



Committee Report

Date of Report: November 25, 2021
Date & Type of Meeting: December 8, 2021, Rural Affairs Committee Meeting
Author: Stephanie Johnson, Planner
Subject: TEMPORARY USE PERMIT
File: T2104F-07783.380-ALLAN-TU000010
Electoral Area/Municipality: Area 'F'

SECTION 1: EXECUTIVE SUMMARY

This report seeks the Board's consideration of an application for a Temporary Use Permit (TUP) at 1953 Highway 3A on the North Shore in Electoral Area 'F'.

This TUP seeks to allow for the construction of an accessory structure to provide cover over a recreation vehicle (i.e. travel trailer) and an accessory storage structure prior to a principal residential use being established on the subject property. The site has an existing unauthorized storage structure located towards the rear of the site.

Planning Services recommends that the Board direct staff to provide notice of the Board's intention to consider approval of this TUP.

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION	
Property Owners:	Lindsay Hewson and Michael Allan
Property Location:	1953 Highway 3A, North Shore, Electoral Area 'F'
Legal Description:	LOT C PLAN EPP72601 DISTRICT LOT 4780 KOOTENAY LAND DISTRICT (PID: 030-351-626)
Property Size:	2.8 hectares (ha)
OCP Designation:	High Density Residential (HR)
Zoning:	High Density Residential F (R6F)

ORIENTATION	ZONING	LAND USE
North	High Density Residential (R6F) and Open Space (OS)	Residential and open space
East	Suburban Residential (R1F) and Country Residential (R2)	Residential
South	Multi-Unit Residential (R6)	Residential – Shannon Point subdivision
West	Institutional (I)	Provincial Ministry Office

Site Context

The property is bounded by high density residential and open space land uses and zoning to the north, multi-unit residential zoning to the south (i.e. Shannon Point subdivision), institutional uses (i.e. Provincial Ministry office building) to the west and residential uses to the east (both suburban and country residential zones). The site has an existing unauthorized storage structure located towards the rear of the site. The remaining area is undeveloped. The northeastern most portion of the lot lies within a Non Standard Flooding Erosion Area for Shannon Creek.

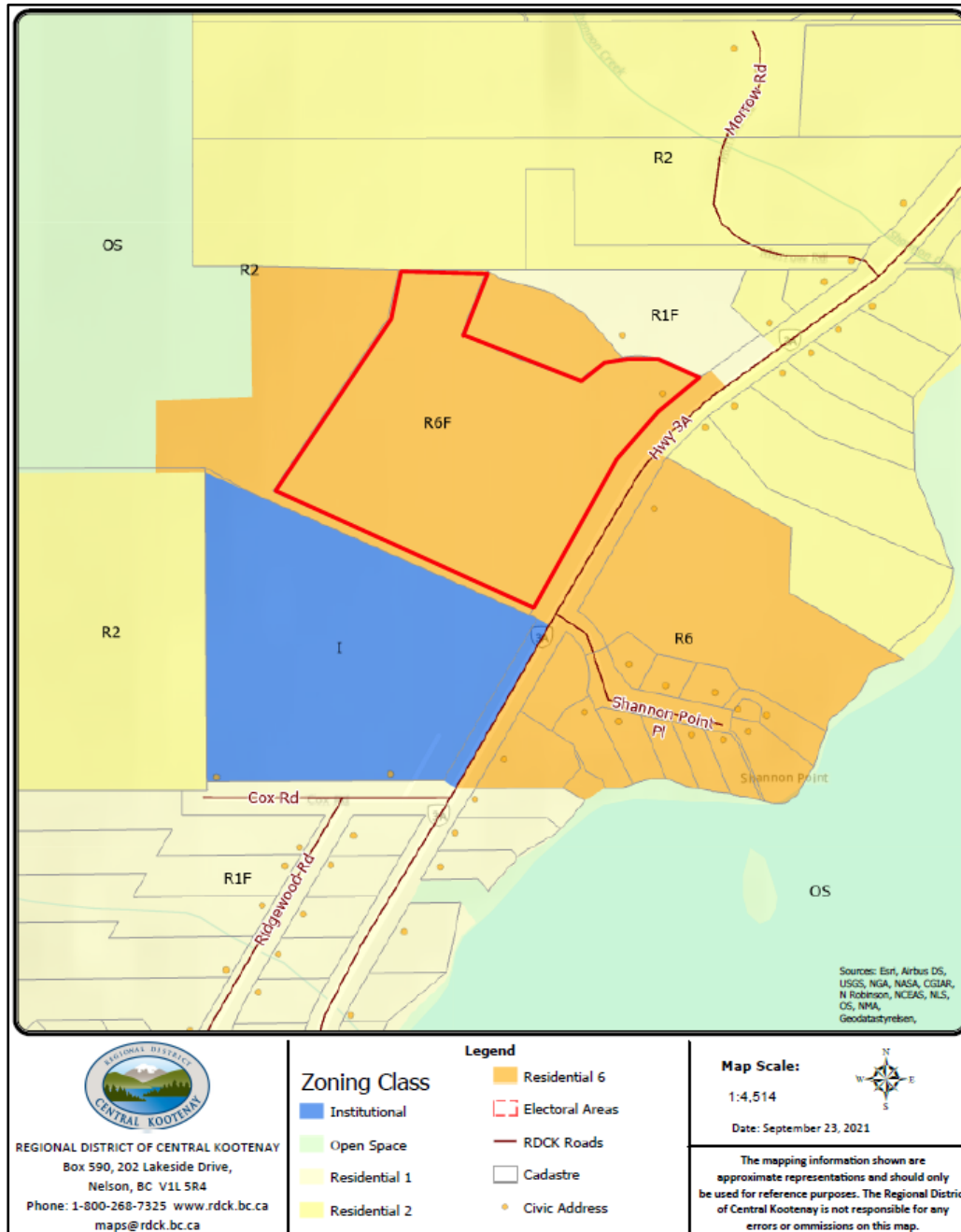


Figure 1: Zoning Overview Map



Figure 2: Air Photo Overview

Development Proposal

This TUP application requests permission to allow for the construction of an accessory structure to provide cover over a recreation vehicle (i.e. travel trailer) and a currently unauthorized partially constructed accessory storage structure under an existing Stop Work Order) prior to a principal residential use being established on the subject property.

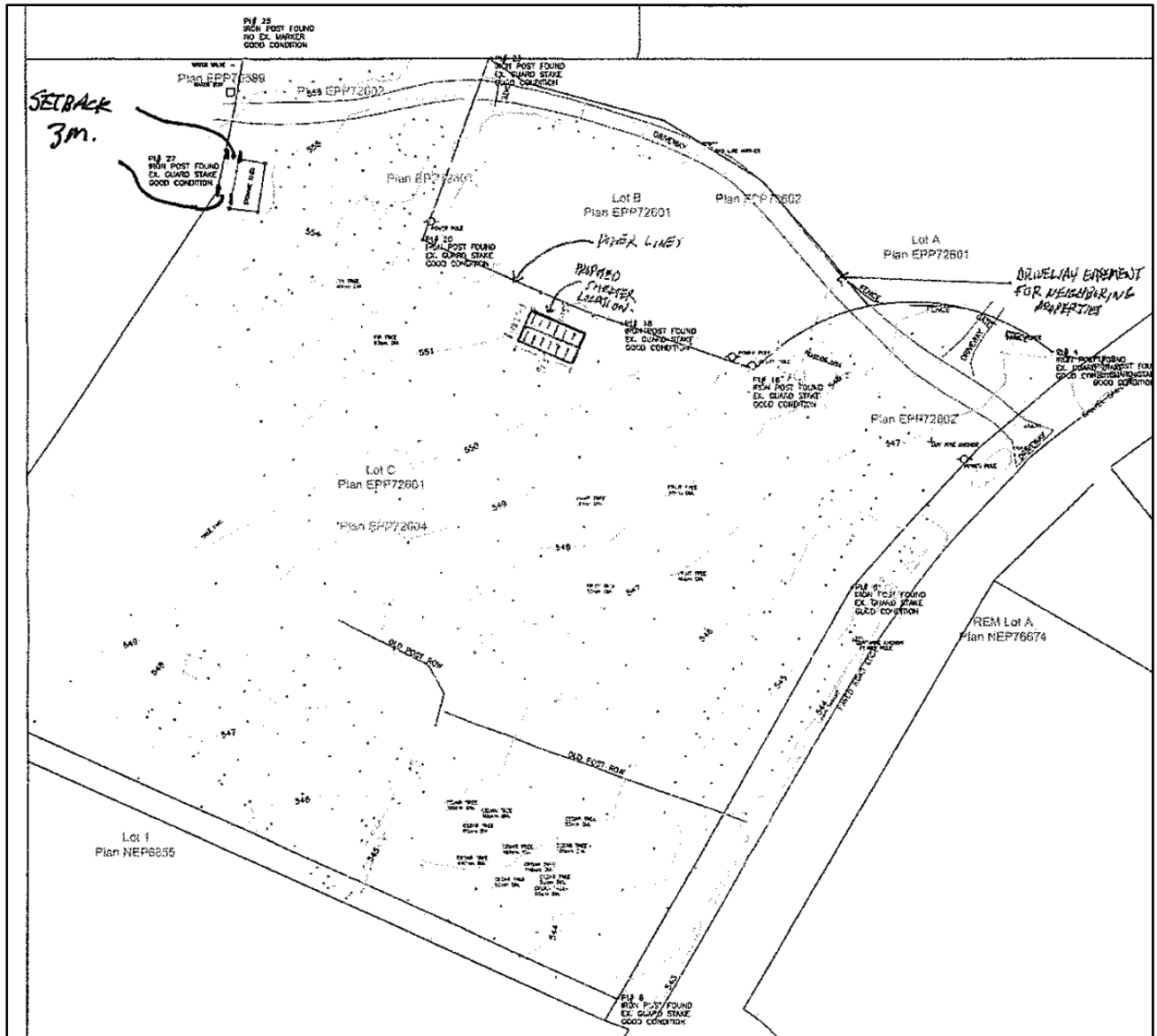


Figure 3: Site Plan

Electoral Area 'F' Official Community Plan Bylaw No. 2214, 2011

Relevant General Residential Policies:

The Regional Board:

11.3.3 Will assess and evaluate proposed residential development based on the following criteria, in addition to the criteria found in the corresponding Residential policies where appropriate:

- a. capability of accommodating on-site domestic water and sewage disposal; or community water and sewer;
- e. compatibility with adjacent land uses and designations, and how its form and character enhances the character of the rural area.

- f. proximity and access to existing road network and other community and essential services;
- h. type timing and staging of development.

11.3.4 Encourages the infill of vacant residential parcels before developing new residential areas.

Relevant High Density Residential Policies:

The Regional Board:

11.5.1.5 Considers alternatives to High Density Residential development within the rural area, such as directing it to municipalities, or existing or proposed residential nodes (e.g. 6- mile, Crescent Beach, Taghum, Bonnington), subject to servicing capacities.

Under “Electoral Area ‘F’ Official Community Plan Amendment Bylaw No. 2752, 2021” the below text was recently adopted at October 21, 2021 Open Board meeting:

“The Regional Board:

1. May consider the issuance of Temporary Use Permits throughout the plan area, subject to the following:
 - a. demonstration that the use is temporary or seasonal in nature;
 - b. address potential conflict with nearby land uses;
 - c. address potential impacts on environmentally sensitive areas;
 - d. satisfy provision of adequate servicing that meets health requirements; and
 - e. Consider relevant policies within other section of the plan”.

Planning Procedures and Fees Bylaw No. 2457, 2015

The LGA has no public hearing requirement for TUPs, however, Schedule ‘G’ under the *Planning Procedures and Fees Bylaw No. 2457, 2015* outlines in Sub-Section 5. That “staff may require the applicant to host a public information meeting based upon the proximity of the proposal to adjacent residential properties and based on receipt of public comments”.

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 \$1000 fee for a TUP application has been paid pursuant to the RDCK’s *Planning Procedures and Fees Bylaw No. 2457, 2015*.

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

Under Section 493 of the *Local Government Act (LGA)*, the Board has the authority to issue a TUP by resolution to designated land within Official Community Plans (OCP’s) where temporary uses are allowed. Recent amendments to permit temporary use permits for all uses within the Area F OCP were recently adopted at the October 2021 Board meeting. Prior that change TUP’s were only available for commercial and industrial uses.

Under Section 494 of the *LGA*, if a local government proposes to pass a resolution under section 493 (1)...

- (a) it must give notice, and the notice must state:
 - “(a) in general terms, the purpose of the proposed permit,
 - (b) the land or lands that are the subject of the proposed permit,

- (c) *the place where and the times and dates when copies of the proposed permit may be inspected, and*
- (d) *the place where and the time and date when the resolution will be considered.*
- (3) *The notice must be published in a newspaper at least 3 days and not more than 14 days before the adoption of the resolution to issue the permit.”*

3.3 Environmental Considerations

Given the minor scale and intensity of the proposed accessory storage structures staff do not foresee any negative environmental impacts.

3.4 Social Considerations:

No social considerations are anticipated from this TUP application.

3.5 Economic Considerations:

No economic considerations are anticipated from this TUP applications.

3.6 Communication Considerations:

In accordance with the LGA and the RDCK's *Planning Procedures and Fees Bylaw No. 2457, 2015* a sign describing the proposal was posted on the subject property shortly after the TUP application was submitted, and notices were mailed to surrounding neighbours within a 100 metre radius of the subject site on November 8, 2021. To date, the Planning Department has received no community correspondence or inquires related to this TUP application.

Planning staff referred the application to all relevant government agencies, First Nations, internal RDCK departments and the Director for Electoral Area 'F' for review. The following comments were received:

The Ministry of Transportation and Infrastructure (MOTI)

The MOTI has *"no concerns"*.

Nelson Hydro

The utility has *"no concerns"*.

Interior Health (IH)

"No health impacts associated with this proposal have been identified. As such, [IH's] interests are unaffected by this proposal. With that being said, the applicant must ensure that proper waste disposal methods are utilized for any waste water generated in the use of the travel trailer on the lot".

Ministry of Forest Land and Natural Resource Operations (MFLNRORD)

The MFLNRORD's Terrestrial Resource Management Division reviewed this TUP referral and has determined that this project should not impact the Resource Management Division's legislated responsibilities.

Vegetation clearing should adhere to the least risk timing windows for nesting birds (i.e. construction activities should occur only during least risk period). Nesting birds and some nests are protected by the Provincial *Wildlife Act* Sec.34 and *Federal Migratory Bird Act*. Nesting periods can be identified by a qualified professional. General least risk windows for bird species are designed to avoid the nesting period. If nests are present at this site or adjacent to it and will be impacted by the works, the following work windows apply:

Species	Least Risk Window
Raptors (eagles, hawks, falcons, & owls)	Aug 15 – Jan 30
Hérons	Aug 15 – Jan 30
Other Birds	Aug 1 – March 31

Building Department

A Stop Work Order has been issued for the unauthorized steel storage structure, and the applicant is working with the area Building Inspector to address the related building code requirements.

North Shore Fire Department

The Fire Department has *“no problem with this proposal and TUP”*.

3.7 Staffing/Departmental Workplace Considerations:

Should the Board support the requested TUP, 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 both accessory structures.

3.8 Board Strategic Plan/Priorities Considerations:

This application falls under the operational role of Planning Services.

SECTION 4: OPTIONS & PROS / CONS

Planning Discussion

Staff have reviewed this TUP application, and conducted a site visit.

The Planning Department supports the requested TUP application, since:

- The ability to issue temporary use permits can allow for flexibility in the zoning regulations on a temporary basis and with conditions aimed at addressing any potential negative impacts on the community, the neighbourhood, or the environment.
- This TUP application would allow the owners to establish accessory uses and related structures on the lot, which would be considered customarily incidental, subordinate and exclusively devoted to a future principal residential use on the same parcel.
- Staff do not anticipate any negative social, environmental and or neighbourhood impacts related to the issuance of this TUP.
- The accessory structures would be sited in accordance with the Zoning Bylaw’s setbacks, height and maximum gross floor area land use regulations and no variances are requested.
- The draft TUP requires the owners to establish a residential use onsite within a three year timeframe.
- Issuance of the TUP, including the three year timeframe would allow the applicant’s the opportunity to design a residence, while still permitting the use of the accessory structures on site.
- Should the owners not construct a residence on the subject property within three years, an application to renew the permit prior to the expiry date could be submitted for the Board’s consideration. Under Section 497 (2) under the LGA, a TUP may only be renewed once. Upon consideration of such a “renewal,” the RDCK may impose additional conditions, including conditions that were not imposed in the original term, including receipt of a security deposit to demolish and remove a building or structure and restore land to a condition specified in the permit by a particular date.

It is for the above reasons that staff recommend that the Board proceed with directing staff to undertake the statutory notification requirements to advance this TUP application.

OPTIONS

Option 1: That the Board direct staff to provide notification of the Boards intention to consider Temporary Use Permit T2104F-07783.380 application by Mike Allan and Lindsay Hewson for the property located at 1953 Highway 3A, and legally described as LOT C PLAN EPP72601 DISTRICT LOT 4780 KOOTENAY LAND DISTRICT (PID: 030-351-626) at the next available opportunity.

Option 2: That NO FURTHER ACTION be taken regarding the issuance of Temporary Use Permit T2104F-07783.380 application by Mike Allan and Lindsay Hewson for the property located at 1953 Highway 3A, and legally described as LOT C PLAN EPP72601 DISTRICT LOT 4780 KOOTENAY LAND DISTRICT (PID: 030-351-626) at the next available opportunity.

SECTION 5: RECOMMENDATIONS

That the Board direct staff to provide notification of the Boards intention to consider Temporary Use Permit T2104F-07783.380 application by Mike Allan and Lindsay Hewson for the property located at 1953 Highway 3A, and legally described as LOT C PLAN EPP72601 DISTRICT LOT 4780 KOOTENAY LAND DISTRICT (PID: 030-351-626) at the next available opportunity.

Respectfully submitted,

"Submitted electronically"

Stephanie Johnson

CONCURRENCE

Planning Manager – Nelson Wight
General Manager of Development Services – Sangita Sudan
Stuart Horn – Chief Administrative Officer

ATTACHMENTS:

Attachment A – Draft Temporary Use Permit

Attachment B – Excerpt Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004



REGIONAL DISTRICT OF CENTRAL KOOTENAY
TEMPORARY USE PERMIT
Planning File No. (T2104F)

Date:

Issued pursuant to Section 492 of the *Local Government Act*

TO: Michael Allan and Lindsay Hewson

ADMINISTRATION

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

APPLICABILITY

4. This TUP is issued for the following purpose: to permit the use of an existing unauthorized partially constructed accessory storage structure to remain and construction of an accessory structure to provide cover over a recreation vehicle prior to a principal residential use being established.
5. This TUP 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: 1953 Highway 3A

Legal: LOT C PLAN EPP72601 DISTRICT LOT 4780 KOOTENAY LAND DISTRICT

PID: (PID: 030-351-626)

CONDITIONS

6. This TUP authorizes the following use of the above mentioned lands for a period not to exceed three (3) years from the date of issuance or at the date of expiry:
7. This TUP is issued subject to the following conditions:

- a. The temporary use shall be limited to two accessory structures on the subject parcel, prior to the construction and establishment of the principal residential use and building on the subject property.
- b. The temporary accessory structures shall not contain a dwelling unit.
- c. The lot shall be serviced with water and septic to the satisfaction of the Interior Health Authority.
- d. It is understood and agreed that the Regional District of Central Kootenay has made no representations, covenants, warranties, guarantees, promises, or agreements (verbal or otherwise) with the Permittee other than those contained in this Permit.
- e. Notice shall be filed in the Land Title Office that the land described herein is subject to this Permit.
- f. It is understood and agreed that this Permit does not imply approval for future rezoning of the subject property for the specified use.
- g. This Permit shall expire three (3) years from the date of issuance.

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







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



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maps@rdck.bc.ca

Legend

-  Electoral Areas
-  RDCK Roads
-  Cadastre
-  Civic Address

Map Scale:

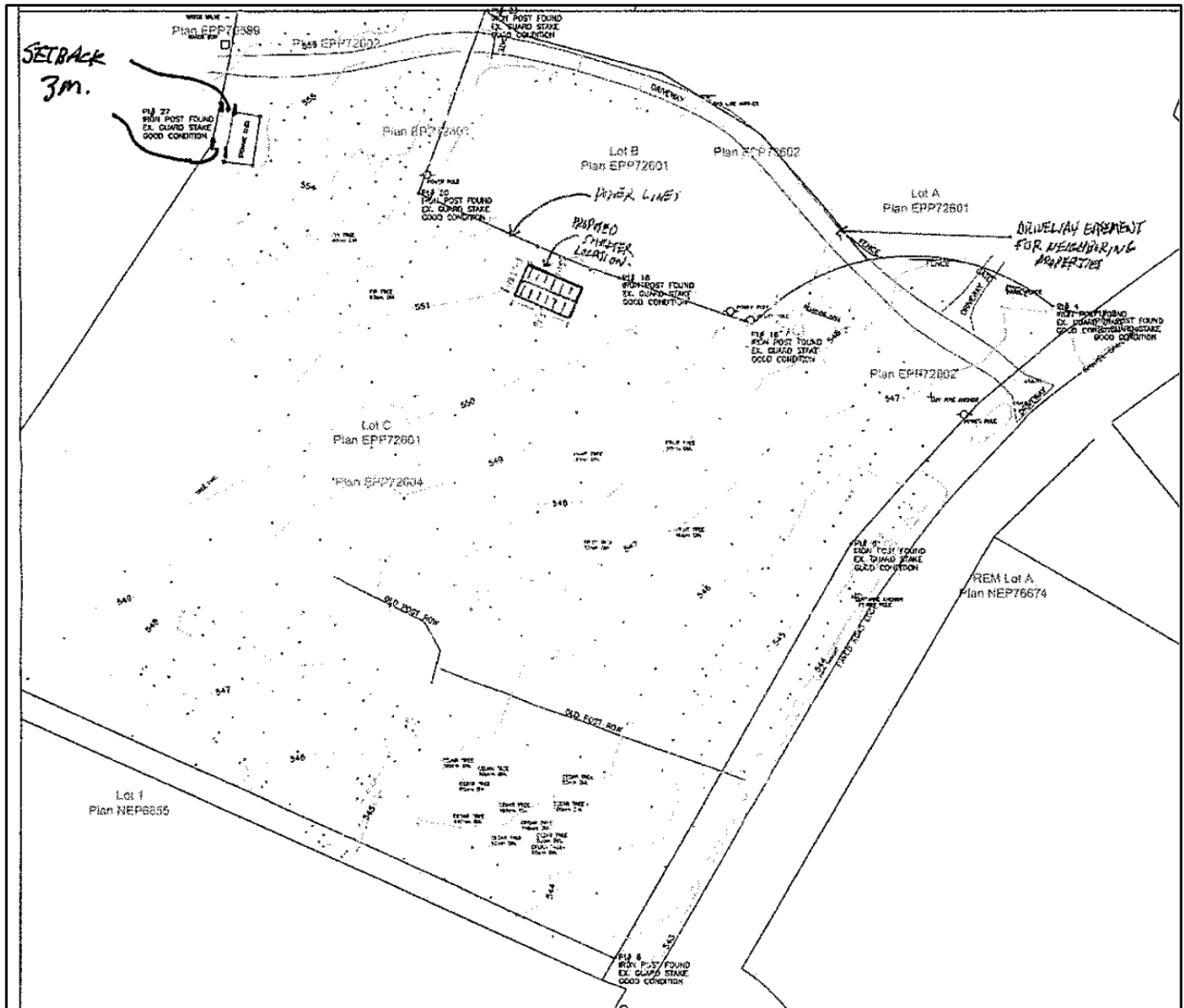
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Date: September 23, 2021

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.

Schedule 2: Site Plan



DIVISION 23 HIGH DENSITY RESIDENTIAL (R6F)

Permitted Uses

2300 Land, buildings and structures in the High Density Residential (R6F) zone shall be used for the following purposes only:

- Dwellings:
 - One-Family
- Accessory Uses:
 - Accessory Buildings and Structures

Development Regulations

2301

- 1 The minimum site area for the following uses shall be required as follows:

	Community Water Supply and Community Sewer System	Community Water Supply Only	On-Site Servicing Only
One-Family Dwelling	400 square metres	0.2 hectare	0.5 hectare
- 2 The maximum site coverage permitted shall be 60 percent of the lot area.
- 3 The minimum lot width shall be no less than 12 metres except those lots located on a radii and the minimum lot depth shall be no less than 25 metres.
- 4 Development in this zone may be subject to the requirements of a Development Permit.