



# Development Variance Permit Application

Referral Form – RDCK File V2405B

Date: February 15, 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 15, 2024). If no response is received within that time, it will be assumed that your agency's interests are unaffected.**

**LEGAL DESCRIPTION & GENERAL LOCATION:**

4328 – 40<sup>th</sup> STREET, CANYON (ELECTORAL AREA 'B')  
 LOT 174 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN 921 (PID: 009-896-490)

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

The subject property is surrounded on all sides by parcels within the Agricultural Land Reserve, designated Agriculture and zoned Agriculture One (AG1). The parcel has Farm Status and is currently used for hay production. An existing hay shed is located in the rear (northwest) corner of the lot. The applicants seek to convert an existing 'workshop' building on site into a dwelling unit (approximately 80.3 m<sup>2</sup> / 864 ft<sup>2</sup> in size), since there is already an existing driveway, and power, water and sewerage infrastructure to service this structure.

This Development Variance Permit (DVP) seeks to vary Section 23.5 in the Agriculture One (AG1) Zone under the *Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316*, as follows:

**Section 23.5:** To allow a Farm Residential Footprint with a maximum depth of 140 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.

AREA OF PROPERTY AFFECTED	ALR STATUS	ZONING	OCP
4 hectares	Within the ALR	Agriculture One (AG1)	Agriculture (AG)

**APPLICANT:**

Jody McBlain

**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**

<input checked="" type="checkbox"/> MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE <input type="checkbox"/> HABITAT BRANCH (Environment) <input type="checkbox"/> FRONTCOUNTER BC (MFLNRORD) <input checked="" type="checkbox"/> AGRICULTURAL LAND COMMISSION	REGIONAL DISTRICT OF CENTRAL KOOTENAY DIRECTORS FOR: <input type="checkbox"/> A <input checked="" type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> H <input type="checkbox"/> I <input type="checkbox"/> J <input type="checkbox"/> K ALTERNATIVE DIRECTORS FOR: <input type="checkbox"/> A <input checked="" type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> H <input type="checkbox"/> I <input type="checkbox"/> J <input type="checkbox"/> K
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<input checked="" type="checkbox"/> REGIONAL AGROLOGIST <input type="checkbox"/> ENERGY & MINES <input type="checkbox"/> MUNICIPAL AFFAIRS & HOUSING <input checked="" type="checkbox"/> INTERIOR HEALTH, HBE TEAM <input type="checkbox"/> KOOTENAY LAKES PARTNERSHIP (FORESHORE DEVELOPMENT PERMITS) <input type="checkbox"/> SCHOOL DISTRICT NO. <input type="checkbox"/> WATER SYSTEM OR IRRIGATION DISTRICT <input checked="" type="checkbox"/> UTILITIES (FORTIS, BC HYDRO, COLUMBIA POWER)	<input checked="" type="checkbox"/> APHC AREA 'B' <input checked="" type="checkbox"/> RDCK FIRE SERVICES <input type="checkbox"/> RDCK EMERGENCY SERVICES <input checked="" type="checkbox"/> RDCK BUILDING SERVICES <input type="checkbox"/> RDCK UTILITY SERVICES <input type="checkbox"/> RDCK RESOURCE RECOVERY <input type="checkbox"/> RDCK REGIONAL PARKS <input checked="" type="checkbox"/> CRESTON VALLEY AGRICULTURAL ADVISORY COMMISSION  INSERT COMMENTS ON REVERSE . . .
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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: V2405B APPLICANT: JODY McBLAIN**

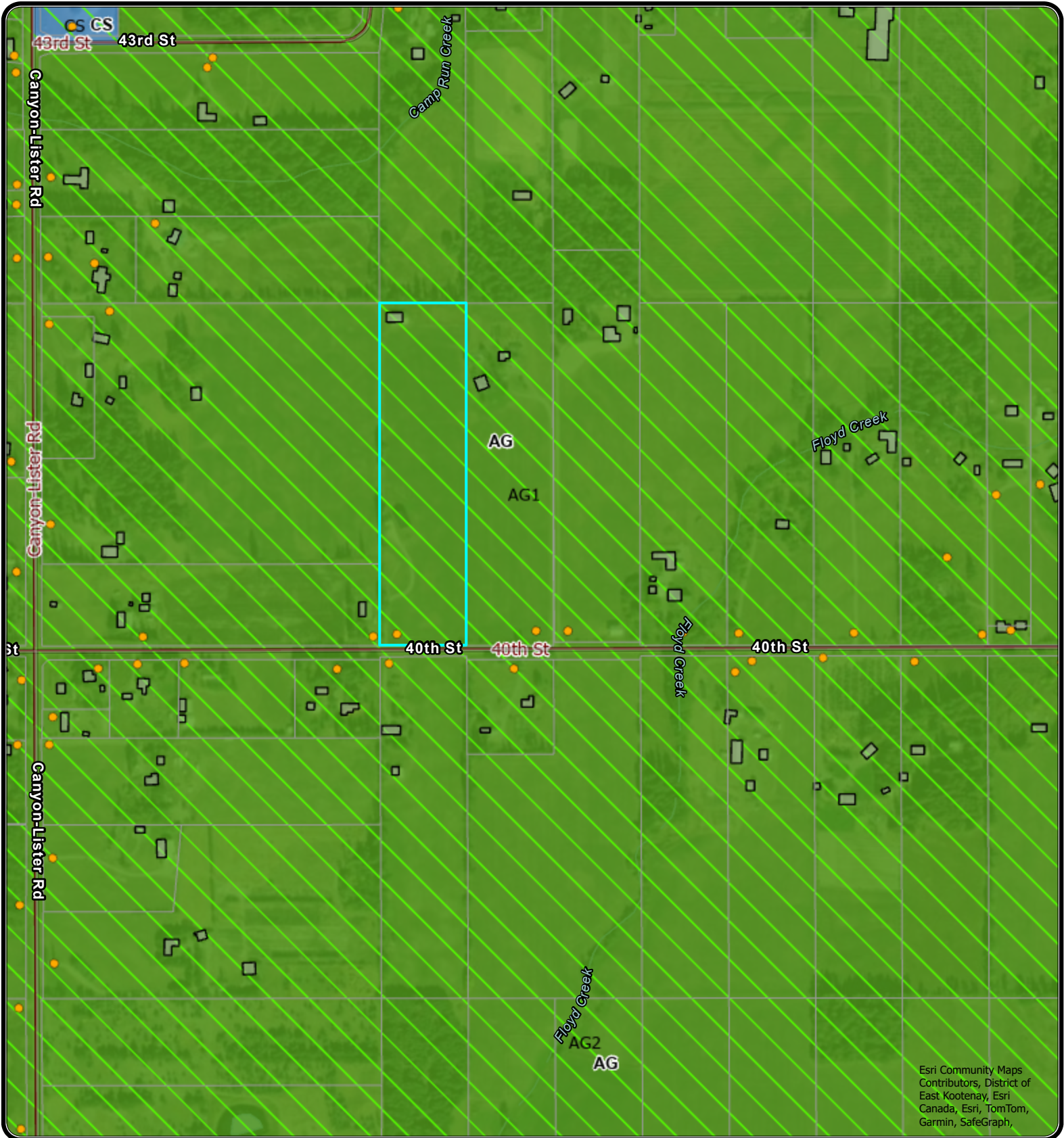
**Name:**

**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. 250-352-8190  
Email: [plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca)



Esri Community Maps  
Contributors, District of  
East Kootenay, Esri  
Canada, Esri, TomTom,  
Garmin, SafeGraph,



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**

**Official  
Community Plan**

- Agriculture
- Community Services
- Building Footprints

**Zoning Class**

- Agriculture
- Community Services

- Agriculture Land Reserve
- Lakes and Rivers
- Streams and Shorelines
- Electoral Areas
- RDCK Streets
- Cadastre
- Address Points

**Map Scale:**

1:9,028

Date: February 9, 2024



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.











Esri Community Maps  
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-  Lakes and Rivers
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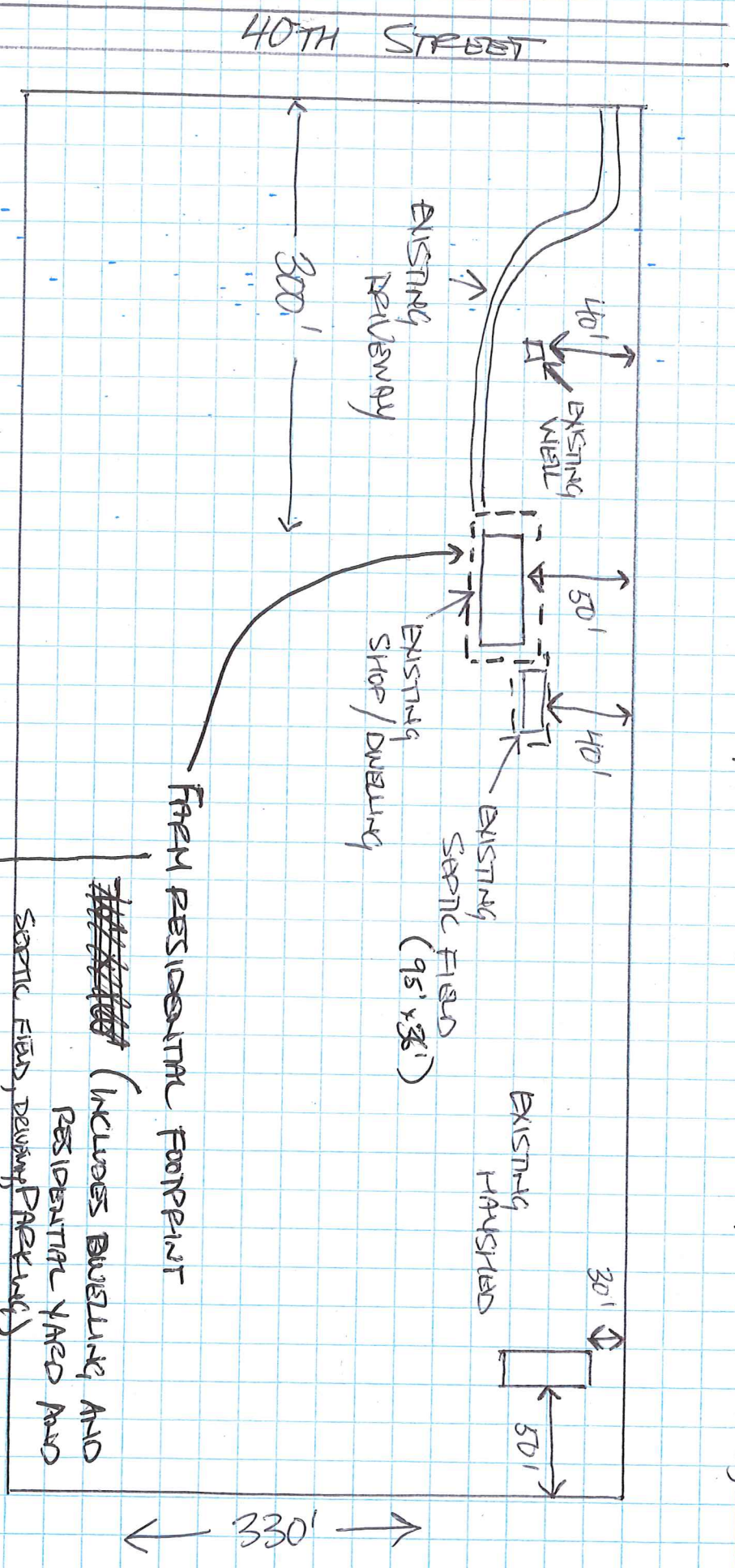


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SITE PLAN:

DIMENSIONS  
 SCALE:  $\frac{1}{4}'' = 36'$  (Buildings enlarged for clarity)



Total Area = 13,420 sq ft

(Dwelling + yard = 70' x 100')  
 (Septic = 95' x 36')  
 (Driveway = 10' x 300')

4328 - 40TH ST.

Lot 174 Plan NEP 921 DL 8/12

P10 009 - 896 - 490



FEB 9, 2024

RE: BP 28225

DEVELOPMENT VARIANCE PERMIT APPLICATION  
PROPOSAL SUMMARY.

TO WHOM IT MAY CONCERN;

PLEASE CONSIDER THIS PROPOSAL IN SUPPORT OF THE DEVELOPMENT VARIANCE PERMIT APPLICATION REGARDING BP 28225.

THE EXISTING BYLAW (CLUB2316 SECTION 23.5) STATES THAT "THE MAXIMUM DEPTH OF THE FARM RESIDENTIAL FOOTPRINT SHALL NOT EXCEED 60 METRES MEASURED FROM THE FRONT LOT LINE".

I AM REQUESTING A VARIANCE THAT WOULD ALLOW THE FARM RESIDENTIAL FOOTPRINT TO BE LOCATED 455' (140 METRES) FROM THE FRONT LOT LINE.

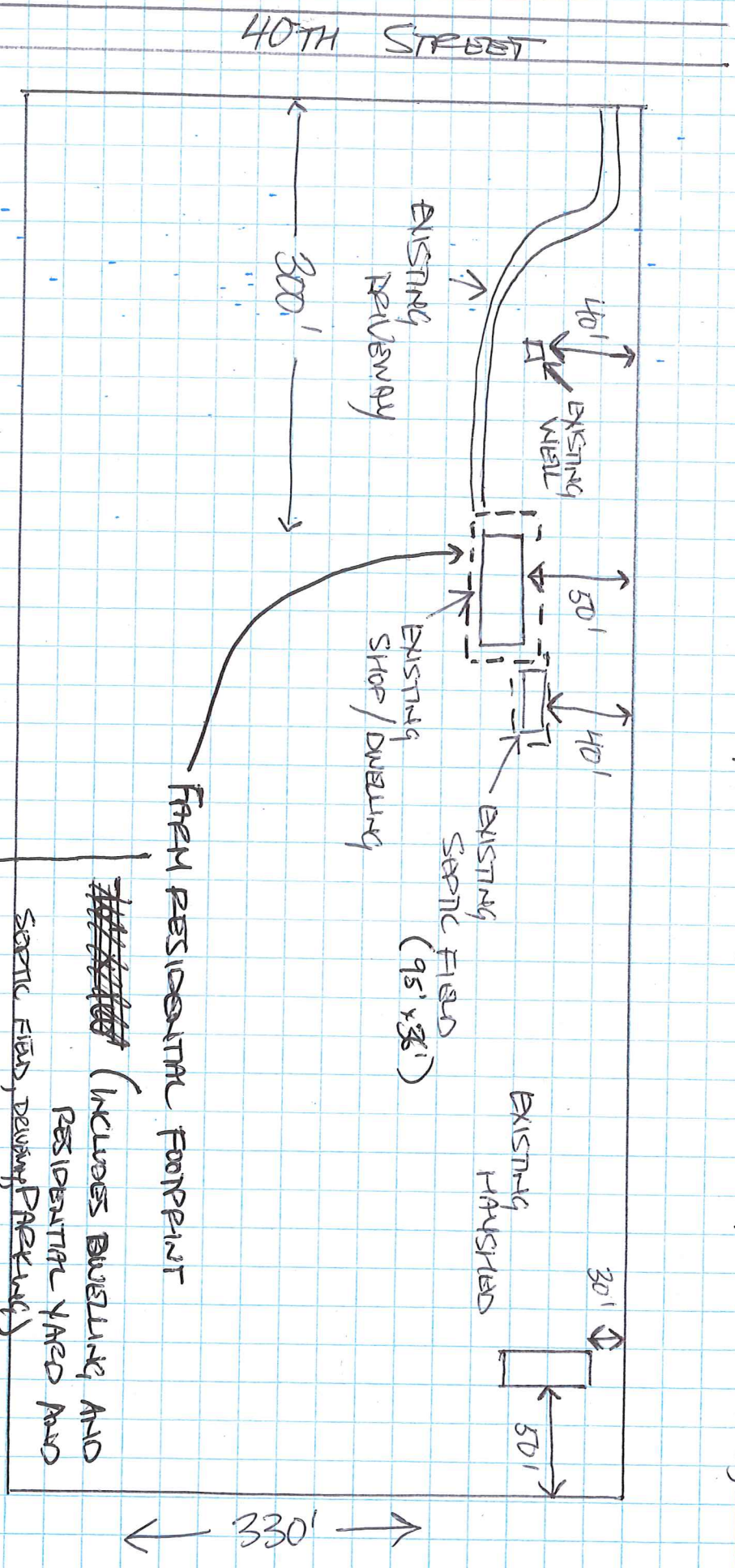
MY RATIONALE FOR THIS VARIANCE IS AS FOLLOWS:

- 1) NEIGHBOURING PROPERTIES WITH A1-1 ZONING HAVE RESIDENTIAL FOOTPRINTS THAT EXCEED 60 METRES FROM THE LOT LINE.
- 2) THE BUILDING THAT HOUSES THE PROPOSED DWELLING IS ALREADY CONSTRUCTED AS SHOWN IN THE SITE PLAN.
- 3) THE SERVICES AND INFRASTRUCTURE TO SUPPORT THE PROPOSED DWELLING ARE ALREADY IN PLACE.  
(IE DRIVEWAY, POWER, WATER, SEWER)
- 4) IN ORDER TO COMPLY WITH THE CURRENT BYLAW, A NEW BUILDING WOULD NEED TO BE CONSTRUCTED (WITHIN 60M OF THE LOT LINE). THIS WOULD RESULT IN LOSS OF AGRICULTURAL LAND AREA.
- 5) ALLOWING THIS VARIANCE WOULD PRESERVE THE EXISTING AGRICULTURAL LAND AREA.



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4328 - 40TH ST.

Lot 174 Plan Map 92 DL 8/12

P10 009 - 896 - 490



## 23.0 AGRICULTURE 1 (AG1)

### Permitted Uses

1. 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

#### Kennel

Micro Cultivation, Cannabis

Micro Processing, Cannabis

Nursery, Cannabis

Nursery, Greenhouses and Florist

Single Family Dwelling

Standard Cultivation, Cannabis

Standard Processing, Cannabis

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

#### Accessory Uses:

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

### Development Regulations

2. The minimum lot area shall be 4 hectares.
3. 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.
4. 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.
5. 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.
6. The Maximum Gross Floor Area of the Single Family Dwelling is 300.0 square metres.
7. A Farmworker Dwelling Unit is permitted on a lot provided that all of the following apply:
  - a. The maximum Gross Floor Area is 90.0 square metres;

- b. The lot is classified as a farm under the Assessment Act;
  - c. The lot is larger than 2 hectares; and
  - d. The Farm Business has been operation for at least 3 years.
8. 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.
9. 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.
10. Section (9) does not apply to fences adjacent to lot lines that are used for enclosures for the grazing of farm animals.
11. Farm Product processing that involves processing livestock:
- a. must be located on a minimum 2 hectare site outside the Agricultural Land Reserve; and
  - b. must be located at least 30 meters from the nearest business or residence on another parcel.
12. The minimum setback for a kennel building shall be 30 metres from any lot line. All kennel operations shall ensure that dogs are held within the kennel building between the hours of 8 pm and 7 am.

### **Cannabis Regulations**

- 13. 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.
- 14. 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.
- 15. 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.
- 16. 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.



17. 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.*