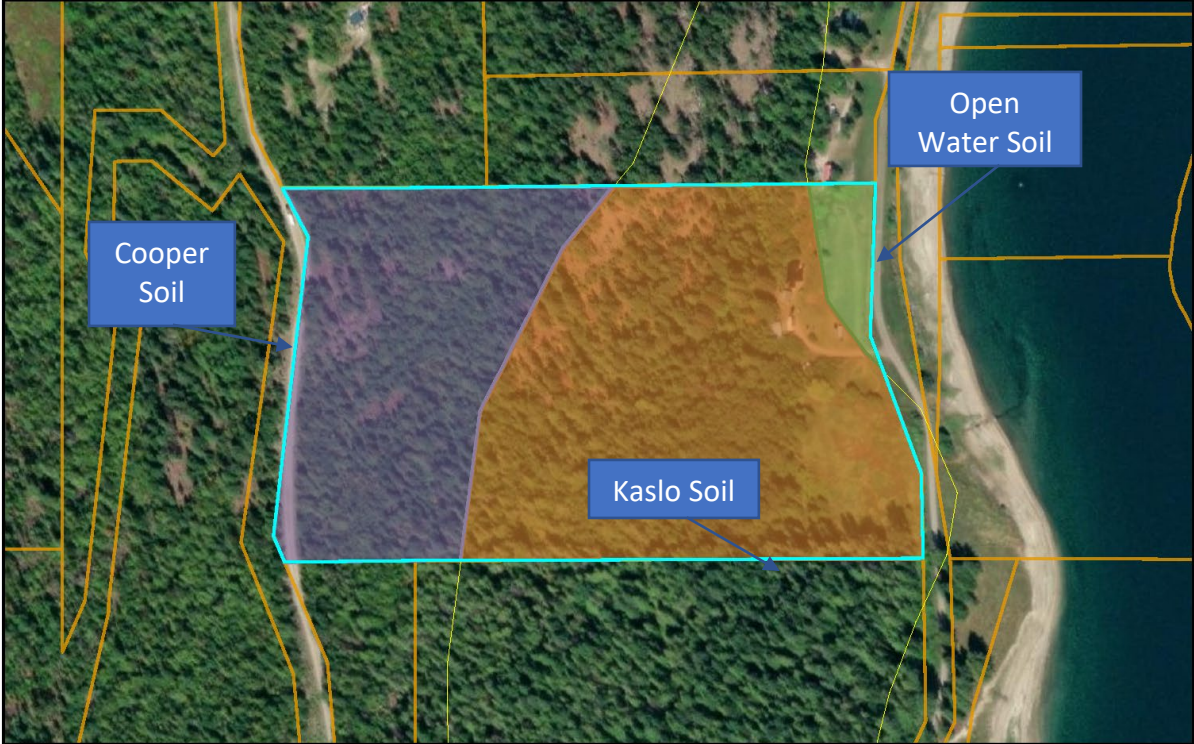
### Soil Type

Data for the Soils of the Penticton Area are published by the Government of Canada through the Canadian Soil Information Service (CanSIS). The subject property is comprised of soils from the Cooper, Kaslo and Open Water associations. Figure 5 shows how the subject lands are divided by the aforementioned soil associations. Descriptions of each soil type are included in the following table.

Soil Class	Description
Cooper	<ul style="list-style-type: none"> <li>- The soil material is primarily composed of mineral particles.</li> <li>- The water table is not present in the soil at any time.</li> <li>- The growth of plant roots is restricted by the fifth layer.</li> <li>- The root restricting layer is Lithic (consolidated bedrock)</li> <li>- Water is removed from the soil readily but not rapidly. Excess water flows downward readily into underlying pervious material or laterally as subsurface flow. Soils have intermediate available water storage capacity (4-5 cm) within the control section, and are generally intermediate in texture and depth. Water source is precipitation. On slopes subsurface flow may occur for short durations, but additions are equaled by losses.</li> </ul>
Kaslo	<ul style="list-style-type: none"> <li>- The soil material is primarily composed of mineral particles.</li> <li>- The water table is not present in the soil at any time.</li> <li>- The growth of plant roots is not restricted by any soil layer.</li> <li>- Water is removed from the soil rapidly in relation to supply. Excess water flows downward if underlying material is pervious. Subsurface flow may occur on steep gradients during heavy rainfall. Soils have low available water storage capacity (2.5-4 cm) within the control section, and are usually coarse textured, or shallow, or both. Water source is precipitation.</li> </ul>
Open Water Soil	<ul style="list-style-type: none"> <li>- This is a true non-soil (e.g. airport or lake).</li> <li>- The water table is present in the soil during an unspecified period.</li> <li>- The growth of plant roots is restricted by the first (uppermost) layer.</li> </ul>

- Water is removed so slowly in relation to supply that the soil remains wet for a comparatively large part of the time the soil is not frozen. Excess water is evident in the soil for a large part of the time. Subsurface flow or groundwater flow, or both, in addition to precipitation are the main water sources; there may also be a perched water table, with precipitation exceeding evapotranspiration. Soils have a wide range in available water storage capacity, texture, and depth, and are gleyed subgroups, Gleysols, and Organic soils.

Soil Mapping - RDCK File No. A2304K



6/27/2023, 1:15:23 PM

BC Soil Survey Polygons  
ParcelMap BC Parcel Fabric

1:5,000  
0 0.03 0.06 0.11 mi  
0 0.04 0.09 0.17 km  
Esri, HERE, Garmin, IPC, NRCAN, Maxar

Web AppBuilder for ArcGIS  
Maxar | Esri | HERE, Garmin, IPC, NRCAN |

Figure 5: BC Soil Survey



## SECTION 3: DETAILED ANALYSIS

### 3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan:  Yes  No      Financial Plan Amendment:  Yes  No  
Debt Bylaw Required:  Yes  No      Public/Gov't Approvals Required:  Yes  No

The applicant has paid the \$750 RDCK Referral Fee pursuant to the Planning Fees and Procedures Bylaw No. 2457, 2015.

### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

This application was processed in accordance with the Planning Procedures and Fees Bylaw No. 2457, 2015.

#### Agricultural Land Commission Act (ALCA)

As per Section 25(1) of the Act, when making a decision on an application for a subdivision in the ALR the Agricultural Land Commission may do one of the following:

- (a) refuse permission;
- (b) grant permission;
- (c) grant permission for an alternative non-farm use or subdivision.

Section 25(3) of the ALCA states that a subdivision application may not proceed to the ALC unless authorized by resolution of the local government. Section 34 states that a local government may include comments and recommendations regarding an application should it resolve to forward the application to the ALC.

#### Electoral Area 'K' Official Community Plan Bylaw No. 2022, 2009

#### 5.0 Agriculture

Although agricultural activity in Area 'K' has been greatly reduced due to the flooding of the Arrow Lakes, there is still a great deal of agricultural land, a large portion of which is within the ALR. A large part of the area surrounding Arrow Lakes is within the ALR as well as areas surrounding other water bodies and water courses. Lands identified with a potential for agricultural operation or activity have been designated Agriculture in the OCP. Furthermore, when lands are also within the ALR, the direction from the province is to preserve these lands for future agriculture uses.

#### Objectives:

1. To encourage the preservation of agricultural land and enhancement of agricultural activities.
2. To minimize conflicts between agriculture and other land uses.
3. To support any ALR boundary changes initiated by the Province arising from joint local government and ALC initiatives which review agricultural suitability in the Plan area; provided affected landowners are notified and have opportunity for input.
4. To encourage the agricultural sector's improvement and expansion by pursuing supportive land use policies within and adjacent to farming areas and to ensure adequate water and land resources for agricultural purposes with recognition of the importance of local food security.
5. To support a strategy for diversifying and enhancing farm income by creating opportunities for uses secondary to and related to the agricultural use.

6. To promote activities associated with the production and processing of livestock, poultry, farmed game, fur bearing animals, crops, fruit, grain, vegetables, milk, eggs, honey, mushrooms, fibre crops and horticultural and aquaculture products, provided the activity serves local producers and is small scale.

**Policies:**

The Regional Board:

1. Encourages Agricultural use of lands within the British Columbia Agricultural Land Reserve.
2. Supports applications for the removal, subdivision and non-farm use of lands presently in the Agricultural Land Reserve if such development relate to lands that do not have value for agriculture as determined by the British Columbia Agricultural Land Commission.
3. Supports the consolidation of small farm parcels under 0.8 hectares (2 acres) with other agricultural parcels to encourage more efficient use of farm lands within the Agricultural Land Reserve.
4. The Regional District will consider the designation of properties that do not meet the minimum lot size as agricultural on a case by case basis provided that the subject property's primary use is that of agriculture or market gardens to diversify the local agricultural community and provide for enhanced food security.
5. Provides for property owners or occupiers to diversify and enhance uses secondary to agricultural uses with home industry, home occupation, or small scale tourist accommodation business opportunities.
6. The Regional Board encourages the development of small scale food processing facilities on Farm Lands in Agricultural zones provided the facility operates in an environmentally sustainable fashion and obtains a Development Permit which acts to mitigate negative impacts and insure that such facilities have obtained all licenses and permits from the appropriate regulatory bodies.
7. Will consider second dwelling applications within the ALR in accordance with second dwelling policies for farm help and/or relatives as established in the Zoning bylaw.

The **RDCK Subdivision Bylaw No. 2159** directs that each proposed lot be assessed for Type 1 septic disposal and have independent sources of water for each proposed lot.

### 3.3 Environmental Considerations

None anticipated.

### 3.4 Social Considerations:

There is no public benefit associated with the application.

### 3.5 Economic Considerations:

Not applicable.

### 3.6 Communication Considerations:

The application was referred to the Ministry of Agriculture and Food, the Local Area Director and the RDCK Building Services department. The following comments were received:

**Ministry of Agriculture & Food – Land Use Planner and Regional Agrologist**

*In the absence of a parcel-specific review, we encourage local government planning staff and decision makers to consider the following findings/key messages when reviewing ALC applications for subdivision on the Agricultural Land Reserve (ALR).*

- *Subdivision in the ALR frequently results in each parcel having diminished agricultural potential and an increase in land cost per hectare due to increased residential and accessory structures. Smaller lots and increased residential structures can also increase conflict between adjacent land uses.*
- *Ministry data, through Agricultural Land Use Inventories (ALUI), consistently shows that smaller agricultural lots are less likely to be farmed.*
- *A recent 2022 Kwantlen Polytechnic University study exploring the impact of non-farm uses and subdivision on agricultural land found that in regions of B.C. reviewed, “30% of all new parcels created as a result of subdivision ceased to have a farm class status”, and “64% of all the parcels had their ownerships transferred within three years after non-farm use and subdivision applications were approved. This percentage becomes higher for subdivided parcels” (Summary Results, p.1-2).*
- *To advance viable long-term agricultural opportunities on the ALR, Ministry staff encourage ALR landowners to pursue alternative land access and tenure options, other than subdivision, (such as the leasing of portions of the property) as part of a coordinated succession plan. For more information on B.C.’s Land Matching Program, please visit the Agrarians Foundation organization website.*
- *The Ministry also provides resources to producers to support successful farm transition, including support through the B.C. Agri-Business Planning Program, as well as succession planning workshops and webinars to familiarize farmers with the steps and practices required for a successful farm transition.*
- *Ministry staff are available to discuss viable agricultural opportunities with the landowners considering pursuing farming activities on ALR land. For more information or to contact Ministry staff, please visit the Ministry AgriService BC webpage or email [AgriServiceBC@gov.bc.ca](mailto:AgriServiceBC@gov.bc.ca).*

#### **RDCK Building Services**

*Spatial separation for the existing structures should not be affected.*

#### **3.7 Staffing/Departmental Workplace Considerations:**

Not applicable.

#### **3.8 Board Strategic Plan/Priorities Considerations:**

Not applicable.

## **SECTION 4: OPTIONS**

### **PLANNING DISCUSSION**

The subject property is located in an area with a mix of low to moderate agricultural capability and it is not currently used for agriculture. Although the overall agricultural capability of the property is considered moderate and may not be able to support intensive agriculture in the form of arable crops, the overall lot size (10 hectares) provides the ability to operate agricultural activities on the property that may not be feasible on a smaller parcel.

In the ALC application, the applicants indicated that a subdivision is being sought for financial reasons. The applicants stated that by subdividing the property, it would allow them to sell off a 3 hectare portion of the lot with the existing dwelling, and then invest the money into farming and constructing a new dwelling on the remaining 7 hectares. The applicants indicated that the subdivision would support ongoing farming, however there is nothing to prevent the proposed lot from being used for residential purposes and not for farming. The



creation of smaller agricultural parcels is correlated with less agricultural activity. The agricultural capability of the proposed lot would further be eroded by the site area that is required for a dwelling, on-site servicing requirements (i.e. private well and septic systems), driveways, parking and storage areas. Whatever agricultural potential exists on the existing lot is only more reduced through a reduction in the land size.

An agricultural benefit and broad public interest is not demonstrated by this proposed ALC Subdivision. The applicant has an interest in creating two separate parcels so that one can be sold however this is not an appropriate justification to enable staff to support the subdivision of existing agricultural land in the ALR.

Staff has been consistent in not supporting applications for subdivision that fragment the ALR land base, particularly where broad public interest and agricultural benefit is not demonstrated. The RDCK's Agricultural Area Plan recommends that the RDCK continue to use land use planning tools to discourage subdivisions of agricultural land. Only 2.5% of the RDCK's land base is suitable for agriculture and once the land has been fragmented through subdivision or shifted to another use it is virtually impossible to return it to agriculture. The policy direction from the Official Community Plan is to discourage subdivisions of agricultural land that do not benefit agriculture and result in further fragmentation of agricultural land.

For all of the reasons above, staff recommend that the board not support the proposed ALC Subdivision application.

### **Options**

#### **Option 1:**

That the Board NOT SUPPORT regarding application A2304K for the proposed subdivision in the Agricultural Land Reserve proposed by Kathryn and Donald Yaremció for the property located at 350 Lower Inonoaklin North Branch Road, Electoral Area 'K' and legally described as LOT 4 DISTRICT LOT 8132 KOOTENAY DISTRICT PLAN 16455 (PID: 007-974-264).

Should the Board choose to not support the application, it will not be forwarded to the ALC for a decision, in accordance with the RDCK Planning Procedures and Fees Bylaw and the *Agricultural Land Commission Act*.

#### **Option 2:**

That the Board PROVIDE NO COMMENT regarding application A2304K for the proposed subdivision in the Agricultural Land Reserve proposed by Kathryn and Donald Yaremció for the property located at 350 Lower Inonoaklin North Branch Road, Electoral Area 'K' and legally described as LOT 4 DISTRICT LOT 8132 KOOTENAY DISTRICT PLAN 16455 (PID: 007-974-264).

Should the Board choose to provide no comment on the application, it would be forwarded to the ALC for a decision, in accordance with the RDCK Planning Procedures and Fees Bylaw and the *Agricultural Land Commission Act*.

## **SECTION 5: RECOMMENDATIONS**

That the Board NOT SUPPORT regarding application A2304K for the proposed subdivision in the Agricultural Land Reserve proposed by Kathryn and Donald Yaremco for the property located at 350 Lower Inonoaklin North Branch Road, Electoral Area 'K' and legally described as LOT 4 DISTRICT LOT 8132 KOOTENAY DISTRICT PLAN 16455 (PID: 007-974-264).

Respectfully submitted,

Originally signed by

Zachari Giacomazzo, Planner

## CONCURRENCE

Planning Manager – Digitally approved by Nelson Wight

General Manager Development & Sustainability – Digitally approved by Sangita Sudan

Chief Administrative Officer – Digitally approved by Stuart Horn

### ATTACHMENTS:

Attachment A – ALC Application



# Provincial Agricultural Land Commission - Applicant Submission

**Application ID:** 67579

**Application Status:** Under LG Review

**Applicant:** Kathryn Yaremcio , Donald Yaremcio

**Local Government:** Central Kootenay Regional District

**Local Government Date of Receipt:** 03/10/2023

**ALC Date of Receipt:** This application has not been submitted to ALC yet.

**Proposal Type:** Subdivision

**Proposal:** To free up money to put into the remaining parcel of land to work the land for agricultural purpose. As the parcel we are wanting to subdivide off is not farmable.

**Mailing Address :**

[Redacted Mailing Address]

**Primary Phone :** [Redacted]

**Email :** [Redacted]

## Parcel Information

### Parcel(s) Under Application

1. **Ownership Type :** Fee Simple

**Parcel Identifier :** 007-974-264

**Legal Description :** LOT 4 DISTRICT LOT 8132 KOOTENAY DISTRICT PLAN 16455

**Parcel Area :** 10 ha

**Civic Address :** 350 Lower Inonoaklin North Arm road Edgewood BC V0G1J0

**Date of Purchase :** 10/01/2020

**Farm Classification :** No

#### Owners

1. **Name :** Kathryn Yaremcio

**Address :**

[Redacted Address]

**Phone :** [Redacted]

**Email :** [Redacted]

2. **Name :** Donald Yaremcio

**Address :**

[Redacted Address]



Phone : [Redacted]

Email : [Redacted]

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### Current Use of Parcels Under Application

**1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).**

*No agriculture*

**2. Quantify and describe in detail all agricultural improvements made to the parcel(s).**

*No Agricultural Improvements*

**3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).**

*House and bunk house and a 20x30 pole barn*

### Adjacent Land Uses

#### North

**Land Use Type:** Residential

**Specify Activity :** camping spot and house

#### East

**Land Use Type:** Other

**Specify Activity :** lake

#### South

**Land Use Type:** Other

**Specify Activity :** treed

#### West

**Land Use Type:** Other

**Specify Activity :** crown

### Proposal

**1. Enter the total number of lots proposed for your property.**

3.04 ha

6.96 ha

7.1 ha

6.96 ha

**2. What is the purpose of the proposal?**

*To free up money to put into the remaining parcel of land to work the land for agricultural purpose. As the parcel we are wanting to subdivide off is not farmable.*

**3. Why do you believe this parcel is suitable for subdivision?**

*The house and outbuildings are on non-farmable land, there is a rock cliff in the back and property is sloped and clay. We are purposing to take off the house and 3.04 hectares and put that money into making the left-over lot into usable producing farmland for cows and hay field.*

**4. Does the proposal support agriculture in the short or long term? Please explain.**

*The purposed subdivision supports long term agriculture. We are planning on working the field so the soil can produce healthy crops. We would fence the property so that cows could also be put on to help with fertilizing the soil.*

**5. Are you applying for subdivision pursuant to the ALC Homesite Severance Policy? If yes, please submit proof of property ownership prior to December 21, 1972 and proof of continued occupancy in the "Upload Attachments" section.**

*No*

**Applicant Attachments**

- Proposal Sketch - 67579
- Other correspondence or file information - old subdivision done by other owners 1984
- Other correspondence or file information - old plan
- Certificate of Title - 007-974-264

**ALC Attachments**

None.

**Decisions**

None.



# Committee Report

**Date of Report:** June 27, 2023  
**Date & Type of Meeting:** July 19, 2023, Rural Affairs Committee  
**Author:** Sadie Chezenko, Planner  
**Subject:** NON-FARM USE IN THE AGRICULTURAL LAND RESERVE  
**File:** A2306B – Ducharme  
**Electoral Area/Municipality:** B

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Board to consider an application for a Non-Farm Use within the Agricultural Land Reserve (ALR). The applicant is requesting approval to permit a commercial lumber sales business on the subject property in Canyon in Electoral Area ‘B’.

RDCK policies outline that agricultural land should be preserved for current and future agricultural production and protected from uses which are inconsistent with agricultural use. Given that the commercial use of the property runs contrary to its intended agricultural use, that the owners have been operating this non-agricultural activity for three years in contravention of the RDCK zoning bylaws and the Agricultural Land Reserve Use Regulation and the unwelcome precedent that could be set for future non-agricultural uses in the ALR should this application be supported, Staff recommend that the Board not support the application.

## SECTION 2: BACKGROUND/ANALYSIS

The Agricultural Land Reserve (ALR), is a provincial land use zone in which agriculture is recognized as the priority use. It was created in 1973 to preserve agricultural land and encourage the maintenance of farms as a secure food source. An Agricultural Land Commission (ALC) application is required when a property owner wants to use their ALR land for “Non-Farm Use.” In order for the applicant to be able to legally operate a commercial lumber sales business on the subject property, approval for this Non-Farm Use from the ALC is required.

### GENERAL INFORMATION

<b>Property Owner:</b> Christopher Ducharme and Matthew Jackson
<b>Property Location:</b> 3951 32 Street, Canyon
<b>Legal Description:</b> LOT 3 PLAN NEP2872 DISTRICT LOT 812 KOOTENAY LAND DISTRICT (PID: 014-660-431)
<b>Property Size:</b> 2.76 hectares (6.82 acres)
<b>Current Zoning:</b> Agriculture 2 (AG2) – Comprehensive Land Use Bylaw No. 2316, 2013
<b>Current Official Community Plan Designation:</b> Agriculture (AG) – Comprehensive Land Use Bylaw No. 2316, 2013

### Site Context

The subject property is located in Canyon in Electoral Area ‘B’ and is entirely within the ALR. All the surrounding properties are also in the ALR. The parcel is zoned Agriculture 2 (AG2) and designated Agriculture (AG) under *Electoral Area ‘B’ Comprehensive Land Use Bylaw No. 2316, 2013*. While some of the nearby properties are used as residences, there are several active farms in the area. Four out of the six properties that directly abut this



parcel are classified as farms by BC Assessment. Nearby, there are livestock operations including horse and dairy farms. There are also forage and pasture crops, herbs and trees being cultivated in the area.

The property is accessed off of 32<sup>nd</sup> street and is currently used for commercial, residential and agricultural purposes. The property has a dwelling, hayfield, driveway and barn as well as a treed area and an area used for a personal garden. In addition, there is lumber and materials storage to the east of the barn, to the west of the dwelling and on 32<sup>nd</sup> street. The applicant indicated that sales are primarily conducted outside, but noted that the area in the barn is also used to conduct sales from time to time. The property is 2.76 hectares and the area used for each purpose is the following:

- Residential: single family dwelling (~0.32 ha)
- Agriculture: hay field (~2.3 ha)
- Commercial: lumber sales business (~0.17 ha)

The use of the subject property as a commercial lumber sales business is not authorized under the current zoning.

<b>SURROUNDING LAND USES</b>
<b>North:</b> Agriculture (within the ALR)
<b>East:</b> Agriculture (within the ALR)
<b>South:</b> Agriculture (within the ALR)
<b>West:</b> Agriculture (within the ALR)



Figure 1 - Location Map





Figure 2 - ALR Overview Map



*Figure 3 - Zoning Map*

**Development Proposal**



This application is for a Non-Farm Use within the ALR. The applicant is seeking approval to continue operating a commercial lumber sales business on the subject property. The applicant indicated that he has been operating the business on the subject property for the last three years and was operating it on another site in Wynndel prior to that.

The business is primarily the storage and sale of lumber, however he also sells other items such as greenhouses, fencing, hardwood and garden sheds. While the applicant indicated that there is some storage within the barn, the bulk of the storage of lumber and materials is external. See before and after photos from aerial imagery below. The commercial activity on the property is mostly contained on the northwest portion of the property, to the east of the barn. However, there is also storage on 32nd street as well as the neighbour's property. The applicant has indicated that the sales are done outside or occasionally in the barn and that there have been no additional buildings, paving or construction completed to facilitate the operation of this business.



*Figure 4: Aerials showing property before and after external storage of materials*



*Figure 5: Photo showing external storage from Canyon-Lister Road*





*Figure 6: 32nd St and neighbouring property showing external storage*



*Figure 7: External Storage view from 32nd Street*





*Figure 8: Historical Photo (2012) of 32 Street Prior to Commercial Lumber Sales Business*

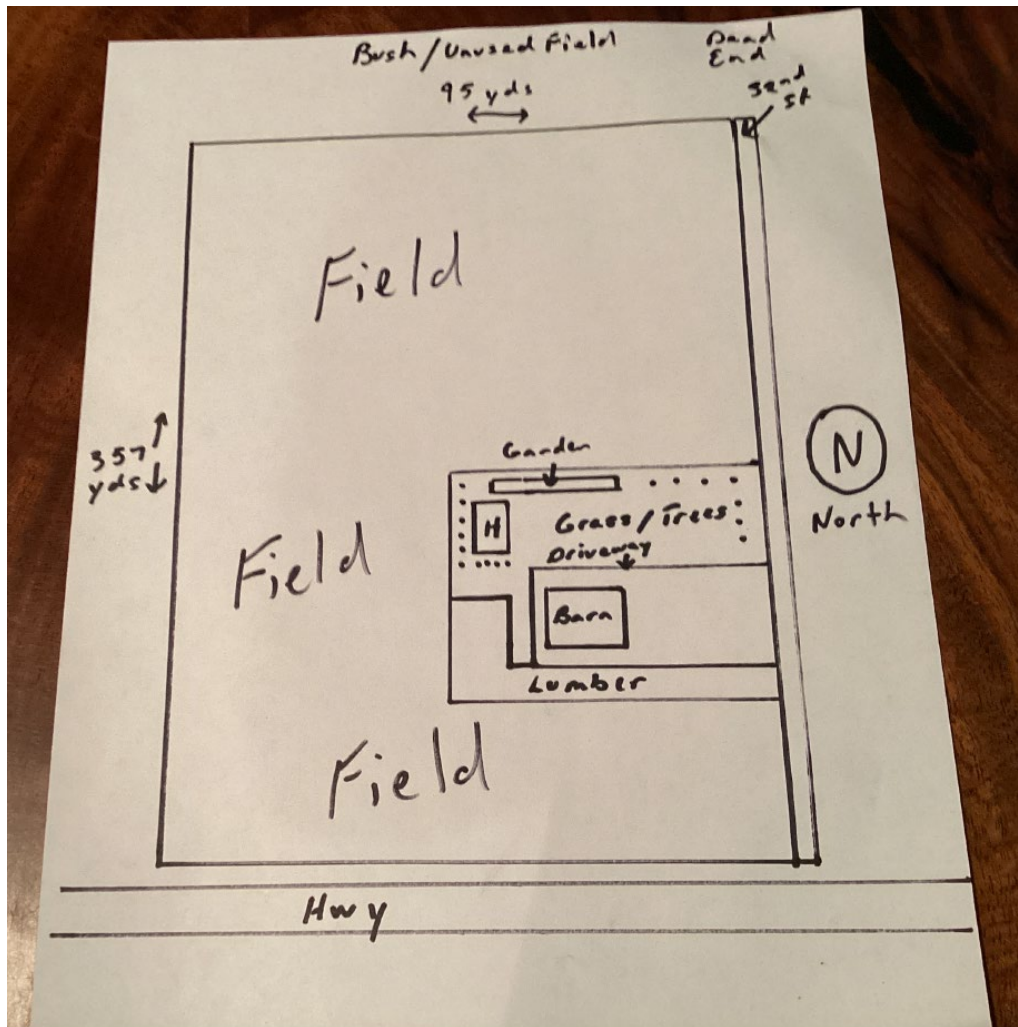


Figure 9 – Applicant's Site Plan

### **Agricultural Area Plan**

The Regional District's 2011 Agricultural Area Plan (AAP) seeks to ensure that the agricultural capability of the RDCK is realized and protected. The AAP reflects the priorities and needs identified by residents. The Plan's recommendations address all sizes and forms of farm operations. Several issues facing farmers and food producers in the region were identified through public consultation when the AAP was developed. Relevant to this application; the AAP identified the ongoing loss of farmland as an issue. In addition, the report made several recommendations which address agricultural viability, capability and a secure food supply. The recommendations relevant to this application are listed below:

**CAPABILITY RECOMMENDATION #3** It is recommended that the RDCK encourage the protection of agricultural land where appropriate, through the Official Community Plan process and other land use planning tools.

**CAPABILITY RECOMMENDATION #10** It is recommended that the RDCK encourage the Agricultural Land Commission to update their ALR decision making guidelines incorporating criteria that acknowledges the unique characteristics of this region and the productive capabilities of smaller parcels.

### **Agricultural Land Use Inventory**

The RDCK's Agricultural Land Use Inventory, 2016 (ALUI) was developed for the purpose of building a common understanding of agriculture within the RDCK. 23% of ALR parcels were used for farming and 77% were not used for farming. Farming activities includes forage and pasture, cereals and oilseeds, and tree fruits.

Many of the parcels within the Canyon area are in the ALR. Some of these lands are used actively for farming while others are not. Current farming activities nearby are the following:

- Livestock operations
- Dairy
- Beef
- Alpaca
- Horse
- Rye
- Barley
- Tree nurseries for forestry stock

The ALUI identifies that the Creston Valley is one of the most productive agricultural regions in the district will continue to be the hub of agriculture. The report emphasizes that “ensuring the ALR is left intact for future farming is essential to ensure land is available for agriculture in a changing future world.”

### **Agricultural Capability Rating**

Not all agricultural lands created equal in terms of the types of agriculture they can support. In BC, there is a classification system for rating agricultural capability that ranges from Class 1 to Class 7. The best agricultural lands are rated Class 1 because they have the ideal climate and soil to allow a farmer to grow the widest range of crops. Class 7 is considered non-arable, with no potential for soil bound agriculture. As the class numbers increase from Class 1 to Class 7, the range producible of crops decreases.

The subject property's agricultural capability rating is primarily Class 2 with some Class 3 and Class 6 areas. Only a small portion of the parcel (0.11 ha) is rated as Class 6 with limitation being topography. The majority of the property (2.66 ha) is Class 2 and Class 3 lands. For this 2.66 ha, 60% is Class 2 with the limitation subclass being undesirable soil structure and 40% is Class 3 with the limitation subclass being undesirable soil structure and topography. This is shown in the figure below:

### Agricultural Capability - A2306B

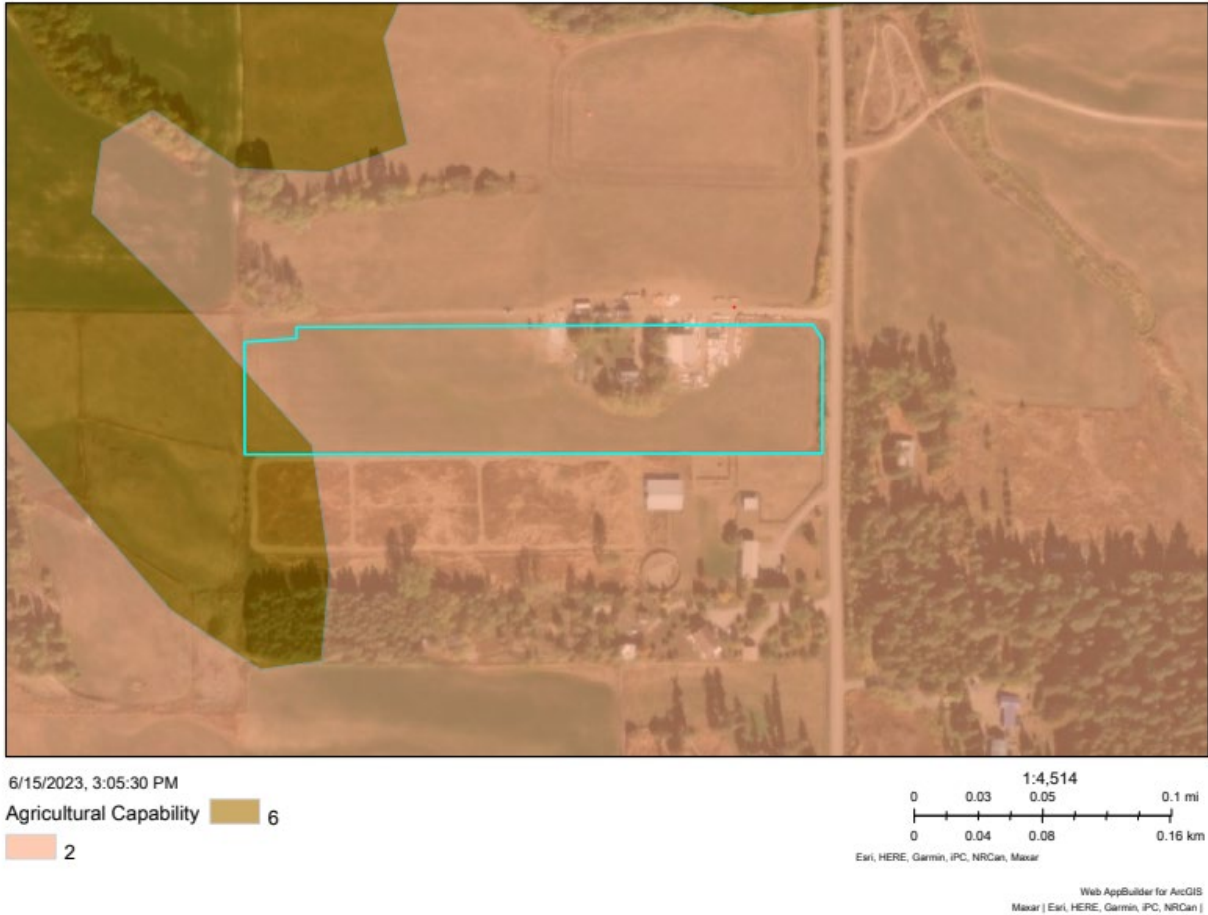


Figure 10: Unimproved Agricultural Capability Rating

Area	Land Capability Class	Unimproved Rating	Improved Rating
~2.66 ha	6:2D~4:3TD	6:2D~4:3TD	60% Class 2D 40% Class 3TD
~0.11 ha	6T	6T	100% Class 6T

Limitation Subclass	Description
T	Topography
D	Undesirable Soil Structure

Soil Class	Description
Class 2	Land in this class has minor limitations that require good ongoing management practises or slightly restrict the range of crops, or both.
Class 3	Land in this class has limitations that require moderately intensive management practises or moderately restrict the range of crops, or both.



Class 6	Land in this class is nonarable but is capable of producing native and or uncultivated perennial forage crops.
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**Soil Type**

The Soil Resources of the Nelson Area published by the BC Ministry of Environment categorizes soils having similar agriculturally important characteristics into ‘soil association descriptions’. The subject property is entirely composed of soils from the Lister Association. A description of the agricultural management implications for the Lister Association is included below:

Soil Class	Description
Lister	Lister soils are mostly arable and are good “dry-farming” soils. Their high soil water holding capacities diminish the need for irrigation for most crops. The main limitations are adverse topography and poor soil structure.

**SECTION 3: DETAILED ANALYSIS**

**3.1 Financial Considerations – Cost and Resource Allocations:**

**Included in Financial Plan:**  Yes  No      **Financial Plan Amendment:**  Yes  No  
**Debt Bylaw Required:**  Yes  No      **Public/Gov’t Approvals Required:**  Yes  No

The applicant has paid the \$750 referral fee pursuant to the Planning Procedures and Fees Bylaw No. 2457, 2015.

**3.2 Legislative Considerations (Applicable Policies and/or Bylaws):**

The application was processed in accordance with the Planning Procedures and Fees Bylaw No. 2457, 2015.

**Agricultural Land Commission Act (ALCA)**

As per Section 25(1) of the Act, when making a decision on a use application in the ALR the Agricultural Land Commission may do one of the following:

- (a) refuse permission;
- (b) grant permission;
- (c) grant permission for an alternative non-farm use or subdivision.

Section 25(3) of the ALCA states that a use application may not proceed to the ALC unless authorized by resolution of the local government. Section 34 states that a local government may include comments and recommendations regarding an application should it resolve to forward the application to the ALC.

**Area B Comprehensive Land Use Bylaw No 2316, 2013**

**Zoning Bylaw**

The subject property is zoned Agriculture 2 (AG2) under *Electoral Area ‘B’ Comprehensive Land Use Bylaw No. 2316, 2013*. The AG2 zone does not authorize the use of the property as a commercial lumber sales business. The permitted uses are agriculture and associated agricultural activities as well as residential (single family dwelling). There are provisions for Home Based Businesses as an accessory use in this zone, but this operation does not meet the definition. In terms of the commercial activity of a commercial lumber sales business, the use more clearly meets the definition of “Storage Yard” and “Retail Store” in the bylaw. The definitions of “Storage Yard” and “Retail Store” are included below:

**STORAGE YARD** means an area outside an enclosed building where construction materials and equipment, solid fuels, lumber and new building materials, monuments and stone products, public service and utility equipment or other new goods, materials, products, vehicles, equipment or machinery are stored, baled, piled, handled, sold or distributed;

**RETAIL STORES** means a place of business in which merchandise is sold;

Neither "Storage Yard" nor "Retail Stores" are permitted in the AG2 zone.

## Official Community Plan

### Agriculture Objectives

1. To preserve and promote the use of agricultural land for current and future agricultural production, and to protect this land from uses which are inconsistent with agricultural use or are incompatible with existing agricultural uses in the area.
2. To encourage the agricultural sector's viability by pursuing supportive land use policies within and adjacent to farming areas and to ensure adequate water and land resources for agricultural purposes with recognition of the importance of local food production.
3. To support agricultural land use practices that do not adversely affect the surrounding environment nor compromise the capability of the land for future food production.
4. To support agricultural land use practices within and adjacent to farming areas that seek to minimize conflicts between agriculture and other land uses.
5. To support a strategy for diversifying and enhancing farm income by creating opportunities for uses secondary to and related to agricultural use.
6. To encourage senior levels of government to enable and facilitate agricultural activity and industry.
7. To recognize distinct agricultural areas reflecting unique historical development trends, soils and climate.

### Agricultural Policies:

The Regional Board:

8. Directs that the principal use of land designated 'Agriculture' shall be for agricultural use.
9. Supports that all new land use and subdivision of land within the ALR shall be in accordance with the provisions of the Agricultural Land Commission Act, associated regulations, orders and decisions of the Provincial Agricultural Land Commission (ALC).
10. May require that new development adjacent to agricultural areas provide sufficient buffering in the form of setbacks, fencing or landscaping.
11. Supports the use of minimum and maximum setback distances for residential development and the clustering of built structures on agricultural lands to reduce the impact to agricultural potential and operations.

### 3.3 Environmental Considerations

None anticipated.

### 3.4 Social Considerations:

There is no public benefit associated with the application.

### 3.5 Economic Considerations:

None anticipated.

### **3.6 Communication Considerations:**

The application was referred to the Area Director, the Ministry of Agriculture, the Creston Valley Agricultural Advisory Commission and the Advisory Planning Commission for Area B. The following comments were received:

#### **Ministry of Agriculture and Food – Land Use Planner and Regional Agrologist**

Thank you for providing Ministry of Agriculture and Food (Ministry) staff the opportunity to comment on File A2306B that proposes to permit an existing home occupation use on the Subject Property. From an agricultural planning perspective, Ministry staff offer the following comments:

- The 2.8 ha Subject Property is located entirely within the Agricultural Land Reserve (ALR) and borders ALR land on all sides. The majority of the Subject Property is under hay production and also contains a residence and a barn that is used to store lumber for the home based business.
- In addition to being stored in the barn, lumber storage has encroached on the hay field and Ministry staff are concerned that additional viable farmland will be used for lumber storage when/if the business expands.
- Non-farm uses on farmland can raise the price of farmland and cause speculative pressure on other agricultural parcels. In addition, a non-farm use on the Subject Property may raise expectation for similar non-farm uses on other ALR properties.
- Despite the applicant's difficulty in sourcing commercial land in the Creston area, a commercial lumber sales business is more appropriately suited on a property that is not within the ALR
- Ultimately, the application has limited, if any, benefit to agriculture in the Canyon area and Ministry staff suggest that it is relocated to a property that is zoned for commercial use and not located within the ALR. Ministry staff also suggest allowing for a suitable amount of time (one year for example) for the applicant to relocate their business off of the Subject Property.

#### **Ktunaxa Nation Council**

The Ktunaxa Nation Council has no concerns as long as there is no increased use of water.

#### **Creston Valley Agricultural Advisory Committee**

Moved and seconded,  
AND Resolved:

That the Creston Valley Agricultural Advisory Commission OPPOSE the Agricultural Land Reserve Application to allow a Non-Farm Use within the ALR located at 3951 32 ST CANYON, BC, LOT 3 PLAN NEP2872 DISTRICT LOT 812 KOOTENAY LAND DISTRICT PID: 014-660-431 to permit the operation of their lumber sale business on the property.

#### **Area B Advisory Planning and Heritage Commission**

Moved and seconded,  
AND Resolved:

That the Area B Advisory Planning Commission SUPPORT the application to allow a Non-Farm Use within the Agricultural Land Reserve to permit the operation of their lumber sale business on the property located at 3951 32 ST CANYON, BC (LOT 3 PLAN NEP2872 DISTRICT LOT 812 KOOTENAY LAND DISTRICT PID: 014-660-431) subject to the business not expanding beyond the current scale of operation.

#### **RDCK Building Department**

Structure appears to be F2 barn converted to lumber storage (F2)

As there is no apparent change in occupancy (assuming no physical retail storefront), no building code requirements will be triggered

If lumber storage F2 (over 50kg/m2 combustible material)

If milling and storing – F2 as woodworking business

The retail portion would be E – mercantile but the applications indicates no store front

#### **3.7 Staffing/Departmental Workplace Considerations:**

Upon receipt of an application accompanied by the required fees and attachments, Planning Department staff follows the 'Agricultural Land Reserve Application Procedure' identified in Schedule 'M' of the Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015. Depending on the Board resolution, staff will or will not forward the report and the Board resolution to the Agricultural Land Commission.

#### **3.8 Board Strategic Plan/Priorities Considerations:**

Not applicable.

## **SECTION 4: OPTIONS**

### **PLANNING DISCUSSION**

The subject property has been historically used for residential and agricultural purposes. Approximately three years ago, the applicant began to utilize the property as a commercial lumber sales business. This includes the storage and sale of lumber, greenhouses, fence posts and small garden sheds. This ALC Non-Farm Use application has been submitted to permit the operation of the commercial lumber sales business in the ALR.

The intent behind the creation of the ALR was to preserve agricultural land and encourage the maintenance of farms as a secure food source. Allowing ALR land to be used for purposes than agriculture can have negative impacts. As the Ministry of Agriculture noted in their response, Non-Farm Uses on farmland can raise the price of farmland and cause speculative pressure on other agricultural parcels. In addition, a Non-Farm Use on the Subject Property may raise expectation for similar non-farm uses on other ALR properties. Further, the commercial use of this property is in contravention of the Zoning Bylaw.

As noted previously in this report, the RDCK has several documents which inform agricultural policy in the region, gathered through public engagement and technical expertise which prioritize farming on agricultural land.

The Agricultural Area Plan (AAP) recommended that the RDCK encourage the protection of agricultural land where appropriate, through the Official Community Plan (OCP) process and other land use planning tools. This property is designated Agriculture under the OCP, currently preventing this kind of commercial use on the subject property. The OCP states that one of the objectives of the Agriculture land use designation is "to preserve and promote the use of agricultural land for current and future agricultural production, and to protect this land from uses which are inconsistent with agricultural use or are incompatible with existing agricultural uses in the area." In addition, one of the policies of the designation "directs that the principal use of land designated 'Agriculture' shall be for agricultural use."

In addition to these policies, the property has good soil and the agricultural capability of the subject parcel is quite high, being rated mostly Class 2 or Class 3. The ALUI identifies that the Creston Valley is one of the most productive agricultural regions in the district will continue to be the hub of agriculture. Further, the productive capability of smaller parcels was noted in the AAP.

RDCK policies outline that agricultural land should be preserved for current and future agricultural production and protected from uses which are inconsistent with agricultural use. Given that the commercial use of the property runs contrary to its intended agricultural use, that the owners have been operating this non-agricultural activity for three years in contravention of the RDCK zoning bylaws and the Agricultural Land Reserve Use Regulation and the unwelcome precedent that could be set for future non-agricultural uses in the ALR should this application be supported, Staff recommend that the Board not support the application.

### **Options**

#### **Option 1:**

That the Board NOT SUPPORT application A2306B for the purposes of a Non-Farm Use in the ALR proposed by Christopher Ducharme and Matthew Jackson for property located at 3951 32<sup>nd</sup> Street, Canyon and legally described as Lot 3 Plan NEP2872 District Lot 812 Kootenay Land District (PID: 014-660-431).

Should the Board choose to not support the application, it would not be forwarded to the ALC for a decision, in accordance with the RDCK Planning Procedures and Fees Bylaw and the *Agricultural Land Commission Act*.

#### **Option 2:**

That the Board PROVIDE NO COMMENT regarding application A2306B for the purposes of a Non-Farm Use in the ALR proposed by Christopher Ducharme and Matthew Jackson for property located at 3951 32<sup>nd</sup> Street, Canyon and legally described as Lot 3 Plan NEP2872 District Lot 812 Kootenay Land District (PID: 014-660-431).

Should the Board choose to provide no comment on the application, it would be forwarded to the ALC for a decision, in accordance with the RDCK Planning Procedures and Fees Bylaw and the *Agricultural Land Commission Act*.

#### **Option 3:**

That the Board SUPPORT application A2306B for the purposes of a Non-Farm Use in the ALR proposed by Christopher Ducharme and Matthew Jackson for property located at 3951 32<sup>nd</sup> Street, Canyon and legally described as Lot 3 Plan NEP2872 District Lot 812 Kootenay Land District (PID: 014-660-431).

Should the Board choose to support the application, it would be forwarded to the ALC for a decision, in accordance with the RDCK Planning Procedures and Fees Bylaw and the *Agricultural Land Commission Act*.

### **SECTION 5: RECOMMENDATIONS**

That the Board NOT SUPPORT application A2306B for the purposes of a Non-Farm Use in the ALR proposed by Christopher Ducharme and Matthew Jackson for property located at 3951 32<sup>nd</sup> Street, Canyon and legally described as Lot 3 Plan NEP2872 District Lot 812 Kootenay Land District (PID: 014-660-431).

Respectfully submitted,



Originally signed by

—  
Sadie Chezenko, Planner

**CONCURRENCE**

Planning Manager – Digitally approved by Nelson Wight

General Manager Development & Sustainability – Digitally approved by Sangita Sudan

Chief Administrative Officer – Digitally approved by Stuart Horn

**ATTACHMENTS:**

**Attachment A – ALC Application**



# Provincial Agricultural Land Commission - Applicant Submission

**Application ID:** 67713

**Application Status:** Under LG Review

**Applicant:** Chris Ducharme

**Local Government:** Central Kootenay Regional District

**Local Government Date of Receipt:** 02/27/2023

**ALC Date of Receipt:** This application has not been submitted to ALC yet.

**Proposal Type:** Non-Farm Use

**Proposal:** Our proposal is to continue to operate our home based business of selling local lumber to the general public and local farmers in the Creston Valley and surrounding Kootenay area. We have been operating a burgeoning home based small business that we have started from a pile or two of wood to now working with Kootenay mills such as J.H. Huscroft mill and Pine Profiles of Creston BC. We also support several small home based sawmills in the Creston area as well. The Porcupine sawmill out of Salmo BC provides us with most of our cedar lumber, of which is smaller end stocks that are difficult for them to retail. We are the only suppliers of lumber from Kootenay mills in Creston and surrounding Kootenay towns. Additionally, we find other agriculture related items like greenhouses, fence posts, small garden sheds and offer them for sale to our customers at a lower cost than other retail outlets.

We do not manufacture or perform any industrial functions on this property. We have not changed or constructed any buildings or structures or altered our available agriculture area in any way other than storage of wood on a very small edge of difficult to access land. We hope to be able continue to sell lumber from defined area of our home based property to supplement our limited income from the harvest of our hay land. We have no intention to have a store front or construct large buildings or alter our distinguishing agriculture land. We use the barn that was already constructed when we purchased our property and limited area in front, behind barn and on the sides for storage of said lumber.

Keeping the viable and enriched agriculture land on our property is extremely important to us even though we can not establish farm status, being able to support our family farming efforts by using a small portion of the difficult to farm land through operating our home based business will help us to keep improving and investing in our agriculture land and practises.

## **Mailing Address :**

3951 32nd st

Canyon , BC

v0b 1c1

Canada

**Primary Phone :** (250) 431-8222

**Email :** Crestonwoodguy@gmail.com

## **Parcel Information**

### **Parcel(s) Under Application**

- Ownership Type :** Fee Simple  
**Parcel Identifier :** 014-660-431

**Legal Description :** LOT 3 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN 2872

**Parcel Area :** 2.8 ha

**Civic Address :** 3951 32nd st canyon

**Date of Purchase :** 10/01/2020

**Farm Classification :** No

**Owners**

1. **Name :** Chris Ducharme

**Address :**

3951 32nd st

Canyon , BC

v0b 1c1

Canada

**Phone :** (250) 431-8222

**Email :** Crestonwoodguy@gmail.com

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**Current Use of Parcels Under Application**

**1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).**

*We have approximately 33,000 sq yards of total property. Of this total area there is approximately 25,000 plus square yards of hay field area. The field is harvested by a local friend/farmer who takes the crop and in return we get an average \$600 per year in return. Not enough for even farm status, but we prefer to keep farming the land as we grew up in lister and our family are mostly farmers. The only other agriculture on our land is our garden area for our personal use. Our neighbours to the south and east have small acreages as well but are not able to harvest their fields as it is not financially viable. I am currently working with my neighbour to the south to revive his field and work another farmer close by. Most of the small acreages surrounding us are no longer harvested and remain weeded and unused. The small acreages just aren't able to be feasibly harvested as the costs don't bring enough returns to cover the costs of the actual farming.*

**2. Quantify and describe in detail all agricultural improvements made to the parcel(s).**

*to harvest all field available and have also cleared some portions of hay and overgrowth as well as trees. The portion to the west was overgrown and weeded and we have since reclaimed some field area and removed bushes and put in a garden area as well regained more field area. A portion of land to the east of house has also started to be reclaimed from overgrowth, old buildings and garbage etc. This area is now residential use, field use and storage for wood. It is quite wet and inaccessible in this small portion to effective harvest, but is very small in nature either way. We are slowly cleaning up and reclaiming previously left to nature per say parts of the land.*

**3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).**

*The only non agriculture use on our property is the storage of lumber for our home based business. The general business is not situated on hay field in general save for a small section on edge of the east side of our hay field. I will provide a sketch for a view of its location and approximate size which is roughly .20 of an acre. This particular spot on property is hard for our farmer to harvest but is not being damaged or changed in any way other than storage of lumber. The remainder of our field is harvested yearly. We are compensated \$600 per year for two hay harvests. This is not even enough for farm status, but we prefer to keep haying our land as we are from a farming heritage. We are currently with neighbours to our south and north to try bring their fields back to life and making their land at least useable and to the north possibly profitable. Having grown up in lister i have contacts and friends family that i am hoping to unite with our small acreages and make it feasible to once again farm these small parcels. The only other non agriculture use on our land is*

*residential use such as the house, barn, driveway, grassy areas, trees, garden and parking.*

## **Adjacent Land Uses**

### **North**

**Land Use Type:** Agricultural/Farm

**Specify Activity :** Partial field harvests

### **East**

**Land Use Type:** Transportation/Utilities

**Specify Activity :** Highway

### **South**

**Land Use Type:** Agricultural/Farm

**Specify Activity :** Weeded field and residential

### **West**

**Land Use Type:** Agricultural/Farm

**Specify Activity :** Weeded field and trees

## **Proposal**

### **1. How many hectares are proposed for non-farm use?**

*0.0936 ha*

### **2. What is the purpose of the proposal?**

*Our proposal is to continue to operate our home based business of selling local lumber to the general public and local farmers in the Creston Valley and surrounding Kootenay area. We have been operating a burgeoning home based small business that we have started from a pile or two of wood to now working with Kootenay mills such as J.H. Huscroft mill and Pine Profiles of Creston BC. We also support several small home based sawmills in the Creston area as well. The Porcupine sawmill out of Salmo BC provides us with most of our cedar lumber, of which is smaller end stocks that are difficult for them to retail. We are the only suppliers of lumber from Kootenay mills in Creston and surrounding Kootenay towns. Additionally, we find other agriculture related items like greenhouses, fence posts, small garden sheds and offer them for sale to our customers at a lower cost than other retail outlets.*

*We do not manufacture or perform any industrial functions on this property. We have not changed or constructed any buildings or structures or altered our available agriculture area in any way other than storage of wood on a very small edge of difficult to access land. We hope to be able continue to sell lumber from defined area of our home based property to supplement our limited income from the harvest of our hay land. We have no intention to have a store front or construct large buildings or alter our distinguishing agriculture land. We use the barn that was already constructed when we purchased our property and limited area in front, behind barn and on the sides for storage of said lumber.*

*Keeping the viable and enriched agriculture land on our property is extremely important to us even though we can not establish farm status, being able to support our family farming efforts buy using a small portion of the difficult to farm land through operating our home based business will help us to keep improving and investing in our agriculture land and practises.*

**3. Could this proposal be accommodated on lands outside of the ALR? Please justify why the proposal cannot be carried out on lands outside the ALR.**

*This proposal could be carried out on another parcel of land and we continue to search for a feasible and affordable solution as well as a family orientated operation such as we have now. Any commercial land that we have been able to find so far is either unattainable financially or just plain unavailable. There is little to no commercial land available in the Creston area, and what is available is priced at \$500,000 to \$750,000 or is in the form of closed down gas stations and is not available due to environmental issues. We do not store or have any industrial equipment on our land other than small forklift and hand tools etc.*

*Also we are family applicant of two brothers, Chris Ducharme and Matthew Jackson and a very small business. For the most part it is my son and I operating it with the help of retired neighbours who help out when we are away or need a break.*

**4. Does the proposal support agriculture in the short or long term? Please explain.**

*Yes, this proposal supports agriculture. By being able to operate our small home based business it will in the end benefit our agriculture home area as well as our neighbours and farmers in the area. We will work together with them to promote not only our farming and harvesting area but neighbours as well as we will be able to financially support increasing the rejuvenating of their fields and maintain ours as well. I work closely with immediate neighbours as well many farmers in the Lister and Canyon area. We are highly supported by most of the rural community and the entire Creston Valley and Kootenays. The funds from our home business are enabling us to farm our small acreage and we also support our neighbours with small farms and will continue to work together to promote our small farms and become feasible again for harvesting and moving forward on maintaining our lands.*

**5. Do you need to import any fill to construct or conduct the proposed Non-farm use?**

*No*

**Applicant Attachments**

- Proposal Sketch - 67713
- Certificate of Title - 014-660-431

**ALC Attachments**

None.

**Decisions**

None.



# Committee Report

**Date of Report:** June 30, 2023  
**Date & Type of Meeting:** July 19, 2023, Rural Affairs Committee  
**Author:** Zachari Giacomazzo, Planner  
**Subject:** STRATA TITLE CONVERSION  
**File:** ST2301E – 1377323 BC LTD.  
**Electoral Area/Municipality** E

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Board to consider “Approval of Principle” of a Strata Title Conversion application for the conversion of an existing industrial building at 1155 Insight Drive in Electoral Area E. The applicants are required to provide proof of services prior to “Final Approval”. Local Governments are the Approving Authority for the subdivision of previously occupied buildings.

Staff recommend support of the strata title conversion in principle, with due consideration of the Strata Property Act as discussed in this report.

## SECTION 2: BACKGROUND/ANALYSIS

### 2.1 PROPOSAL SUMMARY AND BACKGROUND INFORMATION

GENERAL INFORMATION
<b>Property Owner:</b> 1377323 BC Ltd.
<b>Property Location:</b> 1155 Insight Drive, Electoral Area ‘E’
<b>Legal Description:</b> LOT A DISTRICT LOT 5665 KOOTENAY DISTRICT PLAN NEP66434 EXCEPT PLA NEP68359 (PID: 024-736-449)
<b>Property Size:</b> 2.34 hectares (5.79 acres)

#### Proposal

The applicants propose to convert an existing building into 16 commercial strata units. The subject property is a 2.34 ha parcel located on Insight Drive and adjacent to Hwy 3A, approximately 4 km west of the City of Nelson.




ST2301E - Location map



REGIONAL DISTRICT OF CENTRAL KOOTENAY  
 Box 590, 202 Lakeside Drive,  
 Nelson, BC V1L 5R4  
 Phone: 1-800-268-7325 www.rdck.bc.ca  
 maps@rdck.bc.ca

**Legend**

-  Electoral Areas
-  RDCK Streets
-  Cadastre
-  Address Points

**Map Scale:**

1:5,000

Date: July 5, 2023



The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.

Figure 1 - Location Map

**Background**

The subject property was previously occupied by Pacific Insight Electronics Corp. and the existing building has been vacant for a number of years. 1377323 BC Ltd. purchased the property with the intention of submitting this Strata Title Conversion application to divide the existing building into several strata units.

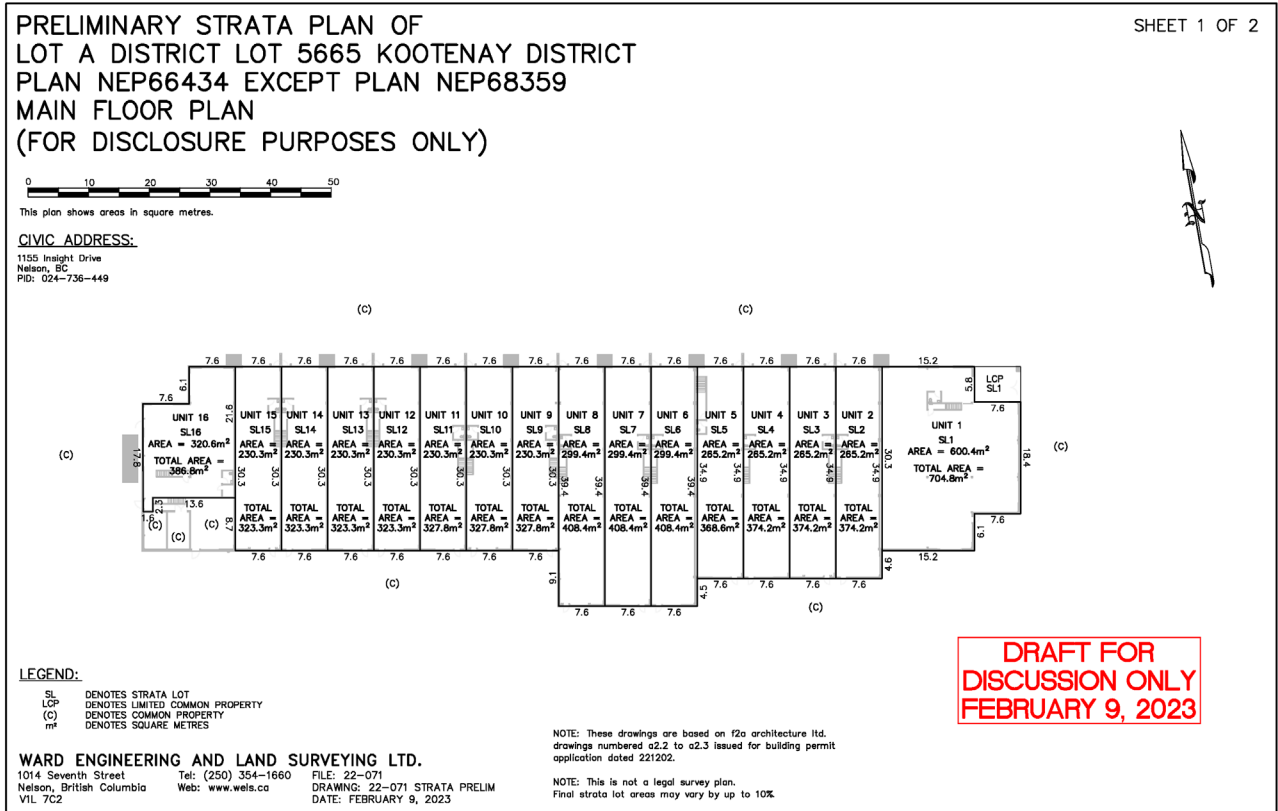


Figure 2 - Proposed Strata Plan

PRELIMINARY STRATA PLAN OF  
 LOT A DISTRICT LOT 5665 KOOTENAY DISTRICT  
 PLAN NEP66434 EXCEPT PLAN NEP68359  
 SECOND FLOOR (MEZZANINE) PLAN  
 (FOR DISCLOSURE PURPOSES ONLY)

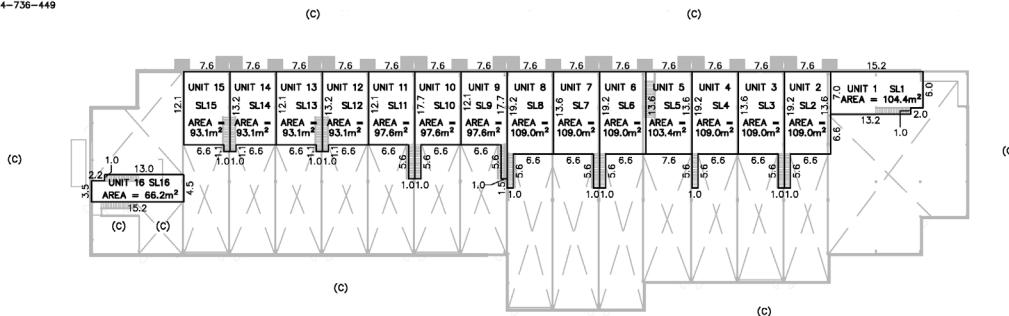
SHEET 2 OF 2



This plan shows areas in square metres.

**CIVIC ADDRESS:**

1155 Inaigh Drive  
 Nelson, BC  
 PID: 024-736-449



**LEGEND:**

- SL DENOTES STRATA LOT
- LCP DENOTES LIMITED COMMON PROPERTY
- (C) DENOTES COMMON PROPERTY
- m² DENOTES SQUARE METRES

**WARD ENGINEERING AND LAND SURVEYING LTD.**

1014 Seventh Street Tel: (250) 354-1660 FILE: 22-071  
 Nelson, British Columbia Web: www.wels.ca DRAWING: 22-071 STRATA PRELIM  
 VIL 7C2 DATE: FEBRUARY 9, 2023

NOTE: These drawings are based on f2a architecture ltd. drawings numbered a2.2 to a2.3 issued for building permit application dated 221202.

NOTE: This is not a legal survey plan. Final strata lot areas may vary by up to 10%.

**DRAFT FOR  
 DISCUSSION ONLY  
 FEBRUARY 9, 2023**

Figure 3 - Proposed Strata Plan (second floor mezzanine plan)

**2.2 ANALYSIS**

Under the *Strata Property Act* the Regional Board is the approving authority for conversion of previously occupied buildings. The approving authority may approve the strata plan, approve the strata plan subject to terms and conditions, refuse to approve the strata plan, or refuse to approve the strata plan until terms and conditions imposed by the approving authority are met. The Board’s decision is final and cannot be appealed.

The Board cannot approve the strata plan unless the building substantially complies with the applicable bylaws of the Regional District and the building regulations of the *Building Act*. The Board must also consider the following:

- the priority of rental accommodation over privately owned housing in the area,
- any proposals for the relocation of persons occupying a residential building,
- the life expectancy of the building,
- projected major increases in maintenance costs due to the condition of the building, and
- any other matters that, in its opinion, are relevant.

Below staff outline the Board’s considerations as per the *Strata Property Act*.

**Applicable Bylaws of the Regional District**

Electoral Area ‘E’ is not subject to a zoning bylaw, and the subject property is located in a portion of Electoral Area ‘E’ where there is no Official Community Plan in Effect. Therefore, the only applicable land use regulations

to this portion of Electoral Area 'E' are the RDCK Subdivision Bylaw No. 2159, 2011, Building Bylaw No. 2200, 2010, and the Floodplain Management Bylaw No. 2080.

*Subdivision Bylaw No. 2080, 2009*

The Subdivision Bylaw applies to all lands within the RDCK and is relevant to applications for bare land stratas, however when considering strata title conversions of previously occupied buildings, section 242 of the Strata Property Act identifies what should be considered and establishes that the approving authority is the local government. Based on the foregoing a subdivision application and consideration of the RDCK Subdivision Bylaw is not required for this application.

*Building Bylaw No. 2200, 2010*

As discussed in more detail in Building Regulations, the applicant has submitted a "report on existing structure" and have subsequently applied for a Building Permit to complete improvements and renovations in order to bring the existing building into "substantial compliance" with the BC Building Code.

*Floodplain Management Bylaw No. 2080, 2009*

The subject property is not adjacent to any watercourses and therefore there are no concerns related to the Floodplain Management Bylaw.

**Building Regulations**

The applicants have submitted a report completed by F2a Architecture and Construction dated March 16, 2023 (Attachment 'B'). The report outlines the work that needs to be completed, and the architect concludes that the building will substantially comply with the current BC Building Code once all the recommendations of the report have been addressed through the completion of the associated Building Permit application.

**Servicing Requirements**

The property is serviced by a drilled well and an on-site wastewater (septic) system. Additional servicing information will be provided by the applicant prior to final approval of this proposed Strata Title Conversion application.

**Priority of Rental Accommodation**

There are no land use policies that address the priority of rental accommodation because there is no OCP applicable to the subject property. The existing building has also been vacant for a number of years. As such, this item was not considered in the application.

**Relocation of Occupants**

A relocation of existing tenants plan has not been submitted and is not required because there are presently no occupants or tenants.

**Life Expectancy of the Building**

The architect's report indicates that the structure is in good condition and that work is currently being done to upgrade the building and bring it into substantial compliance with the BC Building Code.

**Projected Major Increases in Maintenance Costs**

The architect's report has not indicated any major increases in maintenance costs, and upgrades are currently being completed to bring it into substantial compliance with the BC Building Code. One area of uncertainty is the state of the current water distribution system and existing on-site wastewater (septic) system. More information will be provided on these two items prior to consideration of Final Approval.

## SECTION 3: DETAILED ANALYSIS

### 3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan:  Yes  No      Financial Plan Amendment:  Yes  No  
Debt Bylaw Required:  Yes  No      Public/Gov't Approvals Required:  Yes  No

The \$2200 application fee was paid in accordance with the Planning Procedures and Fees Bylaw No. 2457, 2015.

### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

This application was processed in accordance with the Planning Procedures and Fees Bylaw No. 2547, 2015.

### 3.3 Environmental Considerations

None anticipated with the change in ownership.

### 3.4 Social Considerations:

The subject property is improved with an industrial/commercial building and the building is currently vacant. The applicants were not required to provide a relocation of existing tenants plan.

### 3.5 Economic Considerations:

The conversion to strata units would allow local business owners with opportunities to purchase indoor commercial space.

### 3.6 Communication Considerations:

The application was referred to seven (7) neighbouring property owners, internal departments, the APHC for Electoral Area 'E' and other government agencies. The following responses were received:

#### Interior Health Authority – Environmental Health Officer

*The building at 1155 Insight Drive, Nelson BC, has a water system that was installed by the previous owner. This water system has not been in use since the closure of the previous business. From our records, and the provincial database there are two wells drilled on site but it is unclear if only one, or both were in use. The Well Tag Numbers are: 100049, 82099.*

*The new owner must submit an Application for a Permit to Operate a Water Supply System, and provide information on the components of the system that are currently in place. An "as built" inventory of the system by a Qualified Professional (Engineer) will fulfill this request.*

*Interior Health will also require a comprehensive water potability analysis for each well.*

*Once the application is submitted and the above supporting documents received Interior Health will determine if any changes or upgrades to the system or infrastructure are needed to meet current compliance standards. Any alterations or changes to the water system will require a Construction Permit issued by Interior Health prior to any work being completed.*

*Upon issuance of a Permit to Operate the owner will be required to submit weekly bacteriological samples, and monitor for any other parameters that may be indicated in the chemical analysis. They will also be required to create and submit an Emergency Response and Contingency Plan for the water system.*

*Applications for water system permits and construction permits can be found at:*



**Nelson Hydro – Design & Facilities Technician 1**

*Nelson Hydro does not have any issues with the proposed strata.*

**Fortis BC – Contract Land Agent**

*There are no FortisBC Inc (Electric) (“FBC(E)”) facilities affected by this application. As such FBC(E) has no concerns with this circulation.*

**RDCK Building Services**

*The Building Act restricts the ability of local government to write building regulation that is either more or less restrictive than the BCBC.*

*The proponents of the of Purcell Building Centre, through their architectural and engineering consultant team, have made application for a permit which is code compliant; the minimum standard of the code will be met. However, through consultation with the City of Nelson Fire department (the department with contracted authority to provide Fire Protection response to this site) the Regional District building department has identified a gap in building regulation which will significantly impair the ability of the fire department to effectively respond to fire emergency at this site, should the strata subdivision be approved. The RD building department cannot impose this requirement through building permitting processes, due to the previously mentioned restrictions of the Building Act.*

*Therefore, the building department recommends to the board (as the strata subdivision approving authority in the case of previously occupied buildings) that conditions be placed upon the subdivision so that the proponents of the subdivision supply:*

*“Exterior Hydrants meeting the design recommendations of Fire Underwriters Survey: Water Supply for Public Fire Protection 2020, A Guide to Recommended Practice in Canada (in consultation with the City of Nelson Fire Department who supply the personnel and equipment to a fire at this location).”*

*OR install a piping system within / under the existing building using:*

*“A NFPA 14 compliant (3.3.20.6) Semi Automatic Dry Standpipe System with (3.3.22.1) Class I System with 65mm (2 ½”) hose connections around the perimeter of the building, (in consultation with the City of Nelson Fire Department who supply the personnel and equipment to a fire at this location).”*

*Design for system solutions above, to be coordinated with the RDCK Building Inspection department in consultation with the City of Nelson Fire Department.*

**Electoral Area ‘E’ APHC**

- **Note: this is an excerpt from the DRAFT minutes for the meeting that was held on May 25, 2023. These minutes have not yet been provided to the Board.**
- *Good for local business, employment, upgrading building’s efficiency*
- *Concern about electrical heat, questions if heat pumps were considered?*
  - *Applicant: unfortunately I am not involved with mechanical but appears that heat pumps are included*



### **Comments received from the public**

1. *We generally have no objection to this application*
2. *Being a residential neighbourhood directly above subject property, we request if possible wording in their (strata bylaws or on title) concerning possible noise from manufacturing. Something that would follow most noise bylaws , No noise prior to 7am or after 9pm M-Saturday , No noise on Sundays*
3. *Site and exterior building lighting, to take into consideration for night skies and lighting be restricted to lighting surrounding grounds and not up the hill side.*

### **3.7 Staffing/Departmental Workplace Considerations:**

The processing of strata title conversion applications is part of the Planning Services Department's role.

### **3.8 Board Strategic Plan/Priorities Considerations:**

None.

## **SECTION 4: OPTIONS & PROS / CONS**

### **SUMMARY**

The report outlines information required under the Strata Property Act for the board to consider a Strata Title Conversion application for the conversion of an existing industrial/commercial building to 16 strata units at 1155 Insight Drive in Electoral Area 'E', as local governments are the Approving Authority for subdivision of previously occupied buildings.

Due to the fact that there are no land use regulations in this portion of Electoral Area 'E' to restrict the end use of the proposed strata units staff recommend that the Board consider a condition that will require the registration of a restrictive covenant on title for each proposed Strata Unit prior to "Final Approval" in order to:

- Restrict the use of the units for those uses that are approved for the F2 category in the BC Building Code, and;
- Notify individual unit owners that the on-site wastewater system is only designed to accommodate conventional domestic waste and no commercial or industrial waste/by-products be flushed down any of the drains that feed into the shared septic system.

The Board may approve the strata plan subject to terms and conditions, refuse to approve the strata plan, or refuse to approve the strata plan until terms and conditions imposed by the approving authority are met.

Staff note that at this time, only "Approval in Principle" is being considered. The applicants are required to provide the RDCK with proof of services (water and wastewater) as well as additional information about the fire protection system prior to consideration of "Final Approval". The applicants are aware of the requirements for water and wastewater and asked staff to proceed with consideration of "Approval in Principle" prior to completing the detailed review of the existing services and infrastructure.

### **OPTIONS**

#### **Option 1 – Approval in Principle of the proposed Strata Plan**

That the Board PROVIDE APPROVAL IN PRINCIPLE of Strata Title Conversion ST2301E for the property located at 1155 Insight Drive and legally described as LOT A DISTRICT LOT 5665 KOOTENAY DISTRICT PLAN NEP66434 EXCEPT PLAN NEP68359 (PID 024-736-449) for the conversion of the existing building to 16 strata units.

**Option 2 – Refuse the “Approval in Principle” of the Strata Plan until Terms and Conditions are met**

That the Board NOT PROVIDE APPROVAL IN PRINCIPLE of Strata Title Conversion ST2301E for the property located at 1155 Insight Drive and legally described as LOT A DISTRICT LOT 5665 KOOTENAY DISTRICT PLAN NEP66434 EXCEPT PLAN NEP68359 (PID 024-736-449) for the conversion of the existing building to 16 strata units until such a time as the following terms and conditions are met:

SUBJECT TO:

1. Confirmation of water and wastewater services to the satisfaction of the RDCK and Interior Health Authority, and;
2. “Exterior Hydrants meeting the design recommendations of Fire Underwriters Survey: Water Supply for Public Fire Protection 2020, A Guide to Recommended Practice in Canada (in consultation with the City of Nelson Fire Department who supply the personnel and equipment to a fire at this location).”

OR install a piping system within / under the existing building using:

“A NFPA 14 compliant (3.3.20.6) Semi Automatic Dry Standpipe System with (3.3.22.1) Class I System with 65mm (2 ½”) hose connections around the perimeter of the building, (in consultation with the City of Nelson Fire Department who supply the personnel and equipment to a fire at this location).”

**Option 3 – Refuse the “Approval in Principle” of the Strata Plan**

That the Board NOT PROVIDE APPROVAL IN PRINCIPLE Strata Title Conversion ST2301E for the property located at 1155 Insight Drive and legally described as LOT A DISTRICT LOT 5665 KOOTENAY DISTRICT PLAN NEP66434 EXCEPT PLAN NEP68359 (PID 024-736-449) for the conversion of the existing building to 16 strata units.

**SECTION 5: RECOMMENDATIONS**

That the Board PROVIDE APPROVAL IN PRINCIPLE of Strata Title Conversion ST2301E for the property located at 1155 Insight Drive and legally described as LOT A DISTRICT LOT 5665 KOOTENAY DISTRICT PLAN NEP66434 EXCEPT PLAN NEP68359 (PID 024-736-449) for the conversion of the existing building to 16 strata units.

Respectfully submitted,

Originally signed by

Zachari Giacomazzo, Planner

**CONCURRENCE**

Planning Manager – Digitally approved by Nelson Wight

General Manager Development & Sustainability – Digitally approved by Sangita Sudan

Chief Administrative Officer – Digitally approved by Stuart Horn

**ATTACHMENTS:**

Attachment A – Preliminary Strata Plans

Attachment B – Report on existing structure prepared by f2a architecture and construction

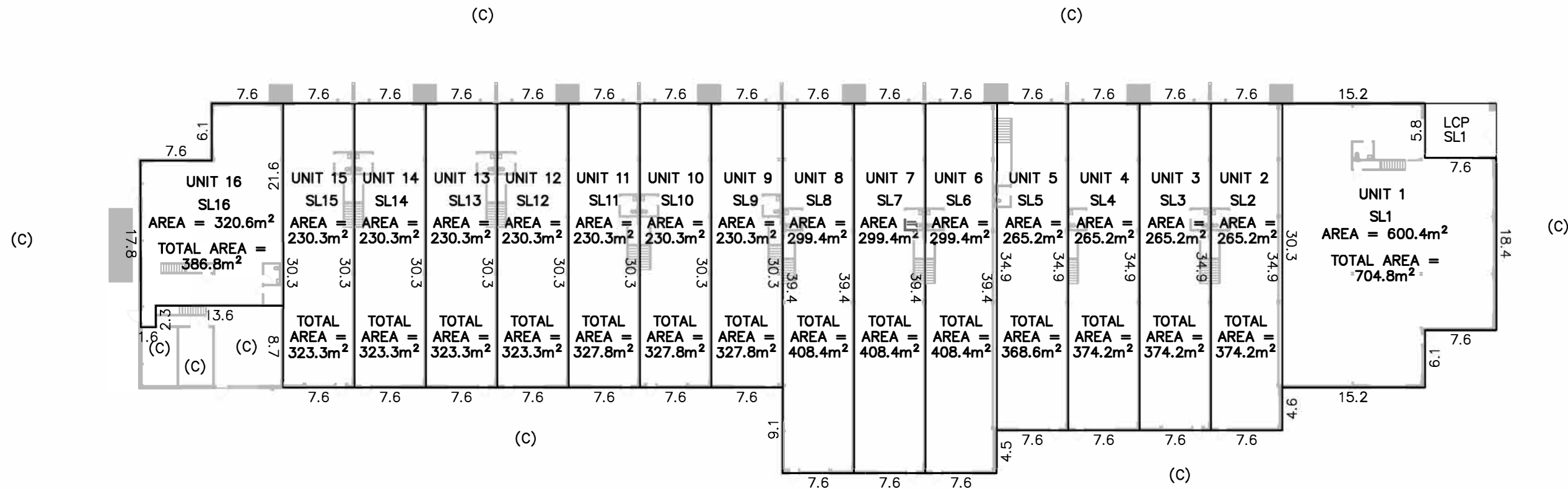
# PRELIMINARY STRATA PLAN OF LOT A DISTRICT LOT 5665 KOOTENAY DISTRICT PLAN NEP66434 EXCEPT PLAN NEP68359 MAIN FLOOR PLAN (FOR DISCLOSURE PURPOSES ONLY)



This plan shows areas in square metres.

**CIVIC ADDRESS:**

1155 Insight Drive  
Nelson, BC  
PID: 024-736-449



**LEGEND:**

- SL DENOTES STRATA LOT
- LCP DENOTES LIMITED COMMON PROPERTY
- (C) DENOTES COMMON PROPERTY
- m<sup>2</sup> DENOTES SQUARE METRES

**DRAFT FOR  
DISCUSSION ONLY  
FEBRUARY 9, 2023**

**WARD ENGINEERING AND LAND SURVEYING LTD.**

1014 Seventh Street      Tel: (250) 354-1660      FILE: 22-071  
Nelson, British Columbia      Web: www.wels.ca      DRAWING: 22-071 STRATA PRELIM  
V1L 7C2      DATE: FEBRUARY 9, 2023

NOTE: These drawings are based on f2a architecture ltd. drawings numbered a2.2 to a2.3 issued for building permit application dated 221202.

NOTE: This is not a legal survey plan. Final strata lot areas may vary by up to 10%.

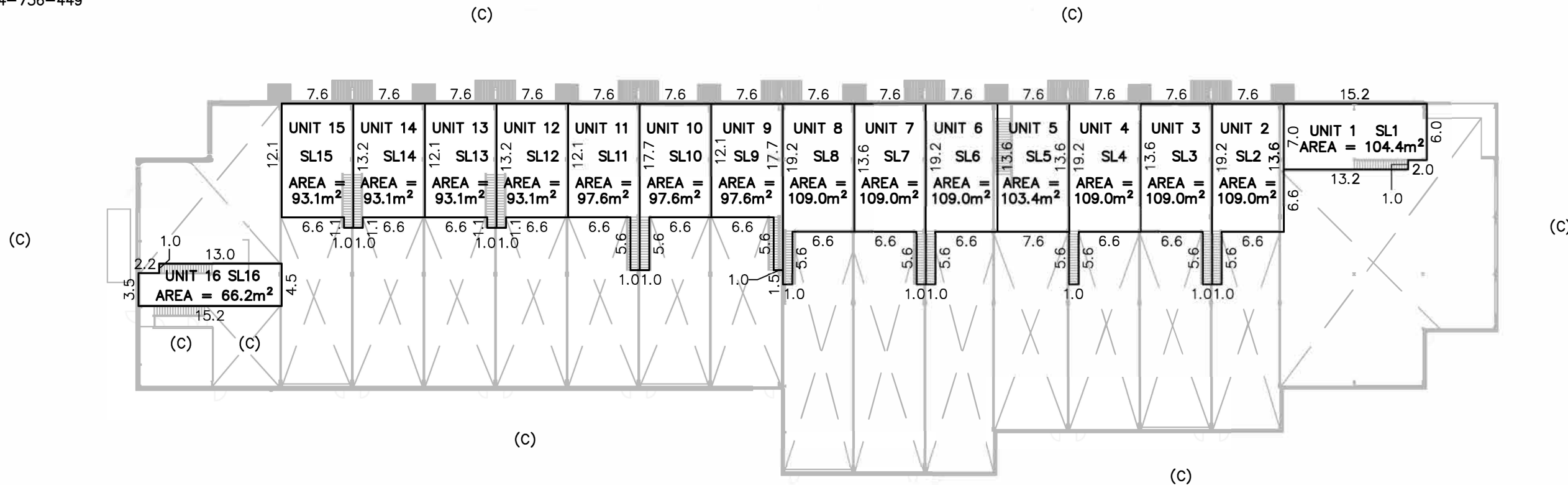
# PRELIMINARY STRATA PLAN OF LOT A DISTRICT LOT 5665 KOOTENAY DISTRICT PLAN NEP66434 EXCEPT PLAN NEP68359 SECOND FLOOR (MEZZANINE) PLAN (FOR DISCLOSURE PURPOSES ONLY)



This plan shows areas in square metres.

**CIVIC ADDRESS:**

1155 Insight Drive  
Nelson, BC  
PID: 024-736-449



**LEGEND:**

- SL DENOTES STRATA LOT
- LCP DENOTES LIMITED COMMON PROPERTY
- (C) DENOTES COMMON PROPERTY
- m<sup>2</sup> DENOTES SQUARE METRES

DRAFT FOR  
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architecture  
construction

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250-488-7201  
info@f2a.ca  
www.f2a.ca

March 16, 2023

RDCK planning staff  
RDCK board  
c/o Zachari Giacomazzo  
zgiacomazzo@rdck.bc.ca



### Strata Title Conversion - report on existing structure

Good Afternoon,

This report is to provide my professional opinion on the existing structure at 1155 Insight Drive, proposed to be converted to strata title. The purpose of this report is to provide a thorough assessment of the existing structure and its suitability for strata title conversion. I will respond directly to the requirements of the RDCK Development Application submission checklist, item K. "structural engineer or architect's report on existing structure".

The building at 1155 Insight Drive was built in 2000 for Pacific Insight Electronics Corporation as an automotive electronics and lighting manufacturing facility. It was designed by Varco Pruden of Memphis, Tennessee and prefabricated by Norsteel Building Systems Ltd. of West Kelowna. Typical of prefabricated steel buildings, it was built with transverse steel girders, longitudinal purlins, fibreglass roll insulation, and profiled steel panel cladding. The building will undergo significant renovations to prepare it for stratification. Principally, the renovation will add fire partitions along the lines of the steel girders, approximately every 25' along its length. The work will also include retrofit of the structure, envelope, mechanical system, plumbing, electrical system, and the addition of fire suppression and fire alarm systems.

In discussions with the building department, question was raised as to whether the energy efficiency of the building meets current code. If the building were built today, it would not meet thermal resistance requirements. However, the building code requires only that all modified components of an existing building meet current energy performance standards. All components replaced will therefore meet or exceed current performance requirements. In addition, the renovation will take important steps to improve the air-tightness of the envelope, the most impactful aspect of building energy efficiency. Air tightness will be improved by removing leaky ventilation ducts and patching the resulting holes, adding entrance vestibules, and patching all visible punctures in the air + vapour membrane. Further efficiency and comfort upgrades will be made by improving the mechanical system itself with HRVs and introducing daylight to office spaces by adding full height windows along the entrance facade.

#### 1) Age and repair of all buildings and structures

There are four structures at 1155 Insight Drive. They include the main building, a cistern, and two well pump houses, all 23 years old. These buildings are largely sound and have been maintained by the owner and operator. Due to its durable structural material, there has been no concern raised over the structural integrity of the primary building. As part of the strata renovations, new overhead

doors will be added to each unit. Some of these doors overlap structural brace bays, so the longitudinal structure is planned to be retrofit to meet current structural requirements.

#### **2) General condition and repair of the foundation**

The foundation is cast-in place concrete, with pilasters and piers for column bearing as is standard for this type of building. Having reviewed the entire perimeter of the foundation inside and out, I observed just two small cracks which do not appear to have significance. In short, the foundation is in great shape. Site drainage was originally established from the south side of the building under the foundation to the drainage ditch north of the building. This drainage appears to be functioning properly. There are two drains located in the existing loading docks which will need to be extended to meet updated drainage slopes.

#### **3) Heating, plumbing, and electrical systems and fixtures**

Heating was originally provided with ceiling-mounted natural gas tube heaters. A mechanical engineer has designed a heating system retrofit which will reuse some of the tube heaters. The tube heaters will be augmented by new electric baseboard heaters installed in each unit. Baseboard heaters are durable, flexible, zero-emission, and use renewable energy, an improvement over the original all-gas heating system.

#### **4) Roof structure and condition**

The roof structure is steel girders and purlins, all in good shape without sign of movement or rust. The roof insulation is 3 1/2" fibreglass batts, and the roof cladding is profiled steel. The roof is low-slope, approximately 1:12. Where rooftop ventilation units were originally installed, the roof leaked. The rooftop units are planned to be removed, roofing repaired, and any damaged insulation replaced. The envelope of this building is the aspect in greatest need of attention. As noted above, air-tightness will be improved and any damaged insulation and air/ vapour barrier will be replaced or repaired. To maintain integrity of the roofing system, and to ensure no leaks occur in the future, roofing repairs must be sufficiently lapped as per RCABC best practices. Care will also need to be taken to repair and replace as necessary all gutters and downspouts. As architect of record, I will review component shop drawings and site work related to the building envelope.

#### **5) Fire and sound separations**

One-hour fire separations will be added between all suites. For a sprinklered building of this size and occupancy, 45 minute fire separations are required. One hour separations will be provided for future flexibility. There are no acoustic requirements for suite demising walls. Buyers may choose to add acoustic batts, resilient channel or both to suit their needs.

#### **6) Common amenities**

The common amenities included in this building are a strata suite for utility purposes, two wells and a water filtration system, a fire suppression pump and manifold, the fire alarm system and annunciator, electrical switchgear and panels, emergency generator, guest parking, a sign monument, and way-finding signage. Dedicated parking and loading spaces will also be provided for each unit.



**7) Compliance with egress and exiting requirements**

All suites have been designed to comply with current egress and exiting requirements. They have been provided with two exit doors each, positioned so as to meet separation requirements and not to exceed travel distances. No exit signage is required but fire-alarm pull stations will be provided at each exit.

**8) Methodology used to evaluate the building and source of information on which report is based**

All the information I have provided in this report is first-hand. I have personally observed the existing building for planning, review of demolition work, and made an additional inspection visit specifically to write this letter. I have also overseen drafting of existing building plans, reviewed the building code with reference to the building, and designed the building retrofit to be code compliant.

**9) Disclosure of direct or indirect interest the writer of the declaration may have in the building or ownership.**

Neither I nor f2a architecture has direct economic interest in this strata project. We are paid fees for our work. My interest is to achieve design and construction review excellence. My architectural practice interests itself with the retrofit and reuse of buildings and structures as we believe that to improve our environment, we must make full use of existing buildings before constructing new. We also believe that existing building upgrades must take higher priority than new construction.

Please do not hesitate to reach out if you would like me to elaborate on any of these points or to respond to any questions on other aspects of the building at 1155 Insight Drive.

Sincerely,



Austin Hawkins, Architect AIBC



# Committee Report

**Date of Report:** June 27, 2023  
**Date & Type of Meeting:** July 19, 2023 Rural Affairs Committee  
**Author:** Zachari Giacomazzo, Planner  
**Subject:** BYLAW AMENDMENT  
**File:** Z2303K - Hascarl  
**Electoral Area/Municipality:** K

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Board to consider an application for a bylaw amendment for the subject property at 948 Highway 6, in Electoral Area 'K'.

The applicant seeks to re-zone the property from Rural Residential 'K' (R3K) to a site specific Heavy Industrial (M3) zone and amend the OCP land use designation from Rural Residential (R3) to Industrial (M) in order to permit "Concrete and Cement Manufacturing and Storage". The proposed site specific M3 zone would address a reduction of the minimum site area requirement from 3 hectares to 0.5 hectare and a reduction of the setback from a concrete batch plant to a lot line that abuts a Residential zone from 75 metres to approximately 18 metres.

Staff has received a significant number of submissions from the surrounding area residents expressing opposition to this industrial use in their neighbourhood. Given that opposition, the inconsistency of the proposed bylaw amendment with Electoral Area 'K' Official Community Plan Bylaw No. 2022, 2009 (the OCP), and the conflicts of use between the proposed industrial activity and the surrounding residential neighbourhood, Staff recommend that no further action be taken.

## SECTION 2: BACKGROUND/ANALYSIS

### SITE CONTEXT

The subject property is located at 948 Highway 6, approximately 3 km east of the Village of Nakusp in Electoral Area 'K'. The property is 5.9 ha in size and is currently used as a residence, farm and a repair shop for motor vehicles and farm equipment. The applicant has indicated that the operation of the motor vehicle and farm equipment repair shop predates the zoning regulations for Electoral Area 'K', however the applicant has not provided any information to the RDCK to recognize this use as "Legal Non-Conforming".

The property is surrounded by rural/suburban residential and agricultural uses. There is a 2 ha industrial property (848 Highway 6) approximately 300 metres west of the subject property on the north side of Highway 6 where the concrete batch plant business has been operating for more than 40 years.

### GENERAL INFORMATION

**Property Owner:** Kelly A. Hascarl and Neil A. Hascarl

**Property Location:** 948 Highway 6, Rural Nakusp, Electoral Area 'K'

**Legal Description:** LOT 1 DISTRICT LOT 298 KOOTENAY DISTRICT PLAN 17803 EXCEPT PLAN NEP90926 (PID: 010-445-609)  
**Property Size:** 5.9 hectares (14.6 acres)

SURROUNDING LAND USES	
North:	Suburban/Rural Residential
East:	Rural Residential
South:	Suburban Residential/Agriculture
West:	Suburban Residential/Agriculture



Figure 1 - Location Map





*Figure 2 - View of proposed concrete batch plant location from Hwy 6*



*Figure 3 - Location of proposed concrete batch plant in front of this existing building*



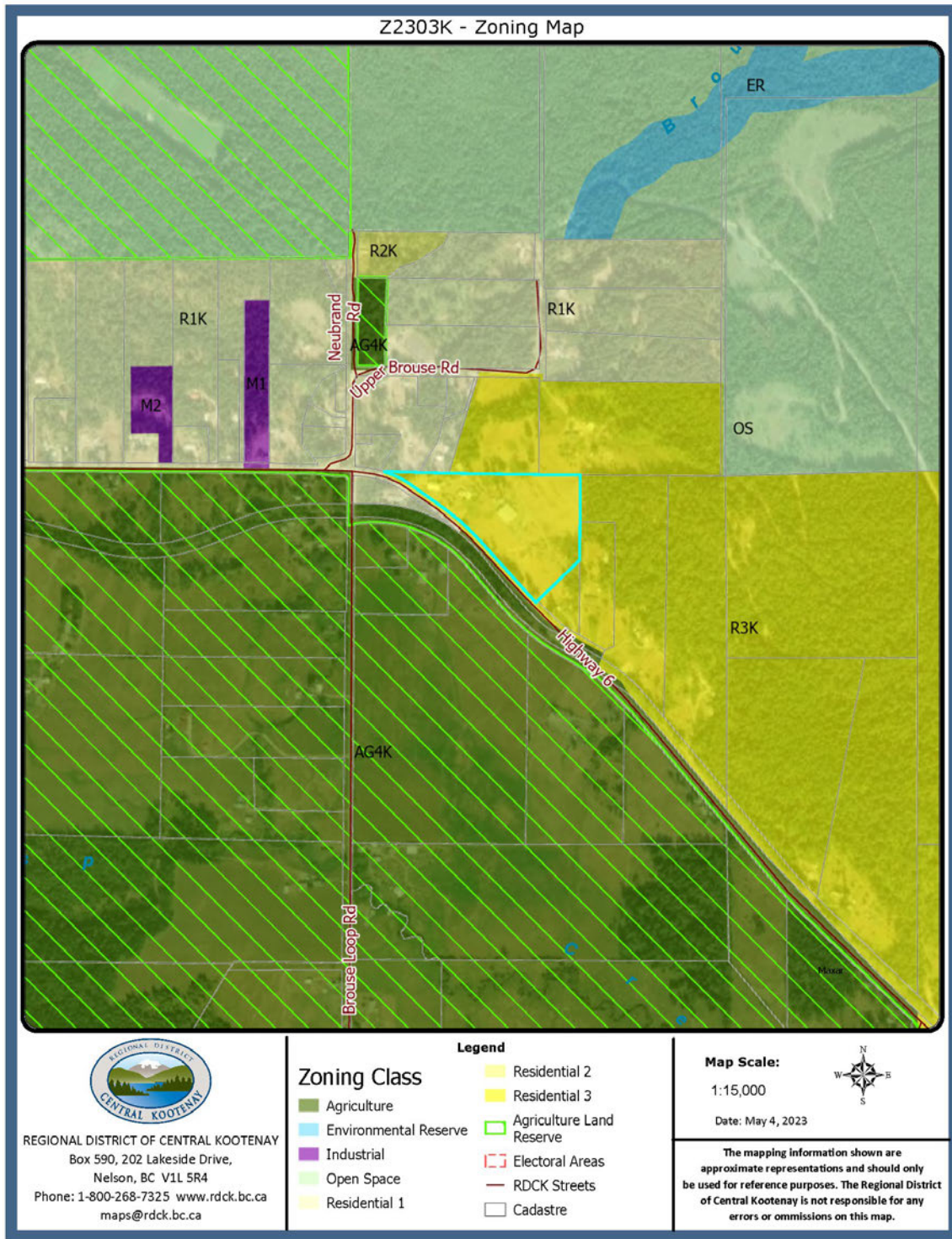


Figure 4 - Zoning map

## **EXISTING PLANNING POLICY**

### **Electoral Area 'K' Official Community Plan Bylaw No. 2022, 2009**

The following policies from the Electoral 'K' Official Community Plan (OCP) were noted as being relevant to the current application. These policies are intended to guide decision making when considering land use amendments and development applications.

#### **4.0 GOALS**

##### **General**

1. To encourage the appropriate use of land in recognition of the desires of area residents, existing uses, resource constraints and opportunities, compatibility between uses, and the efficient provision of community services.
2. To maintain opportunities for rural living through development which respects the lifestyles of area residents and the natural environment.

##### **Social**

1. Provide for safe, quiet, and attractive rural residential neighbourhoods that will satisfy the housing and social needs of all Arrow Lakes residents, with particular emphasis on affordable market, rental and seniors housing.
2. Protect and enhance the unique "community character" of the unincorporated settlements within the rural plan area.

#### **8.0 COMMERCIAL AND INDUSTRIAL**

##### **Objectives**

1. To accommodate commercial developments that service the local communities and travelling public.
2. To ensure that industrial uses are located in a manner which reduces impacts on neighbouring properties and the natural environment.
3. To accommodate temporary industrial and commercial uses in appropriate locations.

##### **Industrial (M) Policies**

The Regional Board:

1. Supports that upon application, a light industrial subdivision may be considered subject to good arterial highway access and subject to noise abatement and landscaping requirements and where land use conflicts are minimized.
2. Recognizes the maintenance of existing industry, and supports new small scale light industry so that a broader employment base may be achieved.
3. Recognizes existing aggregate processing uses in the area. However, further industrial or quarry operations are discouraged by the Regional District unless mitigative measures are taken to ensure such development will have no impact on the neighbouring property owners.
4. Supports that Industrial Development Permits pursuant to Section 488.1(1) (a) and (f) of the Local Government Act may be considered on any parcel designated as Industrial. Such permits may be



subject to the provision of performance bonds and/or registered covenants ensuring compliance of the permit.

5. Discourages industrial activities that are considered noxious or emit large volumes of pollutants, or are otherwise detrimental to the environment, neighbouring properties, and the community as a whole.
6. Supports that a Development Permit Area pursuant to Sections 488.1 and 489 of the Local Government Act shall be required for all industrial developments to ensure development is compatible with adjacent land uses.

## **12.0 NATURAL ENVIRONMENT**

### **Objectives**

1. To preserve and protect natural values within the Plan Area in recognition of their importance to the local economy, residents, visitors and for wildlife and ecological functioning.
2. To maintain high water quality of groundwater and surface water sources of domestic water supply
3. To foster an awareness of the natural environment and protect sensitive and significant natural features and values from negative impact as a result of development.
5. To preserve the aesthetic value of the landscape.
6. To regulate the siting and environmental design of development adjacent to watercourses, including sensitive and significant natural features and values.
7. To encourage Provincial and Federal governments, private organizations and private landowners to protect, enhance and manage sensitive habitat areas in the Plan area and to adhere to Federal and Provincial statutes and regulations for the protection of fish and wildlife habitats.

### **Policies**

The Regional Board:

1. Supports the identification, protection, and enhancement of environmentally sensitive areas, such as watercourses, wetlands, shorelines, steep rocky terrestrial areas and ungulate winter range.
4. Supports the objectives of the Province contained in the BC Stewardship Centre Stewardship Series documents, 'Stream Stewardship: A Guide for Planners and Developers', and 'Stewardship Bylaws: A Guide for Local Government', which describe measures for:
  - a. providing and protecting vegetated riparian areas adjacent to watercourses;
  - b. controlling soil erosion and sediment in run-off water;
  - g. preventing the discharge of deleterious substances into watercourses
9. Recognizes the ecological importance and functioning of all waterways in the Plan area.

## **18.0 COMMUNITY SPECIFIC POLICIES**

### **Brouse/Glenbank**

- Development in the Brouse and Glenbank areas shall be primarily rural residential and agricultural. Other forms of development shall be directed towards the boundary of the Village of Nakusp.

## SECTION 3: DETAILED ANALYSIS

### 3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan:  Yes  No      Financial Plan Amendment:  Yes  No  
Debt Bylaw Required:  Yes  No      Public/Gov't Approvals Required:  Yes  No

Pursuant to Planning Fees and Procedures Bylaw No. 2457, 2015 the applicant has paid the joint OCP/Zoning bylaw amendment fee of \$1800 in full.

### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

The application was processed in accordance with Planning Fees and Procedures Bylaw No. 2457, 2015.

### 3.3 Environmental Considerations

Increased truck traffic, processing aggregate and batching concrete could have an impact on Upper Brouse Creek which flows through the subject property.

### 3.4 Social Considerations:

Staff have concerns that the proposed Industrial use of the subject property will have a significant negative impact on the public and specifically the surrounding residents. A number of complaints have been received from neighbours related to the unauthorized operation of the concrete batch plant and the related, noise, dust, truck traffic

### 3.5 Economic Considerations:

The proposed concrete batch plant has the potential to create a small number of jobs in the community. Staff also recognize that pursuant to Section 12.0 of the OCP, the natural environment is of significant value to the economy and the livelihood of the Plan area for recreation, education, tourism and spiritual well-being; and is recognized for its inherent value to wildlife and the ecological functioning of the area. Any potential economic benefits in the form of jobs, need to be considered against the possible environmental impact of a new industrial use adjacent to a fish bearing creek.

### 3.6 Communication Considerations:

Pursuant to the Planning Fees and Procedures Bylaw, the application was referred to 21 households in the community, the Ministry of Transportation, Ministry of Water, Lands and Resource Stewardship, Interior Health Authority, Village of Nakusp, RDCK Fire Services, RDCK Building Services, Fortis BC, BC Hydro, the Director and Alternative Director for Electoral Area 'K', and all First Nations identified as having interests through use of the Consultative Areas Database tool.

The following government agencies and First Nations responded to the referral:

#### Ministry of Transportation and Infrastructure – Development Officer

Thank you for the opportunity to review the application. The ministry has no concerns however an access permit will be required to ensure egress and ingress movements are safe and no impact to the highway users.

#### Fortis BC – Contract Land Agent

There are no FortisBC Inc (Electric) ("FBC(E)") facilities affected by this application. As such FBC(E) has no concerns with this circulation.

#### RDCK Building Department – Senior Building Official

No comments.

Ktunaxa Nation Council – Guardianship Referrals Administrator

The Ktunaxa Nation Council has no further concerns with this Bylaw Amendment.

Penticton Indian Band – Interim Referrals Coordinator

We are in receipt of the above referral. The proposed activity is located within Okanagan/syilx Nation Territory. All lands and resources within the vicinity of this referral are subject to unextinguished Okanagan/syilx Nation Aboriginal Title and Rights. The Penticton Indian Band has now had the opportunity to review the proposed activity. At this time, the Penticton Indian Band will be deferring further consultation and engagement to the Okanagan Indian Band.

Okanagan Indian Band

*No response received. RDCK Staff followed up with Okanagan Indian Band on June 15<sup>th</sup> however a response has not yet been provided.*

Village of Nakusp – Chief Administrative Officer

The Village is happy to support increased commercial activity in the general area, and particularly a cement operation. However we do have one concern which deals with the water source the applicant will be using to operate their business. This property is serviced by the Village of Nakusp’s water system. We do not want our potable water used for this purpose as the water consumption will be considerable and we are always conscious of our water use to ensure there is enough water for future housing growth in our community. Furthermore, we lack the means to adequately charge for and meter the water they would use.

We respectfully request that the applicant be required to use a different water source for their operation as a condition of the approval of their application. We do not believe this is an erroneous request since there is surface water available in the area alternatively a well could be drilled.

Community Referral Responses

Community members surrounding the subject property responded to the RDCK during the referral period. A total of 16 written submissions were received.

All responses from the neighborhood referral are included in Attachment E.

The detail included in the submissions was extensive. The following table is an effort to identify the concerns that were repeated in many of the submissions. The table also includes information for the RAC and Board to consider when evaluating the concerns.

<b>Concern</b>	<b>Details</b>	<b>Considerations</b>
Noise and Dust	Noise from trucks, rock crushing activities, moving/operating machinery and vehicles has been disturbing surrounding residents.  Neighbours are concerned with the dust that would be created	Is it possible for noise from trucks and the concrete manufacturing process to be mitigated? Can fences or vegetative screening sufficiently mitigate the impacts of noise and dust from an industrial use or are the issues

	from truck traffic and the manufacturing process itself. Concerns were also raised about dust from the concrete manufacturing process ending up in the creek.	noted by neighbours likely to persist?
Incompatibility with surrounding land uses	The Industrial land use designation and Heavy Industrial (M3) zone that is required to permit a concrete batch plant is not compatible with the surrounding suburban and rural residential land uses.	Is there a more suitable area for this proposed use? Is the proposed industrial use far enough from residential uses?
Water/Environment/Brouse Creek	Many residents identified concerns related to the impact on Brouse Creek which is a fish bearing stream and also a source of drinking water for the Village of Nakusp directly upstream from the proposed location of the concrete batch plant. Storing of vehicles, machinery, gravel, and manufacturing concrete products all have the ability to negatively impact the creek.	The Village of Nakusp, who provides water to the subject property has noted that they have concerns with an industrial business utilizing a domestic water connection.  A number of residents have concerns that this proposed industrial use would have on Brouse Creek and the associated riparian area.
Rural Character	The quiet rural character of the area would potentially be disturbed by allowing a new industrial business.	Is this proposed use compatible with the characteristics of the surrounding properties?
Reduction of required 75 metre setback from the concrete batch plant to residential properties	The proposal involves reducing the minimum required setback of 75 metres from the closest point of the batch plant or rock processing machinery/equipment to any lot lines abutting a residential zone. The closest lot line abutting a residential zone is approximately 18 metres from the proposed location of the concrete batch plant.	There are two residential properties that are not owned by the applicant that are within 75 metres of the proposed location of the concrete batch plant. For these two residential properties, the dwellings are located less than 75 metres from the proposed concrete batch plant location.
Un sightliness of the property and visual impact of the proposed batch plant	There are a large number of derelict and inoperable vehicles and machinery scattered throughout the subject property. The establishment of a concrete batch plant and the additional materials and machinery that are	Given the existing conditions of the subject property and how close the proposed batch plant is to the roadway (Hwy 6), it is likely that the property will remain in this current state and additional

	required for the manufacturing of concrete products would make this existing situation worse.	machinery/equipment will be stored adjacent to the roadway.
Conflict with existing land use policies	The proposal is not consistent with several sections of the Area 'K' Official Community Plan.	The OCP is the land use policy document that was developed by the RDCK in consultation with the community and other stakeholders to guide future land use planning decisions. The proposed Land Use Bylaw Amendment is not consistent with the OCP.
Negative impact on property values	Neighbouring property owners have concerns related to how the proposed industrial use could affect the value of their homes.	

### 3.7 Staffing/Departmental Workplace Considerations:

Upon receipt of an application, accompanied with the relevant documents and fee, staff review the application in accordance with the Land Use Amendments Procedures within Schedule 'C' of the Planning Procedures and Fees Bylaw No. 2547, 2015.

### 3.8 Board Strategic Plan/Priorities Considerations:

The application falls under the operational role of Planning Services.

## SECTION 4: OPTIONS & PROS / CONS

### PLANNING DISCUSSION

This application proposes to amend the OCP land use designation from Rural Residential (R3) to Industrial (M) and amend the Zoning designation from Rural Residential 'K' (R3K) to a site specific Heavy Industrial (M3) zone for a 0.5 hectare portion of the subject property in order to permit a "concrete batch plant". Site specific zoning regulations are requested to be established in order to:

1. Permit a 0.5 hectare area to be zoned M3 because the minimum site area requirement pursuant to Section 4201 (1) of Zoning Bylaw No. 1675 is 3 hectares, and to;
2. Permit the proposed concrete batch plant to be constructed 18 metres from a lot line abutting a residential zone because pursuant to Section 4201 (4) of Zoning Bylaw No. 1675 a concrete batch plant must be a minimum of 75 metres from a lot line abutting a residential zone.

The portion of the subject property that is proposed to be rezoned Heavy Industrial (M3) is surrounded by residential properties. Figure 5 shows a red circle which represents an approximate 75 metre buffer around the location of the proposed concrete batch plant. Typically, the M3 zone requires that all residential properties are at least 75 metres from the machinery and equipment used as part of a batch plant. This map illustrates that two dwellings are within 75 metres of the proposed location of the batch plant.



Land Use Bylaw Amendment applications to establish new industrial land can negatively impact the community and this proposal to rezone a portion of an existing residential lot has received 16 submissions from neighbouring residents which is significant. The concerns raised by surrounding residents range from noise, environmental impact on the adjacent creek, dust, increase in truck traffic, negative impact on property values, incompatibility with adjacent land uses, and the overall unsightliness of the property and the proposed use.

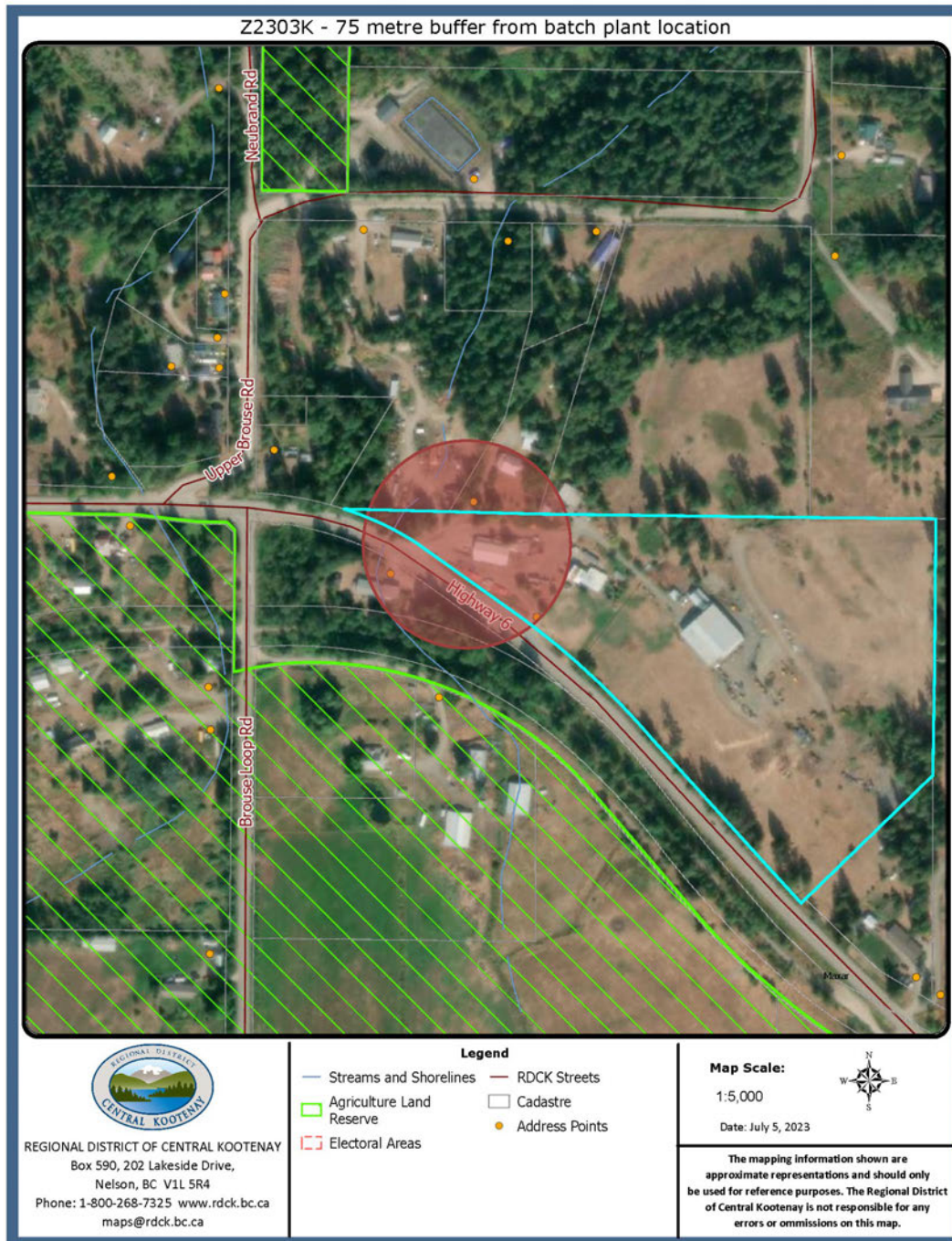


Figure 5 - Map showing an approximate 75 metre buffer from the approximate location of the proposed concrete batch plant

The OCP is the land use policy document that was developed by the RDCK in consultation with the community and other stakeholders to guide future land use planning decisions. This proposed Land Use Bylaw Amendment is not consistent with the existing land use policy in the Electoral Area 'K' Official Community Plan Bylaw No. 2022, 2009 and is in direct contradiction of many of the relevant sections that were mentioned in the "existing planning policy" section of this report.

If the proposed Land Use Bylaw Amendment application were to be supported, an Industrial Development Permit application pursuant to Section 19.0 of the Area 'K' Official Community Plan would subsequently be required in order to address:

1. impact on farm land;
2. capability of the natural environment to support the proposed development;
3. compatibility with adjacent land uses and designations, and the character of the area;
4. susceptibility to natural hazards, including but not limited to flooding, slope instability, or wildfire risk;
5. the size of the property in relation to the proposed industrial activity;

Given the opposition that was received from surrounding residents, the inconsistency of the proposed bylaw amendment with the OCP, and the conflicts of use between the proposed industrial activity and the surrounding residential neighbourhood, Staff recommend that no further action be taken with regard to this application.

## **OPTIONS**

### **Option 1**

1. That NO FURTHER ACTION be taken regarding Regional District of Central Kootenay Zoning Amendment Bylaw No. 2906, 2023 being a bylaw to amend the Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004.
2. That NO FURTHER ACTION be taken regarding Regional District of Central Kootenay Electoral Area K – The Arrow Lakes Official Community Plan Amendment Bylaw No. 2907, 2023 being a bylaw to amend to amend Electoral Area K – The Arrow Lakes Official Community Plan Bylaw No. 2022, 2009.

### **Option 2**

1. That Regional District of Central Kootenay Zoning Amendment Bylaw No. 2906, 2023 being a bylaw to amend the Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 is hereby given FIRST and SECOND reading by content and referred to a PUBLIC HEARING.
2. That Regional District of Central Kootenay Electoral Area K – The Arrow Lakes Official Community Plan Amendment Bylaw No. 2907, 2023 being a bylaw to amend to amend Electoral Area K – The Arrow Lakes Official Community Plan Bylaw No. 2022, 2009 is hereby given FIRST and SECOND reading by content and referred to a PUBLIC HEARING.
3. That in accordance with Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015, Electoral Area 'K' Director Teresa Weatherhead is hereby delegated the authority to chair the Public Hearing on behalf of the Regional District Board.

## **SECTION 5: RECOMMENDATIONS**

1. That NO FURTHER ACTION be taken regarding Regional District of Central Kootenay Zoning Amendment Bylaw No. 2906, 2023 being a bylaw to amend the Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004.

2. That NO FURTHER ACTION be taken regarding Regional District of Central Kootenay Electoral Area K – The Arrow Lakes Official Community Plan Amendment Bylaw No. 2907, 2023 being a bylaw to amend to amend Electoral Area K – The Arrow Lakes Official Community Plan Bylaw No. 2022, 2009.

Respectfully submitted,

Originally signed by

Zachari Giacomazzo, Planner

## CONCURRENCE

Planning Manager – Digitally approved by Nelson Wight

General Manager of Development Services and Community Sustainability – Digitally approved by Sangita Sudan

Chief Administrative Officer – Digitally approved by Stuart Horn

### ATTACHMENTS:

Attachment A – Bylaw Excerpts

Attachment B – Draft Zoning Amendment Bylaw No. 2906, 2023

Attachment C – Draft OCP Amendment Bylaw No. 2907, 2023

Attachment D – Site Plan

Attachment E – Referral Responses

**DIVISION 17 RURAL RESIDENTIAL K (R3K)****Permitted Uses**

1700 Land, buildings and structures in the Rural Residential K (R3K) zone shall be used for the following purposes only:

## Dwellings:

One-Family

Two-Family

Horticulture

Veterinary Clinics

## Accessory Uses:

Accessory Buildings and Structures

Accessory Tourist Accommodation

Home Based Business

Micro Cultivation, Cannabis

Micro Processing, Cannabis

Nursery, Cannabis

Keeping of Farm Animals

Small Scale Wood Product Manufacturing subject to Section 1702

Temporary Guest Accommodation subject to Section 1703

**Development Regulations**

## 1701

- 1 The minimum site area for each permitted use shall be two (2) hectares.
- 2 The maximum site coverage permitted shall be 50 percent of the lot area.
- 3 The keeping of farm animals shall comply with the requirements of section 613.
- 4 Buildings and structures in the case of a lot that may be further subdivided shall be sited so as to facilitate the further subdivision of the lot or adjacent lots.
- 5 Despite Section 1701(1), a manufactured home on a non-permanent foundation may be permitted in addition to a one-family dwelling.
- 6 *Deleted by Bylaw 2757.*
- 7 The maximum height of any accessory building or structure shall not exceed 8 metres.
- 8 The maximum footprint of any accessory building or structure shall not exceed 250 square metres.

- 9 The cumulative gross floor area of all accessory buildings or structures shall not exceed 500 square metres.
- 10 Any building or structure for the purposes of cannabis micro cultivation, cannabis micro processing or cannabis nurseries shall be a minimum of 15 metres from all property lines, with the exception of a structure that has a base entirely of soil which may be located within 7.5 metres of a property line.
- 11 Cannabis micro cultivation, cannabis micro processing or cannabis nursery shall not be permitted in a dwelling place.

### **Small Scale Wood Product Manufacturing**

1702 A small scale wood product manufacturing operation is subject to the following requirements:

- 1 The minimum parcel size shall be 2.0 hectares.
- 2 The sawmill is limited to a band sawmill powered by an engine of no more than 42 Horsepower.
- 3 The property owner will continue to reside in the principal residence on the property.
- 4 Despite the site area requirements detailed elsewhere in the R3K Zone, the maximum area used for a small scale wood processing business, including external storage shall not exceed 0.4 hectares.
- 5 Any portion of a property used for a small scale wood product manufacturing use shall be located a minimum of 30 metres from any property line.
- 6 No more than three (3) persons who are not residents of the principal dwelling may be employed in the business.
- 7 External storage of materials, mill and other equipment, finished product and parking shall be screened from view from adjacent residential uses and road right-of-ways with a landscape screen of no less than 1.8 metres in height.
- 8 No commodities may be offered for sale except those produced on the premises.
- 9 There shall be minimal noise, traffic, vibration, smoke, odour, glare or electrical interference or emissions other than that normally associated with a dwelling.
- 10 Operation of the sawmill shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday.



- 11 There shall be no operation of the small scale wood product manufacturing operation on Sundays or Statutory Holidays.
- 12 Access to the small scale wood products manufacturing site shall minimize the impact of any related traffic on neighbouring properties and have approval from the applicable authorities.
- 13 Any sawmill operation under this section may be subject to an annual inspection to ensure compliance with the zoning bylaw.

### **Temporary Guest Accommodation**

#### **1703**

- 1 Subject to compliance with the requirements of the Interior Health Authority for sewage disposal and water supply, two (2) cabins per lot for the temporary accommodation of guests is permitted as an accessory use to a one-family or two-family dwelling subject to the following:
  - a. the minimum site area for the guest cabin shall be 1.4 hectares; and
  - b. a maximum gross floor area for a cabin of 100 square metres.
- 2 Subject to section 1703(1), a recreation vehicle may be used for temporary guest accommodation provided that no more than two (2) recreation vehicles shall be located on a lot and recreation vehicles shall be required to be licensed and remain mobile consistent with the original design of the vehicle, and a recreation vehicle that has its wheels or towing hitch removed, or is placed on footings or foundation, or includes additions such as porches, decks or a roof structure or in any way is altered or situated so as to be permanently affixed to the lot shall be considered a dwelling or guest cabin.
- 3 The minimum separation distance between a guest cabin, inclusive of attached decks and porches, and another dwelling shall be three (3) metres.
- 4 Each guest cabin or recreation vehicle that is used as temporary guest accommodation shall have sufficient site area to accommodate two (2) off-street parking spaces.
- 5 Temporary Guest Accommodation cabins or recreational vehicles shall not be used as rental accommodation.
- 6 A Temporary Guest Accommodation use and an Accessory Tourist Accommodation Use cannot be operated on the same lot at the same time.

**DIVISION 42 HEAVY INDUSTRIAL (M3)**

**Permitted Uses**

4200 Land, buildings and structures in the Heavy Industrial (M3) zone shall be used for the following purposes only:

All Uses Permitted in the Light Industrial (M1) and Medium Industrial (M2) Zones

Asphalt Plant

Concrete and Cement Manufacturing and Storage

Landfill

Waste Management Facilities

Accessory Uses:

Accessory Buildings and Structures

Business Office

One Dwelling Unit

**Development Regulations**

4201

- 1 The minimum site area for each permitted use shall be three (3) hectares.
- 2 The maximum site coverage permitted shall be 75 percent of the lot area unless otherwise approved by Interior Health.
- 3 No building or structure except a fence may be located within:
  - a. 15 metres of the front or exterior side lot lines,
  - b. 4.5 metres of the rear or interior side lot lines, or
  - c. 25 metres of a rear or interior side lot line that abuts an agricultural or residential zone.
- 4 No equipment or machinery that grades, washes, or crushes primary mineral resources shall operate or no concrete batch plant or asphalt processing plant shall be located within 75 metres of any lot line that abuts a Residential zone.
- 5 The maximum height of any structure on a lot shall be 15 metres.
- 6 Landscaping shall comply with all requirements of sections 621 and 622.
- 7 An Industrial Development Permit is required for developments on Industrial zoned land.

REGIONAL DISTRICT OF CENTRAL KOOTENAY

Bylaw No. 2906, 2023

A Bylaw to amend RDCK Zoning Bylaw No. 1675, 2004

WHEREAS it is deemed expedient to amend the RDCK Zoning Bylaw No. 1675, 2004, and amendments thereto.

NOW THEREFORE the Board of the Regional District of Central Kootenay, in open meeting assembled, HEREBY ENACTS as follows:

APPLICATION

1. That Schedule 'A' of Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 be amended by changing the Zoning Designation of LOT 1 DISTRICT LOT 398 KOOTENAY DISTRICT PLAN 17803 (PID 010-445-609) from Rural Residential 'K' (R3K) to Site Specific Heavy Industrial (M3) as shown on Schedule 'A' which is attached hereto and forms part of this bylaw:

1.1. Division 42, Heavy Industrial Development Regulations, 4200, Site Specific LOT 1 DISTRICT LOT 398 KOOTENAY DISTRICT PLAN 17803 Division 4201 (1) The minimum site area for "Concrete and Cement Manufacturing and Storage" shall be 0.5 hectares and Division 4201 (4) No equipment or machinery that grades, washes, or crushes primary mineral resources and no asphalt processing plant shall operate within 75 metres of any lot line that abuts a Residential zone or no concrete batch plant shall be located within 18 metres of any lot line that abuts a Residential zone.

2. This Bylaw shall come into force and effect upon its adoption.

CITATION

3. This Bylaw may be cited as "Regional District of Central Kootenay Zoning Amendment Bylaw No. 2906, 2023."

READ A FIRST TIME this 19 day of July, 2023.

READ A SECOND TIME this 19 day of July, 2023.

WHEREAS A PUBLIC HEARING was held this [Date] day of [Month], 20XX.

READ A THIRD TIME this [Date] day of [Month], 20XX.

[Controlled Highway or Exceeds 4500 sq.m] APPROVED under **Section 52 (3)(a) of the Transportation**

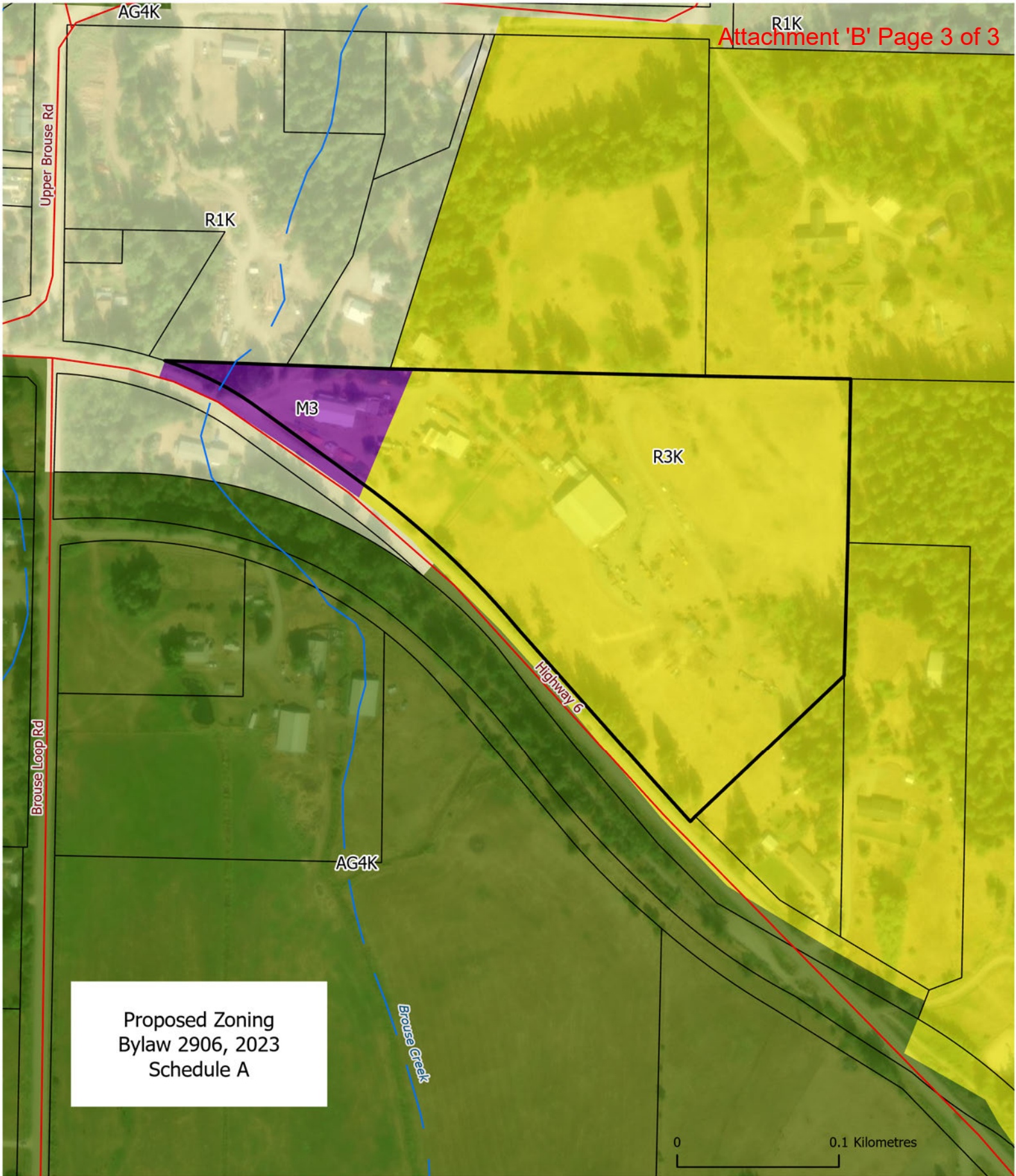
**Act** this [Date] day of [Month], 20XX.

\_\_\_\_\_  
Approval Authority,  
Ministry of Transportation and Infrastructure

ADOPTED this [Date] day of [Month], 20XX.

\_\_\_\_\_  
[Name of Board Chair], Board Chair

\_\_\_\_\_  
[Name of CO], Corporate Officer



Proposed Zoning  
Bylaw 2906, 2023  
Schedule A



- Subject Property
- Lot Lines
- Road
- Stream

**ZONING CLASS**

- Agriculture 4K (AG4K)
- Heavy Industrial (M3)
- Rural Residential K (R3K)
- Suburban Residential K (R1K)

213

Scale: 1:3,000  
PCS: NAD 1983 UTM Zone 11N  
Date: 6/29/2023

The mapping information shown are approximate representations and should only be used for reference purposes.



REGIONAL DISTRICT OF CENTRAL KOOTENAY

Bylaw No. 2907, 2023

A Bylaw to amend Electoral Area 'K' – The Arrow Lakes Official Community Plan Bylaw No. 2022, 2009

WHEREAS it is deemed expedient to amend the Electoral Area 'K' – The Arrow Lakes Official Community Plan Amendment Bylaw No. 2022, 2009, and amendments thereto.

NOW THEREFORE the Board of the Regional District of Central Kootenay, in open meeting assembled, HEREBY ENACTS as follows:

APPLICATION

- 1. That Schedule 'B' of Electoral Area 'K' – The Arrow Lakes Official Community Plan Amendment Bylaw No. 2022, 2009 be amended by changing the OCP Designation of LOT 1 DISTRICT LOT 398 KOOTENAY DISTRICT PLAN 17803 (PID 010-445-609) from Rural Residential (R3) to Industrial (M) as shown on Schedule 'B' which is attached hereto and forms part of this bylaw:
2. This Bylaw shall come into force and effect upon its adoption.

CITATION

- 3. This Bylaw may be cited as "Electoral Area K – The Arrow Lakes Official Community Plan Amendment Bylaw No. 2907, 2023."

READ A FIRST TIME this 19 day of July, 2023.

READ A SECOND TIME this 19 day of July, 2023.

WHEREAS A PUBLIC HEARING was held this [Date] day of [Month], 20XX.

READ A THIRD TIME this [Date] day of [Month], 20XX.

[Controlled Highway or Exceeds 4500 sq.m] APPROVED under Section 52 (3)(a) of the Transportation Act this [Date] day of [Month], 20XX.

Approval Authority,
Ministry of Transportation and Infrastructure

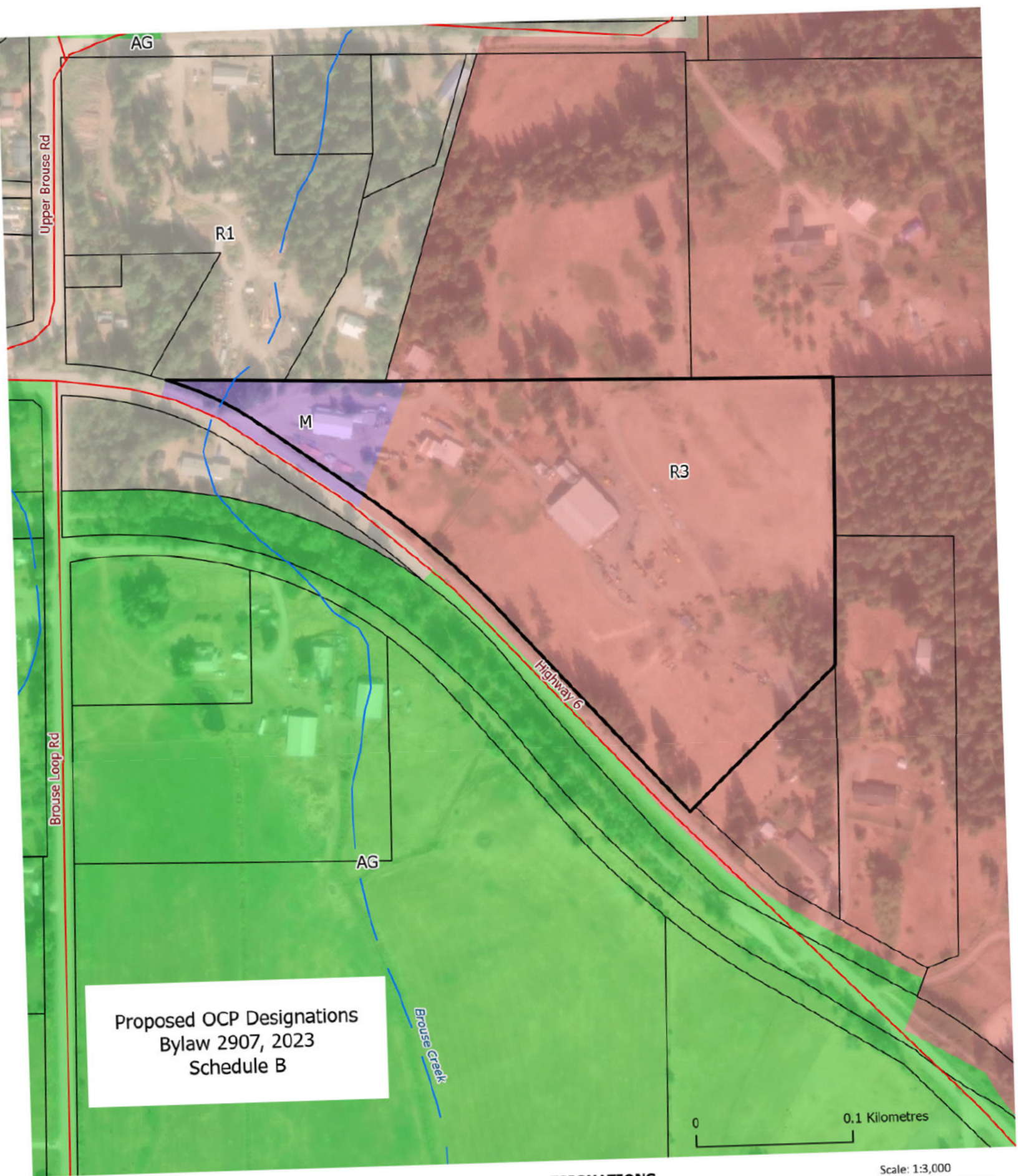
ADOPTED this [Date] day of [Month] , 20XX.

---

[Name of Board Chair], Board Chair

---

[Name of CO], Corporate Officer



Proposed OCP Designations  
 Bylaw 2907, 2023  
 Schedule B

0 0.1 Kilometres

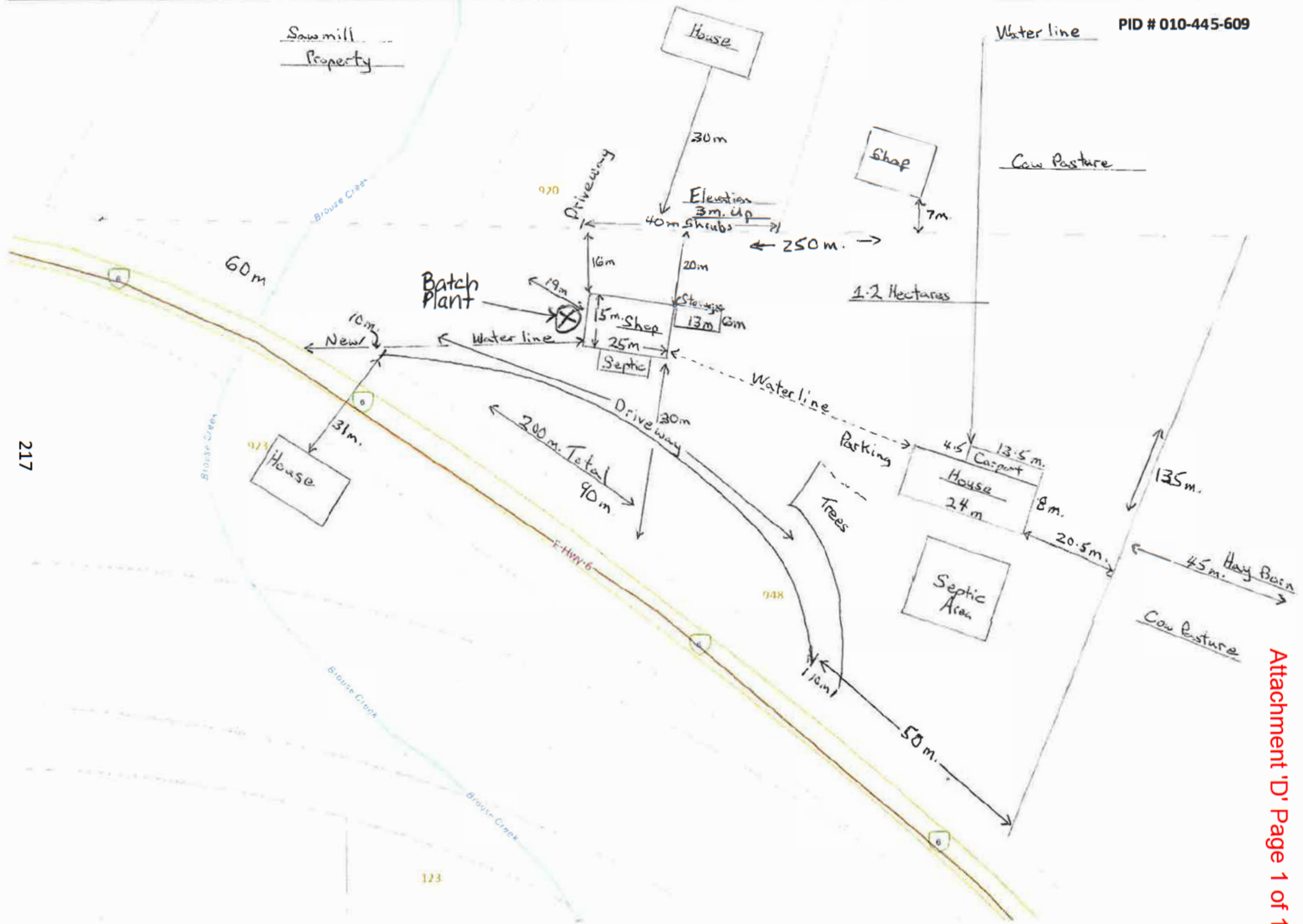


-  Subject Property
-  Lot Lines
-  Road
-  Stream

- OCP DESIGNATIONS**
-  Agriculture (AG)
  -  Community Residential (R1)
  -  Industrial (M)
  -  Rural Residential (R3)

Scale: 1:3,000  
 PCS: NAD 1983 UTM Zone 11N  
 Date: 6/29/2023

The mapping information shown are approximate representations and should only be used for reference purposes.



217

123



May 30, 2023

Zachari Giacomazzo  
Regional District of Central Kootenay  
Box 590  
202 Lakeside Drive  
Nelson, BC, V1L 5R4  
[zgiacomazzo@rdck.bc.ca](mailto:zgiacomazzo@rdck.bc.ca)  
250-352-8190

Dear Zachari, RDCK Planning Department and RDCK Board of Directors,

We are writing in response to Bylaw Amendment Application File Z2303K, Zoning/Land Use of 948 Highway 6, Nakusp, BC. We live in the area and are deeply concerned about having a heavy industrial operation located in this rural residential and agricultural area. There are a number of issues with the proposed bylaw amendment, and we hope the RDCK will consider all of these issues before making a decision.

1. Disregarding bylaws. Since November 2022, there have been numerous instances of illegal activity on the applicant's properties, both 948 Highway 6 and the neighbouring property at 159 Upper Brouse Road. In November 2022 he was operating a rock crusher, bulldozer and excavator, processing material and creating a stock pile of material, some of which has been trucked off site to various customers. Throughout the spring of 2023 Nakusp Redi mix trucks have been manufacturing concrete products (blocks) at 948 Highway 6, in complete violation of the zoning bylaws. Only after numerous warnings and fines did the activity temporarily cease, though there was activity again on May 26th, when a circular concrete lid was poured. Mr. Hascarl's disregard for bylaws gives us little faith that he will adhere to reduced operating hours and show any respect for his neighbours.
2. Noise and use. Since November 2022, we have noticed increased industrial activity at 948 Highway 6 and the neighbouring property, 159 Upper Brouse Road. At approximately 5:45am on November 8, 2022, under the cover of darkness, heavy equipment was moved onto site at 159 Upper Brouse Road to be used for the crushing and processing of gravel. Since then, various heavy industrial machinery has been used on both properties, including the pouring of concrete blocks at the proposed batch plant site. There have been numerous cases of heavy equipment operating early in the morning and late at night on both properties, including front end loaders, excavators, dump trucks and cement trucks. In Mr. Hascarl's letter supporting his rezoning application, he has written assurances that he will work with the neighbours and consider operating at reduced hours, but so far this is not the case. On November 3, 2022, he visited us at our property and mentioned that during the summer, concrete operations would occur early in the morning (6:00am) in order to beat the heat. His actions do not lie, and if given approval, we have little faith the applicant will adhere to reduced hours and work with his neighbours.



3. Setbacks. The setbacks listed in the M3 zoning are there for good reason - to ensure appropriate space and minimal disturbance of neighbours. Considering the previous activity and violations as well as dust and noise, reducing the setback of a concrete batch plant from a residential property from 75 metres to 18 metres (a 76% reduction) is absolutely unacceptable. With a hot and dry spring so far this year, we've already noticed increased dust with industrial traffic on the property.
4. Unsightly mess. Both properties are unsightly messes of derelict vehicles, old equipment and material, left to decay and leach chemicals into the ground and nearby streams. To date there has been no effort made to clean it up. We understand Mr. Hascarl has been dealing with an injury this spring, but he has still managed to continue other operations on the property, including manufacturing concrete blocks, digging and trucking gravel and top soil, and repairing heavy equipment. It is clear that he is only focused on the activities that maximize his profit. This gives us little faith he will do anything to mitigate dust, noise or any other pollution.
5. Environment. Brouse creek, a fish bearing stream and water source for many neighbours in the area, runs directly through the proposed concrete batch plant site. We've seen concrete trucks being hosed out on site with the effluent running into drainage ditches and nearby fish bearing creeks. There is no mention in the application of this creek, or what will be done to protect it. In the RDCK's draft climate action plan it talks about doing more to cut water use, monitor ground and surface water, and better manage community water systems. Locating a concrete batch plant and manufacturing site mere meters away from this stream, and increasing the risk of pollution into a fish bearing stream does not seem to be in line with this plan and is a recipe for environmental disaster.
6. Storage of material and equipment. Currently this application is only for a small portion 948 Highway 6, yet Mr. Hascarl has much of his equipment, and a pile of gravel, stored on his neighbouring property at 159 Upper Brouse Road, including his mobile batch plant, a rock crusher, tri-axle trailer and mobile power trailer. We are not familiar with all the equipment so I'm sure we missed some pieces. Where will his equipment be stored? He's mentioned storing the crusher at his gravel pit, but what about everything else?
7. Previous ownership and time operating. Mr. Hascarl has stated the business has operated for 47 years in its current location without issue or complaints. That may be the case under the previous ownership, but since purchasing the business, the activity at 948 Highway 6 has already caused numerous complaints. Basing a decision on the previous ownership of the business does not reflect the attitude and activities of the new owner. After witnessing the activities of Mr. Hascarl over the past 7 months, there is little faith he will be able to operate a concrete batch plant at 948 Highway 6 without disturbing the neighbours and causing further complaints. Mr. Hascarl also states they've owned the land for 100 years, but we fail to see how that should have any bearing on this application.

8. Late notification. Mr. Hascarl states he has been searching for a suitable property since he purchased the business in 2022. In November 2022 he mentioned his plans to move the batch plant to either 948 Highway 6 or 159 Upper Brouse Road. We finally received notification of his application on May 4, 2023 in a letter from the RDCK. It clearly states in the application guideline that a sign must be erected within 10 days of the application, yet it took until May 18th (14 days since the RDCK sent out the letter) for a Notice of Proposal sign to finally be erected on the property. We understand there may have been delays outside of his control, but considering the ongoing issues surrounding this application, it seems the applicant is not taking this process seriously. Delaying the notice means some people may not be aware of the application and have enough time to voice their concerns. It also speaks to the applicant's lack of respect for rules, regulations and due process. Similar to cleaning up the unsightly mess, this shows that unless it is for direct profit, the applicant does not seem to care. There have been no details given about actual operating hours, screening of the subject property or dust and noise mitigation and we are concerned these will fall to the wayside, just as erecting a sign in a timely fashion did.
  
9. Conflict with Official Community Plan (OCP) for Area K. Reading through the OCP for Area K, this application for re-zoning is in direct conflict with many portions of the bylaw. Re-zoning a portion of a residential property to heavy industrial, when it is surrounded by other residential and agricultural properties, and will also require a variance to reduce setbacks, is not in line with the OCP, and will create conflict. A heavy industrial site is not suited to this property and the application should be rejected. Please see the attached addendum below for highlighted excerpts from the OCP.

With all of this information, it is very clear to us and the rest of the neighbourhood that the subject property at 948 Highway 6 should not be considered for re-zoning to M3 heavy industrial. An obvious solution would be purchasing the existing property at 848 Highway 6, and if that is not an option, hopefully another industrial property can be made available to Mr. Hascarl. Thank you for your consideration.

Best Regards,



**Excerpt from ELECTORAL AREA 'K' - THE ARROW LAKES OFFICIAL  
COMMUNITY PLAN  
BYLAW NO. 2022, 2009**

2.0 PUBLIC CONSULTATION

Land Use Survey

In June of 2007 a land use survey was distributed to all residents of Electoral Area K. The purpose of the survey was to gather public comments on a range of land use planning issues. The results of this survey are reflected in the OCP.

Highlights of the survey results which are relevant to the OCP are as follows:

- Most people (50.8%) indicated that they choose to live in Electoral Area K to pursue a rural lifestyle. Furthermore most people (65.9%) identified themselves as full-time residents who have lived in Area K for more than 10 years (64%).
- Most people (51.1%) indicated that their property is 2 ha (5 ac) or larger however, most people (55.2%) said that their ideal minimum lot size is 1 ha (2.5 ac) or less.
- Most people (57.6%) support industrial and commercial development however there was also strong support (82.0%) for the Regional District to regulate the development of aggregate operations as well as commercial and industrial development.
- Most people (82.6%) recognize Arrow Lake as a significant landscape feature and support (89.7%) protecting the natural environment which includes watersheds and wildlife areas.
- Most people (63.7%) support preserving the Agricultural Land Reserve however most people (60.0%) also support a review of the current ALR boundaries.

4.0 GOALS

General

1. To encourage the appropriate use of land in recognition of the desires of area residents, existing uses, resource constraints and opportunities, compatibility between uses, and the efficient provision of community services.
2. To maintain opportunities for rural living through development which respects the lifestyles of area residents and the natural environment.
3. To maintain the integrity of the area's visual environment.
4. To protect heritage resource values and concerns in the course of public and private land development.
5. Balance economic, social, and environmental values in land use decision making.

Environmental

1. Protect the natural environment.
2. Work toward carbon neutrality by focusing on alternative methods of transportation and energy efficiency.
3. Ensure efficient transportation systems including the promotion of pedestrian and non-vehicular traffic
4. Direct development away from areas of high natural hazards to areas of no or low natural hazards, unless appropriate mitigation works are in place.

5. Ensure that development does not adversely harm or detract from identified wildlife corridors and areas with high wildlife and fisheries habitat value.
6. Protect the quantity and quality of water resources and waterways.

#### Social

1. Provide for safe, quiet, and attractive rural residential neighbourhoods that will satisfy the housing and social needs of all Arrow Lakes residents, with particular emphasis on affordable market, rental and seniors housing.

#### 8.0 Background

##### COMMERCIAL AND INDUSTRIAL

This section outlines the objectives and policies for General Commercial, Tourist Commercial and Industrial designations in the Plan area.

Industrial activities are provided for under the Industrial land use designation. The principal industrial activity in the Plan area is light, small scale industrial, and the Plan recognizes that heavy industrial development will be directed to existing settlement areas, which are better able to function as service centers.

#### Objectives

1. To accommodate commercial developments that service the local communities and travelling public.
2. To ensure that industrial uses are located in a manner which reduces impacts on neighbouring properties and the natural environment.
3. To accommodate temporary industrial and commercial uses in appropriate locations.

#### Industrial (M) Policies

The Regional Board:

1. Supports that upon application, a light industrial subdivision may be considered subject to good arterial highway access and subject to noise abatement and landscaping requirements and where land use conflicts are minimized.
2. Recognizes the maintenance of existing industry, and supports new small scale light industry so that a broader employment base may be achieved.
3. Recognizes existing aggregate processing uses in the area. However, further industrial or quarry operations are discouraged by the Regional District unless mitigative measures are taken to ensure such development will have no impact on the neighbouring property owners.
4. Supports that Industrial Development Permits pursuant to Section 488.1(1) (a) and (f) of the Local Government Act may be considered on any parcel designated as Industrial. Such permits may be subject to the provision of performance bonds and/or registered covenants ensuring compliance of the permit.
5. Discourages industrial activities that are considered noxious or emit large volumes of pollutants, or are otherwise detrimental to the environment, neighbouring properties, and the community as a whole.

6. Supports that a Development Permit Area pursuant to Sections 488.1 and 489 of the Local Government Act shall be required for all industrial developments to ensure development is compatible with adjacent land uses.



# RESPONSE SUMMARY FILE: Z2303K

## APPLICANT: KELLY HASCARL

### Item Number 1: Negative Impact on Property Values

This application, if approved, would negatively impact property values for all adjacent residential properties. This on its own is not reason to deny the application; however, taken into consideration with the other concerns we have, namely the tendency of the applicants to exceed their allowances, disregard their neighbours, and show little care, and even disdain for rules and regulations regarding land use, we feel that this line item is worth considering, as overreach is assured.

### Item Number 2: The Track Record of the Applicants

Unfortunately, we feel the past actions of the applicants are worth considering. In the past, we have witnessed the applicants break numerous environmental laws. If the application is approved, there is no reason to believe that any regulations will be respected, environmental or otherwise. Sadly, their past behavior has been highly exploitative, and will continue to be so. We fear that approving even a small portion of the subject property for M3 use will lead to the entire parcel being used.

### Item Number 3: The Lack of Necessity for Another Concrete Plant

In the letter addressed to the RDCK, the applicants argue that the need for more industrial land as a strong reason to approve their application. Of equal importance is the question of why Nakusp, a village of 1600 people, needs to have another concrete plant. We already have a well equipped and very successful concrete operation just outside the village, so we fail to see how a second plant offers anything to the community aside from a few jobs. The applicant's failure to plan ahead and secure an appropriately zoned property to move the concrete business onto prior to purchasing it is no reason to approve this re-zoning application and subject the neighbourhood to this unwanted and unnecessary industry.

### Item Number 4: The Disregard for Due Process

This item is our biggest concern and is closely linked to item number 2. The applicants have not shown any regard for the neighborhood or for due process for several months. Multiple instances of industrial work on the property have been reported, some of which has caused water issues for downstream residents. Most recently, the applicants failed to erect the appropriate signage within the ten day period set out by the RDCK. If they are unable to meet this simple requirement, what faith should we in the neighborhood have in their ability to abide by any other regulations? We feel that with the pictorial and written records of infractions gathered thus far, there would be legal grounds to have any zoning approval deemed void in court.

## Item Number 5: The Loss of Enjoyment of Property – Noise/Aesthetics

Residents in the area have the right to the quiet enjoyment of their property. Approving this application would impact that – severely for those nearest. This needs to be considered; nobody in this quiet area should be subjected to the noise and dust of heavy industry, whether there is a privacy fence or not.

## Item Number 6: Interference with Other Interests

Many locals rent out rooms, suites, or secondary dwellings on their properties either for vacationers, for short term renters, or long term renters. These viable and necessary home based businesses would suffer if encroached upon by heavy industry.

## Item Number 7: Conflicts with OCP for Area K

We feel that a change is taking place in Nakusp, and that the village is transitioning from a primary industry economy to a more balanced one that includes tourism and hospitality. The Wensley cross country ski area at the end of Upper Brouse Road is expanding, and more people are coming here for the area's natural beauty and our many hot springs. To us, this is good, and we want to see this process of economic diversification continue. Endorsing redundant heavy industry encroaching on rural residential property is not the path the RDCK should take. Our neighborhood, with its trail network, streams, and abundance of natural beauty, is a prime location for sustainable tourism, recreation, and agriculture. Heavy industry is completely contrary to this, and to the values they represent. We understand that some uses on the subject property have been 'grandfathered' in, but we are not willing to accept any additional industrial uses that run contrary to our values. We have attached an addendum, which is an excerpt from the OCP developed in 2022, to highlight specific conflicts of this re-zoning request with the values of the community as reflected in the OCP; most notably, we consider this re-zoning request as an obvious precursor to an Industrial Development Permit for the purposes of heavy industrial activities which we consider noxious, polluting, and detrimental to the environment, neighbouring properties, and the community as a whole.

## Conclusion:

We feel that our position is strongly supported by the *Canadian Bill of Rights* which guarantees all Canadians the "right of the individual to life, liberty, security of the person and enjoyment of property" and the right not to be deprived of any of those rights except in accordance with "due process," meaning basic procedural fairness. This area was zoned residential for a reason and we hope and trust that the RDCK will abide by its own regulations and code of ethics, and the official community plan, while keeping in mind the *Canadian Bill of Rights*, to uphold the values of its citizens and decline this re-zoning request.

## Addendum: excerpt from THE ARROW LAKES ELECTORAL AREA 'K' – THE ARROW LAKES OFFICIAL COMMUNITY PLAN BYLAW NO. 2022, 2009

### Rural Residential (R3) Policies

The Regional Board: 1. Directs that the principal use shall be single detached or duplex dwellings. 2. Directs that the minimum lot size be 2.0 ha (4.94 acres). 3. Supports that existing lots smaller than the minimum lot size permitted may be used for the purposes permitted in the designation provided that all other regulations are met. 4. Supports that the clustering of strata lots and subdivision lots shall be encouraged subject to density not exceeding the requirements above and subject to the protection of green space or provision of public amenity. 5. Directs that accessory uses include provisions to allow for accessory tourist accommodation, home-based business, the keeping of farm animals subject to health and agricultural regulations, and the sale of site grown horticultural produce.

### Background

This section outlines the objectives and policies for General Commercial, Tourist Commercial and Industrial designations in the Plan area. Industrial activities are provided for under the Industrial land use designation. The principal industrial activity in the Plan area is light, small scale industrial, and the Plan recognizes that heavy industrial development will be directed to existing settlement areas, which are better able to function as service centers.

### Objectives

1. To accommodate commercial developments that service the local communities and travelling public.
2. To ensure that industrial uses are located in a manner which reduces impacts on neighbouring properties and the natural environment.
3. To accommodate temporary industrial and commercial uses in appropriate locations.

### Industrial (M) Policies

The Regional Board: 1. Supports that upon application, a light industrial subdivision may be considered subject to good arterial highway access and subject to noise abatement and landscaping requirements and where land use conflicts are minimized. 2. Recognizes the maintenance of existing industry, and supports new small scale light industry so that a broader employment base may be achieved. 3. Recognizes existing aggregate processing uses in the area. However, further industrial or quarry operations are discouraged by the Regional District unless mitigative measures are taken to ensure such development will have no impact on the neighbouring property owners. 4. Supports that Industrial Development Permits pursuant to Section 488.1(1) (a) and (f) of the Local Government Act may be considered on any parcel designated as Industrial. Such permits may be subject to the provision of performance bonds and/or registered covenants ensuring compliance of the permit. 5. Discourages industrial activities that are considered noxious or emit large volumes of pollutants, or are otherwise detrimental to the environment, neighbouring properties, and the community as a whole. 6. Supports that a Development Permit Area pursuant to Sections 488.1 and 489 of the Local Government Act shall be required for all industrial developments to ensure development is compatible with adjacent land uses.

**From:** [REDACTED]  
**To:** [Zachari Giacomazzo](#)  
**Cc:** [Nelson Wight](#)  
**Subject:** Application for zoning/land use bylaw amendment-Z2303K 948 Hwy 6  
**Date:** May 27, 2023 3:26:52 PM

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**CAUTION** This email originated from outside the organization. Please proceed only if you trust the sender.

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To Whom it May Concern,

I am writing to express my concerns in regards to the recent rezoning application on the above noted property. I am not in favor of the M3 rezoning request for many reasons, which has prompted my lack of support and raised many questions.

First and foremost my main concern is the proximity of the proposed cement batch plant and gravel/sand storage to Brouse Creek which runs through the 0.5 hectare piece in question. Brouse Creek is a fish bearing stream and the only source of water to my household and many others. Myself and the other households do hold active water licenses on this creek. My question is "Why weren't all of the active license holders notified of this rezoning request?" I am extremely concerned that my water will be compromised. There is a high risk of contamination from the cement and other products that will be used as well as from all the extra machinery that the batch plant will bring with it. This could be very toxic to my families health and also to the other households. The constant flow of heavy equipment and movement of material may be detrimental to the fish and cause erosion throughout the creek and culvert causing sediment to build up and affect the creek path and household water lines. Contaminants from cement materials surrounding the batch plant and storage areas will absorb into the ground and eventually leach into the creek itself, once again affecting the fish and our families who use the water daily in their households. This creek is a very very important asset to our lives and to have this type of industry surrounding it is extremely dangerous to the health of human beings. Rock and cement dust are highly toxic to the respiratory system. With all the activities involved in the cement plant I am concerned that the dust will be moved through the air and into the surrounding households and embedded in the creek. This can cause severe respiratory issues in those who already have existing conditions. Another question that comes to mind with this proposed batch plant and relocation is "What is an allowable distance for building/construction from a main water source that provides to other households? and does this meet the requirements?" The cement trucks would need to be washed out after use, where would this be taking place and which source of water would be used? This also will be affecting the creek as the water from washing out the cement trucks has to go somewhere, whether it runs into the ground or across the road, it will eventually end up in the creek where we source our water from.

Excess noise is another big concern. Although the property in question already comes with a lot of noise, adding an industrial business can only increase that. I do not believe for a moment that the noise will stay the same or even be less with the addition of further heavy equipment, employees, and production. Generally more activity increases noise levels and traffic.

M3 zoning would make our neighborhood an undesirable area to live in for current and future property owners. I'm sure that it will decrease the value of our properties and those in the ALR who are already limited. Not only does M3 Industrial make our neighborhood

undesirable it opens the door for more unsightly operations.

One more thing that is concerning to me and would like some further clarification on is what the reasoning is for the request of reduced setbacks from 75 meters to 18 meters. This seems a bit unusual.

In closing I would like to say that I feel like whether your property has been in a family for 100 yrs(as many other neighboring properties have also been) this should have no bearing on an application. What should be considered is the strength of the application and rules and regulations that are required to followed. The current lack of respect for neighbors is appalling and I can't see that it would be improved with rezoning approval. It would only stay the same or become worse. Please consider all these points before a decision is made on the rezoning application.

Kindly,

A large black rectangular redaction box covering the signature area.



**From:** [REDACTED]  
**To:** [Planning](#)  
**Subject:** Re: File 22303 Applicant: Kelly Hascarl  
**Date:** May 17, 2023 1:33:00 PM

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Good afternoon Mr Giacomazzo.

When we moved to Nakusp over thirty years ago, I never dreamt that someone would want to change this residential area, even a part of it, into an industrial area. I'm sure if this was done then back then, I and many of the neighbours would not have purchased our homes here. It would have been our choice to or not to purchase. It seems unreasonable for someone to now expect everyone to be happy with an industry that is noisy, earth shaking and increased road truck traffic on Upper Brouse Rd. ( no doubt, he will use an access off, Upper Brouse, since his family property back on to it)

A stone crushing machine should be in a gravel pit, not on anyone's doorstep. To the best of my knowledge, there was not one at the previous cemetery shop just down hwy 6 from us.

In short, what has been proposed, is not in the best interest of the majority...one family should not have all the say in what is a benefit to just them.

I sincerely hope our neighbour can remain as is.

Thank you for your time.

[REDACTED]  
Sent from my iPad

**From:** [REDACTED]  
**To:** [Planning](#)  
**Subject:** Attn Zachari Giacomazzo rezoning application for Neil & Kelly Hascarl  
**Date:** May 8, 2023 10:45:06 PM  
**Attachments:** [REDACTED]

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Hi Zachari

I received the rezoning application that was submitted by Neil and Kelly Hascarl for their property at 948 Hwy 6 Nakusp.

In reviewing the maps I need to bring to your attention that they are not accurate in regards to the actual layout of the land.

Brouse creek actually runs about 15 meters from my Dad's house and runs along the entire length of his driveway. My Dad's property is located at 920 Hwy 6.

My Dad has also lived at his residence since approximately 1966. He has used the driveway that runs through the Hascarl property since that time. There is a legal easement on the Hascarl property title that states: "To enter and be upon the **existing Access Road**, on foot and together with vehicles and animals, for purpose of ingress to and egress from the Transfee's Lands." I have attached a copy of the easement that needs to be attached to their application for rezoning. If Kelly and Neil want to put the cement plant where they are planning to, my Dad's driveway would have to be moved, the easement protects us from that happening. From what I see on the drawings that they submitted there is no driveway to get up my Dad's property.

My Dad gets his water from the Village Water line that ends at the bottom of his property. From the drawings that were submitted Kelly wants the Village to hook him into the same water line that goes to my Dad's. If that water line is used for a commercial business my Dad would not have any water. Because he is at the end of the line and it goes up hill to his property he has hardly any water pressure as is.

I am in the process of getting Natural resources to come to my Dad's property. Kelly informed me that he is going to flatten the property they own at 159 upper Brouse Road (adjacent to my Dad's property) and remove all the trees that run along the creek. These trees are very old and stand only about 1,5 meters from a fish bearing stream called Brouse Creek.

I have had a couple run ins with Kelly Hascarl in the past few months. He has told me more than once that he doesn't care about his neighbors and will do whatever he wants and none of us are going to stop him.

On their property at 159 upper Brouse road they run a wood cutting business (grandfathered in). The saw is very noisy when it's going. I do not believe we should have to deal with the noise, dust and traffic that will be created by the Cement plant as well.

Putting a building at the bottom of my Dad's driveway will probably block his view of the Valley. He cherishes that view. I'm pretty sure that if Kelly is allowed to go ahead with the cement plant that my Dad's property will depreciate in value. This is something we cannot afford to have happen.

This whole situation has caused some very stressful times for my father. He is 90 years old and not handling this very well.

We are 100% apposed to their property being rezoned for Industrial purposes.

Please note I am on title of the property at [REDACTED] with my father.

I would appreciate it if I am kept informed of any changes to the Hascarl's application.

Regards [REDACTED]

**From:** [REDACTED]  
**To:** [Planning](#)  
**Subject:** Fwd: Application for zoning/land use bylaw amendment - Z2303k  
**Date:** June 5, 2023 6:57:42 AM

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**From:** [REDACTED]  
**Sent:** Monday, June 5, 2023 6:54:52 AM  
**To:** zgiacomazzo@rdck.bc.ca <zgiacomazzo@rdck.bc.ca>  
**Subject:** Application for zoning/land use bylaw amendment - Z2303k

To whom it may concern,

We bought the house next door to Mr. Hascarl . We bought it to retire in. A beautiful residential area. Since we bought our house we have paid it off so we won't have to many worries while we relax after working for so many years. At first it was nice and quiet even with traffic going by then some kind of machine started making banging and grinding noises next door. Didn't think to much of it at first. This is when I could hear pretty good still. In the evening you could hear frogs singing their little tunes. In the day you would see deer , different kinds of birds and bears.

Mr. Hascarl came up to us recently and wants to buy some of our land in exchange he will give us a smaller piece of his above us. Rite now he is using a part of our land for a drive way. There is a small stream that runs between the properties that is a source of water for small animals. He is going to cut down the trees that divide our properties and make ours into a useless piece of land. Can you imagine your retirement property looking onto a cement plant and listening to a loud grinding that goes on and on.

We bought a house in a residential area to enjoy peace and quiet, now someone wants to make into an industrial/residential area. I say no! We worked hard all our lives to enjoy retirement not to see and listen to a cement plant.

Sincerely,

[REDACTED]



**From:** [REDACTED]  
**To:** [Planning](#)  
**Subject:** Proposed Zoning Change 948 Highway 6- RDCK File Z2303K  
**Date:** May 25, 2023 12:26:36 PM

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Hello Zachari

I am writing in regard to an application for property re zoning at 948 Highway 6 Nakusp BC. It is my understanding that Kelly and Neil Hascarl are hoping to set up a Cement Batch Plant on a portion of this property. This would require having the property changed from R3K to M3.

I do not feel this is the appropriate location for a Cement Batch Plant.

The current Cement Batch Plant is located at 848 Hwy 6, a short distance down the road from the new proposed location. Kelly has purchased Nakusp Red Mix and now needs to move the cement silo and equipment.

This bussiness has been in operation at this site for 47 years, land use approvals have changed dramatically since that time.

From environmental standards to new understandings regarding health hazards, noise pollution and rural land protection we have come along way since 1976.

This particular batch plant silo has no cement dust reclamation filter, when being filled with cement the dust plumes out the top of the silo, there is no rinse out pond and often when the trucks are being rinsed out the residual cement and water mix runs into the ditch and across Highway 6.

One can attempt to justify anything, however rules, regulations and even RDCK bylaws are put in place for a reason. I believe since the purchase of Nakusp Red Mix by Kelly Hascarl, the plan was always to move the plant to Neil Hascarl's property.

I am also aware that he has not adhered to RDCK bylaws while starting to set up the operation.

I do hope all past history relating to the first dealings Kelly had with his neighbors and the RDCK Bylaw Department will form background information for the Planning Committee in regard to his re zoning application.

In closing, Industrial land is where Industrial Operations should be based.

Hopefully common sense will prevail and the concerns of a neighborhood will out way the convenience factor of two individuals requesting this property zoning change.

Sincerely

[REDACTED]



[REDACTED]

June 4, 2023

ZACHARI GIACOMAZZO, PLANNER  
DEVELOPMENT AND COMMUNITY SUSTAINABILITY SERVICES  
REGIONAL DISTRICT OF CENTRAL KOOTENAY  
BOX 590, 202 LAKESIDE DRIVE  
NELSON, BC V1L 5R4  
Ph. 250-352-8190  
Email: [plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca)

Subject: Application for Zoning/Land Use Bylaw Amendment #Z2302K

Dear Mr. Giacomazzo,

We hope this letter finds you well. We are writing to express our deep concern and strong opposition to the establishment of a new cement batch plant in close proximity to our farm and the creek to which we have water rights. We believe it is crucial to bring to your attention the potential negative consequences this project may have on the environment, our community, and local businesses.

First and foremost, the location of the proposed cement factory uphill from our farm and bordering Brouse Creek raises serious concerns about water pollution to our drinking water. This creek serves as a vital water source for up to five properties and their animals, including our farm. It is also a fish habitat for local trout.

The pollution caused by the factory's operations could have a devastating impact on the quality and safety of the water, jeopardizing not only our livelihood but also the health and well-being of the entire community. While the applicant states that the rock crushing activities will be located offsite there is currently such machinery visible on the property.

In addition to the environmental implications, the establishment of this cement factory would have adverse effects on the businesses in our area. Our main source of income is the hay grown on the field served by Brouse Creek, it is also within a windy area which could cause silica dust from the plant to contaminate our field above ground. Our neighbors, who operate a bed and breakfast, heavily rely on the pristine environment and tranquility of the surroundings to attract guests. The noise generated by the factory's operations would undoubtedly deter visitors from choosing their accommodation, leading to a substantial loss of income and potentially jeopardizing the viability of their business.

Furthermore, we would like to bring to your attention the issue of changing residential land to industrial use. Nakusp is already in great need of additional housing, rentals, and other accommodations to meet the growing demands of the population. By converting residential land into industrial space, we would

exacerbate the existing housing crisis, further limiting the availability of housing options for the local residents. As per the bylaw amendment proposed in 2021, a focus on the development and protection of existing residential properties is a priority of the village's residents. The current use of the property as a repair provider for farm and logging equipment would be, in our opinion, a much more valuable resource to the area, if residential accommodation cannot be implemented.

The current location of the cement batch plant at 848 Highway 6 may not be far from the location of this new property, however it has been in decline for many years with little production to create pollution or noise for its neighbors. It should also be noted that having been in operation for more than 40 years it is likely that bylaws to prevent environmental damage would not have been in place at the time and the plant would have been grandfathered into that location. This is evidenced by the note in the applicant's letter of the new property being established as a repair shop before zoning was made for the area. By allowing such an amendment now would set precedent for others to operate heavy industrial locations that could further impact vulnerable ALR properties.

Please understand that our opposition to the establishment of the cement factory does not imply a resistance to the growth and development of our town. We recognize the importance of industry for economic progress, but it is crucial that such developments are located in areas that are appropriate and compatible with their operations, ensuring minimal negative impacts on the community and the environment.

Therefore, we strongly urge you to reconsider the proposed location of the cement batch plant and explore alternative sites that are more suitable for its operations. This would help protect our water source, preserve the tranquility and attractiveness of our area for local businesses, and ensure the availability of much-needed housing options for the residents of Nakusp.

We request an environmental study be done to establish the risks to the environment from the proposed cement batch plant and rezoning the property to heavy industrial should the amendment be considered.

Thank you for your attention to this matter. We look forward to a prompt and favorable resolution that will safeguard our community's well-being, prosperity and the environment. We would appreciate any updates or information regarding the progress of this issue.

Yours sincerely,

[REDACTED]

Cc Katrine Conroy  
[Katrine.Conroy.MLA@leg.bc.ca](mailto:Katrine.Conroy.MLA@leg.bc.ca)

**From:** [REDACTED]  
**To:** [Planning](#)  
**Subject:** file #Z2303K  
**Date:** June 4, 2023 8:42:32 AM

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Attention:  
Zachari Giacomazzo

Dear Mr. Giacomazzo,

I am against the change applied for by Kelly Hascar to make the neighbouring Rural Residential Zone into a Heavy Industrial Zone.

There is an existing Heavy Industrial Zone to the north of Nakusp and that is the place he should find a piece of property if he wants to operate his business.

Mr. Hascarl believed he could begin to operate without permits or applications for permits, when he ran the cement batch plant and dug onto the land for rocks to crush for that business on his property. The RDCK has already fined him for those infractions.

I have no reason to believe that Mr. Hascarl would respect the RDCK bylaws or his neighbours if he were to be granted a permit for a Heavy Industrial zoning.

This is a lovely area where we are fortunate to live. Our residential property would be devalued to a fraction of its worth.

Heavy Industrial Zoning does not belong here.

I don't believe anyone in this area wants this change.

Thank you for your attention to this,

[REDACTED]

To Whom it may concern:

This letter is in response to the re-zoning application for 948 Hwy 6, Central Kootenay  
Attention: Zachari Giacomazzo, planner RDCK.

The first and foremost issue is the inaccuracy of the mapping of the Streams and Shorelines on page 4 of the application pkg. There is a secondary stream that separates from Brouse Creek and joins the Twin Lakes / Neubrand Rd. stream directly below Hwy 6 and above the rail trail. These conjoined streams provide household water for Brouse Loop residents until it joins with Nakusp Creek. This stream is in danger of serious pollution from the batch plant proposal.

There is cement powder dust out of the batch plant stack everytime a load is mixed up. It is a huge dust cloud. Where does it settle?

After delivery of cement the truck returns to the batch plant and a hose is used to rinse out the drum. The contaminated water runs across the top of the ground ending up in a ditch and inevitably will end up in the stream.

I have observed both of the above mentioned activities at the current batch plant location that is not located closer than 75 metres to the stream. It is not acceptable to re-locate the batch plant so close to tributaries of Brouse Creek. Brouse Creek is an important source of water for humans, livestock, wildlife, and birds. We are all stewards of the land and need to think of how pollution will affect the land and streams and living creatures in the future.

The firewood cutting operation at the same location is a prime example of how things change over time. In the beginning there was minimal firewood being cut but over the years this operation has grown exponentially. A steady stream of chain oil on the cutting blades is applied to keep the saws working. This oil is saturating the soil and can be observed in the ditch below the property.

We sincerely hope all parties involved will put a stop to this re-zoning application. We are requesting a public townhall meeting for all concerned residents to attend.

Please put boots on the ground and look at how unsuitable this peice of land is for a cement batch plant. Working together the owners and RDCK can surely find a more suitable location.







To Regional District Columbia Kootenay Area "K":

I am writing to express strong opposition to the possible rezoning of 948 Highway 6 East, Nakusp BC from R3 to M3 for the purpose of allowing the establishment of a concrete batch plant. The proposed location is bordered by properties zoned R1, R3 and AGR and is in direct contact with Brouse Creek. This type of industry and its related operations is well known to have significant negative impacts on human health, animal health, the environment and fragile ecosystems. In addition, a zone change in this area sets a dangerous precedent for future requests in Area K, and directly contradicts The Arrow Lakes Electoral Area "K" Official Community Plan Bylaw No. 2022, 2009. Finally, there is no economic benefit to having a concrete batch plant in this location provided there is another manufacturer supplying the area that is established and operating in a properly zoned area.

### Location

948 Highway 6 East, Nakusp is surrounded by properties zoned R1, R3 and AGR (see image 1), and is located in Development Permit Area #1: Environmentally Sensitive Residential Cluster Development (ESRC DP) Area.

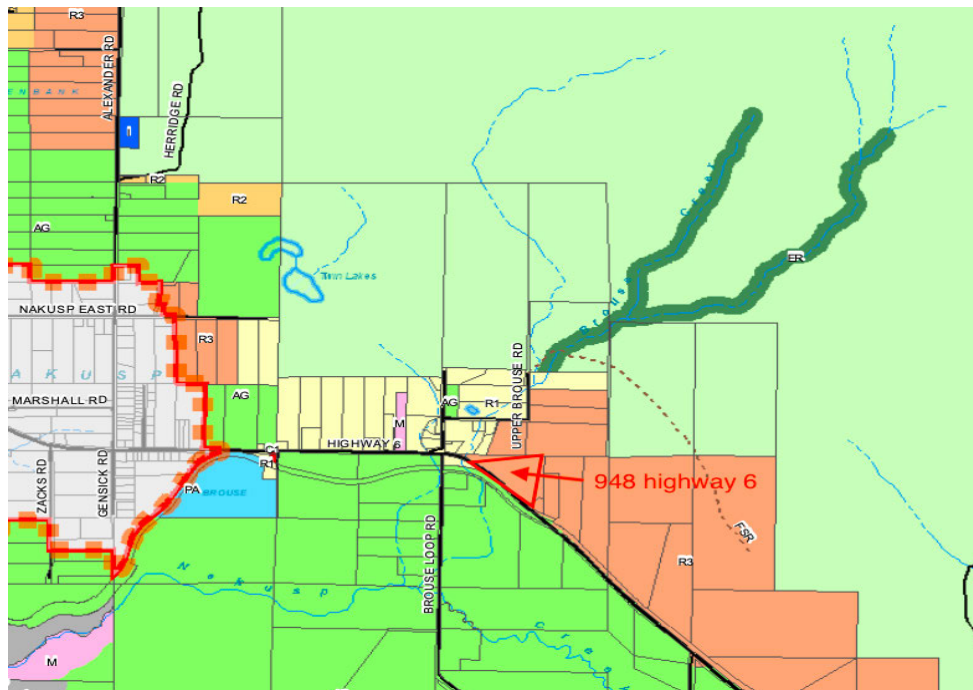


Image 1 – 2022-K-OCP Schedule B

According to the Official Community Plan which states, "The ESRC DP area is designated under Section 488.1 (1) (a) and (e) of the Local Government Act for protection of the natural environment, its ecosystems and biological diversity and the establishment of objectives for the form and character of intensive residential development." The demands are already intense for someone who might be interested in developing this area for residential, so it is inconceivable, that there would be consideration for an industrial designation in this same area that touts the need for protection of the natural environment.

In addition, Brouse Creek runs through this property which prior to meeting residentially zoned properties, is a designated Environmental Reserve. This creek runs down through AGR land, into Nakusp Creek and eventually flows West into the Upper Arrow Lakes. The creek not only houses a vast array of aquatic life, it also is a water source contributing to a 1 million gallon reservoir that supplies the Village of Nakusp residents with water. As per the Village of Nakusp 2020 Annual Water Report, "Raw water is supplied by surface water intakes on Halfway Creek, Upper Brouse Creek and Lower Brouse Creek."

According to weatherspark.com prevailing winds in this area are due West for approximately 6.3 months of the year from April to October (2). All properties West of 948 Highway 6 are zoned R1 and have active residents year around.

The Arrow Lakes Official Community Plan, Section 4.0 states the general goals for the area include, but isn't limited to;

1. To encourage the appropriate use of land in recognition of the desires of area residents, existing uses, resource constraints and opportunities, compatibility between uses, and the efficient provision of community services;
2. To maintain opportunities for rural living through development which respects the lifestyles of area residents and the natural environment; and
3. To maintain the integrity of the area's visual environment.

### **Health Impacts:**

Concrete batch plants emit a variety of pollutants into the air, water, and soil. These pollutants can have significant negative impacts on human health, particularly for those living in close proximity to the plant. In addition to the pollutants created directly by the manufacturing of the concrete, there is also the emissions from diesel-powered vehicles

idling and high-idling while batching concrete, and heavy equipment used to load aggregate.

Studies have shown that communities living near concrete batch plants have a higher risk of respiratory problems and other health issues. Particulate matter (PM) is one of the most significant pollutants emitted by concrete batch plants. "The PM is typically comprised of cement and dust from the additives; there are metals associated with the PM" (3). Particulate emissions are a complex mixture of extremely small particles and liquid droplets. "Once inhaled, these particles can affect the heart and lungs and cause serious health effects, including increased risk of heart attacks, aggravation of asthma, and decreased in lung function" (4). Silica is a major component in portland cement for manufacturing concrete. According to Work Safe BC "inhaling silica dust can cause silicosis, a serious and irreversible lung disease. It can be lethal. Silica damages the lung and causes scar tissue to form. This causes the lung tissue to become thicker. Silica exposure can also cause lung cancer" (5).

Studies have shown that silica dust particles can travel 750 metres away from the origin point, and some organizations suggest air quality monitoring up to 1,500 metres from the origin point to ensure residents are not at risk (8). This dust is not only harmful from a health perspective, but also will coat the exterior of homes and vehicles, and enter through screens of open windows. Given the outdoor construction industry in Nakusp typically runs from April until November, residents in the surrounding area will be unable to open their windows for fresh air, hang laundry on their outdoor lines, enjoy their yards or have their gardens without a constant layer of silica dust, not to mention noise pollution.

### **Environmental Impacts:**

Health impacts aside, concrete batch plants can also have significant negative effects on the environment. The emissions from the plants can contribute to acidification of soils and waterways, leading to the decline of fish and other aquatic life. The particulate matter will be carried with the Western prevailing winds and affect nearby plant life, trees and water sources, i.e. Brouse Creek, which as mentioned above is a water source for the Village of Nakusp and feeds into Nakusp Creek, which feeds into the Upper Arrow Lakes. Nakusp Creek is home to various trout species and the Upper Arrow Lakes has a vast number of fish species (see image 2).

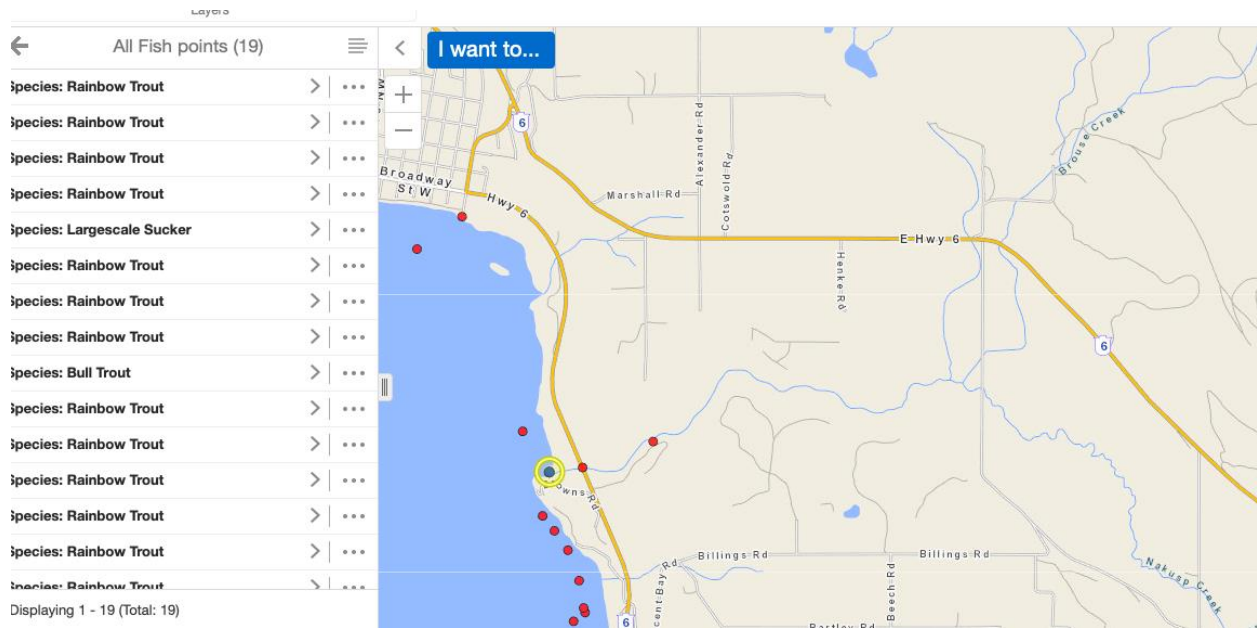


Image 2 – BC iMap indicating Trout species in waterway directly connected to Brouse Creek.

Under the Code of Practice for the Concrete and Concrete Products Industry, Section 7 (4), “in respect of any process water or establishment runoff, mean that the process water or establishment runoff, at 100% concentration, kills more than 50% of the rainbow trout in a 96-hour LC50 rainbow trout bioassay” (7).

The production of concrete also requires large amounts of water, which can have negative impacts on local water resources. Approximately 1000 litres of water is required to manufacture one 8 cubic meter load of concrete. “On average each ready mix truck returns about half cubic metre of cement per day. After this concrete is discharged there is still about 300 kg of solids (cement, sand and stone) that is washed out with about 1000 litres of water” (6). This is a minimum of 2000 litres of fresh water required per 8 cubic metres of concrete. The discharge of wastewater from concrete batch plants can also contain high levels of pollutants, including suspended solids, oil and grease, and heavy metals. These pollutants can have negative impacts on aquatic ecosystems and can be harmful to human health if they contaminate local drinking water sources or leach into the soil where the trucks are washing out. Typically wastewater is washed out in the a “pit” or another wastewater receptacle and it takes great care and diligence to ensure this is not contaminating the ground beneath, or the area surrounding.

The Arrow Lakes Official Community Plan, Section 4.0 states the environmental goals for the area include, but isn’t limited to;

1. To protect the natural environment;

2. Ensure that development does not adversely harm or detract from identified wildlife corridors and area with high wildlife and fisheries habitat value; and
3. Protect the quantity and quality of water resources and waterways.

**The Arrow Lakes Electoral Area "K" – The Arrow Lakes Official Community Plan Bylaw 2022, 2009.**

Consideration of this rezoning violates numerous sections of the Official Community Plan and sets a dangerous precedent for all other future rezoning requests that could affect residents living in a residential area in the RDCK. The below snippets demonstrate some of the sections where allowing 948 Highway 6 to install and operate a concrete batch plant would breach the promises and goals used to guide Area "K".

Section 4.0 – Social

"2. Protect and enhance the unique "community character" of the unincorporated settlements within the rural plan area."

Section 8.0 – Commercial and Industrial

"Industrial activities are provided for under the industrial land use designation...the Plan recognizes that heavy industrial development will be directed to existing settlement areas."

Objectives

"2. To ensure that industrial uses are located in a manner which reduces impacts on neighbouring properties and the natural environment."

Industrial (M) Policies (this is listed with the knowledge that this property is currently zoned for R3 only)

"3. Recognizes existing aggregate processing uses in the area. However, further industrial or quarry operations are discouraged by the Regional District unless mitigative measures are taken to ensure such development will have no impact on the neighbouring property owners."

"5. Discharges industrial activities that are considered noxious or emit large volumes of pollutants, or are otherwise detrimental to the environment, neighbouring properties, and the community as a whole."



"6. Supports that a Development Permit Area according to sections 488.1 and 489 of the Local Government Act shall be required for all industrial developments to ensure development is compatible with adjacent land uses."

## Section 11.0 – Servicing and Transportation

### Servicing Objectives

"4. To ensure that new development proposals do not put undue strain or pressure on existing domestic and irrigation water supply."

"5. To ensure that new developments are subject to the requirements of adequate water supply for both domestic and fire protection purposes."

## Section 12.0 – Natural Environment

### Objectives

"2. To maintain high water quality of groundwater and surface water sources of domestic water supply."

"3. To foster an awareness of the natural environment and protect sensitive and significant natural features and values from negative impact as a result of development."

"6. To regulate the siting and environmental design of development adjacent to watercourses, including sensitive and significant natural features and values."

## Section 18.0 – Community Specific Policies

### Brouse/Glenbank

"Development in the Brouse and Glenbank areas shall be primarily rural residential and agricultural. Other forms of development shall be directed towards the boundary of the Village of Nakusp."

## Section 19.0 – Development Permit Areas

As mentioned above regarding location, 948 Highway 6 is located in Development Permit Area #1: Environmentally Sensitive Residential Cluster Development (ESRC DP) Area. Even if an industrial designation was already in place, the Plan states, "development shall be in accordance with the following guidelines and considerations:

1. Impact on farmland;
2. Capability of the natural environment to support the proposed development;
3. Compatibility with adjacent land uses and designations, and the character of the area; and
6. The Province is requested to ensure industrial activities involving emission of toxic or irritant material meet the highest standards regarding the protection of groundwater catchment areas, surface water and riparian areas, and air-borne industrial pollutants.”

### **Sustainable Development:**

Finally, we believe that the establishment of a concrete batch plant is inconsistent with sustainable development principles. Sustainable development requires that economic development occurs in a way that does not compromise the health and well-being of present and future generations. The negative impacts of concrete batch plants on human health and the environment are not consistent with this principle, nor the goals as outlined in the Official Community Plan. In addition, the community is already serviced by a concrete batch plant in the area and it is located in a designated M3 zone. Therefore, there is no economic benefit to Nakusp and the surrounding area to having a second batch plant located in an area that is bordered by R1, R3 and AG properties.

### **Conclusion**

In conclusion, I urge the RDCK to deny the establishment of any new concrete batch plants in residential areas. The scientific evidence clearly shows that these facilities have significant negative impacts on human health and the environment and are inconsistent with sustainable development principles and the Official Community Plan.

### **Final Comments and Questions**

1. If this M3 designation is being considered in an R3, R1 and AGR zone, I would expect a thorough description on the special conditions or objectives to justify this designation.
2. Would the proposed site location for the batch plant at 948 highway 6 be able to conform the Zoning Bylaw section 4201 (4), “No equipment or machinery that grades, washes, or crushes primary mineral resources shall operate, or no

concrete batch plant or asphalt processing plant shall be located within 75 metres of any lot line that abuts a residential zone”?

3. The current unsightly state of 948 highway 6 indicates that there is not a lot of care and due diligence when it comes to following the rules. The property is clearly in violation of the Zoning Bylaw section 609, “Except in the M2 and M3 zones, no lot may be used as a junkyard, auto wrecking or for the outdoor storage of more than two (2) wrecked vehicles in any R1, R2, R5 and R6 zones, or more than six (6) wrecked vehicles in any R3, R4 and AG zone.” If this designation is allowed, will the RDCK be doing periodic inspections and critical oversight to ensure the natural environment and surrounding residents are protected in a “Environmentally Sensitive Residential Cluster Development Area”? And to ensure the owner is complying with all provincial and regional district guidelines while actively doing business?
4. An email dated December 5, 2022 from Grace Allen, former Senior Bylaw Officer stated, “I have received an update from planning. Planning has spoken to Kelly Hascarl on his rezoning application and advised him, due to the large number of complaints already received, Planning not only discouraged an application but advised that Planning will be recommending the rezoning application be refused by the Regional Board should it be submitted.

Planning further suggested Kelly Hascarl start looking for another property that is already zoned for industrial use. Again, due to the high volume of complaints already received, including the number of letters in opposition that have been submitted and forwarded to Planning.”

As far as I have been informed it sounds like there is still present momentum behind this pursuit of a rezoning application. Is the communication from Grace still accurate? Will Planning be recommending the rezoning application be refused by the Regional Board should it be submitted?

Thank you for taking the time to read this letter and consider all the points made within. I truly hope that this issue is being taken under serious consideration and all residents in the surrounding area will have the opportunity to voice their opinions on the record.

Sincerely,

A Concerned Nakusp Area Resident

## References

- (1) <https://nakusp.com/wp-content/uploads/2021/07/Annual-Water-Report-2020-final.pdf>
- (2) <https://weatherspark.com/y/2035/Average-Weather-in-Nakusp-Canada-Year-Round#Sections-Wind>
- (3) U.S. EPA, Background Document: General Air Quality Permit for New or Modified True Minor Source Concrete Batch Plants (July 2, 2014), p.1.
- (4) <https://www.epa.gov/pm-pollution>
- (5) <https://www.worksafebc.com/en/health-safety/hazards-exposures/silica>
- (6) <https://www.mekaglobal.com/en/blog/environmental-aspects-of-concrete>
- (7) [https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/16\\_329\\_2007](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/16_329_2007)
- (8) <https://www.ewg.org/research/danger-air>

**SUBJECT: RDCK PLANNING FILE Z2303K**

[REDACTED]

Zachari Giacomazzo

Planner, RDCK

250-352-8190

[zgiacomazzo@rdck.bc.ca](mailto:zgiacomazzo@rdck.bc.ca)

May 29, 2023

Dear Zachari Giacomazzo:

My wife and I want to state our absolute rejection to the proposed zoning and land use amendments of the subject property. The Z2303K proposal should not be allowed to go past the Rural Affairs Committee.

1. We have a financial interest in the residential dwelling directly across the road – specifically 923 Highway 6. The house and property are currently zoned R1K. Allowing these zoning amendments would sharply decrease the value of 923. Its market value would then stay reduced if Z2303K is allowed to proceed.
2. We do not agree with the applicant that there will not be any impairment of the value of 923 Highway 6 by allowing Z2303K bylaw amendment to be passed. In fact, the admission by the applicant of reduced working hours and noise reducing fence illustrates that there will be impairment, not only of the property value, but also in the property owners' quality of living and general health. Concrete batching plants are a significant source of noise and air pollution due to the emission of particulate matter,



nitrogen oxides and volatile organic compounds. Due to environmental and health impacts, such a plant should not be located in a residentially zoned area.

3. The applicant submits that the location of the M3 and M zoning areas will be at the extreme western portion of their 14.56 HA property. The location of the house at 923 Hi Way 6 will then be closer to these new M3 and M areas. We also observe that M3 and M would be close to Brouse Creek. There is significant concern this water source could be seriously compromised not only for 923, but for all the other downstream landowners, as the plant would consume large amounts of water and generate waste that could contribute to water pollution.
4. The request to reduce the setback from 75 meters to 18 meters is completely unacceptable. The zoning by-laws are in place to protect current R1K landowners from instances like Z2303K.
5. We submit that the applicant has other options that do not necessitate the severe land use changes from Z2303K. For example, keep the current batch plant at the same location of 848 Highway 6 since it has been there for 47 years. Secondly, the applicant states that their gravel pit and rock crusher are 14 km north of Nakusp and presumably it is zoned M3. It seems like a perfect place for the concrete batch plant.

In summary, we anticipate Z2303K will be rejected and does not proceed past the Rural Affairs Committee.

Sincerely,

[REDACTED]  
[REDACTED]

From: [REDACTED]  
To: [Planning](#)  
Subject: Fwd: letter to RDCK  
Date: June 4, 2023 8:51:52 AM

**CAUTION** This email originated from outside the organization. Please proceed only if you trust the sender.

----- Forwarded

email:  
[plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca)

subject:  
File Z2303K

Attention Zacharia Giacomazzo

I am opposed to Kelly Hascarl's application for a zoning change at #940 Hwy. 6, Nakusp, BC, from Rural Residential to Heavy Industrial.

Such a change involving an amendment to OCP Bylaw #2022, 2009, would open the area to more Heavy Industrial zoning changes, allowing businesses such as asphalt plant, landfill and waste management, according to RDCK definitions.

We bought our property in 2005 and have put in years of time, money and energy to make it the pleasant home we now enjoy.

As with most people our home is our largest investment. A Heavy Industrial zoning would make a huge drop in property value. What we have worked for could not be sold for its real value and we would likely not be able to find a place we could afford to buy.

This zoning change would affect all of our residential property values in the neighbourhood. Kelly Hascarl has neglected to properly investigate and prepare a business plan. Securing a property in an industrial zone would have been the first thing to do. Instead, he assumed he could operate without RDCK permits or the consent of the many people he would affect.

We have no reason to believe he would comply with the bylaws. The RDCK has already fined him for operating the batch plant and rock crusher without permits.

We do not want this zone change and all that it would bring to our Rural Residential Zone.

Respectfully,

[REDACTED]

ZACHARI GIACOMAZZO, PLANNER  
DEVELOPMENT AND COMMUNITY SUSTAINABILITY SERVICES REGIONAL DISTRICT OF CENTRAL  
KOOTENAY  
BOX 590, 202 LAKESIDE DRIVE  
NELSON, BC V1L 5R4

Ph. 250-352-8190

Email: [plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca)

To: Development and Community Sustainability Services  
REGIONAL DISTRICT OF CENTRAL KOOTENAY  
BOX 590, 202 LAKESIDE DRIVE  
NELSON, BC V1L 5R4

Attention: Zachari Giacomazzo, RDCK Planner  
Charmain Daoust, RDCK Bylaw Officer  
Teresa Weatherhead, RDCK Area K Representative

June 3, 2023

Dear Mr. Giacomazzo,

I am writing to you in response to Kelly Hascarl's request for rezoning of 948 Highway 6, RDCK File Z2303K.

The request for the reduction of the minimum site area for Heavy Industrial (M3) in order to rezone the Hascarl's property from Rural Residential (K) ignores the effect heavy industry, a cement batch plant would have on the rural residents living on all sides of their property. The effects of the Hascarl's industrial operations are already being felt and their increase to heavy industrial would permanently mar the area.

We have already been subjected to the noise of the rock crusher even in advance of the approval of the rezoning, and, unfortunately, the illegal operation of the rock crusher before approval indicates the Hascarls are not waiting for the goodwill of their neighbours before creating noise. If they are interested to know if the noise of operations bothers anyone or would in the future as indicated in the rezoning application, seeking the opinions and input of neighbours would be the direct line of action, one which has not been explored.

Over the years since their business was grandfathered in, the Hascarls have expanded operations of their firewood business to include managing a log pile which, in addition to being unsightly and noisy, is also a hazard. Due to a lack of room from the road setback, manipulating the logs carries extra risk. Not only do the logs hang into the road setback, they have fallen into the road which is used by residents, Village of Nakusp employees visiting the water treatment plant, and families and visitors accessing the Wensley Creek recreation area at the top of Upper Brouse Road. This is a clear hazard, one which would not exist if the Hascarls had sufficient room for their operations.

On July 8, 2021, a lightning strike caused a rapidly spreading fire in a log pile at the NACFOR log yard. Fortunately, because there was room in the industrial area to manoeuvre the burning logs with heavy equipment, the fire was put out before it could spread. The Hascarl's pile of birch logs and its lack of proper setbacks creates conditions which could result in a severe fire hazard for all residents in the area, many of whom have been cleaning up their properties to Fire Smart standards.

The lack of proper setbacks for their current industrial operations has a significant impact on the surrounding area, and I am concerned that having another operation in too close quarters would also have unintended but nevertheless serious impacts as well. It appears from their application that the Hascarl's may not be aware that their current operations, both legal and not, negatively affect their neighbours.

The operations would not only inject industrial noise at any time of day into our neighbourhood, but likely would impact the creek which flows through the property and down into Brouse Loop, a creek upon which both humans and many animals depend.

Changing the zoning to M3 would set a dangerous precedent in the RDCK, and would signal that residents in Rural Residential zones are not at all safe in their homes. Mr. Hascarl is correct that there is a severe shortage of residential homes, but that does not mean there aren't better opportunities for industrial development in areas which are not already zoned residential and peopled with households.

Recently, Nakusp and Area Community Forest (NACFOR) was able to purchase industrial property north of the Kuskanax on Hot Springs Road, which may be something Kelly Hascarl could explore, rather than attempting a rezoning which would destroy our neighbourhood.

Sincerely,

A solid black rectangular redaction box covering the signature.A solid black rectangular redaction box covering contact information, with a jagged right edge.



**From:** [REDACTED]  
**To:** [Zachari Giacomazzo](#)  
**Subject:** Fwd: Bylaw change for rural property 948 Highway 6  
**Date:** May 23, 2023 8:57:45 PM

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Sent from my iPhone

Begin forwarded message:

**Subject: Bylaw change for rural property 948 Highway 6**

Attention: Charmaine Daoust

I have concerns as to this change of bylaw from residential rural to heavy industrial. The noise pollution, caustic materials, big industrial vehicles entering and exiting onto the highway at the beginning or end of a corner. This property has a creek at the edge of the property, which has water rights ownership down stream from said property on the existing water in the creek after the village reservoir usage. The leaching and runoff of materials and chemicals from an industrial site with heavy equipment and cement producing products into this creek would be hazardous to the homes downstream. The creek is a tributary that runs into the Arrow Lakes after joining with Box Creek, which would have the residue from the cement manufacturing and heavy equipment runoff and leaching going into our fish habitat. Making cement emits danger air pollution. The EPA says it is the 3rd largest industrial pollution emitting sulfur diode, nitrogen oxides and carbon monoxide causing many lung diseases and other illnesses, making it dangerous to live near a cement plant. PLEASE do not authorize a change of bylaw for property 948 Highway 6 to allow a cement plant and heavy equipment operation surrounded by residential rural properties, with probable contamination of two creeks draining into the Arrow Lakes and the air surrounding the plant. Refer to the internet for the numerous dangers of a cement plant in a residential area.

Thank you, [REDACTED]

[REDACTED]  
Sent from my iPhone

**From:** [REDACTED]  
**To:** [Planning](#)  
**Subject:** Bylaw change on property 948 Highway 6  
**Date:** May 27, 2023 1:35:45 PM

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**CAUTION** This email originated from outside the organization. Please proceed only if you trust the sender.

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Attention: Z Giacomazza

I would like to add to my previous email as I have been informed that Mr Kelly Hascarl has been receiving fines and infractions for his actions on property 948 Highway 6, plus actions on another property with regards to cement production. I am concerned that if Mr Hascarl receives approval for the bylaw change he will continue to disregard the rules and regulations and will cause an environmental issue that will harm the habitat of various animals and fish.

Thank you

[REDACTED]



# Committee Report

**Date of Report:** May 31, 2023  
**Date & Type of Meeting:** June 15, 2022, Rural Affairs Committee  
**Author:** Corey Scott, Planner  
**Subject:** KOOTENAY LAKE DPA REVIEW – PUBLIC ENGAGEMENT UPDATE  
**File:** \\FILES\RDCK\10\5110\20\KOOTENAY LAKE DPA  
**Electoral Area/Municipality** Electoral Areas A, D, E, and F

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this staff report is to present to the Rural Affairs Committee (RAC) the summary report for the Kootenay Lake Development Permit Area Review public engagement.

The comprehensive summary (“What We Heard”) report (Attachment A) summarizes the project’s engagement activities, their results, and the key findings and recommendations moving forward. Much of this information was detailed in previous RAC reports related to this project. As such, previously covered engagement information is omitted from this staff report; however, it is included in the attached What We Heard report to collate all engagement information and results in one place. This staff report focuses on the engagement activities held between October and December 2022, the key findings and recommendations moving forward, and the questions that have emerged since the last engagement update to the RAC in July 2022.

It is recommended that the RDCK Board of Directors direct staff to begin drafting Official Community Plan (OCP) Amendments in order to revise the Environmental Development Permit Areas (EDPAs) in the Electoral Areas surrounding Kootenay Lake (‘A’, ‘D’, ‘E’, ‘F’). A significant purpose of a 30 metre EDPA is to trigger the requirement for, and facilitate the work of, a report by a Qualified Environmental Professional who can then advise on an appropriate level of development consistent with Provincial riparian area regulation and policy, which is sought to be utilized as a best practice. The feedback collected throughout the Review will be used to inform staff’s recommended changes.

## SECTION 2: BACKGROUND/ANALYSIS

### 2.1 BACKGROUND

The Kootenay Lake Development Permit Area Review began in April 2020. It was split into 3 phases:

1. Project initiation – to understand shoreline regulatory challenges of the RDCK and other agencies
2. Values identification – to build understanding and awareness, and identify shared values
3. Options analysis – to solicit feedback from technical experts, stakeholders, and the public on various approaches

This staff report provides an update for the Review and is meant to capture the outcomes of the engagement activities completed by Planning staff. The attached summary (“What We Heard”) report (Attachment A) provides a comprehensive summary of the Review’s engagement activities, their results, key findings and

recommendations. An illustration of the project timeline and engagement activities is attached to this staff report for reference (Attachment B).

Engagement activities and results previously presented to the Rural Affairs Committee (RAC) will not be covered in this staff report. Instead, this report highlights the results of the public consultation period (October-December 2022) as well as the key findings and recommendations resulting from the engagement activities as a whole. A detailed summary of previously discussed results can be found in the attached What We Heard Report.

## **2.2 PUBLIC ENGAGEMENT UPDATE**

The last engagement update to the RAC discussed the first two phases of the project as well as the focus groups from the third, and final, phase. A public consultation period concluded this last phase of the Review.

### Public Consultation Period Results (October – December 2022)

Following focus groups held in May 2022, a public consultation period from October 31<sup>st</sup> to December 9<sup>th</sup> took place. In this period, public information sessions were held and feedback forms were created to garner public feedback. Additionally, the Project Manager was available for dedicated office hours to speak with anyone who had questions in-person, over the phone, by e-mail, or online.

Two public information sessions were held on November 8<sup>th</sup> and 9<sup>th</sup>, 2022. Ktunaxa Nation Council (KNC) staff supported RDCK Planning staff by presenting on Ktunaxa cultural and archaeological values along Kootenay Lake to frame the topic in its broader importance to Indigenous heritage. There were a total of 34 participants at the two sessions (excluding RDCK and KNC staff, and Elected Officials), with 24 attending the afternoon session and 10 attending the evening session the following day. Staff gave a presentation, followed by a group discussion and Q&A period.

Many of the themes raised in the information sessions are similar to those from earlier phases in the Review, such as providing clarity on existing EDPAs, potential cost implications, project importance in responding to environmental disturbance, and common attitudes toward stewardship around the Lake. These themes are detailed further in the What We Heard report (p.14).

New themes that had not been raised in the previous engagement activities include:

- Shoreline stewardship resources and conservation opportunities available to shoreline property owners
- Incentivizing responsible development and shoreline stewardship, such as providing recognition awards

Following the information sessions, feedback forms were distributed to stakeholders and those noting an interest in the project previously. The feedback forms were also promoted through the RDCK's website, social media, and in new articles. Dedicated office hours were also held in conjunction with the feedback forms to provide the opportunity for residents to ask any questions they may have regarding the project. Specific details on these efforts are elaborated on in the What We Heard report (p.14-15). There were a total of 9 feedback forms submitted in addition to 8 e-mail responses. A number of phone calls were also received to clarify project information; these people were encouraged to submit feedback forms but few actually did. The feedback received reinforced themes already heard in the previous phases of the project that are either supportive or skeptical of EDPAs (p.15-16). No new themes were raised.

### Key Findings

This section presents the key findings from all engagement activities – not only those raised in the public consultation period described above. They are described in detail in the What We Heard report (p.16-17), and are copied from the report's executive summary below for convenience:

- Core values and concerns of engagement participants are often similar, regardless of support or non-support of EDPAs
- A healthy natural environment and fish habitat are by and large the most commonly shared values and concerns for Kootenay Lake
- Although the local context (Kootenay Lake) is unique, the problems are not
- Professional opinion favours a consistent approach to riparian areas management
- EDPA implications for property owners are often perceived to be more burdensome than they actually are
- Historical development patterns have created a challenging situation for redevelopment
- Local governments have limited authority to address some of the key issues and concerns raised, namely those impacting fish habitat (federal) or areas below the natural boundary (provincial and federal)

### Recommendations

Similar to the key findings listed above, the recommendations (p.18) from the What We Heard report's executive summary are copied below for convenience:

- EDPAs should focus primarily on promoting a healthy natural environment and fish habitat
- A pragmatic EDPA approach to ensure greater success in implementation
- Consistency between the EDPAs to ensure a healthier aquatic ecosystem as a whole
- Continue to advocate for a unified enforcement approach with other levels of government
- Continue public education efforts to support, and build, the Region's culture of environmental stewardship
- Make continual efforts to promote and incentivize shoreline stewardship on private properties

At the Board's direction, staff will continue with the project's work plan by drafting bylaw amendments for a consistent EDPA around Kootenay Lake. The amendments will give close consideration to the key findings and recommendations from the engagement.

### **2.3 PROJECT TIMELINE**

The work plan that was endorsed by the RDCK Board of Directors anticipated the project concluding by November 2020. The most significant delays have been due to activities outside of the approved scope of work primarily at the request of Directors. While the additional activities have resulted in a more detailed understanding of the potential impacts of EDPA changes, they have not led to any fundamental changes to staff's suggested approach. The approach is rooted in the professional recommendations of biologists and planners, best conservation practices, and feedback received throughout the project engagement.

A full representation of project activities, including those completed outside of the Board endorsed work and engagement plans, is shown in the project timeline (Attachment B). The more substantial additional activities include:

- *A Resource for Kootenay Lake Living* (5 months)
- Small lot impact analysis, also referred to as the "Kootenay Lake Buffer Analysis" (3 months)
- Consideration of Foreshore Integrated Management Planning (FIMP) results and recommendations (6 months)
- Additional public and stakeholder consultation period (4 months)

### **2.4 OCP POLICY CONSIDERATIONS**

Despite the basis for the preliminary approach in professional opinion, best practices, and stakeholder feedback, the use of Development Permits is ultimately at the discretion of the elected officials. As such, OCP policy should



also be considered in any decision to make changes to EDPAs. The preliminary approach is supported by the following OCP objectives, and policies:

Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315, 2013

Objectives:

1. *(1) To preserve natural values*
2. *(2) To preserve water quality in Kootenay Lake and other identifiable lakes in Electoral Area 'A' and their tributaries*
3. *(4) To protect all community watersheds within the Plan Area*
4. *(7) To limit the use of land that is subject to hazardous conditions or that are environmentally sensitive to development. Sensitive and hazardous areas are lands that are located in alluvial fans or floodplain on Kootenay Lake*

Policies – The Regional Board:

1. *(General Residential – 17) Will require that Development Permit areas be established to protect environmental qualities and to protect the form and character of residential areas where applicable*
2. *(19) Supports that development and subdivision adjacent to Kootenay Lake, any other identifiable lake, and tributary creeks shall be subject to a Development Permit*
3. *(26) Supports the efforts of all property owners to use Green Building and Subdivision practices for all new development and redevelopments*
4. *(Riondel – 5) The RDCK supports the special function of the waterfront in Riondel, and the economic, social, and cultural roles played by established institutions, private retreats, and spiritual networks in the area*
5. *(Gray Creek – 45) Land Use Designations should protect existing residents from damaging land uses, and should support sustainable lakeside and creek side development*

Electoral Area 'D' Comprehensive Land Use Bylaw No. 2435, 2016

Objectives:

1. *(2) Foster an awareness of the values associated with the natural environment and conserve sensitive and significant natural features and values from negative impacts as a result of development*
2. *(3) Encourage the maintenance of biodiversity in the Plan area, important to the biological functioning and ecological integrity of the area*
3. *(4) Conserve the natural values within the Plan area in recognition of their importance to the local economy, residents, visitors, as a natural amenity, and for wildlife and ecological functioning*

Policies – The Regional Board:

1. *(7) Supports the identification, protection, and restoration of environmentally sensitive areas*
2. *(8) Supports best management practices for land developers...*
3. *(10) Encourages the retention of existing wildlife corridors and access to water*
4. *(12) Encourages the protection of environmentally sensitive areas, important to the biodiversity and ecological functioning of the Plan area, and areas that contribute to community greenway corridors that link open space areas*
5. *(Ainsworth – 6) Supports that new development will respect the lifestyles and property of area residents and the natural environment*

6. *(Highway Frontage – 49) Recognizes the environmental sensitivity of the wetland area in the west side of Highway 31*
7. *(Shutty Bench – 76) Recognizes that residents value the pristine nature of the environment, including land, water and wildlife, and wish to continue to promote wise and balanced stewardship of the area*
8. *(Schroeder Creek – 90; Johnson’s Landing – 123) Discourages development and future subdivision along the riparian area of Kootenay Lake and supports long term planned development of new public access areas along the west side of Kootenay Lake*
9. *(Argenta – 107) Recognizes the value of the north end of Kootenay Lake and the Argenta Wetlands to the community, and recognizes the environmental sensitivity of both*

Some communities also recognize the policy: “[The Regional Board] understands that residents value individual freedom, respect for property rights, and the ability to live a life unencumbered by unnecessary rules.”

Electoral Area ‘E’ Rural Official Community Plan Bylaw No. 2260, 2013

Objectives:

1. *(2) To foster an awareness of the values associated with the natural environment and to conserve sensitive and significant natural features and values from negative impacts as a result of development*
2. *(3) To encourage the maintenance of biodiversity in the Plan area, important to the biological functioning and ecological integrity of the area*
3. *(4) To conserve the natural values within the Plan area in recognition of their importance to the local economy, residents, visitors, as a natural amenity and for wildlife and ecological functioning*

Policies – The Regional Board:

1. *(2) Supports best management practices for land developers...*
2. *(4) Encourages the retention of existing wildlife corridors, riparian corridors and access to water*
3. *(6) Encourages the protection of environmentally sensitive areas and features, important to the ecological functioning of the Plan area and which contribute to community greenway corridors*
4. *(Procter – 42) Encourages the RDCK and the Province to be vigilant in requiring permits for rock walls or improvements above the natural boundary of Kootenay Lake*

Electoral Area ‘F’ Official Community Plan Bylaw No. 2214, 2011

Goals:

1. *(6.3.1) Protect important and sensitive features of the natural environment*
2. *(6.3.4) Promote a system of representative protected areas and biological corridors*
3. *(6.3.5) Protect the quantity and quality of water resources and waterways*

Objectives:

1. *(14.2.1) Foster an awareness of the natural environment, parks and recreation opportunities in the region*
2. *(14.2.3) Protect, restore and enhance natural areas and establish an interconnected ecosystem network of protected conservation areas and corridors*
3. *(14.2.4) Protect riparian stream corridors and wetlands in support of maintaining and enhancing fish and aquatic habitat*

Policies – The Regional Board:

1. *(Foreshore & Riparian Areas - .10) Discourages activities that involve foreshore modifications (such as dredging, hauling in sand to create a sandy beach, breakwaters, retaining walls, groins, bulkheads, etc.) that disturb existing vegetation, trees, banks and have a negative impact on the shoreline processes.*
2. *(Foreshore & Riparian Areas - .12) Encourages developers to consider the full environmental impacts of lake foreshore development...*
3. *Supports the objectives contained in the B.C. Stewardship Centre Stewardship Series documents, 'Stream Stewardship: A Guide for Planners and Developers', and 'Stewardship Bylaws: A Guide for Local Government', which describe measures for:*
  - a. *providing and protecting vegetated riparian areas adjacent to watercourses;*
  - b. *controlling soil erosion and sediment in run-off water;*
  - c. *controlling the storm water rates of run-off to minimize impacts on watercourses;*
  - d. *controlling in-stream work, construction and diversions on watercourses;*
  - e. *providing support to a stewardship program;*
  - f. *maintaining fish passages in watercourses; and*
  - g. *preventing the discharge of deleterious substances into watercourses.*

## 2.5 TECHNICAL CONSIDERATIONS

Staff's preliminary approach in revising the EDPAs is rooted in trying to ensure human enjoyment of the shoreline while also preventing habitat loss in riparian areas in order to maintain and bolster healthy aquatic ecosystems and encourage biodiversity and landscape connectivity. It is also supported by the relevant OCP objectives and policies listed above.

Sensitive habitats do not recognize or end at political boundaries or those of private property. An approach that fails to recognize the important role that maintaining sensitive riparian habitats plays in the overall health of aquatic ecosystems may inadequately preserve the health of those ecosystems.

### Why 30 metres instead of 15?

QEP-recommended setbacks are different from the EDPA itself. The EDPA is the trigger to require the QEP to complete an environmental assessment that then informs what the recommended setback is. Without the EDPA, environmental setbacks can not be required and site-level habitat values remain unknown.

The current 15 metre wide EDPA is problematic. Subject to an exception for a ravine that is greater than 60 or more metres wide, section 8(1) of the *Riparian Areas Protection Regulation* ("RAPR" or "Regulation") provides that a riparian assessment area for a stream is a 30 metre strip on each side of a stream measured from the stream boundary. Development activity within an EDPA requires a Development Permit (unless the activity is exempt) and a local government cannot refuse to issue a Development Permit where the guidelines are met by a proposal; however, the current guidelines may not be met with a 15 metre wide EDPA.

The current guidelines require a riparian assessment to be submitted in accordance with the *Riparian Areas Regulation* (RAR, which is now the *Riparian Areas Protection Regulation – RAPR*) and the development activity must fulfill the criteria of the *Regulation*. This approach is taken recognizing that the *Regulation* provides a consistent methodology for riparian assessments and it is utilized by the RDCK solely as a matter of best practice. Subject to meeting the requirements of sections 3(2), 3(3), 5, 10 and 11 of *RAPR*, *RAPR* requires a minimum setback from a watercourse as an area that must remain free of development activity – a "SPEA" (Streamside Protection and Enhancement Area). The width of this setback area is based on the characteristics of the watercourse and its adjacent habitat. Within Kootenay Lake's riparian areas, in the 10+ years of having EDPAs in place in Areas A, D, and E, the RDCK has never received a riparian assessment that identifies a "SPEA" less than 15m wide.

Provisions within the *RAPR* exist for development within the SPEA subject to undue hardship, where the relevant Provincial and Federal agencies have been notified and the activity will result in no harmful alteration, disruption or destruction of the conditions that support fish habitat. Past development within the 15m EDPA may have been inconsistent with the *Regulation* and, consequently, may have not met the EDPA guidelines.

The inconsistency between EDPA width and guidelines must be addressed if the EDPA is going to achieve its purpose of protecting aquatic habitat and “conserving, enhancing and, where necessary, restoring watercourses and their riparian areas”. A 15m wide EDPA may result in the RDCK continuing to use ineffective management practices for riparian areas, if there is a conflict with the Provincial *RAPR*. A 15m wide EDPA may also be inconsistent with the KLP Shoreline Guidance Document, the Foreshore Integrated Management Planning project recommendations, and the feedback received over the course of this project from QEPs.

Continuing to utilize a 15m wide EDPA also would not align with the community values related to stewardship identified throughout the review. It would prioritize minimizing barriers to waterfront property development over the needs of the natural environment and broader community values related to Kootenay Lake. The habitat losses observed along Kootenay Lake would more than likely continue.

In order to address the current EDPA inconsistency, the RDCK could do one of two things:

1. Revise the EDPAs so they can effectively utilize best conservation practices and the recommendations of QEPs. This would require, at minimum, a 30m wide EDPA. Continuing to utilize the *Regulation* is recommended for any future riparian area EDPA, as it is the standardized practice used throughout the Province to ensure professional accountability from Qualified Environmental Professionals (QEPs); or,
2. Depart from using best conservation practices and the recommendations of professional biologists in order to keep a 15m wide EDPA. Decision-making generally risks becoming more discretionary and inconsistent without the use of a consistent methodology for QEPs.

Staff’s preferred approach, based on the background review, engagement for this project, and professional opinion continues to be option 1 listed above. The preliminary approach brought forward by staff in July 2022 was designed to ensure that the exemptions and guidelines offer enough flexibility so that where it does not make sense to require a DP (i.e. the potential to negatively impact riparian areas is negligible), a property owner does not need to apply for one. In drafting the bylaw amendments, staff will continue to look for opportunities to strengthen this flexibility while maintaining consistency with the *RAPR* as a matter of best practice.

#### Can more flexible or reduced “setbacks” be used?

Environmental setbacks from watercourses are recommended by QEPs based on their assessment of the watercourse and adjacent habitat. QEPs are required to use the Provincial *RAR/RAPR* methodology to determine the setback. Where the need for a relaxed setback is apparent, the DPA guidelines should offer flexibility to permit development in an area that would otherwise be immensely difficult to develop in with a strict application of the *Regulation*. Such relaxations would need to demonstrate that all other alternatives have been exhausted. The setback relaxations would need to be recommended by a QEP and accompanied by the necessary mitigation measures to ensure negative impacts to adjacent watercourses and sensitive habitats are eliminated or otherwise minimized, consistent with the provisions in *RAPR* for developments subject to undue hardship.

Zoning setbacks, like those in the Zoning Schedule of the Electoral Area ‘A’ Comprehensive Land Use Bylaw No. 2315, have offered alternative setbacks recognizing the topographical constraints on properties due to the location of Highway 3A. In particular the front yard setback is reduced from the standard 7.5m to 3.0m. It should be noted that zoning (and floodplain) setbacks are generally specific to new buildings and structures, and do not typically apply to vegetation clearing or soil disturbance, two of the primary activities EDPAs are concerned with.

Staff do not recommend a reduced EDPA width on constrained lots, similar to what is suggested by the comparison to reduced zoning setbacks, for the following reasons:

1. Lots constrained by size and topography often have the highest risk of damaging the natural environment when development activity takes place due to these very constraints. Not requiring a DP would make best conservation practices – like remediating and replanting disturbed areas, installing silt and/or snow fencing adjacent to sensitive areas, locating overburden away from areas prone to erosion and sedimentation, refuelling equipment farther than 30m from the Lake, and countless other site-specific considerations – completely voluntary in a development atmosphere where shoreline stewardship is already frequently lacking when development occurs.
2. The preliminary guidelines and exemptions allow for a path to approval, regardless of how constrained a lot is by its size and/or topography.
3. Only a vague understanding of what habitat values actually exist, as well as their importance, would be available without having a QEP review a site through the DP process. Understanding what habitat values exist and developing accordingly would be discretionary for property owners. The specialized knowledge that QEPs hold is vital in achieving good development outcomes through the DP review process, and it is uncommon for property owners to have that specialized knowledge. While some property owners have been proactive in building this understanding and developing sensitively, the vast majority do not – nor should they be expected to – and that lack of understanding usually leads to sensitive habitat loss. This trend highlights the importance of the oversight the EDPA provides.
4. Reduced DPA widths would justify disturbing sensitive habitats that exist beyond 15m upland of the natural boundary, where such disturbance may not even be necessary for sites with suitable alternative buildable areas.

Section 527 of the LGA authorizes local governments to require screening and landscaping for the purpose of “preserving, protecting, restoring and enhancing the natural environment”. Utilizing zoning provisions for natural buffer requirements may be effective but also may also result in a more rigid regulatory framework than one that relies predominantly on EDPAs.

How does the small lot impact analysis (Kootenay Lake Buffer Analysis) factor into staff’s recommendations?

Planning and GIS Staff completed an analysis of small lots that need careful consideration when contemplating changes to the EDPAs. The analysis was used to inform staff’s preliminary recommendation for EDPA guidelines and exemptions to ensure there is an approval path available for constrained lots. These recommendations would be mostly consistent with conservation best practices and result in an EDPA implementation approach that is equitable amongst property owners.

It should be noted that environmental equity may only be partially achieved due to past land use decisions (i.e. the locations of highways and decisions of subdivision approving officers to ‘hook’ private property across highways, leaving small slivers of private land on the lake side). The use of more rigid regulatory planning tools like zoning could result in greater environmental equity.

The analysis informed staff that impacts would exist on a number of properties. Staff’s preliminary recommendations were then made based on there being an impact to parcels, not the extent of that impact. If the analysis were to determine a higher number of parcels are constrained, staff’s recommendations are unlikely to change. This is because the preliminary approach seeks equitable EDPA implementation with guidelines and exemptions offering the ability to develop any residential lot, regardless of whether constraints exist and what those constraints may be.

Does the revised EDPA approach conflict with FireSmart or hazard mitigation?



The EDPAs that are currently in place along Kootenay Lake do not permit the removal of hazard trees or works in accordance with the recommendations of a FireSmart assessment without first obtaining a DP.

Staff’s preliminary approach addresses this gap by exempting works undertaken in accordance with a FireSmart assessment, where the vegetation that is removed is compensated for elsewhere on the property. While this approach essentially seeks to “move” habitat, it is recognized that the value of the habitat that is removed is forever lost; however, the hope is that, over time, environmental compensation by replanting elsewhere on the property will result in gaining back habitat that was lost in order to develop.

Is the Foreshore Integrated Management Planning (FIMP) information consistent? What does it tell us?

In 2021, Living Lakes Canada completed a Foreshore Integrated Management Planning (FIMP) Project for Kootenay Lake. The 2021 FIMP Project was undertaken to update the inventory information collected on the Lake in 2012 using the standardized FIMP methodology, and to document changes that have occurred over the 9-year period between inventories.

166 observations or changes along the shoreline were noted between 2012 and 2021. 11 (6.6%) of these changes are noted as positive, including works like natural erosion control, riparian protection and restoration, or the removal of structures. 155 (93.4%) are noted as losses, including activities like riparian vegetation clearing, new retaining walls or groynes, and substrate modification (below natural boundary). 135 observations (81.3% of all changes) involved riparian vegetation clearing, presumably on upland private property (due to the growth pattern of riparian vegetation).

The results of the FIMP project underscore the importance of finding a more effective regulatory framework for upland riparian area management along Kootenay Lake. However, the FIMP project does not impact what staff’s preliminary recommendations are; disturbances to upland riparian areas have been apparent and are still happening frequently, and staff’s recommendations are a result of best conservation practices, feedback from QEPs, the professional opinion of Planning staff, and feedback received through project engagement.

**SECTION 3: DETAILED ANALYSIS**

**3.1 Financial Considerations – Cost and Resource Allocations:**

Included in Financial Plan:  Yes  No      Financial Plan Amendment:  Yes  No  
Debt Bylaw Required:  Yes  No      Public/Gov’t Approvals Required:  Yes  No

N/A

**3.2 Legislative Considerations (Applicable Policies and/or Bylaws):**

Section 488(1)(a) of the *Local Government Act* enables local governments to designate Development Permit Areas for the purpose of “protection of the natural environment, its ecosystems and biological diversity.” The Official Community Plans for Electoral Areas ‘A’, ‘D’, and ‘E’ currently contain EDPAs designated for this purpose. The Kootenay Lake DPA Review Project has involved re-examining these existing DPAs to ensure they are protecting riparian areas and upholding shared values.

Staff recommend the EDPA be applied to Electoral Area ‘F’, as there are still substantial habitat values present despite a significant level of historical disturbance in the area.

**3.3 Environmental Considerations**

Riparian areas offer a number of critical habitat functions that support healthy aquatic ecosystems. They also serve as crucial natural assets, buffering against flooding and erosion, the impacts of climate change, and water pollution and contamination. Preserving their function is critical in order to realize these, and the many other, benefits that a healthy aquatic ecosystem can provide.

Significant shoreline disturbance and, as a result, sensitive riparian habitat destruction has been occurring with increasing frequency in the Region, particularly along Kootenay Lake. The RDCK's regulatory framework could be refined to do a better job at preventing these disturbances before they happen and effectively responding where they do occur. Better aligning the EDPAs with best conservation practices, the Shoreline Guidance Document, and broader community values is one impactful way that the regulatory framework could be refined.

### **3.4 Social Considerations:**

The Kootenay Lake DPA Review seeks to align EDPAs along Kootenay Lake with community values and concerns. It also seeks alignment with the Shoreline Guidance Document, which identifies Ktunaxa cultural values and archaeological potential.

### **3.5 Economic Considerations:**

Economic considerations are inherently present in the decision-making process for issuing DPs despite economic guidelines not being included in the EDPAs, as their inclusion would be atypical for an EDPA.

### **3.6 Communication Considerations:**

The attached What We Heard report outlines in detail the communication efforts associated with this project. Additionally, a referral was sent to Ktunaxa Nation Council (KNC) requesting comments on the preliminary approach for a revised EDPA. The KNC has had extensive dialogue with yaqan nukiy and the RDCK regarding EDPAs and are supportive of the EDPAs around Kootenay Lake.

### **3.7 Staffing/Departmental Workplace Considerations:**

The main staff person responsible is the Planner 2. The project is part of the Planning Department's Work Plan.

During the focus groups, it was mentioned that there are other Regional Districts in the Province that have a QEP on staff to provide professional oversight, and their service is also shared with member municipalities. Staff's current recommendations are based on there being no QEP oversight available within the RDCK's existing resource pool. If a similar approach were to be desired by the Board in the future, staff could investigate further at the Board's direction.

### **3.8 Board Strategic Plan/Priorities Considerations:**

This project aligns with the following objectives/strategies of the Board's 2019-2023 Strategic Plan:

- Strategic objective #4: "to adapt to our changing climate and mitigate greenhouse gas emissions".
- 5.1(c): "modernize the RDCK policy framework" to be "innovative, reflect best practices, and consider unique RDCK requirements"
- 5.4.1(a): "protect our water courses"
- 5.4.3(a): "consider climate adaptation and mitigation impacts in decisions the RDCK makes"

Riparian areas play an important role in buffering against the impacts of climate change by acting as large carbon sinks while also buffering private properties from flooding and erosion.

This project is also a part of the RDCK's involvement in the Kootenay Lake Partnership.

## **SECTION 4: SUMMARY**

### **4.1 SUMMARY**

The planned engagement activities for the Kootenay Lake DPA Review project concluded in December 2022. This staff report provides an overview of the activities and results since the last update to the RAC in July 2022. A comprehensive summary of all engagement activities and results, including those not covered in this staff report,

is included in the attached What We Heard report (Attachment A). Additionally, an illustration of the project timeline is also attached to this staff report (Attachment B).

Engagement efforts for this project have included:

- 3 information sessions with various project stakeholders
- Internal RDCK meetings with relevant departments as well as Elected Officials
- 2 online workshops and corresponding online survey
- 2 focus groups
- A 6-week long consultation period which included 2 online public information sessions

The design and outcomes of these engagement efforts are described in detail in the What We Heard report, in addition to the themes that emerged throughout the various engagement activities. The common themes have been providing additional direction to the project, beyond what was outlined in the work plan, and will ultimately be used to inform the recommendation for a revised EDPA for Kootenay Lake.

#### 4.2 OPTIONS

##### Option 1: Staff Continue with the Work Plan and draft bylaw amendments for consideration

That the Board direct staff to continue with the Kootenay Lake Development Permit Area Review Work Plan and begin drafting bylaw amendments for Environmental Development Permit Areas in Electoral Areas 'A', 'D', 'E', and 'F', as described in the Committee Report "KOOTENAY LAKE DPA REVIEW – PUBLIC ENGAGEMENT UPDATE", dated May 31, 2023.

The attached What We Heard report is being provided to the RAC for information. Following the RAC meeting it will be posted to the project webpage on the RDCK's website.

##### Option 2: Take no further action

That no further action be taken with respect to the Kootenay Lake Development Permit Area Review, as described in the Committee Report "KOOTENAY LAKE DPA REVIEW – PUBLIC ENGAGEMENT UPDATE", dated May 31, 2023.

## SECTION 5: RECOMMENDATIONS

That the Board direct staff to continue with the Kootenay Lake Development Permit Area Review Work Plan and begin drafting bylaw amendments for Environmental Development Permit Areas in Electoral Areas 'A', 'D', 'E', and 'F', as described in the Committee Report "KOOTENAY LAKE DPA REVIEW – PUBLIC ENGAGEMENT UPDATE", dated May 31, 2023.

Respectfully submitted,

Corey Scott, Planner 2

## CONCURRENCE

Planning Manager – Nelson Wight **Digitally approved**

General Manager of Development Services and Community Sustainability – Sangita Sudan **Digitally approved**

Chief Administrative Officer – Stuart Horn **Digitally approved**

#### ATTACHMENTS:

Attachment A – Engagement Summary Report

Attachment B – Project Timeline





# Kootenay Lake Development Permit Area Review

## What We Heard Report



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## Executive Summary

The Kootenay Lake Development Permit Area Review began in spring 2020 as an effort to make the Environmental Development Permit Areas (EDPAs) in the Electoral Areas around Kootenay Lake ('A', 'D', 'E', 'F') more clear and consistent, and ensure they are reflective of community values and environmental conservation best practices.

The need to undertake this Review was highlighted following the creation of the Shoreline Guidance Document by the Kootenay Lake Partnership (KLP). The creation of this document demonstrated that better management of the riparian areas upland of the natural boundary of Kootenay Lake would be crucial in order to ensure a healthy Lake into the future. This need was further emphasized by the results of the 2021 Foreshore Integrated Management Planning (FIMP) Project completed by Living Lakes Canada, which evidenced further losses of riparian areas between 2012 and 2021 primarily on private residential parcels.

The RDCK Board of Directors directed staff to undertake the Review in April 2020. Since that time there have been a number of different engagement activities for the project. These activities, and their results, have been summarized periodically throughout the course of the project in the following update reports to the Board:

- [July 2020 – Engagement Plan](#)
- [November 2020 – Additional Public Education Materials Endorsement](#)
- [July 2021 – Engagement Update #1 \(Phases 1 & 2\)](#)
- [February 2022 – Kootenay Lake Buffer Analysis](#)
- [July 2022 – Engagement Update #2 \(FIMP & Phase 3\)](#)

This Public Engagement Summary ('What We Heard') Report is intended to summarize key engagement information and results from the reports listed above in addition to the engagement activities and outcomes since July 2022. This Report highlights the engagement plan (p.5-6); engagement process and activities (p.6-8); what we heard (p.8-16); key findings (p.16-17); and, recommendations (p.17-18).

While the content outlined above is described in detail throughout the remainder of this Report, a short summary of key findings and recommendations is provided in this executive summary to emphasize their importance.

Key findings include:

- [Core values and concerns of engagement participants are often similar, regardless of support or non-support of EDPAs](#)
- [A healthy natural environment and fish habitat are by and large the most commonly shared values and concerns for Kootenay Lake](#)
- [Although the local context \(Kootenay Lake\) is unique, the problems are not](#)
- [Professional opinion favours a consistent approach to riparian areas management](#)
- [EDPA implications for property owners are often perceived to be more burdensome than they actually are](#)
- [Historical development patterns have created a challenging situation for redevelopment](#)
- [Local governments have limited authority to address some key issues and concerns, namely those specifically impacting fish habitat \(federal\) or areas below the natural boundary \(provincial and federal\)](#)

These key findings are described in greater detail in the "Key Findings" section of the report.

Recommendations resulting from the engagement activities include:

- EDPAs should focus primarily on promoting a healthy natural environment and fish habitat
- A pragmatic EDPA approach to ensure greater success in implementation
- Consistency between the EDPAs to ensure a healthier aquatic ecosystem as a whole
- Continue to advocate for a unified enforcement approach with other levels of government
- Continue public education efforts to support, and build, the Region's culture of environmental stewardship
- Make continual efforts to promote and incentivize shoreline stewardship on private properties

Similar to the key findings, these recommendations are elaborated on in greater detail in the "Recommendations" section.

## Background

The Kootenay Lake Development Permit Area Review Project began in the spring of 2020. The goal of the Review is to ensure that the Environmental Development Permit Areas (EDPAs) around Kootenay Lake are consistent with best management practices, the Shoreline Guidance Document, and shared values for Kootenay Lake.

Although there is a strong culture of environmental stewardship within the Regional District of Central Kootenay (RDCK), general awareness of riparian area stewardship principles and permitting requirements may not be as prominent as in other places that have robust frameworks for preserving the natural environment. Recognizing this challenge, public engagement was identified early on in the project as an important component of the Review.

Public engagement activities were designed to gather input to help guide the review process and prioritize the preservation of commonly shared values for Kootenay Lake in a new EDPA. The process for public engagement sought to identify and understand the gaps in the current EDPAs as well as the shared values for the Lake. The following engagement objectives were identified early in the Review:

1. Understand the challenges in implementing the existing EDPAs.
2. Identify shared values along Kootenay Lake.
3. Translate the shared values for Kootenay Lake into the objectives of a new EDPA.
4. Enable stakeholders to provide input on EDPA direction.
5. Increase awareness about the EDPA, shoreline stewardship, conservation best practices and the Shoreline Guidance Document.

In recognizing that not everyone's values neatly align, the following project challenges were identified:

- Promoting environmental conservation practices in areas where this may not have always been a priority.
- Varying understandings of the importance of riparian areas and their crucial role in aquatic ecosystem health and drinking water quality.
- Achieving consistent environmental conservation practices throughout the Region.
- Accounting for constrained sites and areas where environmental mitigation is not possible.
- Knowledge of permitting requirements is not always known before work is undertaken.
- Some knowingly choose to work within riparian and environmentally sensitive areas without obtaining the necessary permits.

These challenges were given careful consideration when the engagement activities were designed. Additionally, the information resources compiled for the project (described further in the "Engagement Opportunities" section below) were created with these challenges in mind. Beyond the engagement for this Review, enforcement-related challenges will require a commitment to diligently addressing EDPA contraventions, working with other agencies with similar or overlapping jurisdictions (the Province; Fisheries and Oceans Canada), and continued public education efforts to support and grow the existing culture of environmental stewardship around Kootenay Lake.

Similar to the challenges outlined above, there were a number of potential benefits identified, including:

- Aid in minimizing human impacts along the shoreline of Kootenay Lake.
- Contribute to a regionally consistent approach for riparian area conservation.
- Enhance clarity of guidelines that are already in place.
- Encourage a more proactive approach to stewardship along the foreshore.
- Give greater consideration to the environment in (re)developing along the Lake.
- Create awareness for existing EDPAs.

Engagement activities and communications materials were also designed with these potential benefits in mind. Fully realizing these benefits will depend in part on implementing an EDPA approach that is more effective than the current one as well as fostering greater public awareness of shoreline stewardship.

The engagement strategy utilized International Association for Public Participation’s (IAP2) foundations and techniques for public engagement. Table 1 illustrates the IAP2 engagement spectrum and the level of stakeholder involvement at each stage of the decision-making process.

*Table 1 - Decision-making process for the project situated within the IAP2 engagement spectrum*

Engagement Level	Define Problem/ Opportunity	Decision Criteria	Explore Values and Objectives	Evaluate Options	Make Decision
INFORM	X				
CONSULT					
INVOLVE			X	X	
COLLABORATE	X	X	X	X	X
EMPOWER					

The project team informed and collaborated with internal RDCK departments, other governments and agencies, and rightsholders to identify issues, challenges, and opportunities with the current regulatory framework. Decision criteria was informed by these activities and discussions. The same stakeholders, as well as environmental practitioners, shoreline property owners, Indigenous Nations, and the general public were involved in the identification of shared values for the Lake, which were then translated into EDPA “objectives”. The EDPA objectives were presented to these same groups in order to evaluate the options for a potential revised EDPA. The feedback received from the engagement will be used collaboratively to inform the decision that is made on whether to revise the EDPAs.

This Engagement Summary (“What We Heard”) Report highlights the engagement activities for the Review. The feedback received is intended to inform the decision-making process, and help answer the question:

*What changes, if any, should be made to the existing EDPAs to ensure we are effectively caring for Kootenay Lake’s shoreline as development activities take place?*

## Engagement Opportunities

The Review was split into three key phases based on the engagement activities taking place. The three phases as well as the goals and key milestones of each are shown in Figure 1.

### Phase 1 – Project Initiation (September 2020 – February 2021)

The project initiation phase was comprised of three main activities:

1. A presentation was given to the RDCK’s Development Services and Community Sustainability Department to inform staff of the initiative and discuss opportunities for internal collaboration. Individual outreach to other departments with a perceived interest in the Review was also completed.
2. A Director information session was held to discuss project opportunities, challenges, and expectations with the Electoral Area A, D, E, and F Directors.
3. An inter-agency workshop with Kootenay Lake Partnership (KLP) partners to provide information on the project and receive feedback on challenges, concerns, and values related to Kootenay Lake.

The first Phase was intended to provide a sounding board for RDCK staff, Elected Officials, and KLP partners to discuss issues, challenges, experiences, and opportunities related to shoreline regulation around Kootenay Lake. It also encouraged reflecting on personal values associated with the Lake as a pilot for the next project phase.

### Phase 2 – Values Identification (February – July 2021)

The second phase of the Review was initially designed to solicit stakeholder, Indigenous, and broad public feedback on the various values associated with Kootenay Lake. This feedback would then be used to inform potential recommended changes to the EDPAs around the Lake. However, it became apparent during the first phase of the Review that more substantial public education efforts would be required to get effective feedback. As such, the following activities were completed prior to further engagement:

- Compile “Frequently Asked Questions” (FAQ) for the project webpage. This information was recently collated into its own separate document for the website. It will be updated to reflect the outcome of this Review and remain available to the public following the conclusion of the project.
- Create information videos for YouTube to provide general information on Development Permit Areas and more targeted information on EDPAs to encourage a better understanding of the Review’s subject matter.
- Adapt “A Resource for Okanagan Lakeshore Living” to the Kootenay Lake context. The newly adapted document – “A Resource for Kootenay Lake Living” – provides general information on the importance of riparian areas, the roles of different levels of government along the shoreline, and basic stewardship principles.
- Record a podcast with the Friends of Kootenay Lake Stewardship Society to discuss EDPAs and promote the educational materials.

These materials were also promoted through the RDCK’s social media accounts, the Kootenay Conservation Program, Friends of Kootenay Lake Stewardship Society, and continue to be promoted by RDCK Staff.

Following the release of the educational materials, values identification workshops were hosted online in April 2021 to share information on riparian areas, EDPAs, and the project. Feedback was gathered during the two online workshops to better understand residents’ values and concerns as they relate to Kootenay Lake. Additionally, a survey covering the same material was circulated to those unable to attend the workshops who may want to provide feedback.

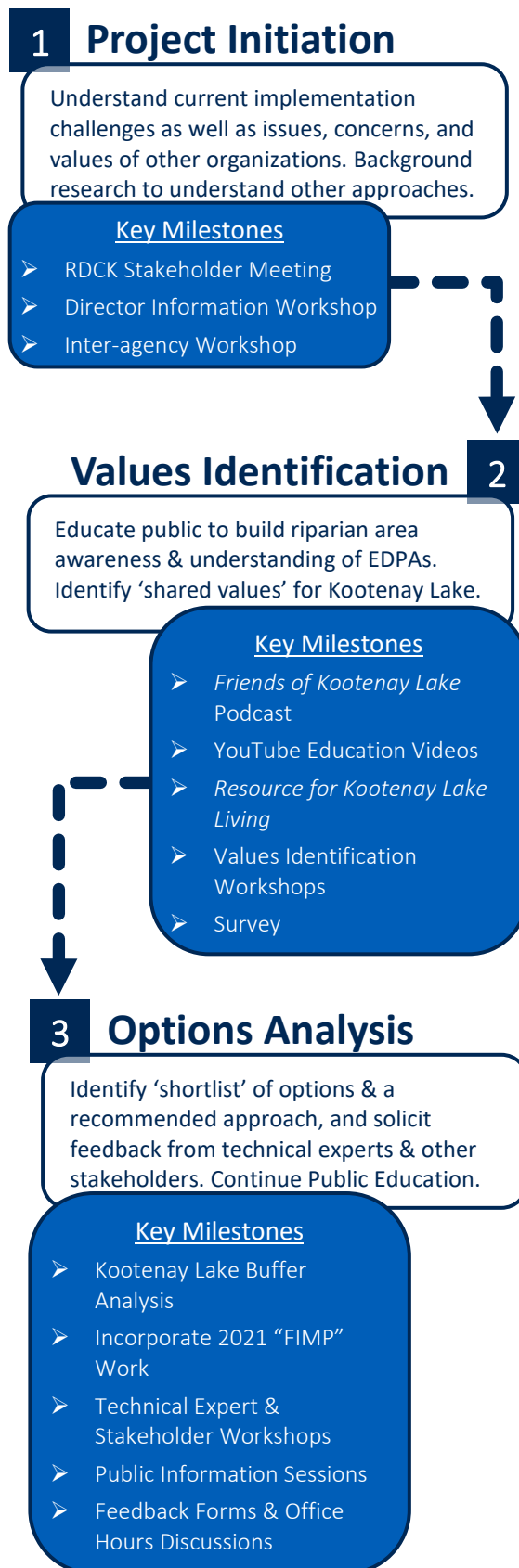


Figure 1 – Key EDPA Review Phases.



### Phase 3 – Analysis of Options (July 2021 – present)

The third phase of the project focuses on evaluating approaches used elsewhere in the Province in the context of the values, concerns, and challenges identified in the first two phases of the Review. This phase is comprised of the following activities:

- Best management practices review (ongoing for the project’s duration).
- Buffer analysis of shoreline private properties on Kootenay Lake to better understand potential implications of changes to the current regulatory regime (November 2021 – February 2022).
- Focus groups to assess preliminary objectives and approaches from other jurisdictions (April – June 2022).
- Director information session #2 to discuss preliminary EDPA direction and potential implications associated with the various approaches (August 2022).
- Public information sessions presenting project information, revised draft objectives, and how to provide feedback to the public. Representatives from the Ktunaxa Nation Council supported RDCK staff by attending these sessions and presenting on Ktunaxa cultural and archaeological values for Kootenay Lake (November 2022).
- Public consultation period for residents to learn more about the Review and provide their feedback. Feedback forms were posted to the project webpage and sent directly to residents who noted an interest in the project as well as members of the development community (November – December 2022).

### Communications and Outreach

Throughout the course of the Review, a range of outreach and communications efforts have been utilized, including:

- Project webpage – FAQ document, presentation recordings and slides, staff reports, and other resources
- Individual/group stakeholder outreach
- Newspaper ads
- Social media posts
- Media releases
- Posters in high-traffic public areas
- Periodic mentions in newsletters from the Friends of Kootenay Lake Stewardship Society, Kootenay Conservation Partnership, and Kootenay Lake Waterfront Property Owners Society
- Project manager interviews with local journalists (print and radio)
- Direct follow-up with individuals requesting periodic project updates

In addition to the deliberate communications and outreach listed above, the Review has seen exposure from multiple newspaper articles in the Nelson Star, Valley Voice, and Nelson Daily.

### What We Heard

A summary of the engagement activities completed and feedback received is illustrated in Figure 2.

The Review has been informed by feedback received throughout, with the outcome of each phase guiding the approach for the next. This feedback is summarized in the following sections.

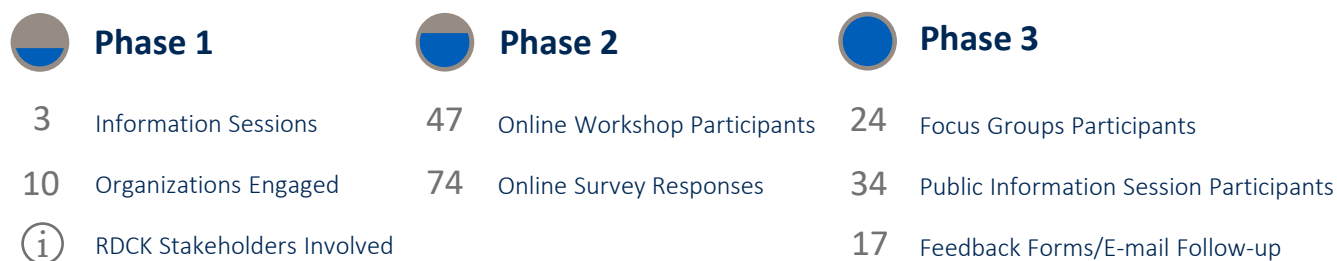


Figure 2 - Summary of Engagement.

### Phase 1 – Information Sessions (RDCK Staff, Elected Officials) & KLP Workshop (KLP Partners)

Common themes discussed early on in the first phase include the historical development pattern around Kootenay Lake and the resulting challenges; un-authorized works below the natural boundary; and, accretions leading to degradation of the riparian area. These themes have commonalities to those identified in the KLP Shoreline Guidance Document (2020) and Friends of Kootenay Lake Stewardship Society “Future of Kootenay Lake Community Values Survey” (2018), as well as the key areas of concern that other riparian area EDPAs around the Province focus on.

The inter-agency workshop with KLP partners was designed with these key themes in mind. The workshop was carried out using online live polling and targeted discussions to explore three topics related to Kootenay Lake:

1. [Challenges in governance](#)
2. [Areas of concern](#)
3. [Individual/organizational values](#)

The questions asked in the live poll during the workshop and the top five answers to each are shown in Table 2.

Table 2 - Inter-agency Workshop, Challenges in Governance and Concerns - Key Themes

Rank	What are the biggest challenges you or your organization face when it comes to Kootenay Lake? (5 choices)	What are your greatest concerns (either as an individual or organization) when it comes to Kootenay Lake? (5 choices)
1	Unauthorized Works	Environmental Degradation
2	Compliance with Regulations	Non-permitted Works (Buildings & Structures)
3	Public Awareness	Development Pressures
4	Recognition of Indigenous Ecological, Cultural, and/or Archaeological Values	Water Quality
5	Vegetation Removal	Loss of Indigenous Cultural, Ecological and Archaeological Values

Responses to the poll questions, as well as the subsequent conversations for each of the topics, indicated that there is a need for increased public awareness around riparian areas. Additionally, having a coordinated approach to land use regulation along shorelines was identified as being important. Resource constraints and the ability to enforce regulations along the shoreline was also identified as a significant challenge across almost all organizations.

Organizational/individual concerns focused heavily on environmental aspects. Again, public awareness surrounding the consequences of disturbance to riparian areas was a main topic of conversation. The cumulative impacts of stream and shoreline modification and how they can contribute to climate change, more thoughtful approaches to

erosion protection and archaeological values were all flagged as key messages that should be a focus for future public education.

The final activity focused on answering the question: what are the things that matter most about Kootenay Lake? 22 responses were provided and, upon further group discussion, sorted into 4 key thematic areas:

1. [Fish and Wildlife Habitat](#)
2. [Water](#)
3. [Managing Development Pressures](#)
4. [Recreation](#)

## Phase 2 – Values Identification Workshops

Prior to undertaking broad public engagement, staff focused efforts on the creation of public education materials. These efforts were in response to the input received early on in Phase 1 and through the workshop with KLP partners.

The content of *A Resource for Kootenay Lake Living* was adapted from the Okanagan template with the assistance of a local Qualified Environmental Professional. Further, staff consulted with various Provincial Ministries, Ktunaxa Nation Council, yakan nukiy, KLP Co-ordinator, and the Friends of Kootenay Lake Stewardship Society to solicit feedback on the content. The document was used as an information primer for the subsequent public engagement workshops. It is available on the RDCK's website, with print copies also available at the RDCK's offices.

There were a total of 47 participants at the two online public engagement workshops, which were held on April 27<sup>th</sup> and 28<sup>th</sup>, 2021. The presentation was made available on the project webpage and a short online survey was created to provide information to and solicit feedback from those who were unable to attend. There were a total of 74 respondents to the survey in addition to those who completed it during the workshops. Survey respondent locations are summarized in Table 3.

Table 3 - Phase 2 Engagement Participants by Electoral Area.

A live poll was used at the workshops to solicit feedback on the questions:

1. [What are the top 2 things you value most about Kootenay Lake?](#)
2. [What are your top 5 greatest concerns when it comes to Kootenay Lake?](#)

Respondents could select choices from lists of potential responses. The lists were pre-determined to prevent selections that an EDPA cannot address, as the *Local Government Act (LGA)* requires EDPAs to be designated for “protection of the natural environment, its ecosystems and biological diversity”. Separate response fields were provided for respondents to write in their own responses where they felt the selections did not capture their views. While an EDPA cannot consider matters outside of the scope provided by the *LGA*, as described above, other sections of an Official Community Plan (OCP) may be able to. The other responses received may be most appropriately addressed through other policy sections within an OCP.

Electoral Area 'A'	9
Electoral Area 'D'	7
Electoral Area 'E'	60
Electoral Area 'F'	6
A Municipality or Village within the Regional District (ex. Nelson, Kaslo, etc.)	9
Another Electoral Area ('B' 'C' 'G' 'H' 'I' 'J' 'K')	6
Outside of the RDCK	0
I'm not sure which Electoral Area	3
I'd prefer not to say	1
No Answer	1
<b>Total</b>	<b>102</b>

### Question 1 Responses: What are the top 2 things you value most about Kootenay Lake?

The top selection for what mattered most to people about Kootenay Lake was “the natural environment” (32%) followed by “clean and abundant water” (25%). “Recreation/personal enjoyment” (16%) and “wilderness” (14%) were also selected by a significant proportion of respondents. Responses to the first question are shown in Figure 3.

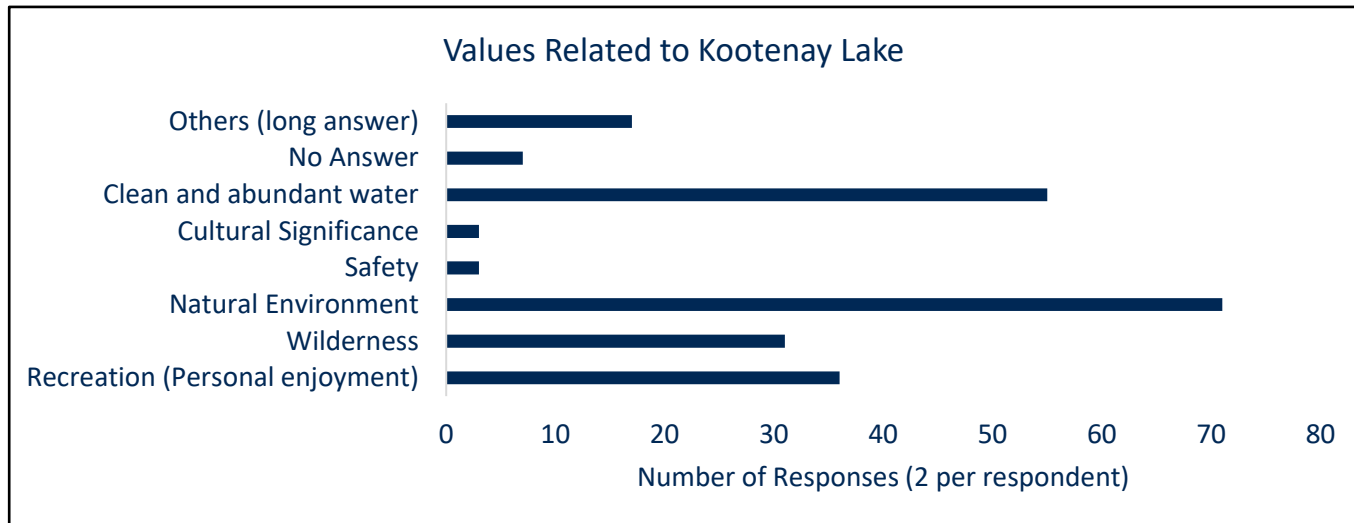


Figure 3 - Responses to the question: What are the top 2 things you value most about Kootenay Lake?

Responses not in the list that were added by respondents (“Other (long answer)” in Figure 3) touched on the following themes:

- All of the above
- Being able to build a home in nature
- Tourism opportunities
- A low-density residential pattern in the RDCK

### Question 2 Responses: What are your top 5 greatest concerns when it comes to Kootenay Lake?

The top responses for the second question, related to concerns around Kootenay Lake, include: “healthy fish habitat” (13%); “development pressures” (12%); “environmental degradation” (11%); and, “water quality” (10%). A complete list of responses is shown in Figure 4. The difference in proportion of respondents may be attributable to a larger number of responses available and more specific targeted options to select.

Responses not in the list that were added by respondents include:

- Riparian area disturbance/destruction by seasonal residents
- Destroyed fish and waterfowl habitat
- The number of private docks
- Government regulation on private property
- Individual property owners’ riparian rights
- An ineffective balance between the needs of humans and nature (human needs being favoured)

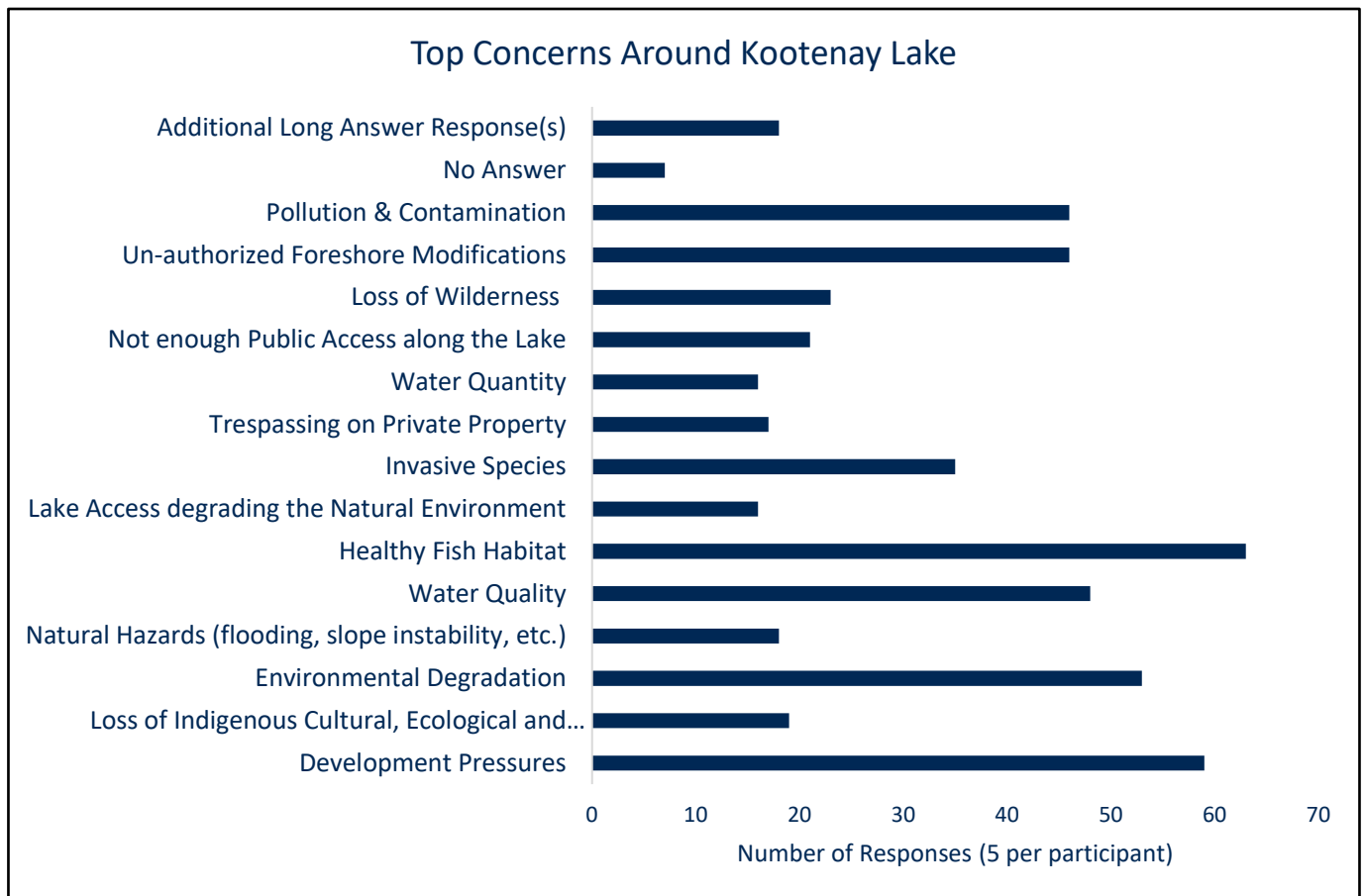


Figure 4 - Responses to the question: What are your top 5 greatest concerns when it comes to Kootenay Lake?

Discussion topics in the workshops included biodiversity loss and the impacts from boats, docks, pollution, lake access, and accretions. Many of the themes identified in the first Phase by KLP partners were raised again in the second Phase by the public and other stakeholders. From the values identification engagement activities, there is a clear focus on the health of the natural environment and water quality/quantity. Development pressures were identified as a key concern from all stakeholder groups engaged in the first two Phases and, as suggested by one respondent, there is an underlying theme of thoughtfully making an effort to try and balance the needs of humans and nature.

The predominant values and concerns identified and discussed in the first two phases of engagement were used to create four draft “objectives” for a revised EDPA. The thematic areas these draft objectives covered are:

1. [The Natural Environment](#)
2. [Fish and Wildlife Habitat](#)
3. [Water](#)
4. [Human Disturbance](#)

### Phase 3 – Focus Groups, Public Information Sessions & Feedback Forms

Two focus groups were held on May 10<sup>th</sup> and 11<sup>th</sup>, 2022. Participants in the focus groups included representatives from regulatory agencies, stewardship organizations, and the development community as well as qualified environmental professionals from around the region, longstanding waterfront property owners (residents), and members of RDCK Advisory Planning and Heritage Commissions (APHCs). A diversity of attendees was invited to



encourage a range of varying opinions on EDPA approaches, namely guideline and exemption practicality, based on participant interests. Focus group workbooks were also circulated to each group to provide an opportunity for participants to give detailed feedback following the meetings.

Riparian EDPA approaches from 14 local governments across BC were presented to focus group participants and discussed in greater detail to solicit feedback on how well a similar approach may work for Kootenay Lake. Draft objectives were the first item discussed at the focus groups, and feedback for each objective is summarized as follows:

- The “Natural Environment” objective should focus primarily on riparian/sensitive area protection, recognizing that streams themselves are dynamic and cannot necessarily be ‘preserved’. Streams are also managed by the Province so the upland area should be the focus for local governments. Specifying what a “stream” includes is also important for clarity.
- The “Fish & Wildlife Habitat” objective should acknowledge climate change and species at risk and encourage strong protection of biodiversity and landscape connectivity.
- The “Water” objective should tie the importance of riparian areas into the health of streams, like Kootenay Lake.
- The “Human Disturbance” objectives could better capture the symbiotic relationship between humans and the natural environment rather than creating an adversarial narrative between the two.

Five key areas were identified for EDPA guidelines to address in Phases 1 and 2 of the Review: riparian assessment reports; building and parcel siting; fish and wildlife habitat protection; setback areas; and storm water and hazard management. Guidelines for each were examined in the focus groups with the following directions being identified for further guideline refinement:

- Riparian Assessment Reports from QEPs should continue to be required where the potential for disturbance of riparian areas exists, but RDCK staff having some discretion to not require one under specific circumstances could be beneficial.
- Guidelines should encourage the evaluation of development proposals based on individual site values.
- Language should be clear and consistent, and guidelines should avoid using discretionary language (“may”, “encourage”, “should”, etc.).
- Concepts (such as “no-net loss” and “leave strips”) should be addressed through thoughtful guideline design that uses existing resources to the area, such as the Kootenay Lake Partnership’s Shoreline Guidance Document and Living Lakes Canada’s Foreshore Integrated Management Planning work.
- Guidelines should recognize the cumulative impacts that storm water and hazards from individual parcels can have on a watercourse.
- Overall, guidelines should encourage the preservation and enhancement of riparian areas.

Similar to EDPA guidelines, key focus areas for exemptions were identified as: activities that do not result in further disturbance of the riparian area; minor works; activities that are authorized by other levels of government; subdivisions where disturbing the riparian area is not necessary; specific emergency works; and, specific agricultural activities that follow best management practices. The potential unintended consequences of exemptions for each were discussed with the focus groups and the following considerations have been identified for further exemption refinement:

- Exemptions for activities that do not further disturb riparian areas may be appropriate but should consider whether the current state of a property negatively impacts the aquatic ecosystem as well as proactive mitigation of potential risks.
- “Minor works” should consist of activities that will have negligible impacts on riparian areas and be specified.

- Activities covered under a Provincial or Federal authorization where riparian area impacts are effectively mitigated as part of that approval.
- Subdivisions that do not result in disturbance to the riparian area should be considered in the context of topography, impacts of site infrastructure, and future development activity. Tools like limits of disturbance (silt and snow fencing) and restrictive covenants could be helpful in ensuring accountability.
- Exempting emergency works where they are clearly defined, subject to professional oversight, and reported to the RDCK (and deemed acceptable) prior to being undertaken.
- Although agricultural activities have had significant lasting negative impacts on the natural environment in the past, if they are undertaken with care following the guidance of the Ministry of Agriculture then their impacts could be minimized.

Following the focus groups, the objectives were revised based on the feedback received. Similarly, the guidelines and exemptions presented to the groups were narrowed down to formulate an approach appropriate for Kootenay Lake and other riparian areas in the Electoral Areas. This preliminary approach was presented to the RDCK's Rural Affairs Committee for feedback prior to further public information sessions.

Two public information sessions were held on November 8<sup>th</sup> (1:00PM – 2:30 PM PST) and November 9<sup>th</sup> (6:30PM – 8:00PM PST), 2022 with a total of 34 participants (24 and 10, respectively). A presentation was given by representatives from the Ktunaxa Nation Council on Ktunaxa cultural and archaeological values along Kootenay Lake. RDCK staff followed with a presentation on EDPAs and the Review project. The remainder of each session was spent on Q&A and discussion, and the following themes were raised:

- Clarifying how and where EDPAs are designated, the types of activities triggering the need for a Development Permit, and whether development is permitted within an EDPA
- Whether “existing non-conformities” would apply, similar to zoning regulations
- Survey reliability and the impact of accretions on determining natural boundary
- Costs and timelines associated with a riparian assessment report and whether they are necessary for “minor works”
- Project timeline
- Potential impacts on constrained properties where building within the riparian area (EDPA) is unavoidable
- The broader significance of this project with respect to the natural environment and long-term health of Kootenay Lake
- Shoreline stewardship resources and conservation opportunities for shoreline property owners
- Impacts of public day use, namely washroom facilities and black/greywater disposal
- Kootenay Lake is a drinking water source for many
- Curbing the “do first, ask permission later” attitude that heavily contributes to compliance issues
- Changes that could be made to better prevent habitat loss
- Incentivizing responsible development and shoreline stewardship – giving recognition to good stewards to exemplify the stewardship that is trying to be promoted

A public consultation period was open from October 31 to December 9, 2022. Feedback forms describing the EDPA objectives, guidelines, and exemptions were posted to the project webpage to provide direct feedback on the EDPA objectives and any general comments. The webpage was highlighted on the RDCK's main page and promoted through social media posts, monthly newsletters from the Kootenay Conservation Partnership and Friends of Kootenay Lake Stewardship Society, and in news articles in the Valley Voice and Nelson Star. Additionally, feedback

forms were e-mailed directly to residents who noted an interest in providing their feedback throughout the course of the project as well as developers, homebuilders, and other professionals working within the development community.

9 feedback forms were submitted to RDCK staff, in addition to 8 e-mails and an opinion letter published in the Nelson Star. The opinion letter is included in Appendix A, and was supportive although it is omitted from the results summary.

Sentiments varied, with 71% of feedback (12 responses) being supportive of a revised EDPA, 24% being opposed to EDPAs (4 responses), and 6% raising concerns but not indicating support/non-support (1 response). It should be noted that 2 of the supportive responses indicated that the draft objectives did not accurately reflect what they valued most about Kootenay Lake; these 2 respondents noted that, in addition to the themes already covered by the draft objectives, increased public access opportunities and better representation of human interests (personal enjoyment and recreation) along the shoreline should also be included.

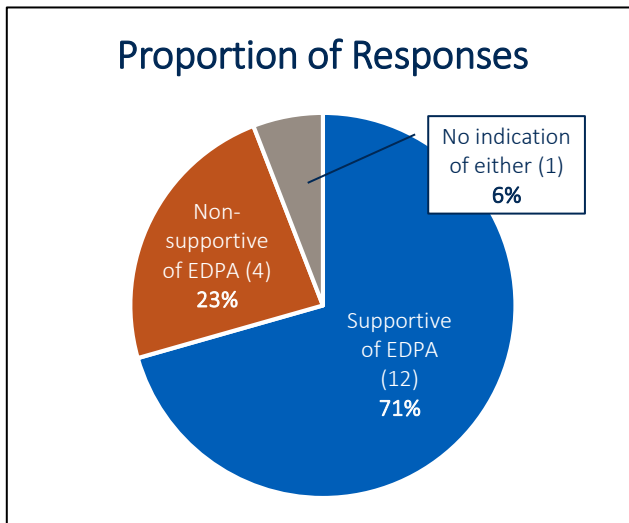


Figure 5 - Phase 3 Public Feedback Summary

Key themes and concerns raised in the feedback forms and e-mail responses are summarized in Table 4. The Table is organized by the most commonly raised themes and categorized by colour: **green text** indicates supportive themes, **orange text** indicates non-supportive themes, and **grey text** indicates themes raised that are neither but still relevant to the topic.

Table 4 - Phase 3 Feedback Form Themes and Concerns Summary

Theme/Concern Raised	Number of Responses
General support for staff's preliminary approach (30m EDPA)	5
Preserving riparian habitat for its many environmental values	5
Increasing "red tape" for property owners	4
Flexibility for already existing development & urbanized areas	3
Ensuring EDPA can be enforced effectively	3
Desire for RDCK to subsidize riparian assessments for shoreline property owners	2
Ensuring approach is pragmatic	2
Clarifying when/how setbacks apply	2
Ensuring site design addresses higher risk land uses and site layouts	1
Balancing development and economic, social, and environmental values	1
Ensuring guideline flexibility for low-risk activities	1
Monitoring ecosystem health	1
Incorporating Ktunaxa cultural values	1
Whether an EDPA reduces property value	1
The need for further public education	1

Redacted copies of the feedback forms and a summary of e-mails received are included in Appendix B. Additionally, RDCK staff were available for dedicated ‘office hours’ in person, over the phone, and online during the consultation period. Residents who utilized office hours were encouraged to fill out feedback forms but in most cases did not; however, common themes raised in many of those conversations include:

- Recognition of the importance of riparian areas to aquatic ecosystem health regardless of support/non-support of an EDPA
- Ensuring EDPA approach is pragmatic
- Concern of there being increased “red tape”
- Financial implications for shoreline property owners
- Clarifying how/when setbacks apply
- Further public education

The feedback received in the third phase of engagement suggests that there is a general recognition that it is important to maintain and encourage a healthy shoreline and riparian areas around Kootenay Lake. Key concerns raised focussed primarily on ensuring the approach taken to EDPAs around the Lake is pragmatic and does not result in overbearing permitting requirements for shoreline property owners, particularly in urbanized areas. These concerns are consistent with those raised throughout the duration of the project by most stakeholders and are addressed further in the Recommendations section.

## Key Findings

### *Core values and concerns are often similar*

Regardless of support or non-support for a revised EDPA approach, or EDPAs in general, core values and concerns of those who participated in the project engagement were often quite similar. Values recognizing the general importance of healthy aquatic and riparian ecosystems and shoreline stewardship are common, even in those who may be skeptical of EDPAs. Diverging opinions emerge when contemplating the management of riparian areas and use of EDPAs as a regulatory tool to better preserve them.

### *A healthy natural environment and fish habitat are the most common values and concerns for Kootenay Lake.*

Public engagement activities identified the natural environment as the most commonly valued aspect of the Lake. Similarly, healthy fish habitat was the most common concern selected by engagement participants. Other topics that frequently resonated with respondents include clean and abundant water, environmental degradation, development pressures, and unauthorized foreshore modifications.

### *Although the local context is unique, the problems are not*

Loss of riparian areas has been occurring at a rapid rate as development pressures have accelerated around the Province for decades. The Provincial *Riparian Areas Protection Regulation (RAPR)* – formerly the *Riparian Areas Regulation* – was introduced in the 2000s to address these issues. While the *RAPR* provides the standard methodology for riparian assessments in the Province, its application as a blanket approach can often be very rigid, particularly in instances where development activities will have negligible risks or impacts to a riparian area. Utilizing the best management practices contained within the *RAPR* will be essential for maintaining a consistent approach; however, some discretion to not require permits in all cases where activity is proposed within an EDPA was noted as desirable by public engagement participants.

### *Professional opinion favours a consistent approach*

Discussions with qualified environmental professionals (QEPs) resulted in a number of key findings, namely:

- Regulatory requirements should be consistent and follow a well-defined methodology, the most apparent one being the *RAPR*.
- Some discretion should be embedded into EDPAs to ensure practicality and offer flexibility in situations where requiring a DP is excessive.
- QEP oversight will continue to be pivotal in ensuring development adjacent to aquatic and riparian habitats is done sensitively.
- EDPAs should follow Provincial best management practices (*RAPR*) and apply to a minimum 30-metre wide area above natural boundary. Some QEPs favoured EDPA width being determined by specific habitat features on a property but recognized that data to support such an approach is limited and that bolstering public awareness would be much more time and resource intensive.

While the Provincial *RAPR* provides a consistent methodology that is grounded in biological best management practices, and is the standard across the Province, the RDCK has an opportunity to better address riparian habitat preservation by adapting this standard to the Region's local context.

### *EDPA implications for property owners are perceived to be more burdensome than they actually are*

The public engagement process has illuminated a fear that EDPAs, particularly where they are 30 metres wide, will result in land use sterilization and greater financial burden for many shoreline property owners. It must be kept in mind that the presence of an EDPA does not automatically mean a property owner needs to apply for a Development Permit. Technically, properties within 30m of Kootenay Lake would fall within the EDPA but the vast majority of people would not require a Development Permit. Minor works, maintenance, renovations that do not alter a building footprint, activities outside of the riparian area, emergency works, hazard vegetation removal, and many other activities are all desired to be exempt. A Development Permit should only be required in instances where there are risks to riparian and/or aquatic ecosystems associated with the development that need to be understood and mitigated.

### *Historical development patterns have created a challenging situation for redevelopment*

Past decisions regarding road location and the subdivision of waterfront property made by the Ministry of Transportation and Infrastructure (MoTI) have resulted in environmental constraints on some properties. This concern was continually raised during public engagement and has remained a key focus of staff both in understanding the potential impacts of regulatory changes and in finding a reasonable solution that balances the needs of humans/shoreline property owners and the natural environment.

### *Local Governments have limited authority to address some key issues/concerns*

Many of the issues and concerns raised during the public engagement process relate to unauthorized work below the natural boundary, private moorage structures, accretions, and the illegal release of untreated black and grey water into Kootenay Lake from houseboats and other recreational users. These issues and concerns often fall under the jurisdiction of the Province, with limited recourse for local governments. The RDCK continues to advocate to address these issues and concerns by directing the public to the correct channels (FrontCounter BC, BC Conservation Service, Fisheries and Oceans Canada, Report All Poachers and Polluters hotline and webpage); maintaining open communication with various Ministries; and, working through the Kootenay Lake Partnership to encourage multi-organizational collaboration to address these issues.



## Recommendations

### *At their core EDPAs should promote a healthy natural environment and fish habitat*

There are a wide variety of values and concerns for Kootenay Lake, and riparian areas generally, that reflect individual experiences and beliefs. One common thread seen throughout the engagement process from many participants is a value for the natural environment. Riparian areas ultimately bolster healthy aquatic ecosystems by providing food and habitat for fish and other animals, buffering against increasingly unpredictable climate change impacts, and filtering water of pollutants, contaminants, and sediments. The role that riparian areas play as natural assets is crucial and EDPAs should recognize this role and encourage the continuation of the many benefits we realize from maintaining healthy riparian areas. It is important to closely consider the professional opinions of QEPs in order to ensure that the EDPA approach is effective in preserving these important ecosystems.

### *Ensure pragmatic EDPAs are utilized*

EDPAs should not result in unnecessary permitting requirements that place additional burdens on shoreline property owners and workloads on RDCK staff.

#### No Riparian Area Impact = No Development Permit Requirement

EDPAs should be required in cases where there are potential impacts to riparian areas and the health of aquatic ecosystems that need to be understood and mitigated prior to disturbance of an area.

### *Take a consistent approach in riparian areas and along Kootenay Lake's shoreline*

Sensitive habitats do not end at political boundaries, so inconsistent approaches will further fragment biodiversity within riparian and aquatic ecosystems. Discussions with QEPs indicate that an EDPA approach would benefit from continuing to utilize the Provincial *RAPR* methodology. There is a general consensus among this group of technical experts that 30 metre wide EDPAs provide a reasonable opportunity to preserve riparian areas and that built-in discretion and exemptions can help to eliminate unnecessary DP applications. Anything less than 30 metres will fail to adequately protect against further losses of sensitive habitats. Furthermore, a consistent approach around the Lake also results in simpler key messaging for future public awareness campaigns increasing the chances of success.

### *Continue to advocate for a unified enforcement approach with other agencies*

Although the RDCK does not have jurisdictional authority below the natural boundary, it can continue to work with the agencies that do to help address the shared values for Kootenay Lake. Increased communication with Provincial ministries and collaborative problem solving serve as two actions the RDCK is currently undertaking that will continue to be pivotal into the future. Additionally, aligning the EDPA approach with the Provincial *RAPR* would help ensure all agencies are speaking the same technical language, in turn reducing organizational barriers to collaborative enforcement.

### *Continue public education efforts*

Future public education efforts will be key in supporting the culture of environmental stewardship in the Region. Continued focus on raising public awareness, as well as support of the efforts of the Kootenay Lake Partnership and Friends of Kootenay Lake Stewardship Society, will be paramount moving forward.

### *Make continual efforts to promote and incentivize shoreline stewardship*

A program that celebrates and rewards shoreline property owners who exemplify shoreline stewardship principles could help reinforce the culture of environmental stewardship and curb undesirable behaviours over the medium and long term.

# Appendix A:

## Opinion Letter to Nelson Star



# LETTER: Respecting our Kootenay Lake waterfront lands

From reader John Alton

Dec. 1, 2022 8:00 a.m. / [LETTERS](#) / [OPINION](#)

*Re: [Tightening Kootenay Lake shoreline regulations examined, Nov. 21](#)*

I was happy to read about the RDCK moving ahead on regulation to protect our lake and river riparian lands. The RDCK said the new regulations will help protect habitat for species, and certainly the Kokanee do need habitat protection.

I think private ownership has long been seen as “I own it, I can do whatever I want” by many people. However I believe in protective measures for not only waterfront but also forests, and we should consider recreation too.

Ad removed. [Details](#)

Thankfully, the water's edge is public land in Canada, unlike the U.S., so we can all go for a stroll along any waterway up to the high water mark. However I have seen barriers such as rock walls or signs that discourage public access. This is also a class issue, I believe, as most waterfront is expensive so most of the public can not afford it.

Coincidentally, this morning I went for a walk with friends along the Taghum waterfront just west from the hall where there is a well-used trail. To my dismay, for the first time I saw "private property, no trespassing" signs. I was sad and frustrated because whoever bought this property recently must have seen the well-worn trails and realized that the public has been walking there for quite some time.

I wish the RDCK could buy it back and make a park from that beautiful historic property with old apple trees and wetlands. With all the birds that call it home, it could be a bird sanctuary. A recent example of this was the Slocan riverside property that a landowner donated to the RDCK to expand that wonderful regional park at Crescent Valley.

**John Alton**

**Nelson**

# Appendix B:

## Redacted Feedback Forms & E-mail Correspondence

\*Note: Feedback form responses are shown in highlighted text.





# Kootenay Lake DPA Review Feedback Form

This form is intended to provide residents in the Regional District of Central Kootenay (RDCK) an opportunity to provide feedback for the Kootenay Lake Development Permit Area Review Project.

The Review Project has been underway since 2020, and in that time RDCK staff have been busy working to answer the question:

*How can we ensure we are effectively caring for Kootenay Lake's shoreline as development activities take place?*

To help guide development activities along most of Kootenay Lake's shoreline, the RDCK utilizes Environmental Development Permit Areas (EDPAs). The intention of the Kootenay Lake EDPA is to protect important "**riparian areas**" surrounding the Lake in order to reduce the impacts of development on the Lake. EDPAs are one of the most common and practical tools available to local governments, like the RDCK, to help protect the natural environment. As such, it is crucial to ensure that Kootenay Lake's EDPA reflects the commonly shared values that we all have for the Lake.

We want to hear from **YOU** on how well your values for Kootenay Lake are reflected by the "key themes" and EDPA "Objectives" listed below. The feedback received will be used to inform any proposed changes to the current EDPAs by the RDCK Board of Directors.

Sharing any other thoughts you may have on development along Kootenay Lake's shoreline or the Review Project is encouraged, and space can be found at the end of this form to provide that feedback.

Completed forms can be submitted to the RDCK Planning Department:

- Through e-mail to [plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca)
- In person at the RDCK's Lakeside Drive office in Nelson (address below)
- By mail to:

**Box 590  
202 Lakeside Drive  
Nelson, BC V1L 5R4**

If you would like to learn more about the Kootenay Lake Development Permit Area Review Project before filling out the feedback form, please visit the project webpage for more information: [rdck.ca/KootenayLakeDPA](http://rdck.ca/KootenayLakeDPA). You can also contact the Planning Department by phone at (250) 352-6665 or by e-mail [plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca).

*Thank you for participating in the Review!*

**For more information**

[plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca) | 250.352.6665 | or visit [rdck.ca](http://rdck.ca)

## EDPA OBJECTIVES

Since the beginning of the Kootenay Lake Development Permit Area Review in 2020, RDCK staff have been evaluating public and stakeholder input to identify a set of key themes that represent the commonly shared values for Kootenay Lake. These key themes have been used to draft the “Objectives” for a revised Kootenay Lake EDPA.

Objectives are a fundamental part of an EDPA that are used to identify its purpose. They demonstrate why the EDPA is important and what it is trying to preserve or protect.

The table below lists the key themes and corresponding Objectives that have been drafted for a revised EDPA that could apply to Kootenay Lake as well as other riparian areas.

KEY THEME	DRAFT OBJECTIVE
Natural Environment	To protect and restore riparian areas in order to enhance the function of their adjacent ecosystems, watercourses, and natural features.
Fish & Wildlife Habitat	To protect biodiversity and ensure landscape connectivity between watercourses and upland riparian areas.
Water Quality	To protect water quality and prevent pollution and contamination of watercourses through the preservation and enhancement of riparian areas.
Human Interaction with Riparian Areas	To ensure activities within riparian areas are undertaken in a way that is sensitive to the natural environment and encourages shoreline stewardship.

Do you think the Objectives listed in the table above accurately reflect **what you value most about Kootenay Lake?**

Yes

No  – If no, why not?

Comments (optional)

## GUIDELINES FOR DEVELOPMENT

Guidelines refer to the guiding principles for development that are used to achieve the objectives laid out in an EDPA. Not all guidelines will be relevant to every proposal. Proposals are examined based on the specific characteristics of that site. Five key areas have been identified for EDPA guidelines to focus on:

1. [Requirement for a Report from a Qualified Environmental Professional \(QEP\)](#)

Riparian Assessment Reports are currently required in the RDCK when development activities are proposed in an EDPA. These Reports are crucial in understanding what habitat values exist on a property and how to mitigate negative impacts to riparian areas.

2. [The location of new lots, buildings, and structures](#)

Guidelines for the location of new lots, buildings, and structures are typically concerned with eliminating or otherwise minimizing the amount of disturbance to the riparian areas surrounding Kootenay Lake.

3. [Protection of important fish and wildlife habitat features](#)

Important habitat features are identified by a QEP for the lands affected by the proposed development activity. Recommendations for avoidance or mitigation options are included in the Riparian Assessment Report.

4. [Identifying and designating an appropriate setback from a watercourse](#)

Based on the QEP's assessment, a minimum setback is recommended. Development activities must adhere to that setback in order to eliminate or reduce impacts to important habitat features and the watercourse.

5. [Storm water and hazard management](#)

Site alterations that may increase storm water runoff or hazard potential (like steep slopes) are considered and avoided to prevent creating conditions that result in a higher likelihood of erosion and/or sedimentation.

## EXEMPTIONS FROM THE EDPA

Exemptions refer to specific instances or activities where a Development Permit should not be required. They are intended to provide flexibility and cut down on the duplication of efforts between regulatory authorities (like the RDCK and the Province). Six key areas have been identified for EDPA exemptions to focus on:

1. [Development activities that do not result in disturbance of a riparian area](#)

These typically include things like renovations or additions partially within the EDPA, where a covenant is registered to protect sensitive areas, or having a QEP confirm that the area of disturbance falls outside of the riparian area.

2. [‘Minor’ works, such as small additions to existing structures or gardening/yard maintenance](#)

Development activity that is minor and would not result in any impact to the riparian area or involve machinery (for example an excavator) to complete the work. Minor works would be further defined in the EDPA.

3. [Activities permitted under an approval from the Provincial or Federal governments](#)

This would include authorizations that have already mitigated potential impacts above the natural boundary.

4. [Subdivisions that can accommodate future development entirely outside of the EDPA](#)

Subdivision exemptions could be used in specific cases where development activities for a new lot's creation are accommodated outside of the EDPA, recognizing that building on the lot may trigger the EDPA in the future.

5. [Emergency works under specific circumstances and with notice to the RDCK](#)

This would cover activities like vegetation removal under the recommendations of a FireSmart Assessment, hazard tree pruning/removal, or emergency response efforts from government agencies to name just a few.

6. [Agricultural activities consistent with Provincial best management practices & legislation](#)

Exemptions of this nature would apply to agricultural activities that strictly comply with Provincial guidance on undertaking the activity in a way that has negligible impacts on adjacent riparian areas.

*The EDPA "Objectives" will ultimately shape what kinds of "Guidelines" and "Exemptions" are recommended. If you have any other feedback you would like to provide on the Objectives or any thoughts on the key areas that the Guidelines or Exemptions could focus on, please let us know in the space provided below!*

**Thank you for taking the time to fill out the Kootenay Lake DPA Feedback Form!**

The Regional District of Central Kootenay will not collect, use or disclose personal information using this feedback form. The feedback form is voluntary and a response is encouraged but not required.

Regional District of Central Kootenay Planning Department  
 Box 590, 202 Lakeside Drive, Nelson BC, V1L 5R4  
 Email: [plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca) | tel: 250-352-6665 | fax: 250-352-9300  
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# RESPONSES

#1/9

## EDPA OBJECTIVES

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Human Interaction with Riparian Areas	To ensure activities within riparian areas are undertaken in a way that is sensitive to the natural environment and encourages shoreline stewardship.

Do you think the Objectives listed in the table above accurately reflect what you value most about Kootenay Lake?

Yes

No  – If no, why not?

Comments (optional)



4. Subdivisions that can accommodate future development entirely outside of the EDPA

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Exemptions of this nature would apply to agricultural activities that strictly comply with Provincial guidance on undertaking the activity in a way that has negligible impacts on adjacent riparian areas.

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Comments (optional)

Emphasize the importance of measuring and monitoring ecosystem health, or something like that.

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**Emphasize that setbacks will be evaluated on a case by case basis. You may get a lot of push back for blanket statements like 30m setbacks.**

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Yes

No  – If no, why not?

Comments (optional)

Draft objectives should mention protection of and respect for Ktunaxa cultural values within the EDPA.

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We support the 30 metre wide EDPA extending inland from the lakeshore.

We support a uniform EDPA around the entire lake that includes protection of riparian areas.

If Ministry of Agriculture Best Practices are followed we would support an exemption for agricultural activity.

There should be no exemption for either industrial or institutional projects.

The creation of non-structural impervious or semi-pervious surfaces within the 30 metre EDPA should be strictly controlled.

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Comments (optional)

I understand that EDPA objectives are to protect riparian zones.

Additionally, I think that enhancing public access to Kootenay Lake needs to be considered because most of the most accessible access to Kootenay lake in Area A is via private land owned by wealthy people. This poor planning has resulted in limited access for the general public, mainly for seniors, people with disabilities, and young children. The lakeshore should not be privately owned. The lakefront needs to be accessible to the public.

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The riparian habitat is very important for many species that are integral to that habitat; aquatic, terrestrial, and amphibious; as well the riparian zone is needed by very many terrestrial species as a source of water and as a migration corridor.

The proposed EDPA is very important for habitat conservation and the prevention of species extinction. This proposal is definitely needed!

I'm interested in how riparian habitat destruction can be policed if the property owners are non-communicative and have all access barred off with "No Trespassing" signs.

Often it's local knowledge of what species utilize the habitat and I hope that when the QEP's assessment work is being done that citizen science will be considered.

Thank you.

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No  - If no, why not?

Comments (optional)

Firstly, I don't know what a Yes/No survey of one question is going to provide? To prove I can read the first page?  
 I think this whole process will just create more 'red' tape and bureaucracy. Having to get a DPA so I can put a waterline to the lake to get water is outrageous and infringing on a homeowner/citizen to provide water for them + their family. I also don't understand why a 15m setback/DPA was already implemented for Area E + A and 30m for Area D. I think it is because Area F (with no setback) has a higher population + therefore more issues to deal with so RDCK decided to use the other Areas as a test



or guinea pig. I think this whole process is flawed & unrealistic. Remember who pays the taxes it's not the special interest groups such as Friends of Kootenay Lake and others.

Attachment A

## GUIDELINES FOR DEVELOPMENT

Guidelines refer to the guiding principles for development that are used to achieve the objectives laid out in an EDPA. Not all guidelines will be relevant to every proposal. Proposals are examined based on the specific characteristics of that site. Five key areas have been identified for EDPA guidelines to focus on:

1. Requirement for a Report from a Qualified Environmental Professional (QEP)

Riparian Assessment Reports are currently required in the RDCK when development activities are proposed in an EDPA. These Reports are crucial in understanding what habitat values exist on a property and how to mitigate negative impacts to riparian areas.

2. The location of new lots, buildings, and structures

Guidelines for the location of new lots, buildings, and structures are typically concerned with eliminating or otherwise minimizing the amount of disturbance to the riparian areas surrounding Kootenay Lake.

3. Protection of important fish and wildlife habitat features

Important habitat features are identified by a QEP for the lands affected by the proposed development activity. Recommendations for avoidance or mitigation options are included in the Riparian Assessment Report.

4. Identifying and designating an appropriate setback from a watercourse

Based on the QEP's assessment, a minimum setback is recommended. Development activities must adhere to that setback in order to eliminate or reduce impacts to important habitat features and the watercourse.

5. Storm water and hazard management

Site alterations that may increase storm water runoff or hazard potential (like steep slopes) are considered and avoided to prevent creating conditions that result in a higher likelihood of erosion and/or sedimentation.

## EXEMPTIONS FROM THE EDPA

Exemptions refer to specific instances or activities where a Development Permit should not be required. They are intended to provide flexibility and cut down on the duplication of efforts between regulatory authorities (like the RDCK and the Province). Six key areas have been identified for EDPA exemptions to focus on:

1. Development activities that do not result in disturbance of a riparian area

These typically include things like renovations or additions partially within the EDPA, where a covenant is registered to protect sensitive areas, or having a QEP confirm that the area of disturbance falls outside of the riparian area.

2. 'Minor' works, such as small additions to existing structures or gardening/yard maintenance

Development activity that is minor and would not result in any impact to the riparian area or involve machinery (for example an excavator) to complete the work. Minor works would be further defined in the EDPA.

3. Activities permitted under an approval from the Provincial or Federal governments

This would include authorizations that have already mitigated potential impacts above the natural boundary.

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Do you think the Objectives listed in the table above accurately reflect what you value most about Kootenay Lake?

Yes

No  – If no, why not?

Comments (optional)

I'm happy with the objectives but thought I'd mention that the word "preservation" or "preserve" would fit nicely in there as one of the main goals of an EDPA would be to preserve natural features and values, to ensure they are not lost or destroyed. Protect is similar, but by definition means to keep something safe, which seems just slightly more ambiguous than preserve. Very minor point, but worth considering.

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Perhaps the guidelines should also outline something about the types of structures to be built and consider the pollution they could cause. Never know what some people might choose to build, especially if they are running a business on their property. For example, a small milling operation could produce lots of sawdust etc. that could get into the lake. A mechanic shop could be a source of oils, gas, or other fluids leaking, spilling or being dumped and finding their way into the lake. Septic systems should be of special consideration as well. Facilities that have potential to leak or produce some sort of pollutant should probably adhere to stricter regulations or be farther back from the lake. The storm water management section could include considerations for this, ensuring driveways, garages etc. don't point downslope toward the lake and are located far enough back.

If a setback were identified, how would docks, boat ramps, riprap, buoys, pilings, wave reduction fencing and other in-stream or near-stream developments fit into that? What types of developments would need to adhere to setbacks and which would not? Do in-lake developments even fall within the EDPA?

I really hope that the implementation of EDPAs will help to address the issue of loss of natural habitat on the lake and I hope brand new developments will be held to strict standards so we see a decrease in the rate of natural shoreline loss. From my perspective, the EDPAs will be great for ensuring disturbance to important habitats are mitigated and overall deterring people.

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#7/9 (Page 2 long response in full)

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Do you think the Objectives listed in the table above accurately reflect what you value most about Kootenay Lake?

Yes

No  – If no, why not? See comments below.

Comments (optional)

Agree with all of these objectives but feel there should be a human focused objective. Perhaps something like "To protect the ability of people to enjoy the natural beauty of Kootenay Lake in a way that is safe for themselves and the environment."

People will always try to live near the lake and recreate in and on the lake and I think the objectives should recognize that this needs to be considered in some way. If there are ways people can access the lake the rules are likely to be followed. If it becomes challenging to access the lake then people will do so anyway in an uncontrolled manner which isn't good for people or the environment.

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This would cover activities like vegetation removal under the recommendations of a FireSmart Assessment, hazard tree pruning/removal, or emergency response efforts from government agencies to name just a few.

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Exemptions of this nature would apply to agricultural activities that strictly comply with Provincial guidance on undertaking the activity in a way that has negligible impacts on adjacent riparian areas.

*The EDPA "Objectives" will ultimately shape what kinds of "Guidelines" and "Exemptions" are recommended. If you have any other feedback you would like to provide on the Objectives or any thoughts on the key areas that the Guidelines or Exemptions could focus on, please let us know in the space provided below!*

**I haven't read through the above guidelines in detail but wonder if they will be risk based or if there is a materiality threshold. For example it doesn't seem reasonable to reject a development plan if there is an adverse impact to the foreshore however it is negligible or de minimus. Do the guidelines allow the qualified professional to make such judgements?**

### **Thank you for taking the time to fill out the Kootenay Lake DPA Feedback Form!**

The Regional District of Central Kootenay will not collect, use or disclose personal information using this feedback form. The feedback form is voluntary and a response is encouraged but not required.

Regional District of Central Kootenay Planning Department  
 Box 590, 202 Lakeside Drive, Nelson BC, V1L 5R4  
 Email: [plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca) | tel: 250-352-6665 | fax: 250-352-9300  
[www.rdck.bc.ca](http://www.rdck.bc.ca)

## EDPA OBJECTIVES

Since the beginning of the Kootenay Lake Development Permit Area Review in 2020, RDCK staff have been evaluating public and stakeholder input to identify a set of key themes that represent the commonly shared values for Kootenay Lake. These key themes have been used to draft the “Objectives” for a revised Kootenay Lake EDPA.

Objectives are a fundamental part of an EDPA that are used to identify its purpose. They demonstrate why the EDPA is important and what it is trying to preserve or protect.

The table below lists the key themes and corresponding Objectives that have been drafted for a revised EDPA that could apply to Kootenay Lake as well as other riparian areas.

KEY THEME	DRAFT OBJECTIVE
Natural Environment	To protect and restore riparian areas in order to enhance the function of their adjacent ecosystems, watercourses, and natural features.
Fish & Wildlife Habitat	To protect biodiversity and ensure landscape connectivity between watercourses and upland riparian areas.
Water Quality	To protect water quality and prevent pollution and contamination of watercourses through the preservation and enhancement of riparian areas.
Human Interaction with Riparian Areas	To ensure activities within riparian areas are undertaken in a way that is sensitive to the natural environment and encourages shoreline stewardship.

Do you think the Objectives listed in the table above accurately reflect what you value most about Kootenay Lake?

Yes

No  – If no, why not?

Comments (optional)

**BUT: With such a vast amount of undeveloped shoreline along the western shore of the lake (across from Kuskanook up to west arm), consideration should be given to lessen the requirements along other shorelines.**

**BUT: Existing developments (including those that infringe upon the proposed riparian boundaries) should be "grandfathered" - including future activities for maintenance, repairs, upgrades to those existing developments.**



4. Subdivisions that can accommodate future development entirely outside of the EDPA

Subdivision exemptions could be used in specific cases where development activities for a new lot's creation are accommodated outside of the EDPA, recognizing that building on the lot may trigger the EDPA in the future.

5. Emergency works under specific circumstances and with notice to the RDCK

This would cover activities like vegetation removal under the recommendations of a FireSmart Assessment, hazard tree pruning/removal, or emergency response efforts from government agencies to name just a few.

6. Agricultural activities consistent with Provincial best management practices & legislation

Exemptions of this nature would apply to agricultural activities that strictly comply with Provincial guidance on undertaking the activity in a way that has negligible impacts on adjacent riparian areas.

*The EDPA "Objectives" will ultimately shape what kinds of "Guidelines" and "Exemptions" are recommended. If you have any other feedback you would like to provide on the Objectives or any thoughts on the key areas that the Guidelines or Exemptions could focus on, please let us know in the space provided below!*

**Thank you for taking the time to fill out the Kootenay Lake DPA Feedback Form!**

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[www.rdck.bc.ca](http://www.rdck.bc.ca)

## Kootenay Lake DPA Phase 3 Engagement – E-mail Response Summary:

### **#1**

I have reviewed the information presented regarding a consistent application of a DPA for riparian areas around Kootenay Lake.

I fully support the objectives and other information as presented. Over the decades I have seen a creeping loss of riparian habitat through development and inappropriate activities and uses. It is a classic example of the "tragedy of the commons".

This is an important initiative that needs to move forward.

[REDACTED]  
[REDACTED]

### **#2**

Dear Corey

I think in place of the development permit process which pits government against property owners you could make available biology experts to advise property owners how they could improve their shoreline for the enhancement of aquatic and terrestrial animals. I think you would have many owners buy-in to improving their riparian areas in a mutual collaboration without the draconian permit process. I would be willing to improve our property and I'm sure most lakeshore owners would also be willing to do the same. This would be a speedier process with less cost to the government as I would be willing to do the work and bare much of the cost.

Yours Sincerely

[REDACTED]

### **#3**

We read with interest the article in the Nov. 17 issue of the Valley voice about the Kootenay Lake shoreline situation. What a tragic thing to lose 4.5 kilometers of natural lake-shoreline, so much rare, ecologically vital, fragile habitat lost.

It's fair to conclude from that loss that voluntary compliance and public education alone are not the answer to the "accelerating lakeshore disturbance and natural habitat degradation" that is happening.

There is much social (human behavioral) science to this challenge of trying to shift ecologically destructive human behaviour. You are up against a bulwark of entitlement mentality from the owners of lakeshore parcels. They feel they paid a high price for their land, have built a big expensive house there (and likely a dock for their boats and jet-skis), they pay more taxes than their inland neighbours... and therefore feel they have the "right" to do whatever they want.



There are some who understand the genuine privilege and responsibility it is to be stewards of such ecologically fragile property, and who seek to "do no harm" to the shoreline. But it is disheartening for those responsible folks to see their neighbours getting away with blue murder, with seemingly no consequences.

When we reported the SPEA violations done by the [REDACTED] owners to the foreshore in front of their property [REDACTED]), we got vehement push-back from [REDACTED] and some of [REDACTED] neighbours along that strip of developed lakeshore. [REDACTED] and [REDACTED] neighbours, and some local haters who piled on to amplify the issue, posted repeatedly in two local community Facebook groups.

Their reaction can be summarized as unmitigated outrage that private landowners would be "harassed" and "persecuted" in this manner. These are people who clear-cut their lakeshore, tore up that fragile ecosystem, cleared every rock and every bit of vegetation from "their" beaches, built groynes, built a [REDACTED] literally in the lake, even one enterprising landowner who built a massive poured-concrete ramp right across the foreshore and many meters out into the lake itself.

To summarize their attitude: "we own this land, you meddling busybodies have no right to tell us what we can do here... furthermore you're just jealous because we have lakeshore property... (and furthermore you're

[REDACTED]).

The solution here will not be doing more gentle public relations outreach. The root of the problem is that lakeshore landowners don't understand or are willfully blind to the fact that the lakeshore is not their personal private property to do with as they wish. There were just three letters on this topic in the Valley Voice, all telling a different set of "facts" about the public's right to use the foreshore in front of a private dwelling -- proof that people are genuinely confused about this.

So, while we wholeheartedly support your proposed Environmental Development Permit Areas and related regulations, they must be accompanied with some very targeted outreach to property owners, news which will not please most of them nor support their deep-seated entitlement mentality.

To say "the goal of protecting the lakeshore needs buy-in from local residents" -- when referring to the property owners in question -- is like requiring buy-in from road racers before lowering the speed limit in an area that see frequent crashes. Instead, you should be following the science and listening to "the resounding feedback from biologists consulted during the process" and setting regulations that have some enforcement teeth.

[REDACTED]

#### **#4**

Hello Corey,

As a resident of the RDCK, in Nelson, please register my support in support of the 30-metre wide DPA around the entire Kootenay Lake, subject to suitable exemptions, as recommended by RDCK staff to the RDCK Board.

Sincerely,

[REDACTED]

[REDACTED]

[REDACTED]

██████████

### **#5 (full redacted correspondence between staff and respondent)**

If this passes we will approach the BC Assessment Authority for a reduction in our property assessment (this will reduce the tax revenue the RDCK will receive). The proposal will prevent me from A. Fire proofing the area within 30 m B. Prevent the treatment of invasive weeds within 30 m . C prevent me from remodelling our home.

I realize using the paint everything with a broad brush approach is easy to do however the values you are trying to protect are area site specific and do not occur in every 30 m parcel. Cost of having a “professional “ asses property will probably cost a land owner \$5,000 not 2.

Terrible approach

██████████

RE:...

Hi ██████,

Your feedback regarding the Kootenay Lake DPA Review was forwarded to me.

Thank you for taking the time to share your thoughts with us.

I wanted to follow-up to provide some more information on the concerns you have outlined in your e-mail.

1. Regarding a reduction in property assessment – I would be curious to hear BC Assessment’s thoughts on this. Please feel free to relay back what they say if you feel it is appropriate. A development permit area (DPA) does not make an area unusable, it would just mean a permit would be required prior to undertaking certain development activities (that aren’t exempt) in that area.
2. A – fire proofing: Oddly enough, the current DPAs along Kootenay Lake don’t exempt this activity so a permit would currently be required for this in areas where the DPA exists. To that effect, staff’s preliminary recommendations suggested an exemption to remove that barrier and not require a permit for such activities: *“the environmentally sensitive removal of trees, shrubs or landscaping designated as hazardous in a FireSmart Assessment or fuel management prescription, prepared by a Registered Professional Forester (RPF) or RDCK Wildfire Mitigation Specialist, where such trees, shrubs or landscaping are compensated for elsewhere within the RPDP Area using the replacement ratios provided in the RDCK’s “Terms of Reference for Riparian Assessment Reports”.* I will add that FireSmart Assessments from RDCK Wildfire Mitigation Specialists are free, confidential, and voluntary so a person would not be obligated to do the work laid out in a FireSmart Assessment as a result of getting the assessment.
3. B – invasive weeds treatments: Similar to concern ‘A’ above, this is something that also would currently require a permit in the DPAs that we would be looking to exempt by adding the following exemption: *“Removal of noxious weeds and/or invasive species in accordance with the Central Kootenay Invasive Species Society’s “Integrated Pest Management Options” for specific invasive species.”*
4. C – preventing from remodelling: the presence of a DPA would not prevent from remodelling; a permit **may** be required prior to work being started, depending on the extent to which you are renovating (basically, if you have heavy machinery roaming around in the riparian area or are clearing vegetation or altering the land or drainage in that area). Most renovation activities are likely

to be exempt depending on the nature of the renovation. Added clarity is suggested for the current exemption as follows: *“There is a change of use or renovation of a building where all of the following can be achieved within the RPDP Area: • the building footprint will not be altered or increased; • no heavy machinery will be present; and, • the riparian area is delineated by brightly coloured snow fencing and silt fencing for the duration of the development activities occurring on the lands.”*

More information regarding the project can be found on the project webpage: [www.rdck.ca/KootenayLakeDPA](http://www.rdck.ca/KootenayLakeDPA) . A lot of people find the FAQ document and ‘preliminary’ recommendations report particularly helpful:

1. FAQ: <https://www.rdck.ca/assets/Services/Land~Use~and~Planning/Documents/2022-10-20-KLDPA-FAQ.pdf>
2. Preliminary recommendations report: [https://www.rdck.ca/assets/Services/RAC-Kootenay\\_Lake\\_DPA-Phase\\_3\\_Update-CAO-APV-no\\_sig.pdf](https://www.rdck.ca/assets/Services/RAC-Kootenay_Lake_DPA-Phase_3_Update-CAO-APV-no_sig.pdf)

I hope that this helps to provide more information on the concerns you have outlined.

Kind regards,

Corey

RE:...

I have waited a few days before responding to your last email.

A. Yes properties have had their assessment reduced due to restrictions in place on the shoreline. I am sure BC Assessment Authority can provide you with that information.

B. Once again with fire proofing and invasive weeds the RDCK believes property owners are ignorant and require the guidance of Big Brother ( at a cost of course) in order to deal with fire proofing and invasive weeds.

Once again your insistence on using the broad paint brush approach (easy) to address items that are site specific (expensive to determine for RDCK) passes the onus on property owners ( at great expense).

Why is nothing being done to protect the habitat from raw sewage being duped from house boats and sail boats or the use of unsealed styrofoam used in docks which create micro plastic particles?

██████████

#### **#6 (full redacted correspondence between staff and respondent)**

Hi Corey, we talked yesterday regarding the proposed 30 m area for the environmental assessment, since I talked to you I have contacted several of my neighbors and people that I know who have properties on the waterfront and have yet to hear that one of them is in favor of increasing the area from 15 m to 30 m. When you said 60% of the people were in favor of it, more than likely they don't have waterfront property and so have no reason to be concerned with this. Everyone I have talked to is fine with it being 15 m around the whole lake for consistency, including one of my neighbors who is part of the ██████████. I am wondering where the 30 m proposal came from as it actually does not seem to make any sense for protecting the foreshore. Looking forward to your response, ██████████

RE:...

Hi [REDACTED],

Thank you for following up, and for reaching out to discuss this with your neighbours. It's great to hear that there is community interest in this project.

To clarify, the 60% I was referring to was in response to your question on what the general sentiment has been in the feedback we've heard so far. As I stated, we haven't heard from everyone and that number of people to provide feedback is certainly going to go up. We've only been receiving it for the last week and a half or so, and I suspect we will get more as the news articles continue to circulate.

It sounds like there may be some folks who might be interested in more information to help inform what the Review is actually trying to accomplish. We have put together a number of different resources related to this Review, which can all be found on the project webpage: [www.rdck.ca/KootenayLakeDPA](http://www.rdck.ca/KootenayLakeDPA). I have heard that the following documents from that page can be particularly helpful:

- FAQ: <https://www.rdck.ca/assets/Services/Land~Use~and~Planning/Documents/2022-10-20-KLDPA-FAQ.pdf>
- Recording of the public info session from earlier this month: <https://www.youtube.com/watch?v=xG2nd5bazzp4>
- Preliminary recommendations report: [https://www.rdck.ca/assets/Services/RAC-Kootenay\\_Lake\\_DPA-Phase\\_3\\_Update-CAO-APV-no\\_sig.pdf](https://www.rdck.ca/assets/Services/RAC-Kootenay_Lake_DPA-Phase_3_Update-CAO-APV-no_sig.pdf)

We have heard from folks who both own and don't own property around the Lake. We consider all feedback in the recommendations that we make, as Kootenay Lake is a natural asset that has broader values that contribute to tourism, recreation, local economic development, conservation values, cultural and archaeological values of local Indigenous groups namely the Ktunaxa and yaqan nukiy, flood hazard mitigation, and buffering the impacts of climate change just to name a few.

I would encourage anyone who's interested to review the materials on that website and if they have concerns to please contact me.

I am off tomorrow but would be more than happy to chat more next week if you'd like.

Kind regards,

Corey

Re:...

Hi Corey, I've talked to many people in the last week or so about this and most of us have decided that the forum provided is inadequate for us to express our concerns. What we have all decided to do and have done is contact our area representative Cheryl Graham and let her know our dissatisfaction and concerns with this proposal. She has told me that most of the people she has talked to, including people who don't own waterfront property are against expanding this from 15 m and she will be making this clear at the RDCK meeting. We feel that this is the best way for us to get our concerns across. She also informed me that there had been a study done to determine what are environmentally sensitive areas of the lake and the

information is already on file. We and her feel that those are the areas that may require expansion of environmental protection, not already developed areas that have been disturbed for almost 100 years. I'm sure there are many better ways that time and money could be spent to protect the lake then making it more difficult and expensive for tax paying property owners to do things on their properties

#7

Hello,

I found the feedback process very frustrating and incapable of accepting commentary beyond a few words. I have attached a scanned copy of the feedback form which cut me off partway through my comments when I tried to print the feedback form to scan and attach to this email. I have inserted my complete comments below.

Complete feedback comment:

Frustrating that the feedback form is so limited with no direct online submission capability. Limiting feedback to the motherhood Key Themes/Objectives will result in a false impression of wholehearted support in the whole program. In general, how can anyone disagree with these themes and objectives? Although I agree in general, I do not agree that the Objective for the Natural Environment theme should include "restore" when it applies to already-developed property unless restoration is optional, not mandated. Agreeing with the themes/objectives does not, however, mean agreeing with the proposed EDPA implementation, and the feedback "form" does not seek comment on implementation proposals. As a citizen who grew up on the waterfront of the West Arm in the [REDACTED] where we built our retirement home with due respect for maintaining and encouraging the riparian ecosystem, I am very aware of the rape and pillaging of waterfront that has taken place on many properties. I have volunteered [REDACTED] I volunteer [REDACTED]. Clearly the environment is very important to me, so I do support the EDPA initiative in general. But I do not agree with the 30 metre scope of it. From my perspective, living in Area E, a 15 meter EDPA is more than adequate for the intended purpose given the typical elevation increase directly above the Present Natural Boundary. Admittedly there are some properties where the elevation change is minimal and 30 meters could be applicable, but this should be the exception, not the rule, for existing developed residential properties.

Regards,

[REDACTED]  
[REDACTED]

RE:...

Hi [REDACTED],

Thank you for providing your feedback for the Review.

That is frustrating with the feedback form. I just tried it myself and was able to paste a 9-page report into both feedback boxes so I am not sure what is going on there – technology constantly continues to throw us curveballs! That said, we can consider everything you raise in your e-mail, so no worries there.



I wanted to get back to you directly about the key themes and objectives piece as well as the DPA width. Apologies in advance for the lengthy response hopefully I don't lose you! If I do, please feel free to give me a call and we can chat further.

The reason for such a heavy emphasis on the Objectives is that they are the piece of an EDPA that can best capture resident sentiments. Because guidelines and exemptions (the other 2 key components of an EDPA) are technical in nature, opening them up for comment by anyone comes with its own set of risks that go beyond just the EDPA, and extends to engagement efforts as a whole for any future RDCK project.

With guidelines and exemptions we have to balance the technical feedback from planners, biologists, engineers, and other professionals with the specific values identified by residents to create an EDPA that makes the most sense. If a resident has taken the time to learn about an initiative and provide their feedback, and sees that a different direction has been taken (due to technical considerations that they may not be aware of) it can lead to a sense of frustration and feeling that they are not being listened to. This can in turn lead to a lack of participation in future initiatives where public feedback is crucial.

You use the example of a 15/30m wide EDPA, which I think is a great one to illustrate this point.

Development activity within an EDPA triggers the need for a Development Permit (unless it meets exemption criteria) and a local government cannot refuse to issue a Development Permit where the guidelines are met by a proposal.

The *Riparian Areas Protection Regulation (RAPR)* is used as the standard criteria for riparian assessments, and is the key guideline that must be met (currently and more than likely into the future). It requires a minimum setback (essentially the "SPEA") from a watercourse based on the characteristics of that habitat and the watercourse itself. Where riparian habitat exists along Kootenay Lake, in the 10+ years of having EDPAs in place in Areas A, D, and E, the RDCK has never received a riparian assessment that identifies a SPEA less than 15m wide (this has also been my experience with large lakes in other parts of the Province). Because of this, the current guidelines are impossible to meet with any proposal where the EDPA is 15m wide (this is because building within the SPEA is inconsistent with the *RAPR*). The RDCK would either need to depart from using Provincial best management practices and the recommendations of professional biologists in order to create guidelines that can be satisfied with a 15m wide EDPA, which would more than likely lead to further habitat loss, or adjust the approach altogether – widening the EDPA and offering more fulsome exemptions for cases where it does not make sense for someone to have to apply for a permit (the preferred approach from staff's point of view).

Getting back to the local government's obligation to issue Development Permits, the 15m EDPA is very problematic. The local government cannot refuse to issue a permit but at the same time the development proposal will never be able to meet the guidelines. This is a huge frustration for everyone involved and is the key issue with a 15m wide EDPA.

The other issue is that there are many areas along the Lake where the SPEA is larger than 15m wide. Kootenay Lake Village in Procter, for example, has a long stretch of shoreline where the SPEA is 25m+ wide and I am sure with your extensive experience along the Lake you have encountered areas where sensitive areas are much wider than 15m. The local government only has the authority to evaluate development activity happening within the EDPA (15m from natural boundary). In these cases, that 10m+ wide strip of sensitive habitat that falls outside of the EDPA is potentially (and in the case of Kootenay Lake Village, was) lost. Once habitat is lost, as I am sure you are well aware, getting it back is a mountainous task (not impossible but pretty darn close).

Recognizing that requiring a permit for any activity within 30m of the Lake along the entirety of the Lake, as is the case where *RAPR* is Provincially mandated elsewhere in the Province, is probably an overly cautious approach, we have suggested making the exemptions much more robust, including exemptions for:

1. Renovations that do not expand a footprint (where the riparian area is delineated with snow & silt fencing to keep machinery and sediment runoff out)
2. Where a Qualified Environmental Professional has inspected the site and confirms the lands subject to development are not riparian area

to name two of the more substantive ones. If you have not already seen it, this staff report provides a comprehensive list of exemptions that are being considered: [https://www.rdck.ca/assets/Services/RAC-Kootenay\\_Lake\\_DPA-Phase\\_3\\_Update-CAO-APV-no\\_sig.pdf](https://www.rdck.ca/assets/Services/RAC-Kootenay_Lake_DPA-Phase_3_Update-CAO-APV-no_sig.pdf) (pages 22-25).

I hope this provides greater context for the points you have raised.

Kind regards,

Corey

RE:...

Hi Corey ,

Thanks for taking the time to provide me with the broader context for your DPA project given the constraints inherent in the provincial *RAPR*. Clearly I did not appreciate the bigger picture! I also understand why opening up technical guidelines and exemptions to broad public comment during their development would likely be disruptive on multiple levels. You did not lose me with the details; rather, you gained my support for your overall project approach and your aim of providing reasonable exemptions within a 30m EDPA in situations where an assessment or permit does not make sense. Those reasonable exemptions will make or break public attitude towards the EDPA implementation, particularly for maintenance of already developed properties.

I appreciate your efforts to find a practical and flexible approach for RDCK to comply with provincial regulations. Best of luck going forward.

Cheers,

[REDACTED]

**#8**

Good morning:

[REDACTED]

I have read through the information on the RDCK website and several things became obvious.

First, it doesn't seem logical that area F has no plan. (I live in area E, by the way) That area has heavy development on the lakeshore for a considerable distance.

Second, the comment that there needs to be more clarity in the existing regulations, and that there should be more concise and easily understandable information is definitely true. I suggest a clear and concise

mailout to area residents. Mailout as opposed to email or media so more people have access to the information.

Third, more uniform application of the existing regulations. Going from 15 to 30 meters might not be necessary if everyone understood the current regulations. There are many sites where 30 meter restrictions would cover practically the entire property. There could easily be more residents ignore the wider area as it would be more onerous for development.

Fifth, in many places it is hard to determine the natural boundary because of the variations in lake level. Kootenay Lake has become a reservoir and is managed as such.

Sixth, there need to be a common-sense, case by case approach to development, especially in the case of emergency situations like hazard trees threatening residences or flood-borne driftwood. These matters can't wait for inspections and/or permits.

All of us in the [REDACTED] have a vested interest in the preservation and conservation of the Kootenay Lake Area. We all want to see development happen in a logical and reasonable manner.

Thank you,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## 2020



## 2021

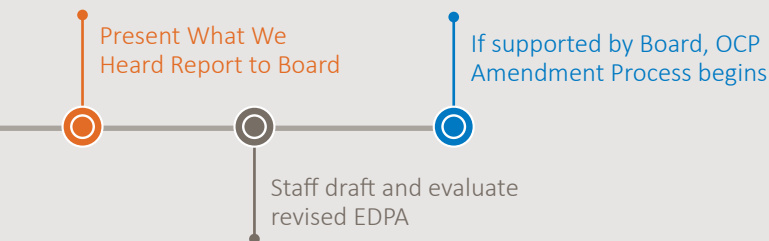
Attachment B



## 2022



## 2023 (NEXT STEPS)



### LEGEND

- ENGAGEMENT ACTIVITY**
- PUBLIC EDUCATION MILESTONE**
- RDCK BOARD OF DIRECTORS (BOARD) UPDATE**
- TECHNICAL ANALYSIS**

\*Additional activities not in original work/engagement plans completed based on Elected Official feedback.



# Rural Affairs Committee Report

**Date of Report:** June 21, 2023  
**Date & Type of Meeting:** July 19, 2023, Rural Affairs Committee  
**Author:** Pamela Guille, Bylaw Enforcement Officer  
**Subject:** Unsightly Property Amendment Bylaw No. 2903, 2023  
**File:** UNSIGHTLY PROPERTY BYLAW NO. 1687, 2004  
**Electoral Area/Municipality:** A and D

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to amend the Regional District of Central Kootenay (RDCK) Unsightly Property Bylaw No. 1687, 2004 to include Electoral Areas A and D.

## SECTION 2: BACKGROUND/ANALYSIS

The Directors requested the Unsightly Property Bylaw be amended to include Electoral Area A and D as per the December 8, 2022 Board Meeting Resolution below:

*803/22 That the Board direct staff to prepare an amendment to Regional District of Central Kootenay Unsightly Property Bylaw No. 1687, 2004 to include Electoral Areas A and D.*

### BACKGROUND

By expanding the application of the Unsightly Property Bylaw, bylaw staff will be able to address complaints received and undertake investigation in Electoral Areas A and D.

#### Unsightly Bylaw Enforcement Procedure:

- As per Board Resolution No. 421/2000, Bylaw Department must receive a signed letter of complaint or on notification of a potential bylaw violation as reported by an elected official or on receipt of a staff report of a potential bylaw infraction, an investigation file will be opened;
- A drive by site visit is then conducted to verify the complaint information received. Photographic evidence is gathered at the time of the property of interest;
- An enforcement letter is sent to advise the property owner of the complaint received and request to arrange a site visit is mailed through Canada Post;
- After site visit inspection, Staff arrange a clean up schedule with the property owner/occupier and prepare a follow up letter to be mailed with a thirty (30) day voluntary compliance time frame as per Regional Board Resolution No. 421/2000.
- Staff then attend the property after the thirty days to verify if compliance is met;
- If compliance is met then the property conditions are monitored for an undetermined time to ensure compliance will be maintained;
- Staff prepare and send a letter to both the property owner/occupier and the complainant advising of final site visit findings and the file is concluded.



***Should the property remain in non-compliance***

- Depending on the amount of compliance reached at the time of site visit, an extension past the thirty days (30) can be provided to encourage the clean up on the property to continue;
- Bylaw may issue a written warning *or* may issue monetary fines to the property owner/occupier should no positive change is noted on the property conditions;
- Should non-compliance be maintained, bylaw staff will:
- Prepare a Board report advising of non-compliance, enforcement action taken, including the issuance of fines and a request may be made to seek Board authority to commence with the Remedial Action Requirements (RAR) as authorized under the *Local Government Act*;
- To commence with RAR as authorized by the Board requires bylaw staff to:
  - Seek a warrant to enter the subject property that authorizes listed staff and RCMP to enter onto the property to record all offending matter by hand written descriptions of the item and photographs;
  - The RDCK is required to maintain the secure storage of items while providing the property owner opportunity to pay for the storage and reclaim the items. Should the items of value remain unclaimed, the RDCK can dispose of the items by several ways such as: host an auction to sell the items, give away the items, dispose of the items at the landfill site or recycle the items.
- Once the RAR is completed, all cost will be added up and the RDCK will prepare and mail an invoice to the property owner demanding payment by no later than December 31<sup>st</sup> in the year the RAR were completed. The property owner is advised if no payment is received it will result in the cost of the clean up to be added to the property taxes as tax in arrears.
- A second board report will be prepared to advise of the actions taken, a slide show of the before and after photos may be presented at the time of the board hearing and all cost incurred by the RDCK with a break down of all invoices will be included in the report.

**SECTION 3: DETAILED ANALYSIS**

**3.1 Financial Considerations – Cost and Resource Allocations:**

<b>Included in Financial Plan:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<b>Financial Plan Amendment:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<b>Debt Bylaw Required:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<b>Public/Gov’t Approvals Required:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Currently enforcement staff time to administer and regulate the Unsightly Property Bylaw is funded through Rural Administration Budget S101. If remedial action is taken against a property the cost for legal expenses, staff time to inventory and engage contractor services to haul unsightly material away is also covered by Rural Administration. Therefore areas not covered by the unsightly property bylaw pay for this service as well.

**3.2 Legislative Considerations (Applicable Policies and/or Bylaws):**

The Unsightly Property Bylaw No. 1687, 2004 will be amended by the Unsightly Amending Bylaw No. 2903, 2023.

**3.3 Environmental Considerations**

Should a property remain unsightly in appearance may cause damage to the ground by toxic substances being left on the property and leaching into the ground. Should the amount of any confirmed toxic substances leaching into the ground may cause a hazard (medical) for persons or pets and may affect the natural vegetative growth.

**3.4 Social Considerations:**

With the expansion of the Unsightly Property Bylaw to include Electoral Areas A and D, property owners/occupiers may be encouraged to voluntarily clean up their properties and if not remedial action can be taken.

### **3.5 Economic Considerations:**

Should a property become or remain unsightly in appearance with no removal of the offending matter may negatively affect the value of neighboring properties.

### **3.6 Communication Considerations:**

Should the expansion of the unsightly property amendment bylaw be approved for expansion to include electoral areas A and D, the RDCK website will be updated.

### **3.7 Staffing/Departmental Workplan Considerations:**

To investigate and enforce the Unsightly Property Bylaw may take additional staff time to address unsightly property complaints in Electoral Areas A and D. Although, currently, enforcement of the unsightly property bylaw is within the work plan of bylaw enforcement staff.

### **3.8 Board Strategic Plan/Priorities Considerations:**

The RDCK Board has directed staff to expand the bylaw to include electoral areas A and D to address public concerns with regards to unsightly properties.

## **SECTION 4: OPTIONS & PROS / CONS**

**Option 1:** That the Regional Board adopt the Regional District of Central Kootenay Unsightly Property Amendment Bylaw No. 2903, 2023 be read a FIRST, SECOND and THIRD time by content.

That the Regional District of Central Kootenay Unsightly Property Amendment Bylaw No. 2903, 2023 be ADOPTED and the Chair and Corporate Officer be authorized to sign the same.

**Pro:** if the bylaw is adopted complaints can be actioned.

**Con:** Depending on the number of new complaints received from these new additional areas, staff resources may be stretched.

**Option 2:** That the Board take no further action with Regional District of Central Kootenay Unsightly Property Amendment Bylaw No. 2903, 2023.

**Pro:** Staff time to address complaints can be directed to other enforcement work in the region.

**Con:** Unsightly properties will continue to be an issue and may increase over time.

## **SECTION 5: RECOMMENDATIONS**

That the Regional District of Central Kootenay Unsightly Property Amendment Bylaw No. 2903, 2023 is hereby read a FIRST, SECOND, and THIRD time by content.

That the Regional District of Central Kootenay Unsightly Property Amendment Bylaw No. 2903, 2023, be ADOPTED and the Chair and Corporate Officer are authorized to sign same.

Respectfully submitted,

Pamela Guille, Bylaw Enforcement Officer

## CONCURRENCE

Bylaw Enforcement Supervisor - Digitally approved by Jordan Dupuis

General Manager, Development and Community Sustainability – Digitally approved by Sangita Sudan

CAO – Digitally approved by Stuart Horn

### ATTACHMENTS:

Attachment A – Unsightly Property Amendment Bylaw No. 2903, 2023

Attachment B – 1687 Unsightly Property Bylaw - Combined

**REGIONAL DISTRICT OF CENTRAL KOOTENAY**

**Bylaw No. 2903**

---

A Bylaw to amend Regional District of Central Kootenay Unsightly  
Property Bylaw No. 1687, 2004.

---

WHEREAS a service has been established by the Regional District of Central Kootenay by bylaw, being Control of Unsightly Property Bylaw No. 766, 1989, as amended;

AND WHEREAS the Board of the Regional District of Central Kootenay has enacted the Regional District of Central Kootenay Unsightly Premises Bylaw No. 1687, 2004 to control the unsightly premises program and to regulate for unsightly premises within defined areas of the Regional District;

AND WHEREAS a request has been received to amend the boundaries of the Unsightly Property Bylaw Service Area to include Electoral Areas A and D within the boundaries;

AND WHEREAS the Board of the Regional District of Central Kootenay deems it expedient to amend Bylaw No. 1687 and all amendments thereto to extend the service area boundaries as requested;

NOW THEREFORE the Board of the Regional District of Central Kootenay, in open meeting assembled, HEREBY ENACTS as follows:

**APPLICATION**

- 1 Section 2 is hereby deleted in its entirety and replaced with the following:
  - 2 This bylaw is applicable to and applies to Electoral Areas A, B, C, D, E, F, G, I, J and K of the Regional District of Central Kootenay.

**CITATION**

- 2 This Bylaw may be cited as "**Regional District of Central Kootenay Unsightly Property Amendment Bylaw No. 2903, 2023**".

Read a first time this                    20<sup>th</sup>                    day of    July, 2023.

Read a second time this                20<sup>th</sup>                    day of    July, 2023.

Read a third time this 20<sup>th</sup> day of July, 2023.

ADOPTED this 20<sup>th</sup> day of July, 2023.

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Aimee Watson, Board Chair

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Mike Morrison, Corporate Officer



# ATTACHMENT B



## REGIONAL DISTRICT OF CENTRAL KOOTENAY

**This Bylaw is a combined version and includes amendments up to the date listed in the bylaw heading. It is available on the RDCK website for convenience only and has no legal sanction. It should not be used in place of certified copies, which can be obtained through the Corporate Administration department at the RDCK head office.**

# REGIONAL DISTRICT OF CENTRAL KOOTENAY

## BYLAW NO. 1687

### **A Bylaw For the Purpose of Preventing Unsightliness on Real Property Within Electoral Areas B, F, G, I, J**

WHEREAS Bylaw No. 766 establishes "Control of Unsightly Premises" as an extended service with Electoral Areas B, F, G, I, J included as participants to the service;

AND WHEREAS Directors representing Electoral Areas B, F, G, I, J have submitted written consent to establish Electoral Areas B, F, G, I, J as control of unsightly premises program units and to regulate for unsightly premises;

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

#### **1. Interpretation**

In this bylaw, without limiting the generality of it, the word "unsightly" includes:

- (a) the outside storage or accumulation on real property of any building material, whether new or used, where there is no apparent or real construction occurring on the real property for which the materials are required;
- (b) the outside storage or accumulation on real property of any goods or merchandise which is offered or intended to be offered for sale, unless that real property is used solely for the wholesale or retail sale of those goods or merchandise;
- (c) the storage, collection or accumulation on real property, not within a building, of all or any part of an automobile wreck or all or any part of a motor vehicle that:
  - i is physically wrecked or disabled so it cannot be operated by its own mode of power; or
  - ii appears to be physically wrecked, although it could be operated by its own mode of power, but is not displaying thereon a lawful current licence for its operation on the highway;
- (d) the storage, collection or accumulation on real property, not within a building, of all or part of a tractor, backhoe or similar construction equipment which is not capable of operation by its own mode of power;

- (e) the storage, collection or accumulation on real property, not within a building, of all or part of any machinery or equipment which is not capable of performing the task it was originally intended to perform;
- (f) the storage on real property, not within a building, of solid fuels, including coke or coal, but excluding wood;
- (g) the collection or accumulation of rubbish, garbage, bottles, broken glass or other discarded materials or unwholesome materials or ashes on real property, except where the owner of the real property holds a valid permit respecting those items under the *Waste Management Act*;
- (h) the placing, by way of chalk, crayon, paint brush, spray can or other substance of graffiti, which includes writing or a pictorial representation on walls, fences or elsewhere on or adjacent to a public place;
- (i) materials of any sort that are strewn about real property rather than stored or piled in a neat and organized manner;

but does not include any of the foregoing where:

- (j) the outside accumulation is screened from view from passing traffic and neighbouring properties; or
- (k) permitted under a Regional District of Central Kootenay zoning bylaw or a rural land use bylaw applicable to a “control of unsightly premises program units” established by this bylaw; or
- (l) the storage, collection or accumulation of motor vehicles, or parts of motor vehicles, as described in section (c) (i) and (ii), is in connection with a commercial use of land for auto wrecking, auto repair or sale of used automobiles, motor vehicles or motor vehicle parts and in such case the Regional District of Central Kootenay reserves the right to request the owner or occupier of real property to provide adequate documentation to prove that a subject property is a viable commercial enterprise and meets any regulation in an applicable zoning bylaw or a rural land use bylaw.

## 2. **Application**

This bylaw applies to Electoral Areas B, F, G, I, J of the Regional District of Central Kootenay, which are hereby established as “control of unsightly premises program units”.

## 3. **Prohibition**

- (a) No person, who is the owner or occupier of real property, shall allow that real property to become or remain unsightly.

- (b) No person shall cause or permit water, rubbish or noxious, offensive or unwholesome matter to collect or accumulate around their premises.
- (c) No person shall deposit or throw bottles, broken glass or rubbish in any open place.
- (d) No owner or occupier of real property will place or allow graffiti to remain on walls, fences, or elsewhere on or adjacent to a public place or privately owned or held place.

**4. Requirement**

The Board of the Regional District of Central Kootenay may require an owner or occupier of real property, or the owner's agent, to remove from the real property unsightly accumulations of filth, discarded materials, rubbish or graffiti, including anything included within the definition of "unsightly" in section 1 of this Bylaw.

**5. Remedial**

If a person subject to the requirements of section 4 fails to take the required action directed by the Board under that section, the Regional District of Central Kootenay, by its employees or others may fulfill the requirement at the expense of the person who failed to comply. If the costs of the Regional District of Central Kootenay of fulfilling the requirement are not paid, they may be recovered from the person who failed to comply as a debt, or, if the costs for doing so remain unpaid in December 31 in any year, the costs may be added to and form part of the taxes payable on that real property and in that event will be deemed to be taxes in arrears.

**6. Administration**

The Bylaw Enforcement Officer and such other persons appointed by the Board of the Regional District of Central Kootenay is hereby authorized to administer and enforce this Bylaw and to enter, at all reasonable times, on any property to inspect and determine whether all regulations, prohibitions and requirements of this Bylaw are being met.

**7. Offence and Fine**

- (a) Every person who violates any provision of this bylaw commits an offence and is liable upon conviction to a penalty of not more than the maximum penalty prescribed by the *Offence Act* or the *Local Government Act*, which ever is greater, and not less than One Hundred Dollars (\$100) for each offence.
- (b) Each day that a violation continues shall constitute a separate offence.

**8. Repeal**

Electoral Areas I & J Unsightly Property Bylaw No. 802, 1990, Electoral Area G Unsightly Property Bylaw No. 861, 1991, Electoral Area F Unsightly Property Bylaw No. 831, 1990 are hereby repealed.

**9. Severability**

If any portion of this bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, that portion may be severed from the bylaw and such decision shall not affect the validity of the remaining portions of the bylaw.

**10. Citation**

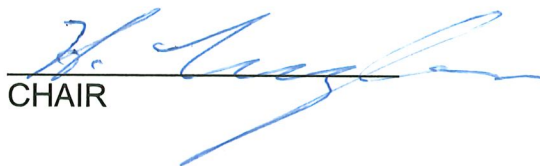
This bylaw may be cited for all purposes as “Electoral Areas B, F, G, I, J Unsightly Property Bylaw No. 1687, 2004”.

READ A FIRST TIME this 24<sup>th</sup> day of July,2004

READ A SECOND TIME this 24<sup>th</sup> day of July,2004

READ A THIRD TIME this 24<sup>th</sup> day of July,2004

RECONSIDERED AND ADOPTED this 24<sup>th</sup> day of July,2004

  
\_\_\_\_\_  
CHAIR

  
Deputy \_\_\_\_\_  
SECRETARY



REGIONAL DISTRICT OF CENTRAL KOOTENAY  
BYLAW No. 2063

A Bylaw to amend Electoral Areas B, F, G, I, J  
Unightly Property Bylaw No. 1687, 2004

WHEREAS it is deemed expedient to amend the Electoral Areas B, F, G, I, J Unightly Property Bylaw No. 1687, 2004.

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

1. That Electoral Areas B, F, G, I, J Unightly Property Bylaw No. 1687, 2004 be amended to include Electoral Areas 'C' and 'K' to provide for participants to the service being Electoral Areas B, C, F, G, I, J, K.

2. Section 2 **Application** be amended to read as follows:

This bylaw applies to Electoral Areas B, C, F, G, I, J, K of the Regional District of Central Kootenay, which are hereby established as "control of unightly premises program units".

3. This Bylaw shall come into force and effect upon its adoption.

4. This Bylaw may be cited as **Electoral Areas Unightly Property Amendment Bylaw No. 2063, 2009.**

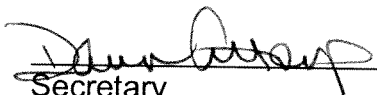
READ A FIRST TIME this 25<sup>th</sup> day of June, 2009.

READ A SECOND TIME this 25<sup>th</sup> day of June, 2009.

READ A THIRD TIME this 25<sup>th</sup> day of June, 2009.

ADOPTED this 25<sup>th</sup> day of June, 2009.

  
Chair

  
Secretary

I hereby certify that this is a true and correct copy of **Electoral Areas Unightly Property Amendment Bylaw No. 2063, 2009** as read a third time by the Regional District of Central Kootenay Board, on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

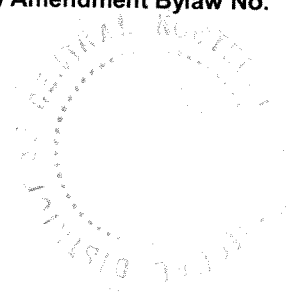
DATED at Nelson, B.C. this \_\_\_\_\_ day of \_\_\_\_\_, 200 .

\_\_\_\_\_  
Secretary

I hereby certify that this is a true and correct copy of the **Electoral Areas Unightly Property Amendment Bylaw No. 2063, 2009.**

DATED at Nelson, B.C. this \_\_\_\_\_ day of \_\_\_\_\_, 200 .

\_\_\_\_\_  
Secretary



## REGIONAL DISTRICT OF CENTRAL KOOTENAY

### BYLAW NO. 2298

A bylaw to amend Electoral Areas B, F, G, I, J Unsightly Property Bylaw No. 1687, 2004.

WHEREAS it is deemed expedient to amend the Electoral Areas B, F, G, I, J Unsightly Property Bylaw No. 1687, 2004 to include a defined portion of Electoral Area 'E'.

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

1. That Electoral Areas B, F, G, I, J Unsightly Property Bylaw No. 1687, 2004 be amended to include a defined portion of Electoral Area 'E', as indicated on Schedule 'A' attached, to provide for participants to the service being Electoral Areas B, C, F, G, I, J, K and defined portion of Electoral Area E.

2. Section 2 Application be amended to read as follows:

This bylaw applies to Electoral Areas B, C, F, G, I, J, K and a defined portion of Electoral Area E of the Regional District of Central Kootenay, which are hereby established as "control of unsightly premises program units."

3. Section (a) of 1. **Interpretation** be deleted in its entirety and replaced with the following:

- (a) The untidy storage of building or construction materials where there is no apparent or real construction occurring on the real property, except where such materials cannot be seen from a highway or an adjacent parcel of land.

4. This Bylaw shall come into force and effect upon its adoption.
5. This Bylaw may be cited as "**Electoral Areas Unsightly Property Amendment Bylaw No. 2298, 2013.**"

READ A FIRST TIME this 18<sup>th</sup> day of July, 2013.

READ A SECOND TIME this 18<sup>th</sup> day of July, 2013.

READ A THIRD TIME this 18<sup>th</sup> day of July, 2013.

ADOPTED this 18<sup>th</sup> day of July, 2013.

  
Chair

  
Secretary



## REGIONAL DISTRICT OF CENTRAL KOOTENAY

# Bylaw No. 2778

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A Bylaw to amend Electoral Areas B, F, G, I, J Unsightly Bylaw No. 1687, 2004

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WHEREAS a service has been established by the Regional District of Central Kootenay by Bylaw No. 766, 1989 being "Control of Unsightly Premises Bylaw No. 766, 1990".

AND WHEREAS the Board of the Regional District of Central Kootenay has enacted Bylaw No. 1687, 2004, being the "Electoral Areas B, F, G, I, J Unsightly Bylaw No. 1687, 2004" to control the unsightly premises program and to regulate unsightly premises within defined areas of the Regional District.

AND WHEREAS a request has been received to amend the boundaries of the Unsightly property Bylaw Service Area to include the entirety of Electoral Area E within the boundaries of the service area;

AND WHEREAS the Board of the Regional District of Central Kootenay deems it expedient to amend Bylaw No. 1687 and all amendments thereto to extend the service area boundaries as requested;

AND WHEREAS pursuant to the *Local Government Act*, consent on behalf of the electoral area electors has been received.

NOW THEREFORE the Board of the Regional District of Central Kootenay, in open meeting assembled, HEREBY ENACTS as follows:

### APPLICATION

- 1 Section 2 is hereby deleted in its entirety and replaced with the following:

This bylaw is applicable to and applies to Electoral Areas B, C, E, F, G, I, J and K of the Regional District of Central Kootenay.

- 2 Section 10 is hereby deleted in its entirety and replaced with the following:

This bylaw may be cited for all purposes as "**Regional District of Central Kootenay Unsightly Property Bylaw No. 1687, 2004**".

### CITATION

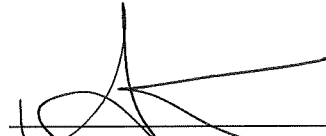
- 3 This Bylaw may be cited as "**Regional District of Central Kootenay Unsightly Property Amendment Bylaw No. 2778, 2021**".

Read a first time this 23<sup>rd</sup> day of September, 2021.

Read a second time this 23<sup>rd</sup> day of September, 2021.


Read a third time this 23<sup>rd</sup> day of September, 2021.

ADOPTED this 23<sup>rd</sup> day of September, 2021.



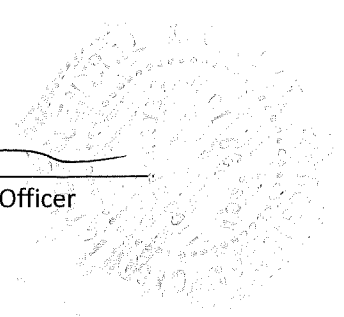
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Almee Watson, Board Chair



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Mike Morrison, Corporate Officer







# Committee Report

**Date of Report:** July 4, 2023  
**Date & Type of Meeting:** July 19, 2023, Rural Affairs Committee  
**Author:** Micah Nakonechny, Grants Coordinator  
**Subject:** COMMUNITY WORKS FUND APPLICATION – REGIONAL DISTRICT OF CENTRAL KOOTENAY “CANYON LISTER FIRE HALL INFRASTRUCTURE UPGRADE PROJECT”  
**File:** 1850-20-CW-289  
**Electoral Area/Municipality** B

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to seek approval for the RDCK Community Works Fund application submitted by the Regional District of Central Kootenay for the project titled “Canyon Lister Fire Hall Infrastructure Upgrade Project” in the total amount of \$69,949.20 and that funds be disbursed from Community Works Funds allocated to Electoral Area B. This Fire Hall Infrastructure project seeks to secure additional funding for a vehicle exhaust extraction system, electrical upgrades, energy-efficient lighting, and structural remediation design to bring the building in compliance with the BC Building Code.

## SECTION 2: BACKGROUND/ANALYSIS

In 2022, the RDCK Board approved the supply and installation of vehicle exhaust extraction systems across 17 fire halls to reduce particulate accumulate and ingestion, and related health hazards. The vehicle exhaust extraction system will dramatically reduce the health hazard related to diesel exhaust and increase energy efficiency by allowing overhead doors to be closed when vehicles are running.

The Canyon Lister Fire Hall had planned to fund this project through its own service, however additional funding is required to complete the installation of the exhaust system and other items identified during project implementation, including:

- Electrical system upgrade from 200 A to 400 A, necessary to safely operate all appliances concurrently in emergency situations (including exhaust extraction system and hot water tank), and reduce the likelihood of power failure
- Replacement of fluorescent lighting in vehicle bays with LED ballast bypass lamps, reducing overall power consumption and increase the hall’s energy efficiency
- Pursuant to a structural engineer review, further design to determine the scope of structural remediation to bring the fire hall in compliance with the BC Building Code and ensure safety of building occupants

The project will serve to allow fire services to continue in Area B in a safe and sustainable manner. RDCK Fire Services plans to outlay this project by utilizing internal RDCK Project Management services and external suppliers/contractors through a competitive procurement process.

## SECTION 3: DETAILED ANALYSIS

### 3.1 Financial Considerations – Cost and Resource Allocations:

**Included in Financial Plan:**  Yes  No      **Financial Plan Amendment:**  Yes  No  
**Debt Bylaw Required:**  Yes  No      **Public/Gov't Approvals Required:**  Yes  No

This application is the responsibility of Area B and no other areas are being asked to contribute to the project. The Director for the area is supportive of the application and has sufficient 2023 funds to allocate to the project. Should this project be funded, Area B will have \$458,243.60 in Community Works funds remaining.

### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

Community Works (formerly Gas Tax) funded projects aim to achieve three objectives: a clean environment; strong cities and communities; and productivity and economic growth. Board policy dictates that applications to the Community Works Fund be reviewed by staff and the Rural Affairs Committee for compliance with program guidelines. Staff is of the opinion that this project falls within the broad program category of 'Fire Hall Infrastructure'.

### 3.3 Environmental Considerations

None at this time.

### 3.4 Social Considerations:

Proposed upgrades allow the building to serve as a temporary but vital community shelter during emergencies.

### 3.5 Economic Considerations:

The proposed project costs are eligible based on Community Works funding criteria.

### 3.6 Communication Considerations:

None at this time.

### 3.7 Staffing/Departmental Workplace Considerations:

The project team includes:

- Nora Hannon – Regional Fire Chief
- Grant Hume – Deputy Fire Chief (Operations)
- Jeannine Bradley – Project Manager
- Canyon Lister Fire Department Chief

RDCK staff resources will need to be allocated to track, process and ensure reporting requirements are fulfilled on an annual basis for a five-year period.

### 3.8 Board Strategic Plan/Priorities Considerations:

None at this time.

## SECTION 4: OPTIONS & PROS / CONS

N/A

## SECTION 5: RECOMMENDATIONS

THAT the Community Works Fund application submitted by the Regional District of Central Kootenay for the project titled “Canyon Lister Fire Hall Infrastructure Upgrade” in the amount of \$69,949.20 be approved and that funds be disbursed from Community Works Funds allocated to Electoral Area B.

Respectfully submitted,

Micah Nakonechny, Grants Coordinator

## CONCURRENCE

Mike Morrison – Manager of Corporate Administration/Corporate Officer Digitally approved by

Uli Wolf – General Manager of Environmental Services Digitally approved by

Stuart Horn – Chief Administrative Officer Digitally approved by

### ATTACHMENTS:

**Attachment A** – Community Works Fund Application: Regional District of Central Kootenay “Canyon Lister Fire Hall Infrastructure Upgrade”



# Regional District of Central Kootenay

Attachment A

Box 590, 202 Lakeside Drive, Nelson, BC V1L 5R4  
 250-352-6665 1-800-939-9300 Email info@rdck.bc.ca

<b>Community Works Fund Application (Appendix-A)</b>			
<b>Gas Tax Program Services – CWF Funding (UBCM)</b>			
<b>"The Project"</b>	Canyon Lister Fire Hall Infrastructure Upgrade Project		
Date of Application	2023/07/05		
<b>Applicant Information</b>			
Name of Organization	Regional District of Central Kootenay		
Address	Box 590, 202 Lakeside Drive		
City, Prov. Postal	Nelson, BC V1L 6X1		
Phone No.	250-551-7367	Fax No.	250-352-9300
Organization's Email	info@rdck.bc.ca		
Name of Contact	Jeannine Bradley	Contact's Email	jbradley@rdck.bc.ca
<b>Director in Support of Project</b>			
Name of Director(s)	Area(s)/Municipality	Amount Requested	
Roger Tierney	B	\$ 69,949.20	
<b>Project Time Line</b>			
Project Commencement Date (yyyy/mm/dd)		Project Completion Date (yyyy\mm\dd)	
2023/08/01		2024/03/31	
<b>Land Ownership</b>			
Ownership and legal description information is required for all parcels of land on which the proposed work will occur.			
Legal Description of land(s)	LOT A PLAN EPP78263 DISTRICT LOT 812 KOOTENAY LAND DISTRICT		
Registered Owners of Land(s)	RDCK		
Crown Land Tenure/License No./Permit No.(s)	n/a		
<b>Compliance With Regulations</b>			
The proponent shall in all respects abide by and comply with all applicable lawful rules, regulations and bylaws of the federal, provincial or local governments, or any other governing body whatsoever, in any manner affecting the Project.			
Have you consulted with a building official?	<input checked="" type="checkbox"/>	Yes	
	<input type="checkbox"/>	No	
Have you applied and received a building permit?	<input checked="" type="checkbox"/>	Yes, Permit No. <u>BP027723</u>	
	<input type="checkbox"/>	No	
If No, please explain:			

### Application Content

Must include all of the following:

- 1.0 - Description of the Project including management framework
- 1.1 - Project timeline and supporting documents
- 2.0 - Project budget
- 3.0 - Accountability Framework Financial statements that adhere to Project accountability

#### 1.0 Description of the Project including management framework

Fire Services (a service within the RDCK) coordinates fire protection within 18 separate service areas. This project is part of RDCK's plan to upgrade all fire hall infrastructure across the region to ensure they continue to be able to service their local communities. The Canyon Lister Fire Hall is located in Electoral Area B.

An occupational health and safety concern was identified by WorksafeBC regarding poor air quality at several fire halls, including Canyon Lister Fire Hall, due to the accumulation of vehicle exhaust and diesel particulate within adjacent offices and training areas and turn-out gear storage areas. In 2022, the Board approved the supply and installation of vehicle exhaust extraction systems within 17 fire halls' bays to reduce particulate accumulation and ingestion, and related health hazards.

Canyon Lister Fire Hall planned for fund this project using service funds, however additional funding is required to complete this project as well as the following items which have been identified during project implementation:

1. Insufficient service funds are available to pay for the full amount of the exhaust extraction system and pertaining tasks.
2. A review of the Canyon Lister Fire Hall's electrical system identified there is insufficient power capacity to safely operate all currently installed appliances concurrently, and that the addition of a exhaust extraction system would further exacerbate this problem. Additionally, the current electrical panels are now obsolete. The RDCK proposes to upgrade the existing service to the fire hall from 200A to 400A, which will enable all appliances to be safely used concurrently, and reduce the likelihood of a power failure.
3. The Fire Hall vehicle bays are currently lit by fluorescent lighting. RDCK plan to replace retrofit LED ballast bypass lamps to match those recently retrofitted upstairs, to reduce the overall power demand and increase the fire hall's energy efficiency.
4. A review completed by an structural engineer indicated that the current building is not compliant with BC Building Code. Further design is required to determine the scope of structural remediation to obtain compliance.

The RDCK - Fire Services plans to outlay this project by utilizing internal RDCK project management services, and an external suppliers / contractors that was sourced through a competitive procurement process.

The Area Director has confirmed their support for this application.

(If needed, please provide additional information on separate page)



1.1 Project Costs including Timeline and Supporting Documents

The anticipated project cost and

The Community Works application amount for the Canyon Lister Fire Hall will fund:

- Service upgrade from 200A to 400A by Fortis;
- Supply and install of pertaining electrical equipment, including replacement of existing obsolete electrical panels;
- Supply and install of LED lights in downstairs rooms;
- Disposal of all removed equipment and materials;
- Supply and install of exhaust extraction system;
- Electrical connection of exhaust extraction system and hot water tank which are (or will be) installed but unable to be used due to electrical capacity issues;
- Design of structural remediation by structural engineer to upgrade building to compliance with BC Building Code
- 10% contingency;
- 8% project management fees

Expected milestones are as follows:

- By August 2023: Completion of structural remediation design;
- By December 2023: Service upgrade; tie in of hot water tank;  
LED light retrofits
- By Spring 2024: Structural Remediation  
Exhaust extraction system install (delayed due to structural issues).

(If needed, please provide additional information on separate page)

## 1.2 Project Impact

This project overall will serve to allow fire services to continue in Area B in a safe and sustainable manner.

The service upgrade will:

- Allow the vehicle exhaust extraction system to be safely used, serving to dramatically reduce the health hazard related to diesel vehicle exhaust, and increasing building energy efficiency by allowing the overhead doors to be closed when the vehicles are running;
- Allow the existing hot water tank to be used, providing a safe and clean work environment for staff and volunteers;
- Allow all appliances to be used appropriately, particularly relevant in the event of an emergency and use as a community hub.

The LED light retrofit will reduce the fire hall's overall power consumption.

The structural remediation of the existing building will be completed to maintain compliance to BC Building Code and safety of occupants.

(If needed, please provide additional information on separate page)

### 1.3 Project Outcomes

Strategic upgrades to the Canyon Lister Fire Hall will be completed during this project.

Outcomes include:

- Health hazard pertaining to vehicle exhaust will be eliminated.
- Energy savings will be realized due to energy efficiency measures.
- Compliance with BC Building Code.

(If needed, please provide additional information on separate page)

**1.4 Project Team and Qualifications**

The project team includes:  
 Nora Hannon, Regional Fire Chief  
 Grant Hume, Regional Deputy Fire Chief  
 Jeannine Bradley- Project Manager, RDCK  
 Canyon Lister Fire Department Chief, RDCK

(If needed, please provide additional information on separate page)

**2.0 Project Budget**  
 List anticipated and confirmed Project revenue and expenses that have been deemed necessary for the implementation of the Project. Schedule B outlines eligible costs for eligible recipients (see attached).

**Project Revenue**  
 (Capital, Professional, Environmental Assessment, Employee, Equipment, Incremental)


Item	Description of Revenue	Value (\$)
See following page		\$
		\$
		\$
		\$
		\$
		\$
(If needed, please see page 7 to provide additional budget information)	<b>Sub-Total Project Revenue</b>	\$ 0.00

**Project Expenses**  
 (Capital, Professional, Environmental Assessment, Employee, Equipment, Incremental)

Item	Description of Expenses	Value (\$)
See following page		\$
		\$
		\$
		\$
		\$
(If needed, please see page 7 to provide additional budget information)	<b>Sub-Total Project Expenses</b>	\$ 0.00





<b>2.1 Additional Budget Information</b>		
Quote rationale to be reviewed by RDCK Chief Administrative Officer		
<div style="text-align: right; font-size: small;">(If needed, please provide additional information on separate page)</div>		
<b>3.0 Accountability Framework</b>		
<p>The eligible recipient will ensure the following:</p> <ul style="list-style-type: none"> <li>- Net incremental capital spending is on infrastructure or capacity building</li> <li>- Funding is used for eligible Project and eligible costs</li> <li>- Project is implemented in diligent and timely manner</li> <li>- Where recipient is a Local Government, undertake Integrated Community Sustainability Planning</li> <li>- Provide access to all records</li> <li>- Comply with legislated environmental assessment requirements and implement environmental impact mitigation measures</li> <li>- Provide a Project Completion Report including copies of all invoices</li> <li>-</li> </ul>		
<b>4.0 Schedule of Payments</b>		
<p>The RDCK shall pay the grant to the proponent in accordance with the following schedule of payments:</p> <ul style="list-style-type: none"> <li>a) 75% upon signing of the Contract Agreement</li> <li>b) 25% upon receipt of a Project completion report indicating 100% completion of the Project and proof of meeting anticipated impacts and outcomes, a statement of income and expenses, and copies of invoices/receipts supporting funding expenditures.</li> </ul>		
<b>5.0 Acknowledgement of Requirements</b>		
<p>Gas Tax-funded projects aim to achieve national objectives: a clean environment; strong cities and communities; and productivity and economic growth.</p> <p>By signing below, the recipient agrees to prepare and submit a Project completion report outlining Project outcomes that were achieved and information on the degree to which the Project has contributed to the above mentioned objectives. The Project completion report must include details of project revenue s and expenses and copies of invoices or receipts that support funding expenditures. In addition, an annual report (for 5 years) is to be submitted to the RDCK prior to October 31<sup>st</sup> of each year detailing the beneficial impacts on the community as a result of the completed Project.</p>		
Authorized Signature for Proponent	Name	Date
	Jeannine Bradley	2023/07/04



# Committee Report

**Date of Report:** April 24, 2023  
**Date & Type of Meeting:** July 19, 2023, Rural Affairs Committee  
**Author:** Micah Nakonechny, Grants Coordinator  
**Subject:** COMMUNITY WORKS FUND APPLICATION – KOOTENAY REGION ASSOCIATION FOR COMMUNITY LIVING “49.14 KW SOLAR PROJECT TO POWER LOW INCOME HOUSING”  
**File:** 1850-20-CW-287  
**Electoral Area/Municipality** C

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to seek approval for the RDCK Community Works Fund application submitted by the Kootenay Region Association for Community Living for the project titled “49.14 kW Solar Project to power low income housing” in the total amount of \$12,500 and that funds be disbursed from Community Works Funds allocated to Electoral Area C. This Community Energy Systems project involves the installation of a ground-mounted, grid-tied photovoltaic solar array to provide power to two group residences for people living on low income with a disability.

## SECTION 2: BACKGROUND/ANALYSIS

The Kootenay Region Association for Community Living (KRACL) is a non-profit organization which provides low-income rental housing for people with disabilities in the Creston Valley. KRACL maintains three residences: Cedar Linden, comprising one and two-bedroom apartments, as well as Archibald House and The Cottage, housing four tenants and one tenant, respectively. All these residences provide tenants with comfortable, affordable, and accessible housing to promote independent living.

The solar array will consist of 108 panels and provide electricity to Archibald House and The Cottage. Rising costs for energy and services are not covered by allowable annual rent increases, and it is imperative to keep rent affordable for the low-income tenants.

The project is expected to reduce electricity costs, including peak demand charges, as well as provide local renewable energy and reduce KRACL’s carbon footprint. The savings on operational costs will allow KRACL to fund improvements to the residences and infrastructure.

Michelle Whiteaway, Treasurer, will oversee administration of the project on behalf of KRACL. Kootenay Solar Power submitted the successful quote and will be managing the project.

## SECTION 3: DETAILED ANALYSIS

### 3.1 Financial Considerations – Cost and Resource Allocations:

<b>Included in Financial Plan:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<b>Financial Plan Amendment:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<b>Debt Bylaw Required:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<b>Public/Gov’t Approvals Required:</b>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

This application is the responsibility of Area C and no other areas are being asked to contribute to the project. The Director for the area is supportive of the application and has sufficient 2023 funds to allocate to the project. Should this project be funded, Area C will have \$54,911.71 in Community Works funds remaining.

### **3.2 Legislative Considerations (Applicable Policies and/or Bylaws):**

Community Works (formerly Gas Tax) funded projects aim to achieve three objectives: a clean environment; strong cities and communities; and productivity and economic growth. Board policy dictates that applications to the Community Works Fund be reviewed by staff and the Rural Affairs Committee for compliance with program guidelines. Staff is of the opinion that this project falls within the broad program category of 'Community Energy Systems'.

### **3.3 Environmental Considerations**

The solar array will reduce KRACL's carbon footprint.

### **3.4 Social Considerations:**

The project expects to reduce operational costs for residences for low-income earners with disabilities, allowing rent to remain affordable in the face of increasing costs for energy and other services included in rent.

### **3.5 Economic Considerations:**

This contribution of CWF monies to this project represents only a portion of funding needed to for completion. The majority of funding will come from the Columbia Basin Trust Affordable Housing Renewable Energy Program, with the balance comprised of own funds and other grants.

### **3.6 Communication Considerations:**

None at this time.

### **3.7 Staffing/Departmental Workplace Considerations:**

RDCK staff resources will need to be allocated to track, process and ensure KRACL fulfills the reporting requirements on an annual basis for a five-year period.

### **3.8 Board Strategic Plan/Priorities Considerations:**

None at this time.

## **SECTION 4: OPTIONS & PROS / CONS**

N/A

## SECTION 5: RECOMMENDATIONS

THAT the Community Works Fund application submitted by Kootenay Association for Community Living for the project titled “49.14 kW Solar Project to power low income housing” in the amount of \$12,500 be approved and that funds be disbursed from Community Works Funds allocated to Electoral Area C.

Respectfully submitted,

Micah Nakonechny, Grants Coordinator

## CONCURRENCE

Mike Morrison – Manager of Corporate Administration/Corporate Officer **Digitally approved**

Uli Wolf – General Manager of Environmental Services **Digitally approved**

Stuart Horn – Chief Administrative Officer **Digitally approved**

### ATTACHMENTS:

**Attachment A** – Community Works Fund Application: Kootenay Region Association for Community Living “49.14 kW Solar Project to power low income housing”



# Regional District of Central Kootenay

Attachment A

Box 590, 202 Lakeside Drive, Nelson, BC V1L 5R4  
 250-352-6665 1-800-939-9300 Email info@rdck.bc.ca

<b>Community Works Fund Application (Appendix-A)</b>			
<b>Gas Tax Program Services – CWF Funding (UBCM)</b>			
<b>"The Project"</b>	49.14 kW Solar Project to power low income housing		
Date of Application	2023/03/16		
<b>Applicant Information</b>			
Name of Organization	Kootenay Region Association for Community Living		
Address	849 Erickson Rd		
City, Prov. Postal	Creston, BC V0B 1G3		
Phone No.	250-402-3400	Fax No.	
Organization's Email	KRACInfo@gmail.com		
Name of Contact	Michelle Whiteaway	Contact's Email	KRACInfo@gmail.com
<b>Director in Support of Project</b>			
Name of Director(s)	Area(s)/Municipality	Amount Requested	
Kelly Vandenberghe	Area C	\$ 12,500.00	
<b>Project Time Line</b>			
Project Commencement Date (yyyy/mm/dd)		Project Completion Date (yyyy\mm\dd)	
2023/06/01		2023/08/30	
<b>Land Ownership</b>			
Ownership and legal description information is required for all parcels of land on which the proposed work will occur.			
Legal Description of land(s)	PARCEL A LOT 7, DL 9555 KOOTENAY LAND DISTRICT (EXPL PL 239711)		
Registered Owners of Land(s)	Kootenay Region Association for Community Living		
Crown Land Tenure/License No./Permit No.(s)			
<b>Compliance With Regulations</b>			
The proponent shall in all respects abide by and comply with all applicable lawful rules, regulations and bylaws of the federal, provincial or local governments, or any other governing body whatsoever, in any manner affecting the Project.			
Have you consulted with a building official?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Have you applied and received a building permit?	<input type="checkbox"/> Yes, Permit No. _____	<input checked="" type="checkbox"/> No	
If No, please explain: Kootenay Solar Power will be responsible for obtaining permits on our behalf once funding is in place.			



### Application Content

Must include all of the following:

- 1.0 - Description of the Project including management framework
- 1.1 - Project timeline and supporting documents
- 2.0 - Project budget
- 3.0 - Accountability Framework Financial statements that adhere to Project accountability

#### 1.0 Description of the Project including management framework

**Description:**

The project is the installation of a ground mounted grid-tied photovoltaic solar farm.

108 solar panels will be installed in two rows of 54.

The solar farm will provide electric power to two residences, Archibald House and The Cottage.

The residences provide housing for 6 people on low income with a disability.

KRACL has been working with the BC Non Profit Housing Association to secure funding for 75% of the project cost from the Columbia Basin Trust Affordable Housing Renewable Energy Program (AHREP). The Program is funded by the Trust, administered by BCNPHA, and the grants are administered by BC Housing. The funding has been approved.

**Management Framework:**

Kootenay Solar Power submitted the successful quote and will be managing the project.

Michelle Whiteaway, KRACL Treasurer, will oversee administration of the project on behalf of KRACL to ensure timely payments to vendors and accurate accounting of grant funds.

(If needed, please provide additional information on separate page)

**1.1 Project Costs including Timeline and Supporting Documents****Materials for Ground Mount Solar Photovoltaic Array:**

108 x 455 watt Longi solar panels and balance of system components including racking/electrical/strapping etc  
= \$80,088.86

**Labour & Permitting for Solar Array Installation**

= \$34,323.80

40 x Sonotube Cement footings, excavation, trenching, bedding sand and 250' of armoured electrical cable  
= \$25,000.00

GST = \$6,970.63

Total = \$146,383.29

The timeline starts once a 10% deposit is received from BC Housing, which will then be sent to Kootenay Solar Power.

- 1) 4-6 weeks for utility interconnections, electrical permits and building permits (when necessary)
- 2) 1 week for excavation and sonotubes (including cure time) (no earlier than late April/May as the ground must be completely thawed)
- 3) 1 week for racking
- 4) 1 week for laying panels & electrical

**Supporting documents attached:**

- 1) Proposal from Kootenay Solar Power
- 2) Quote from Kootenay Solar Power
- 3) Approved funding from CBT
- 4) KRACL financial statements for fiscal 2022

(If needed, please provide additional information on separate page)

## 1.2 Project Impact

The project will impact the Creston community as it will help a provider of low income housing for people with disabilities remain viable by lowering the electrical expense of two residences.

Residents of Archibald and the Cottage, the two residences to be powered by the solar project, pay very low rent. Residents of Archibald, pay from \$355 a month for a single room to \$510 a month for a double room. The rent includes all services:

- water, sewer
- snow removal
- garbage removal and recycling
- natural gas for heating
- internet connection
- electrical for
  - + hot water heating
  - + heat pump heating and cooling in 4 bedrooms
  - + space heating in 3 bathrooms and the kitchen
  - + refrigeration (3 full size refrigerators, 1 full size freezer, two small fridges)
  - + lighting (there are over 60 light bulbs in the house!)
  - + cooking
  - + washer and dryer used by 4 tenants

The tenant in the cottage pays \$668 a month that includes all services:

- water, sewer
- snow removal
- garbage removal and recycling
- internet connection
- electrical for:
  - + heating
  - + hot water heating
  - + heat pump heating and cooling
  - + refrigeration
  - + lighting
  - + cooking
  - + washer and dryer used by 1 tenant

The bills for electrical use for the months of November, December, January and February totaled \$5,053.57, an average of \$1,263 a month. Archibald also had monthly gas bills for those months totalling \$2,146 , averaging \$536 a month.

The rising costs of all of the above services are not covered by allowable annual rent increases.

Even if the landlord was able to raise rents to help cover costs, it would impose extra costs on tenants who are low income earners.

Unfortunately, providing motivation to tenants for efficient use of energy is difficult as the tenants do not have to pay the utility bills!

(If needed, please provide additional information on separate page)

### 1.3 Project Outcomes

The expected outcomes of the project are:

- reduce operational costs by reducing electrical expenses
- reduce peak electricity demand charges
- generate local renewable energy
- reduce our organizations carbon footprint and show our commitment to climate action

In turn, the money saved by reducing electrical expenses will allow the organization to fund improvements to the residences and infrastructure.

(If needed, please provide additional information on separate page)

**1.4 Project Team and Qualifications****Kootenay Solar Power Team**

Stu Bilodeau Owner, Stu is a Red Seal journeyman electrician who chose to pursue his certification because of his keen interest in the solar energy field. He holds a business degree and has also been certified with the Canadian Solar Institute. With many years of electrical experience, Stu leads our operations and provides clients with expert PV design and installation services.

Eden Yesh Owner, Eden studied Sustainable Community Development at Simon Fraser University. He became an advocate for the clean energy transition while working in community economic development and maintains involvement in several key community projects and organizations, regionally, provincially and nationally. Eden oversees the organizational development, partnerships, sales and administration functions of Kootenay Solar. He works directly with customers to help them make an informed decision regarding their solar energy goals.

**KRACL Team**

Michelle Whiteaway, Treasurer. Michelle has a Bachelor's of Science from Bishop's University, Major Computer Science and minor in Business Administration. Michelle has been the Program Director of the Therapeutic Riding Program since 2008 and has successfully managed and accounted for grant funded projects totaling \$1,000,000.

(If needed, please provide additional information on separate page)

**2.0 Project Budget**

List anticipated and confirmed Project revenue and expenses that have been deemed necessary for the implementation of the Project. Schedule B outlines eligible costs for eligible recipients (see attached).

**Project Revenue**

(Capital, Professional, Environmental Assessment, Employee, Equipment, Incremental)

Item	Description of Revenue	Value (\$)
CBT Funding	Affordable Housing Renewable Energy Program	\$ 109,787.67
Creston Valley Community Foundation	Grant	\$ 10,000.00
CBT Resident Directed Grant	Grant	\$ 10,000.00
RDCK Community Works	Grant	\$ 12,500.00
KRACL Funds	See note in section 2.1	\$ 610.30
GST Rebate @ 50%		\$ 3,485.32
(If needed, please see page 7 to provide additional budget information)	<b>Sub-Total Project Revenue</b>	<b>\$ 146,383.29</b>

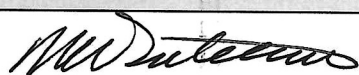
**Project Expenses**

(Capital, Professional, Environmental Assessment, Employee, Equipment, Incremental)

Item	Description of Expenses	Value (\$)
108 x 455 watt Longi solar panels and	system components racking/electrical/strapping	\$ 80,088.86
Labour and permitting	for solar array	\$ 34,323.80
40 x Sonotube Cement footings	excavation, trenching, sand, 250' of cable	\$ 25,000.00
GST		\$ 6,970.63
		\$
(If needed, please see page 7 to provide additional budget information)	<b>Sub-Total Project Expenses</b>	<b>\$ 146,383.29</b>



Project Revenue (continued)		
(Capital, Professional, Environmental Assessment, Employee, Equipment, Incremental)		
Item	Project Revenue	Value (\$)
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
	<b>Total Project Revenue</b>	\$ 146,383.29
Project Expenses (continued)		
(Capital, Professional, Environmental Assessment, Employee, Equipment, Incremental)		
Item	Description	Value (\$)
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
	<b>Total Project Expenses</b>	\$ 146,383.29

<b>2.1 Additional Budget Information</b> Quote rationale to be reviewed by RDCK Chief Administrative Officer		
KRACL is unable to fund a larger portion of the project as a renovation to the Cottage is necessary to isolate the electrical panel according to code. The renovation was quoted by Mountain Springs Holdings at approximately \$20,000. Without the renovation, an electrical permit would not be able to be obtained to connect the solar power to the Cottage.		
(If needed, please provide additional information on separate page)		
<b>3.0 Accountability Framework</b>		
The eligible recipient will ensure the following: <ul style="list-style-type: none"> <li>- Net incremental capital spending is on infrastructure or capacity building</li> <li>- Funding is used for eligible Project and eligible costs</li> <li>- Project is implemented in diligent and timely manner</li> <li>- Where recipient is a Local Government, undertake Integrated Community Sustainability Planning</li> <li>- Provide access to all records</li> <li>- Comply with legislated environmental assessment requirements and implement environmental impact mitigation measures</li> <li>- Provide a Project Completion Report including copies of all invoices</li> </ul>		
<b>4.0 Schedule of Payments</b>		
The RDCK shall pay the grant to the proponent in accordance with the following schedule of payments: <ul style="list-style-type: none"> <li>a) 75% upon signing of the Contract Agreement</li> <li>b) 25% upon receipt of a Project completion report indicating 100% completion of the Project and proof of meeting anticipated impacts and outcomes, a statement of income and expenses, and copies of invoices/receipts supporting funding expenditures.</li> </ul>		
<b>5.0 Acknowledgement of Requirements</b>		
Gas Tax-funded projects aim to achieve national objectives: a clean environment; strong cities and communities; and productivity and economic growth.		
By signing below, the recipient agrees to prepare and submit a Project completion report outlining Project outcomes that were achieved and information on the degree to which the Project has contributed to the above mentioned objectives. The Project completion report must include details of project revenue s and expenses and copies of invoices or receipts that support funding expenditures. In addition, an annual report (for 5 years) is to be submitted to the RDCK prior to October 31 <sup>st</sup> of each year detailing the beneficial impacts on the community as a result of the completed Project.		
Authorized Signature for Proponent	Name	Date
	Michelle Whiteaway	2023/03/16



# Committee Report

**Date of Report:** July 4, 2023  
**Date & Type of Meeting:** July 19, 2023, Rural Affairs Committee  
**Author:** Micah Nakonechny, Grants Coordinator  
**Subject:** COMMUNITY WORKS FUND APPLICATION – REGIONAL DISTRICT OF CENTRAL KOOTENAY “PASS CREEK FIRE HALL INFRASTRUCTURE UPGRADE PROJECT”  
**File:** 1850-20-CW-288  
**Electoral Area/Municipality** |

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to seek approval for the RDCK Community Works Fund application submitted by the Regional District of Central Kootenay for the project titled “Pass Creek Fire Hall Infrastructure Upgrade Project” in the total amount of \$42,000 and that funds be disbursed from Community Works Funds allocated to Electoral Area I. This Fire Hall Infrastructure project seeks to secure additional funding for asphalt paving of the parking area and entrances to service vehicle bays.

## SECTION 2: BACKGROUND/ANALYSIS

The Pass Creek Fire Hall was originally built in 1991. Since then, significant improvements have occurred including a new bay addition, a detached accessory building, and most recently the installation of both a vehicle bay exhaust extraction system and a heat pump system for gathering and office spaces inside the main hall structure. The current phase of upgrades as part of Community Works project CW-257 includes a new generator system and water system upgrades.

The existing pavement, which has significant high and low spots across a wide area, will be replaced with up to 100 mm of new asphalt covering an area of approximately 270 m<sup>2</sup>. The proposed work includes grading, shaping, and base compaction to promote positive surface drainage. In addition to allowing fire services to continue in a safe and sustainable manner, it ensures safe reliable access to the hall for vehicles, firefighters, and visitors.

RDCK Fire Services plans to outlay this project by utilizing internal RDCK Project Management services and external suppliers/contractors through a competitive procurement process.

## SECTION 3: DETAILED ANALYSIS

### 3.1 Financial Considerations – Cost and Resource Allocations:

<b>Included in Financial Plan:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<b>Financial Plan Amendment:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<b>Debt Bylaw Required:</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<b>Public/Gov’t Approvals Required:</b>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

This application is the responsibility of Area I and no other areas are being asked to contribute to the project. The Director for the area is supportive of the application and has sufficient 2023 funds to allocate to the project. Should this project be funded, Area I will have \$516,963.87 in Community Works funds remaining.

### **3.2 Legislative Considerations (Applicable Policies and/or Bylaws):**

Community Works (formerly Gas Tax) funded projects aim to achieve three objectives: a clean environment; strong cities and communities; and productivity and economic growth. Board policy dictates that applications to the Community Works Fund be reviewed by staff and the Rural Affairs Committee for compliance with program guidelines. Staff is of the opinion that this project falls within the broad program category of 'Fire Hall Infrastructure'.

### **3.3 Environmental Considerations**

None at this time.

### **3.4 Social Considerations:**

Along with Fire Services, the building is used for community events such as FireSmart meetings. With more planned infrastructure and system upgrades, it is anticipated that the building could also serve as a temporary but vital community shelter during emergencies.

### **3.5 Economic Considerations:**

The proposed project costs are eligible based on Community Works funding criteria.

### **3.6 Communication Considerations:**

None at this time.

### **3.7 Staffing/Departmental Workplace Considerations:**

The project team will ensure that all applicable permitting requirements for this project are met. The project team includes:

- Nora Hannon – Regional Fire Chief
- Grant Hume – Deputy Fire Chief (Operations)
- Patrick Thrift – Project Manager
- Pass Creek Fire Department Chief

RDCK staff resources will need to be allocated to track, process and ensure reporting requirements are fulfilled on an annual basis for a five-year period.

### **3.8 Board Strategic Plan/Priorities Considerations:**

None at this time.

## **SECTION 4: OPTIONS & PROS / CONS**

N/A

## SECTION 5: RECOMMENDATIONS

THAT the Community Works Fund application submitted by the Regional District of Central Kootenay for the project titled “Pass Creek Fire Hall Infrastructure Upgrade” in the amount of \$42,000 be approved and that funds be disbursed from Community Works Funds allocated to Electoral Area I.

Respectfully submitted,

Micah Nakonechny, Grants Coordinator

## CONCURRENCE

Mike Morrison – Manager of Corporate Administration/Corporate Officer *Digitally approved*

Uli Wolf – General Manager of Environmental Services *Digitally approved*

Stuart Horn – Chief Administrative Officer *Digitally approved*

### ATTACHMENTS:

**Attachment A** – Community Works Fund Application: Regional District of Central Kootenay “Pass Creek Fire Hall Infrastructure Upgrade”





# Regional District of Central Kootenay Attachment A

Box 590, 202 Lakeside Drive, Nelson, BC V1L 5R4  
 250-352-6665 1-800-939-9300 Email info@rdck.bc.ca

<b>Community Works Fund Application (Appendix-A)</b>			
<b>Gas Tax Program Services – CWF Funding (UBCM)</b>			
<b>"The Project"</b>	Pass Creek Fire Hall Infrastructure Upgrade Project		
Date of Application	2023/06/22		
<b>Applicant Information</b>			
Name of Organization	Regional District of Central Kootenay		
Address	Box 590, 202 Lakeside Drive		
City, Prov. Postal	Nelson, BC V1L 6X1		
Phone No.	250-352-6665	Fax No.	250-352-9300
Organization's Email	info@rdck.bc.ca		
Name of Contact	Patrick Thrift	Contact's Email	pthrift@rdck.bc.ca
<b>Director in Support of Project</b>			
Name of Director(s)	Area(s)/Municipality	Amount Requested	
Andy Davidoff	I	\$ 42,000.00	
<b>Project Time Line</b>			
Project Commencement Date (yyyy/mm/dd)		Project Completion Date (yyyy\mm\dd)	
2023/08/01		2023/12/31	
<b>Land Ownership</b>			
Ownership and legal description information is required for all parcels of land on which the proposed work will occur.			
Legal Description of land(s)	LOT A DISTRICT LOT 7246 KOOTENAY LAND DISTRICT PASS CREEK FIF		
Registered Owners of Land(s)	RDCK		
Crown Land Tenure/License No./Permit No.(s)	n/a		
<b>Compliance With Regulations</b>			
The proponent shall in all respects abide by and comply with all applicable lawful rules, regulations and bylaws of the federal, provincial or local governments, or any other governing body whatsoever, in any manner affecting the Project.			
Have you consulted with a building official?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Have you applied and received a building permit?	<input type="checkbox"/> Yes, Permit No. _____ <input checked="" type="checkbox"/> No		
If No, please explain: RDCK permits are not required for the proposed work.			



**Application Content**

Must include all of the following:

- 1.0 - Description of the Project including management framework
- 1.1 - Project timeline and supporting documents
- 2.0 - Project budget
- 3.0 - Accountability Framework Financial statements that adhere to Project accountability

1.0 Description of the Project including management framework

Fire Services, a service within the RDCK coordinates fire protection with 18 separate service areas. Of these service areas, six are contracts with municipal fire departments and one is with a neighbouring regional district. The remaining 12 fire services operate out of 18 fire halls. This project is part of RDCK's plan to upgrade all fire hall infrastructure across the region.

The Pass Creek Fire Hall is located in Electoral Area I and was originally built in 1991. Since then, significant improvements have occurred including a new bay addition, a detached accessory building, and most recently the installation of both a vehicle bay exhaust extraction system and a heat pump system for gathering and office spaces inside the main hall structure. Along with fire services, the building is used for community events such as FireSmart meetings. With more planned infrastructure and system upgrades, it is anticipated that the building could also serve as a temporary but vital community shelter during emergencies.

Included in the current phase of planned upgrade projects, the RDCK is addressing not only energy efficiency improvements by replacing overhead doors, but also installing several new major components. A new stand-by generator system will provide full-facility back-up power in the event of prolonged power failures. Secondly, as part of the water system upgrades, the existing Norns Creek intake will be replaced along with a new well pump and expansion tank and filtration. All of these initiatives will help to optimize Pass Creek's operational efficiencies while ensuring the reliable delivery of emergency services throughout the year.

The intent of this application is to secure additional funding for new asphalt paving of the parking area and entrances to the service vehicle bays. The existing paving work has significant high and low spots across a wide area; the intent is to replace the existing asphalt with up to 100mm of new asphalt covering an area of approximately 270sq.metres. The work includes the grading, shaping, and base compaction to promote positive surface drainage.

The RDCK - Fire Services plans to outlay this project by utilizing internal RDCK Project Management services, and external suppliers / contractors through a competitive procurement process.

(If needed, please provide additional information on separate page)

1.1 Project Costs including Timeline and Supporting Documents

The anticipated project cost and Community Works application for the Pass Creek Fire Hall is \$42,000.00 This includes supply and installation costs for the re-paving of the front parking area and entrances to the service vehicle bays.

Contingencies of 15% have been included in this budget along with Project Management fees of 8%.

It is expected that the project will be completed within six months time. Procurement will be outlaid in the summer 2023, with a construction start slated for July 2023. We have set a project completion date of December 31, 2023 due to the volatile nature of the current construction industry. As well, we will attempt to bundle procurement with fire hall projects in other electoral areas, so the timing may dictate a longer project timeline.

The project team will ensure that all applicable permitting requirements for this project are met.

(If needed, please provide additional information on separate page)

1.2 Project Impact

This project overall will allow fire services to continue in Area I in a safe and sustainable manner.

End-of-life building and/or surrounding landscape components will be replaced.

New paving work will ensure safe and reliable access to the hall for service vehicles and members and all visitors alike.

(If needed, please provide additional information on separate page)

1.3 Project Outcomes

Strategic upgrades to the Pass Creek Fire Hall will be completed during this project.

Outcomes include:

Building and/or landscape components at end of life will be replaced.

Pass Creek Fire Hall will continue to operate with moderate asset management renewal budgets.

Provision of safe and reliable access to the hall for service vehicles and members and all visitors alike.

(If needed, please provide additional information on separate page)

**1.4 Project Team and Qualifications**

The project team includes:

Nora Hannon - Regional Fire Chief, RDCK  
 Grant Hume- Deputy Fire Chief (Operations), RDCK  
 Patrick Thrift - Project Manager, RDCK  
 Pass Creek Fire Department Chief, RDCK

(If needed, please provide additional information on separate page)

**2.0 Project Budget**  
 List anticipated and confirmed Project revenue and expenses that have been deemed necessary for the implementation of the Project. Schedule B outlines eligible costs for eligible recipients (see attached).

**Project Revenue**  
 (Capital, Professional, Environmental Assessment, Employee, Equipment, Incremental)


Item	Description of Revenue	Value (\$)
Pass Creek Fire Hall Upgrade Project	Area I Community Works Grant	\$ 42,000.00
		\$
		\$
		\$
		\$
		\$
(If needed, please see page 7 to provide additional budget information)	<b>Sub-Total Project Revenue</b>	\$ 42,000.00

**Project Expenses**  
 (Capital, Professional, Environmental Assessment, Employee, Equipment, Incremental)

Item	Description of Expenses	Value (\$)
New paving work		\$ 34,000.00
		\$
		\$
		\$
Contingency	15% contingency	\$ 5,000.00
(If needed, please see page 7 to provide additional budget information)	<b>Sub-Total Project Expenses</b>	\$ 39,000.00

Project Revenue (continued)		
(Capital, Professional, Environmental Assessment, Employee, Equipment, Incremental)		
Item	Project Revenue	Value (\$)
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
	<b>Total Project Revenue</b>	\$ 42,000.00
Project Expenses (continued)		
(Capital, Professional, Environmental Assessment, Employee, Equipment, Incremental)		
Item	Description	Value (\$)
Project Management	Project Management fee to outlay project	\$ 3,000.00
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
	<b>Total Project Expenses</b>	\$ 42,000.00



<b>2.1 Additional Budget Information</b>		
Quote rationale to be reviewed by RDCK Chief Administrative Officer		
(If needed, please provide additional information on separate page)		
<b>3.0 Accountability Framework</b>		
<p>The eligible recipient will ensure the following:</p> <ul style="list-style-type: none"> <li>- Net incremental capital spending is on infrastructure or capacity building</li> <li>- Funding is used for eligible Project and eligible costs</li> <li>- Project is implemented in diligent and timely manner</li> <li>- Where recipient is a Local Government, undertake Integrated Community Sustainability Planning</li> <li>- Provide access to all records</li> <li>- Comply with legislated environmental assessment requirements and implement environmental impact mitigation measures</li> <li>- Provide a Project Completion Report including copies of all invoices</li> <li>-</li> </ul>		
<b>4.0 Schedule of Payments</b>		
<p>The RDCK shall pay the grant to the proponent in accordance with the following schedule of payments:</p> <ul style="list-style-type: none"> <li>a) 75% upon signing of the Contract Agreement</li> <li>b) 25% upon receipt of a Project completion report indicating 100% completion of the Project and proof of meeting anticipated impacts and outcomes, a statement of income and expenses, and copies of invoices/receipts supporting funding expenditures.</li> </ul>		
<b>5.0 Acknowledgement of Requirements</b>		
<p>Gas Tax-funded projects aim to achieve national objectives: a clean environment; strong cities and communities; and productivity and economic growth.</p> <p>By signing below, the recipient agrees to prepare and submit a Project completion report outlining Project outcomes that were achieved and information on the degree to which the Project has contributed to the above mentioned objectives. The Project completion report must include details of project revenue s and expenses and copies of invoices or receipts that support funding expenditures. In addition, an annual report (for 5 years) is to be submitted to the RDCK prior to October 31<sup>st</sup> of each year detailing the beneficial impacts on the community as a result of the completed Project.</p>		
Authorized Signature for Proponent	Name	Date
	Patrick Thrift	2023/06/22