



# Development Variance Permit Application

Referral Form – RDCK File V23091

Date: January 31, 2024

**You are requested to comment on the attached DEVELOPMENT VARIANCE PERMIT for potential effect on your agency’s interests. We would appreciate your response WITHIN 30 DAYS (PRIOR TO March 1, 2024). If no response is received within that time, it will be assumed that your agency’s interests are unaffected.**

**LEGAL DESCRIPTION & GENERAL LOCATION:**

2464 PASS CREEK ROAD, PASS CREEK, ELECTORAL AREA ‘I’  
DISTRICT LOT 8430 KOOTENAY DISTRICT EXCEPT PART INCLUDED IN PLANS 12090 & 15269 (PID: 016-449-312)

**PRESENT USE AND PURPOSE OF PERMIT REQUESTED: 313 acres**

The 126.7 hectares (ha) subject property lies partially in the Agricultural Land Reserve. To the north the parcel is bounded by Electoral Area ‘H’; agricultural uses to the south; and, a combination of agricultural and country residential uses to east and west. Pass Creek Road bisects the subject site from east to west, and Shepard Drive runs through a portion of the parcel to the south. Due to the floodplain and creek drainages adjacent to the existing residence, and hay production in front of this dwelling the applicant is proposed to develop an additional dwelling unit outside of the floodplain to utilize a former house site pre-dating land use regulations in the area, which has existing access, and servicing.

This Development Variance Permit (DVP) seeks to vary Sections 2901.3, 2901.4, and 2901.6 b. of the *RDCK’s Zoning Bylaw No. 1675* as follows:

**Section 2901.3:** To permit a Farm Residential Footprint of approximately 3,800 m<sup>2</sup> whereas the bylaw permits a Farm Residential Footprint of 2,500 m<sup>2</sup> for a Single Family Dwelling and additional permitted dwelling unit.

**Section 2901.4:** To allow a Farm Residential Footprint with a maximum depth of 200 metres from the front property line whereas the bylaw requires that the maximum depth of the Farm Residential Footprint shall not exceed 60 metres from the Front Lot Line.

**Section 2901.6 b.:** To permit an accessory dwelling with a maximum Gross Floor Area (GFA) of 136 m<sup>2</sup> whereas the bylaw permits a maximum GFA of 90 m<sup>2</sup>.

AREA OF PROPERTY AFFECTED	ALR STATUS	ZONING	OCP
Approximately 0.4 ha	Property is partially within the ALR	Agriculture 3 (AG3)	Agriculture (AG)

**AGENT:** Michael Gagnier

**OTHER INFORMATION: ADVISORY PLANNING COMMISSION PLEASE NOTE:**

If your Advisory Planning Commission plans to hold a meeting to discuss this Development Variance Permit application, please note that the applicants must be provided with an opportunity to attend such meeting, in accordance with Section 461, subsection (8) of the *Local Government Act*, which reads as follows:

*“If the commission is considering an amendment to a plan or bylaw, or the issue of a permit, the applicant for the amendment or permit is entitled to attend meetings of the commission and be heard.”*

**Please fill out the Response Summary on the back of this form. If your agency’s interests are ‘Unaffected’ no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this permit.**

**STEPHANIE JOHNSON, PLANNER  
REGIONAL DISTRICT OF CENTRAL KOOTENAY**

- MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE
- HABITAT BRANCH (Environment)
- FRONTCOUNTER BC (MFLNRORD)
- AGRICULTURAL LAND COMMISSION
- REGIONAL AGROLOGIST
- ARCHAEOLOGY BRANCH
- MUNICIPAL AFFAIRS & HOUSING
- INTERIOR HEALTH, HBE TEAM
- KOOTENAY LAKES PARTNERSHIP (FORESHORE DEVELOPMENT PERMITS)
- SCHOOL DISTRICT NO.
- WATER SYSTEM OR IRRIGATION DISTRICT
- UTILITIES (FORTIS, BC HYDRO, COLUMBIA POWER)

REGIONAL DISTRICT OF CENTRAL KOOTENAY

DIRECTORS FOR:

- A  B  C  D  E  F  G  H  I  J  K

ALTERNATIVE DIRECTORS FOR:

- A  B  C  D  E  F  G  H  I  J  K

- APHC AREA 'I'
- RDCK FIRE SERVICES
- RDCK EMERGENCY SERVICES
- RDCK BUILDING SERVICES
- RDCK UTILITY SERVICES
- RDCK RESOURCE RECOVERY
- RDCK REGIONAL PARKS
- CRESTON VALLEY AGRICULTURAL ADVISORY COMMISSION

INSERT COMMENTS ON REVERSE . . .

The personal information on this form is being collected pursuant to *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015* for the purpose of determining whether the application will affect the interests of other agencies or adjacent property owners. The collection, use and disclosure of personal information are subject to the provisions of FIPPA. Any submissions made are considered a public record for the purposes of this application. Only personal contact information will be removed. If you have any questions about the collection of your personal information, contact the Regional District Privacy Officer at 250.352.6665 (toll free 1.800.268.7325), [info@rdck.bc.ca](mailto:info@rdck.bc.ca), or RDCK Privacy Officer, Box 590, 202 Lakeside Drive, Nelson, BC V1L 5R4.

**RESPONSE SUMMARY**  
**FILE: V2309I APPLICANT: MICHAEL GAGNIER**

**Name:**

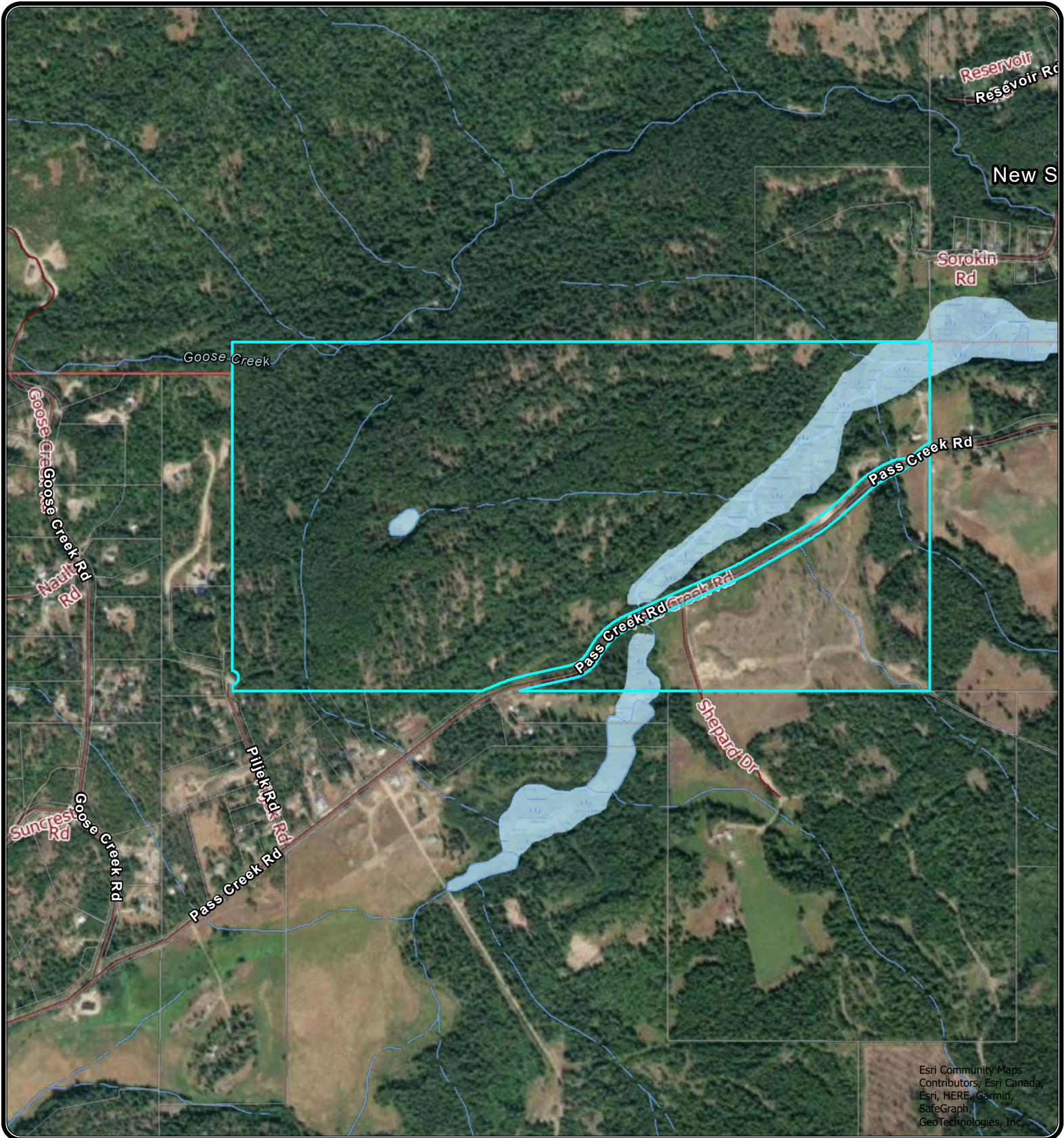
**Date:**

**Agency:**

**Title:**

RETURN TO: STEPHANIE JOHNSON, PLANNER  
DEVELOPMENT AND COMMUNITY SUSTAINABILITY SERVICES  
REGIONAL DISTRICT OF CENTRAL KOOTENAY  
BOX 590, 202 LAKESIDE DRIVE  
NELSON, BC V1L 5R4  
Ph. 250-352-8175  
Email: [plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca)

# RDCK Map



Esri Community Maps  
Contributors, Esri Canada,  
Esri, HERE, Garmin,  
SafeGraph,  
GeoTechnologies, Inc.



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

-  Wetlands
-  Streams and Shorelines
-  Lakes and Rivers
-  Electoral Areas
-  RDCK Streets
-  Cadastre

## Map Scale:

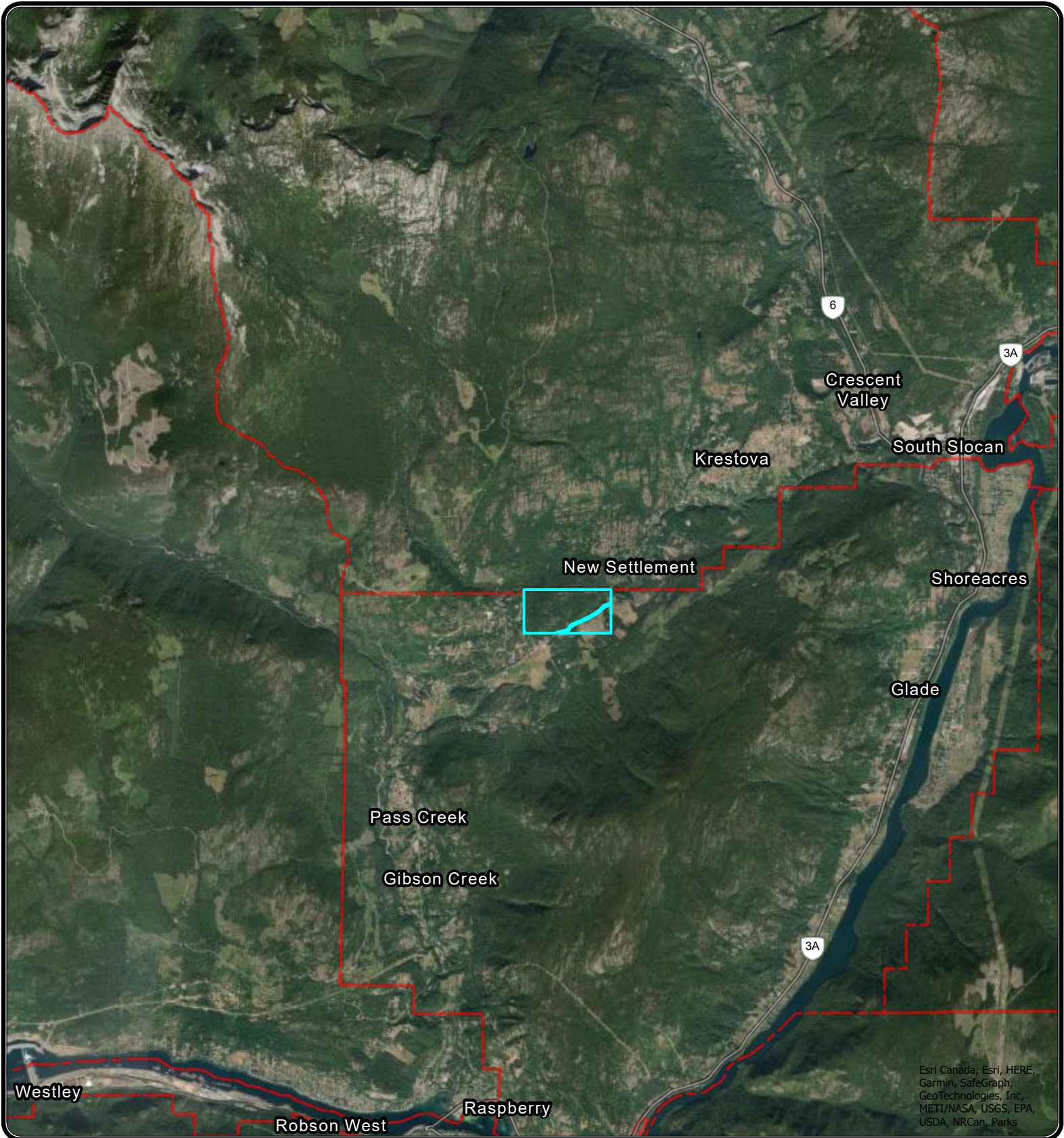
1:18,056

Date: October 24, 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.

# RDCK Map



Esri Canada, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, USDA, NRCAN, Parks



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[maps@rdck.bc.ca](mailto:maps@rdck.bc.ca)

## Legend

 Electoral Areas

## Map Scale:

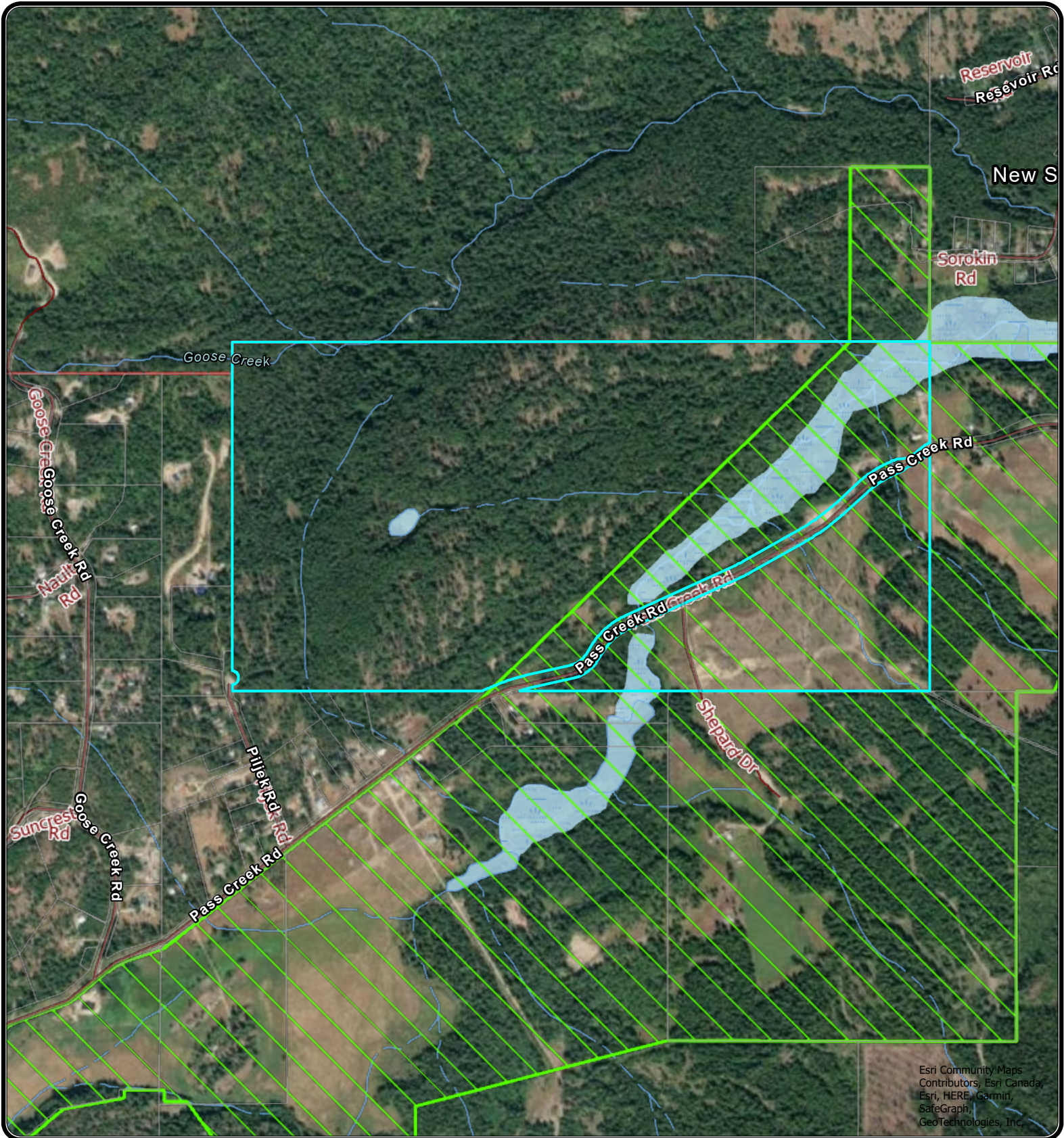
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Date: October 24, 2023



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## Legend

- |                          |                  |
|--------------------------|------------------|
| Agriculture Land Reserve | Lakes and Rivers |
| Wetlands                 | Electoral Areas  |
| Streams and Shorelines   | RDCK Streets     |
| Cadastre                 |                  |

## Map Scale:

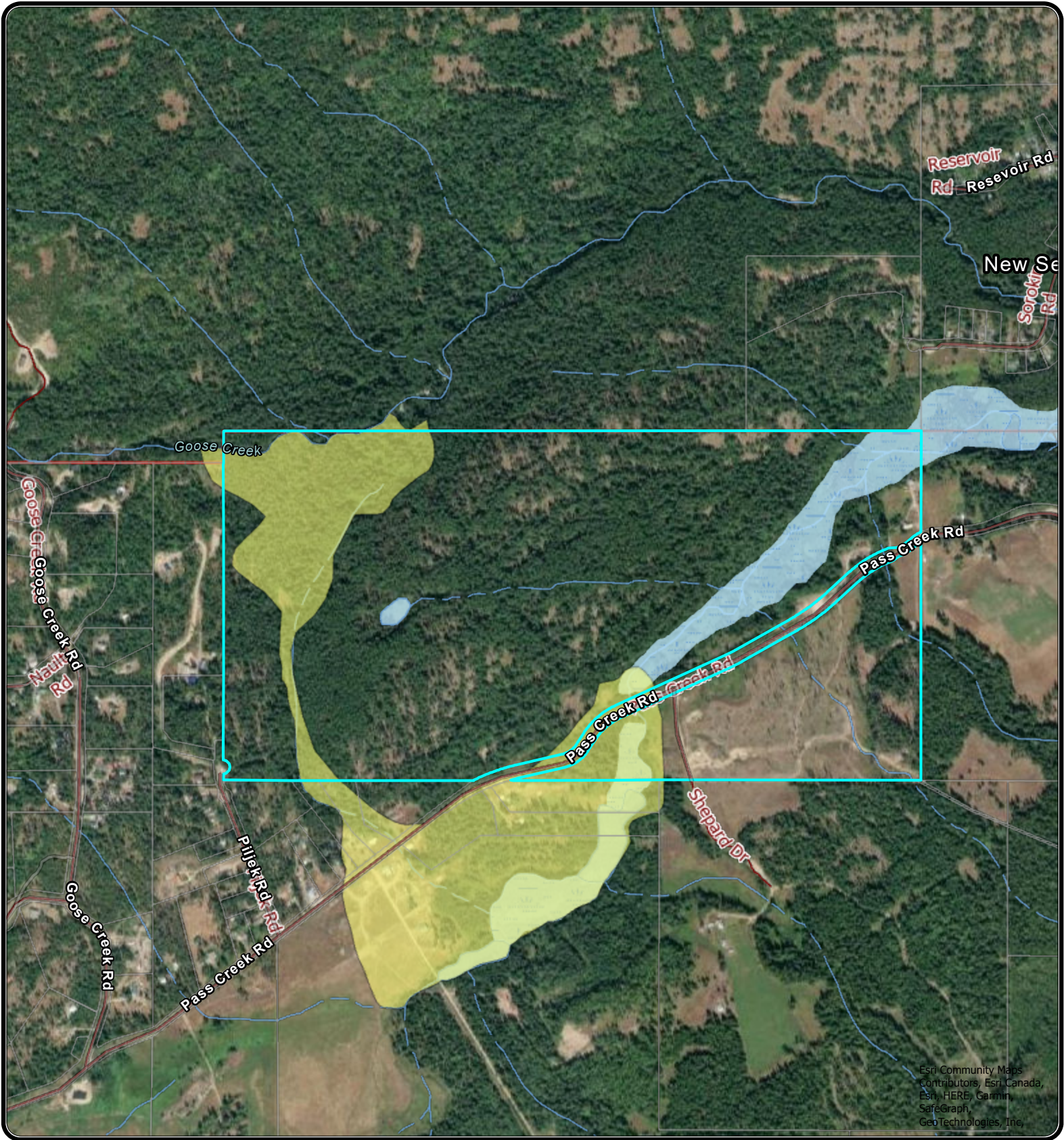
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### Legend

- Non Standard Flooding
- Lakes and Rivers
- Erosion Area
- Electoral Areas
- Wetlands
- RDCK Streets
- Streams and Shorelines
- Cadastre

### Map Scale:

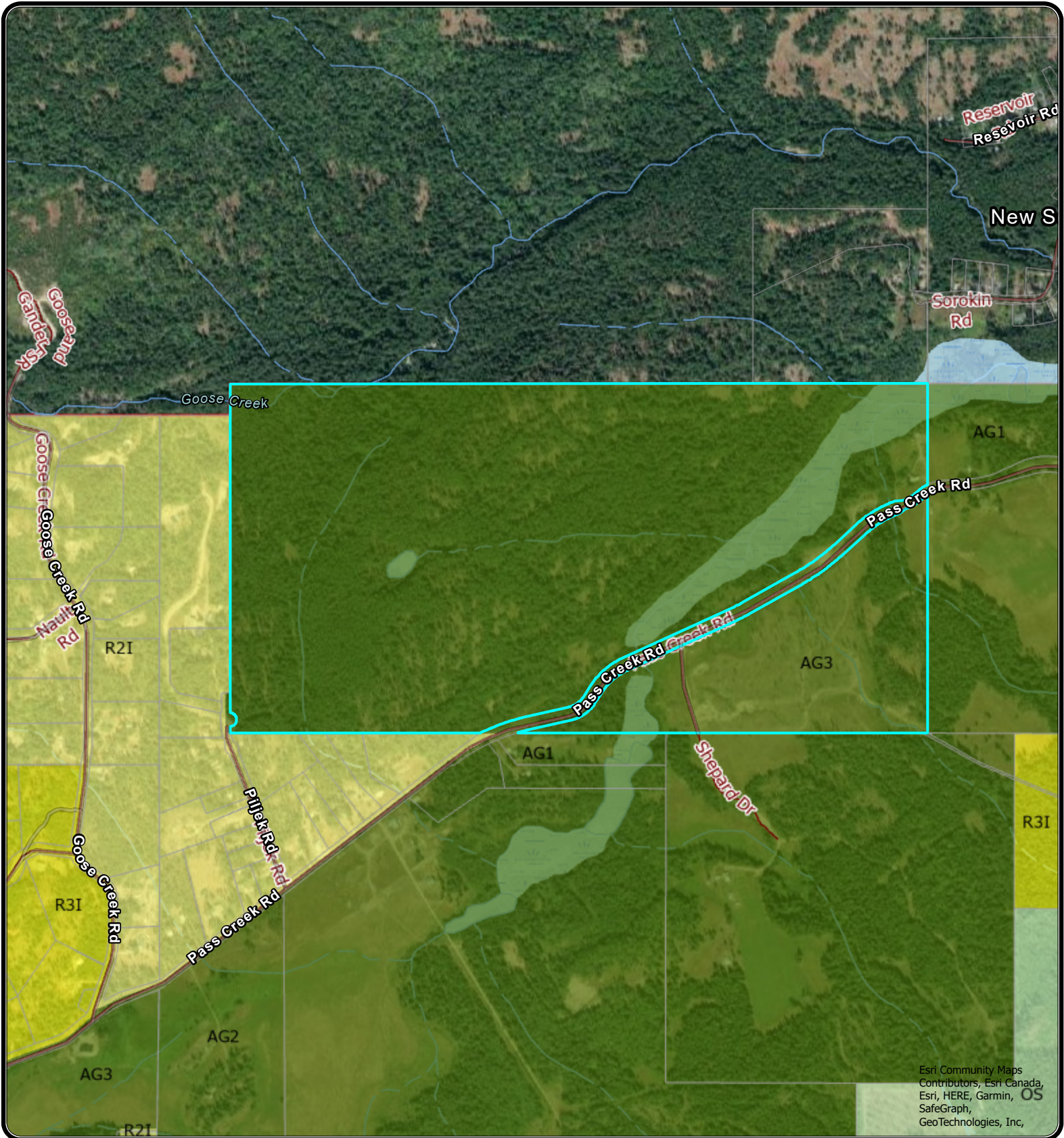
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OS



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## Zoning Class

- Agriculture
- Open Space
- Residential 2
- Residential 3

## Legend

- Wetlands
- Streams and Shorelines
- Lakes and Rivers
- Electoral Areas
- RDCK Streets
- Cadastre

## Map Scale:

1:18,056

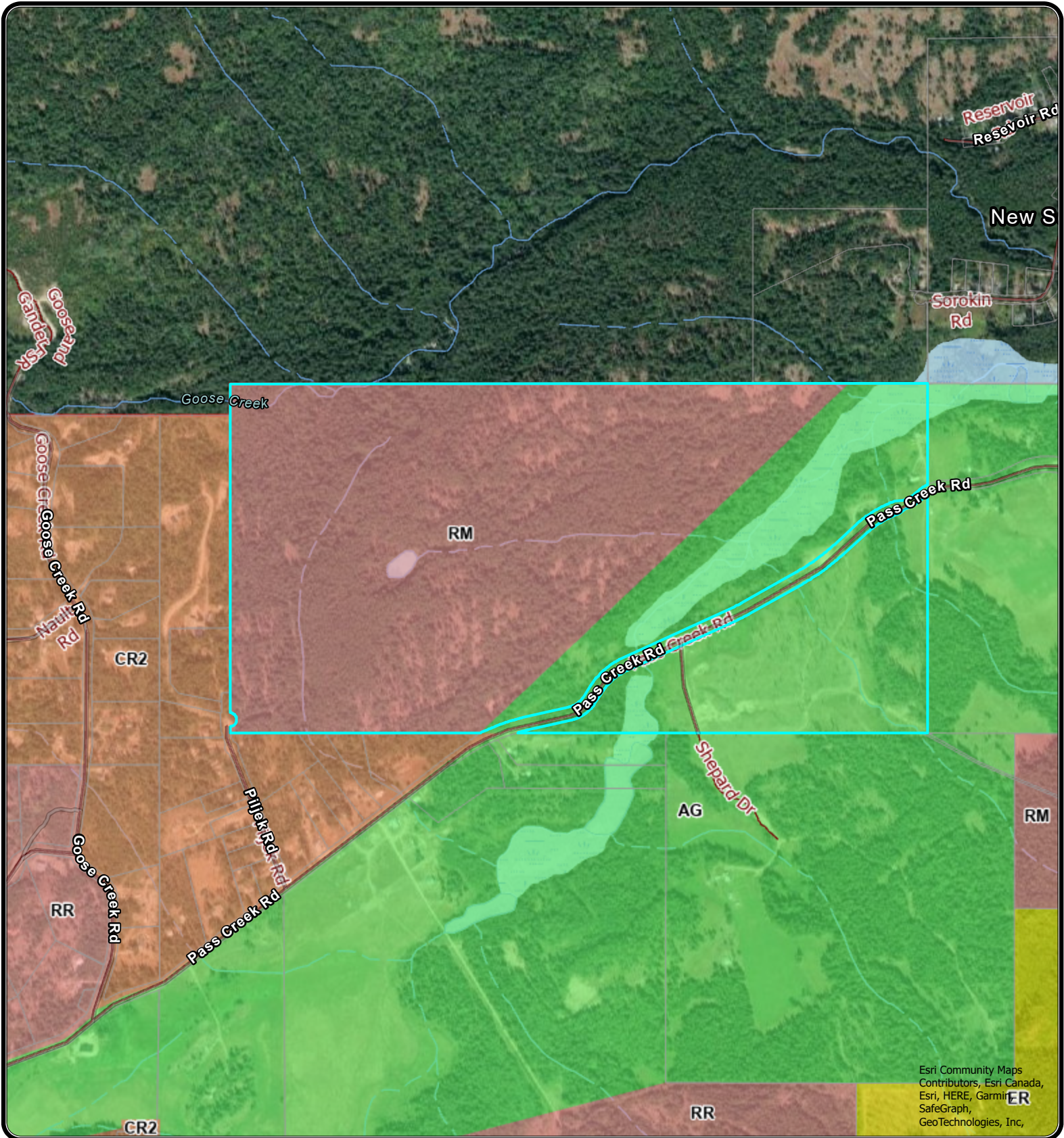
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## Legend

- Wetlands
- Streams and Shorelines
- Lakes and Rivers
- Electoral Areas
- RDCK Streets
- Cadastre
- Agriculture
- Country Residential
- Environmental Reserve
- Rural Residential

## Official Community Plan

## Map Scale:

1:18,056

Date: October 24, 2023



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October 23, 2023

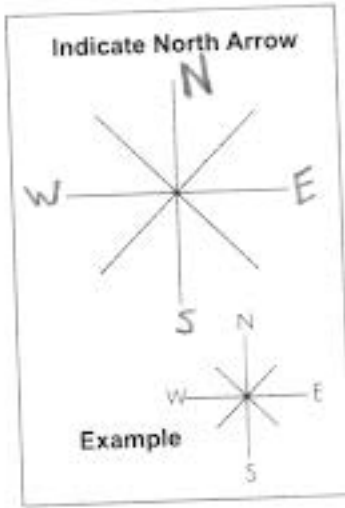
To whom it may concern:

Please accept this summary as evidence for Development Variance permit for PID 016-449-312.

The proposed location of the new secondary residence would be a single-family dwelling, rancher style home approximately 1500 Square feet. I would like to ask for a variance for the size of residence permitted (Bylaw states maximum footprint of secondary residence be no greater than 90m<sup>2</sup>, proposed residence is 136m<sup>2</sup>) as the proposed secondary house would be a single-family dwelling with the potential of three to 4 residence as children become part of my life. When looking at smaller homes suitable for placement as per RDCK bylaws, it has been determined that the long-term goal and function of this residence would be significantly reduced with a smaller home. The size of home suggested is a very functional yet small residence offering a very small footprint with little to no ground disturbance, as this would be a rancher style home. This is a small, prefabricated Eagle home 54' long by 27' wide home. I would like to ask for a variance of the proposed construction site location, as well as a variance for the size of the proposed farm residential footprint. (Current bylaw states maximum of 2500m<sup>2</sup>, proposed footprint approximately 3800m<sup>2</sup>. Current bylaw states the current footprint to be within 60 meters of the front lot line. Due to the flood plains as well as creek drainages, existing septic field, and existing water service, it has been determined that the described location of this residence is both environmentally and esthetically beneficial to this property. With all usable land near and around current primary residence used for house, septic field, parking, and annual flood plain, it has been determined that the best location for the secondary residence to be placed on high ground away from creek drainages and low annual flood plain areas, along a currently existing road easement. The current road easement (Shepard Drive) heading south off Pass creek road allows ease of access along a pre existing road, no extra road construction would be required. The proposed house location would be approximately 200 meters south from pass creek road along the upper bench to avoid low lying flood plains and creek draws. The existing septic system would be utilized to avoid further ground disturbance to utilize existing infrastructure. A water line is also currently located at the proposed building site offering ease of tie in as well as utilization of current underground infrastructure. With the secondary house located just 200 meters from Pass Creek road allows for utilities to service this residence with very little ground disturbance and environmental impact.

# SITE PLAN

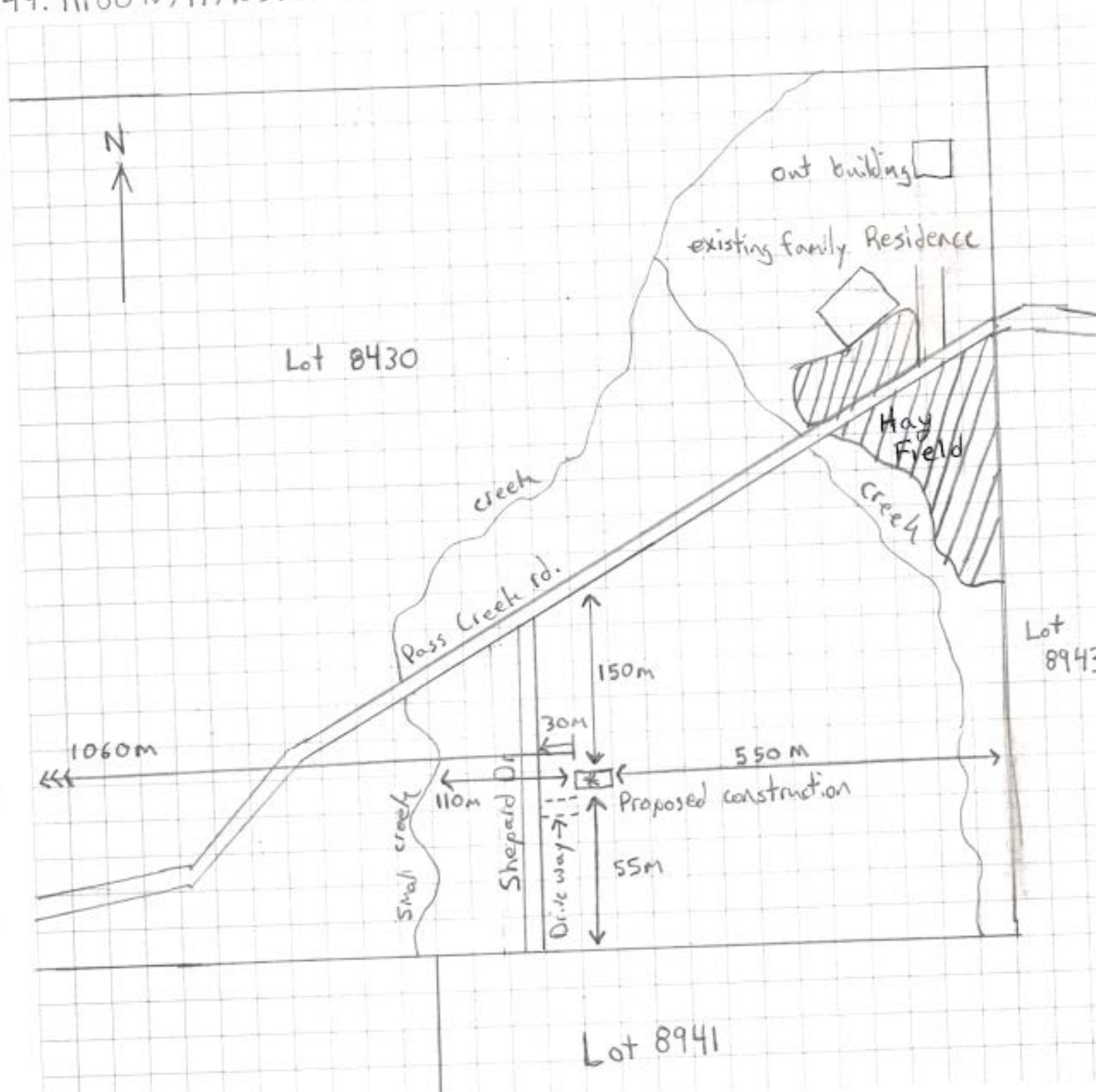
Owner's Name: Art Sperling, Terese Sperling  
Legal Description: District Lot 8430  
PID 016-449-312  
Civic Address: 2464 Pass Creek rd

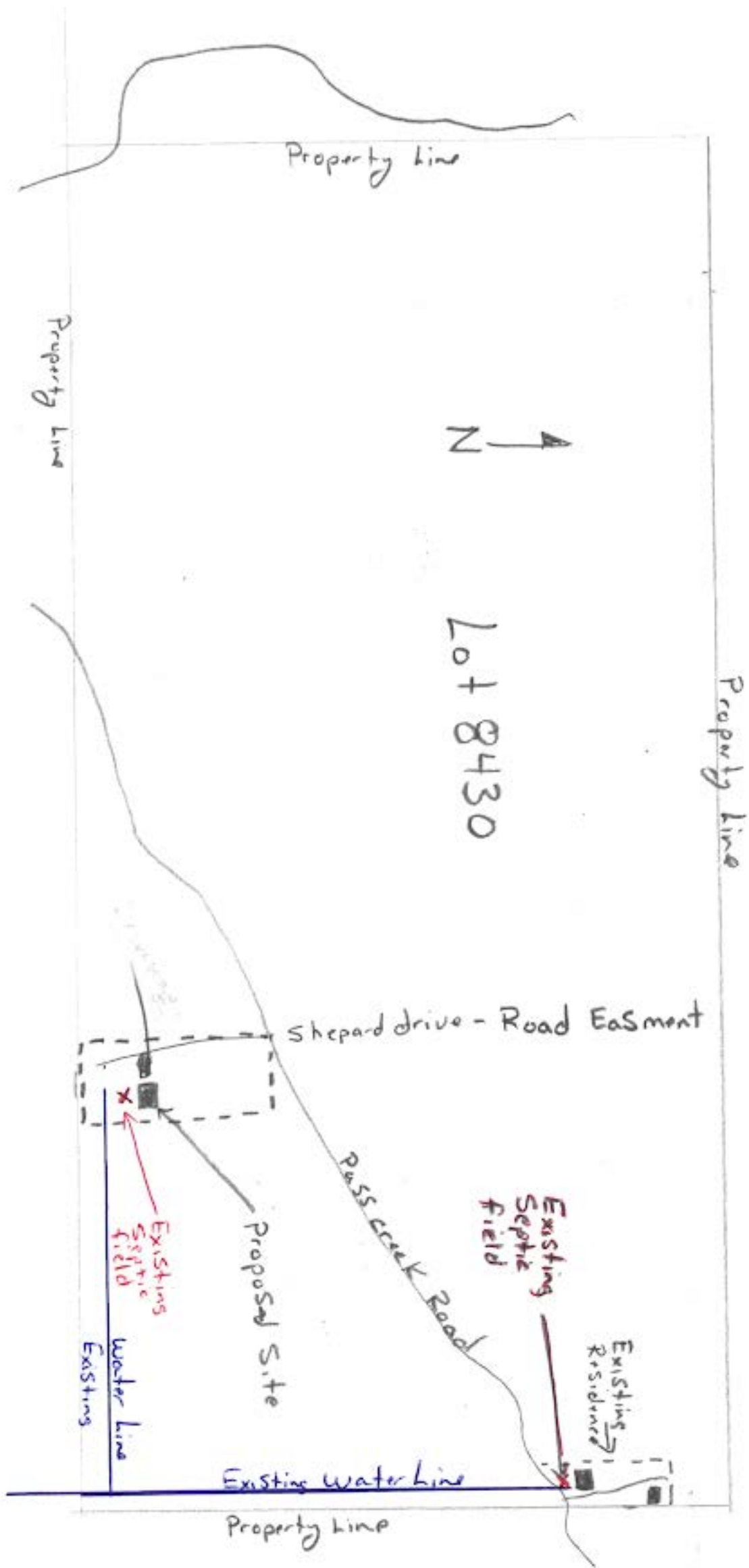


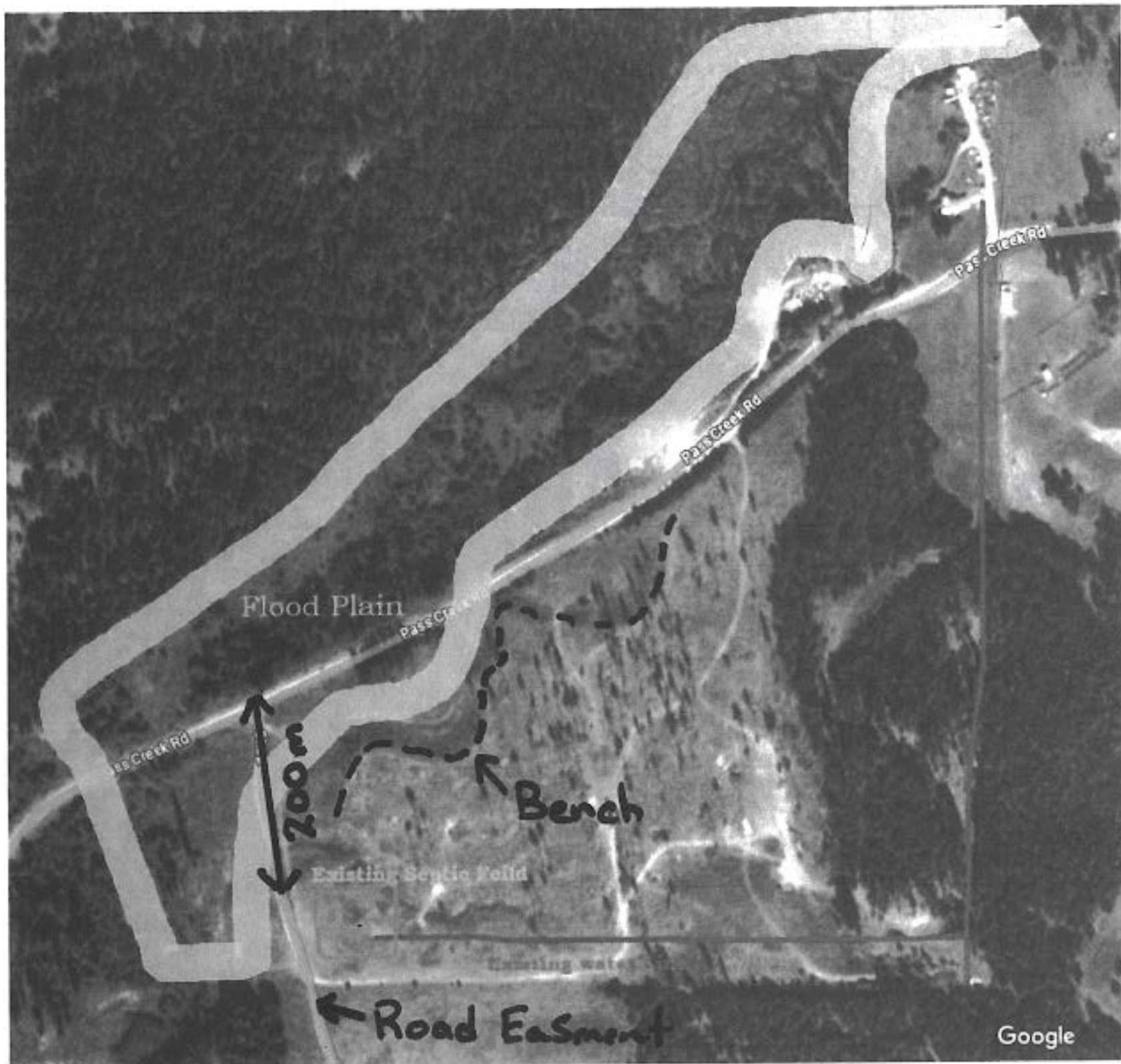
**AN INCOMPLETE SITE PLAN WILL DELAY YOUR PERMIT**

49.41180°N, 117.63217°W

Scale: 1/4" = \_\_\_\_\_







2464 pass creek Rd  
PID:  
016-449-312  
313 acres

Z



DIVISION 29      AGRICULTURE 3 (AG3)

**Permitted Uses**

2900 Subject to the *British Columbia Agricultural Land Commission Act*, *Agricultural Land Reserve Use Regulation* and Orders, land, buildings and structures in the Agriculture 1 (AG1) zone shall be used for the following purposes only:

Agriculture

All activities designated as "Farm Use" as defined in the *Agricultural Land Commission Act* and Part 2 of the *Agricultural Land Reserve Use Regulation* as amended or replaced from time to time

Dwelling, One

Family Kennel

Micro Cultivation, Cannabis

Micro Processing, Cannabis

Nursery, Cannabis

Standard Cultivation, Cannabis

Standard Processing, Cannabis

Veterinary Clinic (*may require ALC non-farm use approval*)

Accessory Uses:

- Accessory Buildings or Structures
- Accessory Dwelling
- Accessory Tourist Accommodation
- Farm Product Processing of farm product from another parcel in the Regional District of Central Kootenay (*may require ALC non-farm use approval*)
- Home Based Business
- Portable Sawmills for processing of material harvested on site only
- Temporary Farm Worker Housing (*may require ALC non adhering residential use approval*)

**Development Regulations**

2901

1. The minimum lot area shall be 60 hectares in the Agricultural Land Reserve and 8 hectares outside the Agricultural Land Reserve.
2. The maximum site coverage permitted shall be 35 percent of the lot area

unless an area not larger than 60 percent of the lot is covered with greenhouses.

3. The maximum Farm Residential Footprint shall be a maximum of 2000 square meters where one dwelling unit is permitted plus 500 square meters per additional permitted dwelling unit.
4. The maximum depth of the Farm Residential Footprint shall not exceed 60.0 metres measured from the Front Lot Line or Exterior Side Lot Line.
5. The Maximum Gross Floor Area of the Single Family Dwelling is 375.0 square metres.
6. Subject to approval from the regional health authority for sewage disposal and water supply, 2 accessory dwellings per lot are permitted as an accessory use subject to the following:
  - a. the minimum site area for each accessory dwelling shall be 1 hectare;
  - b. the maximum gross floor area is limited to 90 square metres;
  - c. one of the accessory dwellings shall be a secondary suite; and
  - d. the accessory dwelling shall not be a recreational vehicle or other vehicle.
7. Temporary Farmworker Housing is permitted on a lot provided that all of the following apply:
  - a. The lot is classified as a farm under the Assessment Act;
  - b. The lot is larger than 1.2 hectares;
  - c. The minimum setback is 6.0 metres from the Front Lot Line and Exterior Lot Line and 15.0 metres from other lot lines; and
  - d. The minimum setback from the nearest exterior wall of a dwelling unit on another lot is 30.0 metres, or where a landscape screen comprised of a thick hedge of hardy shrubs or evergreen trees not less than 1.8 metres in height and 1.5 metres in width and maintained in a healthy growing condition is provided, the minimum setback from the nearest exterior wall of a dwelling unit shall not be required.
8. No building, structures or enclosures used for housing farm animals; no drinking or feeding troughs and no manure piles may be located



- within 5 metres of a lot line.
9. Section 2901(8) does not apply to fences adjacent to lot lines that are used for enclosures for the grazing of farm animals.
  10. Farm Product processing that involves processing livestock:
    - a. must be located on a minimum 2 hectare site outside the Agricultural Land Reserve;
    - b. must be setback at least 7.5 metres from any lot line; and
    - c. must be located at least 30 metres from the nearest business or residence on another parcel.
  11. The minimum setback for a kennel building shall be 7.5 metres from any lot line.

#### **Cannabis Regulations**

12. 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.
13. Any building or structure for the purposes of cannabis standard cultivation or cannabis standard processing shall be a minimum of 30 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.
14. The maximum height of any building or structure for the purposes of cannabis standard cultivation, cannabis standard processing, cannabis micro cultivation, cannabis micro processing or cannabis nurseries shall be 15 metres.
15. The maximum footprint of any building or structure for the purposes of cannabis standard cultivation, cannabis standard processing, cannabis micro cultivation, cannabis micro processing or cannabis nurseries shall not exceed 250 square metres.
16. The maximum gross floor area of any building or structure for the purposes of cannabis standard cultivation, cannabis standard processing, cannabis micro cultivation, cannabis micro processing or cannabis nurseries shall not exceed 600 square metres.

*Cannabis Facilities may require the submission of a Notice of Intent to the ALC for the removal of soil or placement of fill.*