



# Board Report

**Date of Report:** November 4, 2021  
**Date & Type of Meeting:** November 18, 2021, Regular Open Board Meeting  
**Author:** Stephanie Johnson, Planner  
**Subject:** LAND USE BYLAW AMENDMENTS  
**File:** Z2103G-05852.000-SMITH-BA000049  
**Electoral Area/Municipality:** Electoral Area 'G'

## SECTION 1: EXECUTIVE SUMMARY

This report seeks the Board's consideration of an application to amend the land use designation, and to rezone the subject property at 4476 Highway 6, Electoral Area 'G'. This application seeks to amend the land use designation for a portion of the subject site from General Commercial (GC) to Country Residential (RC), and to rezone from General Commercial (C1) to Country Residential (R2).

The applicant seeks the above bylaw amendments to address the split designation and zoning on the subject property to facilitate the construction of an accessory structure related to the residential use, and to allow for future development potential accessory to the R2 zoning.

At the August 19, Open Board meeting the Regional Board resolved to give first and second readings to *Electoral Area 'G' Land Use Amendment Bylaw No. 2785, 2021*, and refer this application to a Public Hearing. A Public Hearing was held on September 27, 2021 with no members of the public in attendance. On October 21, 2021 the Regional Board gave third reading to *Electoral Area 'G' Land Use Amendment Bylaw No. 2785, 2021*, subject to approval by the Ministry of Transportation and Infrastructure (MOTI).

Now that MOTI approval has been received staff recommends that the Board adopt the *Electoral Area 'G' Land Use Amendment Bylaw No. 2785, 2021*.

## SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION	
<b>Property Owners:</b>	Lauren Smith and Ryan DeJong
<b>Property Location:</b>	4476 Highway 6, Hall Siding, Electoral Area 'G'
<b>Legal Description:</b>	PLAN NEPX58 DISTRICT LOT 1241 KOOTENAY LAND DISTRICT SUBSIDY LOT 1 EXCEPT PLAN NEP23657 (016-313-551)
<b>Property Size:</b>	21.1 ha
<b>OCP Designation:</b>	General Commercial (C1)/Country Residential (R2)
<b>Zoning:</b>	General Commercial (GC)/Country Residential (RC)

ORIENTATION	ZONING	LAND USE
North	Rural Residential (R3) and Country Residential (R2)	Residential land uses and Highway 6
East	Parks and Recreation (PR) and Forest Resource/Reserve (FR)	Larger lots, forested lands, Rail Trail and Highway 6
South	Forest Resource/Reserve (FR)	Larger lots, forested lands
West	Electoral Area 'E' (No Zoning)	Larger lots, forested lands and Highway 6

Site Context

The subject property has a split designation General Commercial (GC) and Country Residential (RC), and is split zoned General Commercial (C1) and Country Residential (R2) under the *Electoral Area 'G' Land Use Bylaw No. 2452, 2018*. The 21.1 ha in size subject property is bounded by Forest Reserve lands (unzoned) and Electoral Area 'E' to the north and west, Highway 6 and residential zoned parcels to the east, and Forest Reserve (FR) zoned lands to the south. The "rail trail" zoned Parks and Recreation (PR) bisects the parcel, and an unnamed watercourse flows through the southern section of the lot. An existing lawfully non-conforming house occupies the commercially designated and zoned section of the site with the remainder of the subject property being undeveloped.



Figure 1: Site Photo of Existing Residence

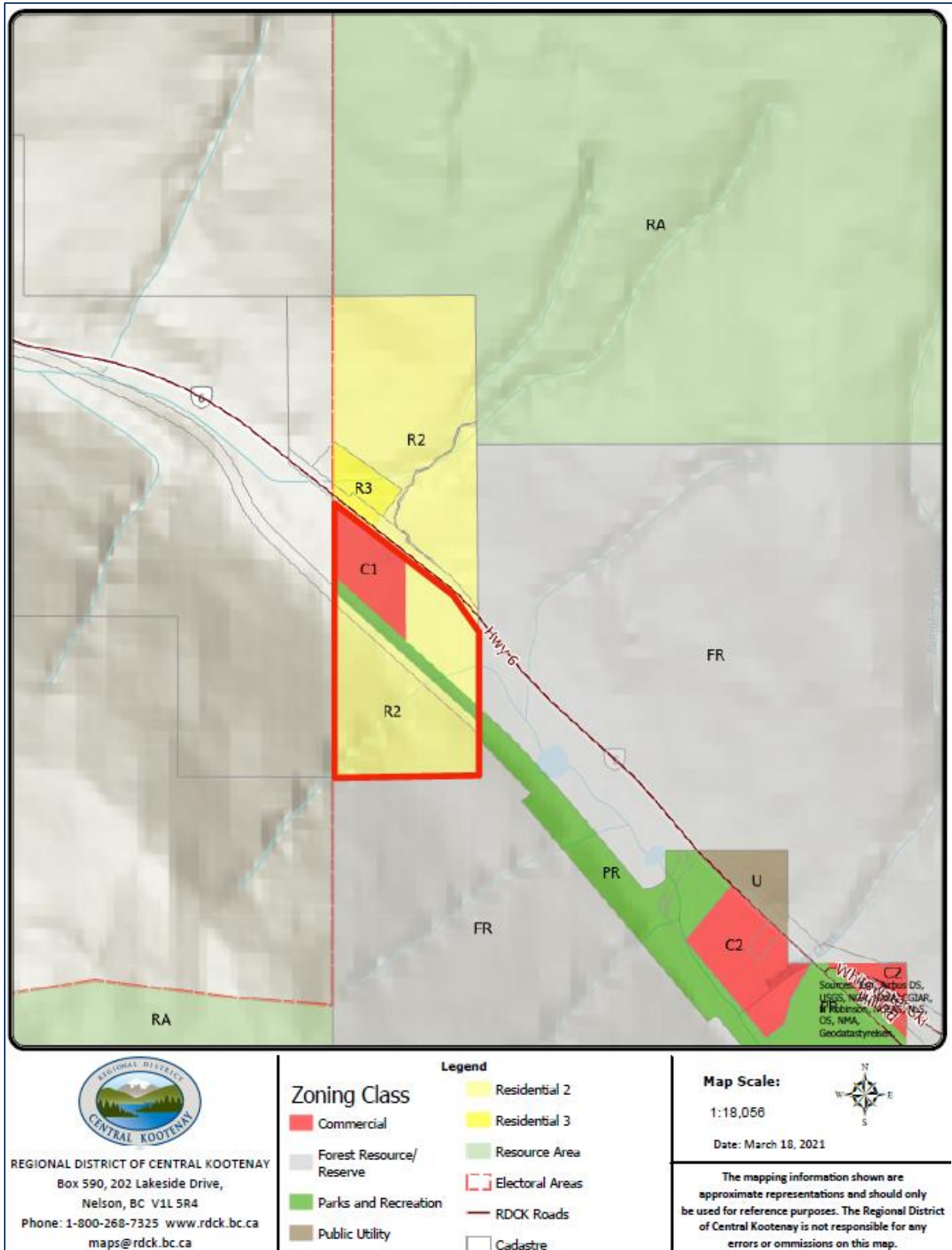


Figure 2: Zoning Overview

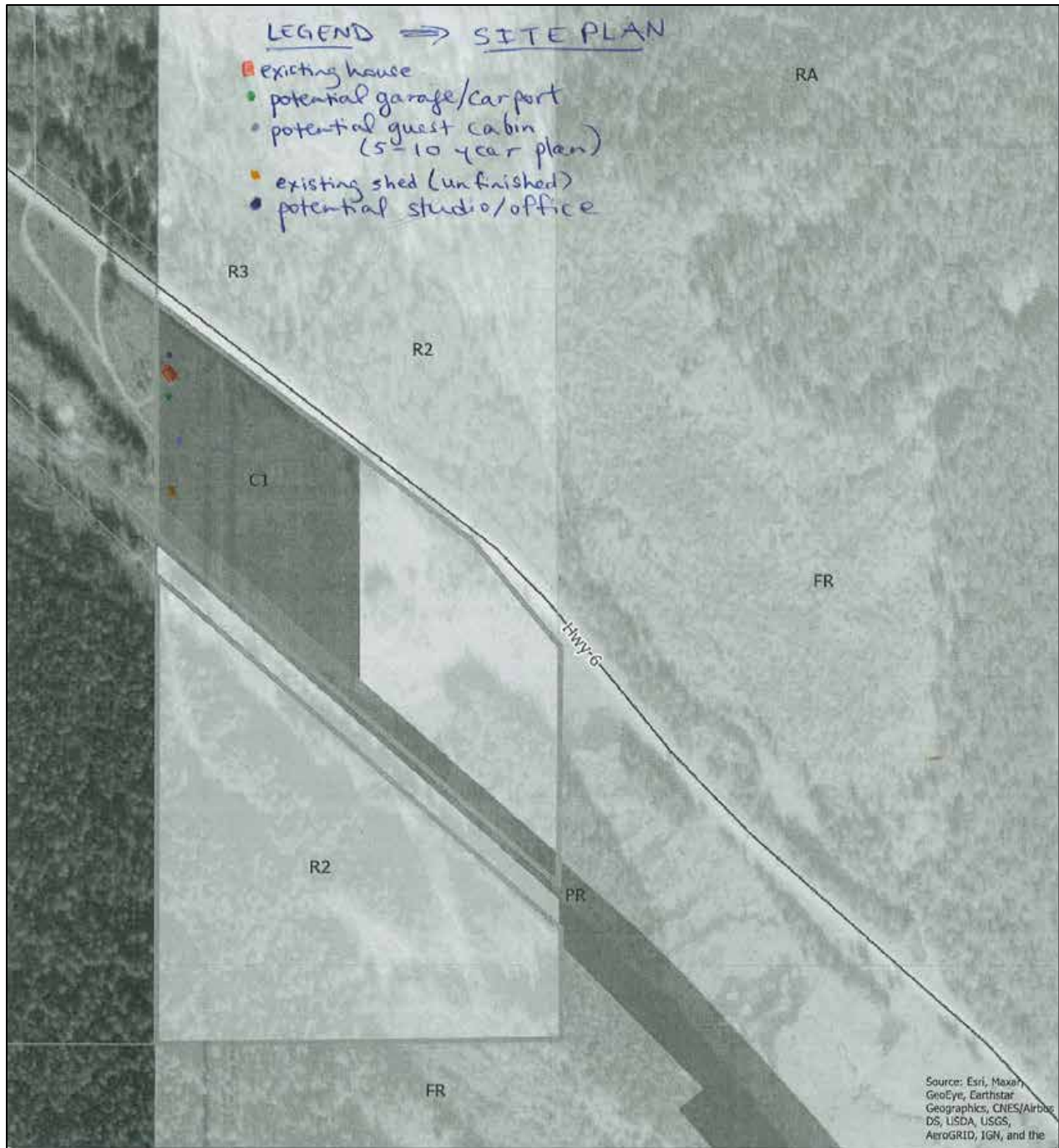


*Figure 3: Site Photo of Undeveloped Lands*

### Development Proposal

This application seeks to amend the land use designation for a portion of the subject property from General Commercial (GC) to Country Residential (RC), and to rezone the subject property from General Commercial (C1) to Country Residential (R2). The applicant seeks the above bylaw amendments to address the split designation and zoning on the property to remedy the lawfully non-conforming residential use and structure and to facilitate the construction of an accessory structure (i.e. garage or carport) related to the residential use, and to allow for future development potential (i.e. home based business and accessory tourist accommodation) accessory to the R2 zoning on the subject property.





Source: Esri, Maxar  
GeoEye, Earthstar  
Geographics, CNES/Airbus  
DS, USDA, USGS,  
AeroGRID, IGN, and the



 <p>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</p>	<p><b>Zoning Class</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #808080; border: 1px solid black;"></span> Commercial</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #d3d3d3; border: 1px solid black;"></span> Forest Resource/ Reserve</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #a9a9a9; border: 1px solid black;"></span> Parks and Recreation</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #e0e0e0; border: 1px solid black;"></span> Residential 2</li> </ul>	<p><b>Legend</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #e0e0e0; border: 1px solid black;"></span> Residential 3</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #d3d3d3; border: 1px solid black;"></span> Resource Area</li> <li><span style="display: inline-block; width: 15px; height: 15px; border: 1px dashed black;"></span> Electoral Areas</li> <li><span style="display: inline-block; width: 15px; height: 15px; border: 1px solid black;"></span> RDCK Roads</li> <li><span style="display: inline-block; width: 15px; height: 15px; border: 1px solid black;"></span> Cadastre</li> </ul>	<p><b>Map Scale:</b> 1:7,500</p> <p>Date: January 18, 2021</p> 
	<p>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.</p>		

Figure 4: Site Plan

Salmo River Valley Electoral Area 'G' Land Use Bylaw No. 2453, 2018

*Relevant General Residential Objectives:*

8. Continue to enable income-generating accessory uses including home based business and tourist accommodation opportunities, provided that they are compatible with the residential character of the Plan area communities.

*Relevant Country Residential Policies:*

The Regional Board:

22. Directs that the principal use shall be one-family or two-family dwellings.
23. Will allow for accessory buildings and structures, accessory dwellings, accessory tourist accommodation, home-business, horticulture and the keeping of farm animals as accessory uses.

*Relevant General Commercial Policies:*

The Regional Board:

7. Anticipates that general commercial needs will be accommodated within existing commercial nodes within the community of Ymir and Village of Salmo.

### 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  
No

The \$1,600 fee for a land use amendment bylaw was paid pursuant to the RDCK's *Planning Procedures and Fees Bylaw No. 2457, 2015*.

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

A Public Hearing was held on September 27, 2021 to allow for public comment on the proposed land use amendment bylaw in accordance with Section 464 of the *Local Government Act (LGA)*. No members of the public attended the virtual Public Hearing.

#### 3.3 Environmental Considerations

The proposed "downzoning" of the subject property would result in less impact on the land, and demand on services.

#### 3.4 Social Considerations:

This land use application would result in a land use pattern that is more compatible with rural character of the surrounding area.

#### 3.5 Economic Considerations:

If approved, this development proposal would enable income-generating accessory uses including home based business and tourist accommodation opportunities compatible with the residential character of the area.

### 3.6 Communication Considerations:

A Public Hearing was held on September 27, 2021. Other than the applicant, no members of the public attended the meeting and no written submission were made in response to the notification letters circulated to adjacent property owners or two consecutive Public Hearing advertisements were placed in the Nelson Star.

### 3.6 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 'D' of the *Planning Procedures and Fees Bylaw No. 2547, 2015*.

### 3.7 Board Strategic Plan/Priorities Considerations:

The application falls under the operational role of Planning Services.

## SECTION 4: OPTIONS & PROS / CONS

Please find the following rationale behind the staff recommendation:

- The previous property owners successfully amended the land use designation and zoning for a portion of the subject property, approximately 15 years ago, with the intent of developing a commercial establishment permitted under the C1 Zone. The current owners have no intention to use the land for commercial purposes.
- To remedy the existing non-conforming residential use and building, the owners have proactively applied to re-designate and rezone that portion of land, which is General Commercial. This would assist the applicants with undertaking any improvements to the existing house, and facilitate development of related conforming residential accessory uses and structures onsite, such as, a home based business and accessory tourist accommodation.
- Given the land use pattern of development in the surrounding area and given the range of permitted uses permitted under the C1 Zone, such as, "*breweries and distilleries, cannabis retail store, liquor store and service station,*" this downzoning to R2 should not detract from the rural character of the area.
- The *Electoral Area 'G' Land Use Bylaw No. 2452, 2018* directs general commercial development and to locate within existing commercial nodes in the communities of Ymir and Village of Salmo.

It is for the above reasons that staff recommend that the Regional Board adopt this Land Use Amendment Bylaw.

#### OPTION 1:

1. That the *Electoral Area 'G' Land Use Amendment Bylaw No. 2785, 2021* being a bylaw to amend the *Electoral Area 'G' Land Use Bylaw No. 2452, 2018* is hereby ADOPTED.
2. And that the Chair and Corporate Officer be authorized to sign the same.

#### OPTION 2:

1. That no further action be taken with respect to *Electoral Area 'G' Land Use Amendment Bylaw No. 2785, 2021* being a bylaw to amend the *Electoral Area 'G' Land Use Bylaw No. 2452, 2018*.

## SECTION 5: RECOMMENDATIONS

1. That the *Electoral Area 'G' Land Use Amendment Bylaw No. 2785, 2021* being a bylaw to amend the *Electoral Area 'G' Land Use Bylaw No. 2452, 2018* is hereby ADOPTED; And that the Chair and Corporate Officer be

authorized to sign the same.

Respectfully submitted,

Stephanie Johnson, Planner

**CONCURRENCE**

Planning Manager – Nelson Wight	Approved	
General Manager of Development and Community Sustainability – Sangita Sudan		Approved
Chief Administrative Officer – Stuart Horn	Approved	

**ATTACHMENTS:**

**Attachment A – Electoral Area ‘G’ Land Use Amendment Bylaw No. 2785, 2021**



**REGIONAL DISTRICT OF CENTRAL KOOTENAY**

**Bylaw No. 2785**

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A Bylaw to amend Electoral Area 'G' Land Use Bylaw No. 2452, 2018.

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WHEREAS it is deemed expedient to amend the Electoral Area 'G' Land Use Bylaw No. 2452, 2018, 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.1' of Electoral Area 'G' Land Use Bylaw No. 2452, 2018 be amended by changing the Land Use Designation of PLAN NEPX58 DISTRICT LOT 1241 KOOTENAY LAND DISTRICT SUBSIDY LOT 1 EXCEPT PLAN NEP23657 (016-313-551) from General Commercial (GC) to Country Residential (RC), as shown on the attached Map.
- 2 That Schedule 'B.1' of Electoral Area 'G' Land Use Bylaw No. 2452, 2018 be amended by changing the Zoning Designation of PLAN NEPX58 DISTRICT LOT 1241 KOOTENAY LAND DISTRICT SUBSIDY LOT 1 EXCEPT PLAN NEP23657 (016-313-551) from General Commercial (C1) to Country Residential (R2), as shown on the attached Map.
- 3 This Bylaw shall come into force and effect upon its adoption.

**CITATION**

- 4 This Bylaw may be cited as "Electoral Area 'G' Land Use Amendment Bylaw No. 2785, 2021."

READ A FIRST TIME this 17<sup>th</sup> day of June, 2021.

READ A SECOND TIME this 17<sup>th</sup> day of June, 2021.

WHEREAS A PUBLIC HEARING was held this 27<sup>th</sup> day of September, 2021.

READ A THIRD TIME this 21<sup>st</sup> day of October, 2021.

APPROVED under Section 52 (3)(a) of the Transportation Act this 2<sup>nd</sup> day of November, 2021.

  
Juliet Spalding, Approval Authority,  
Ministry of Transportation and Infrastructure

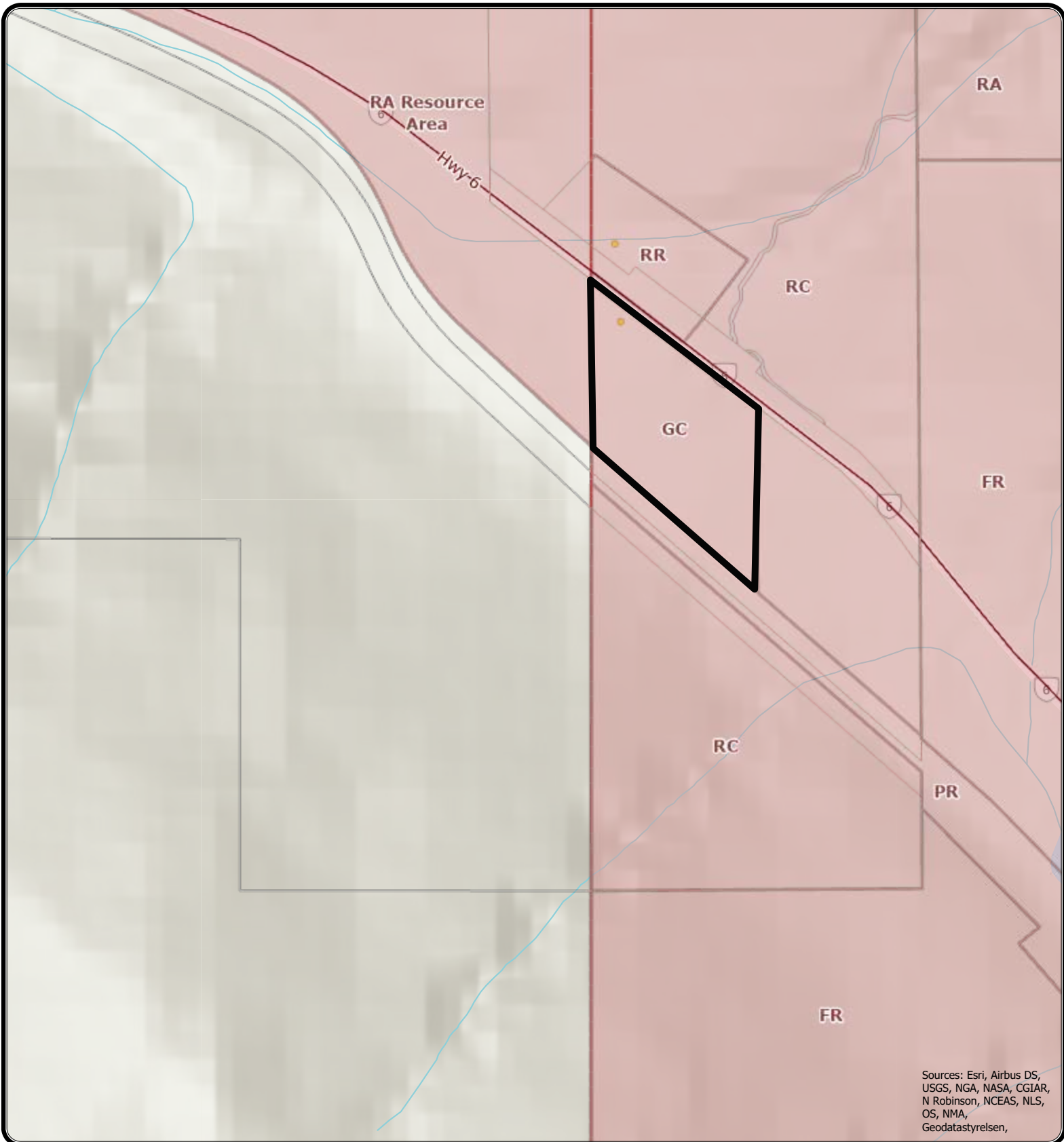
ADOPTED this [Date] day of [Month], 20XX.

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Aimee Watson, Board Chair

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Mike Morrison, Corporate Officer



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen,



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

Schedule B.1 of Amendment Bylaw  
 No 2785, 2021

Z 2003G-05852.000 - Smith -BA000049

Map Scale:

1:9,028

Date: June 2, 2021



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.