



Board Report

Date of Report: 06, 29, 2022
Date & Type of Meeting: 07, 21, 2022, Regular Open Board
Author: Eileen Senyk, Planner
Subject: BYLAW AMENDMENT
File: Z2107B-04567.060-Adams-BA000053
Electoral Area/Municipality B

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to present the public hearing minutes for proposed bylaw amendments to Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013. The Public Hearing was held on June 9th, 2022. The subject property is located at 6365 Kitchener Road, Electoral Area 'B'.

No public attended the Public Hearing and no submissions were made. This is a good indication that there are no concerns from neighboring property owners.

Staff is recommending that the amending bylaw be read a THIRD time by content and forwarded to the Ministry of Transportation and Infrastructure for approval. Pursuant to Section 52(3)(a) of the Transportation Act.

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION

Property Owner: Shane & Terry Adams

Property Location: 6365 Kitchener Road, Electoral Area 'B'

Legal Description: LOT 1 DISTRICT LOT 4592 KOOTENAY DISTRICT PLAN 16938 (PID 006-761-747)

Property Size: 8.72 hectares (21.8 acres)

SURROUNDING LAND USES

North: Country residential (R2) and Neighborhood Commercial (C1)

East: Quarry (Q) and Country Residential (R2)

South: Rural Resource (R4) & and Meadow (Kitchener) Creek.

West: Rural Resource (R4)

Site Context and Background Information

The subject property is located near the unincorporated community of Kitchener. There are currently two dwellings on the property. It is likely that the property's limited frontage to Kitchener Road is the reason that it was zoned Rural Resource. The property is flat and is adjacent to Meadow Creek (a channel of Kitchener Creek).

The owner wishes to subdivide the property into five lots. The current Rural Resource (R4) zone has a minimum site area of 2 hectares. Changing the zoning to Country Residential (R2) will enable the proposed subdivision

subject to Ministry of Transportation and Infrastructure’s requirements for access and the RDCK’s provisions for servicing pursuant to Subdivision Bylaw No. 2159.

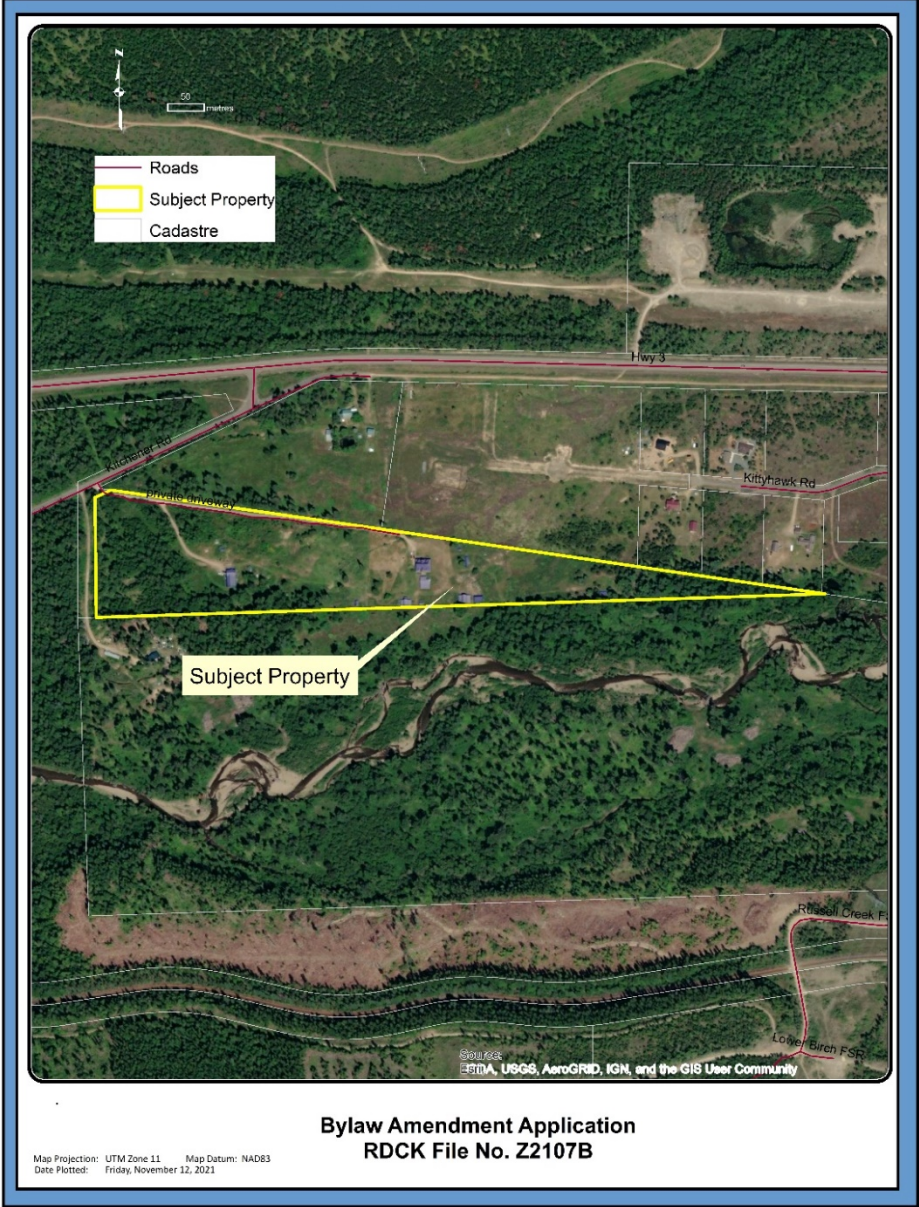


Figure 1: Overview Map

Proposed subdivision of Lot 1, District Lot 4592,
Kootenay District, Plan 16938.

Scale 1:3000

All distances are in metres unless otherwise noted.

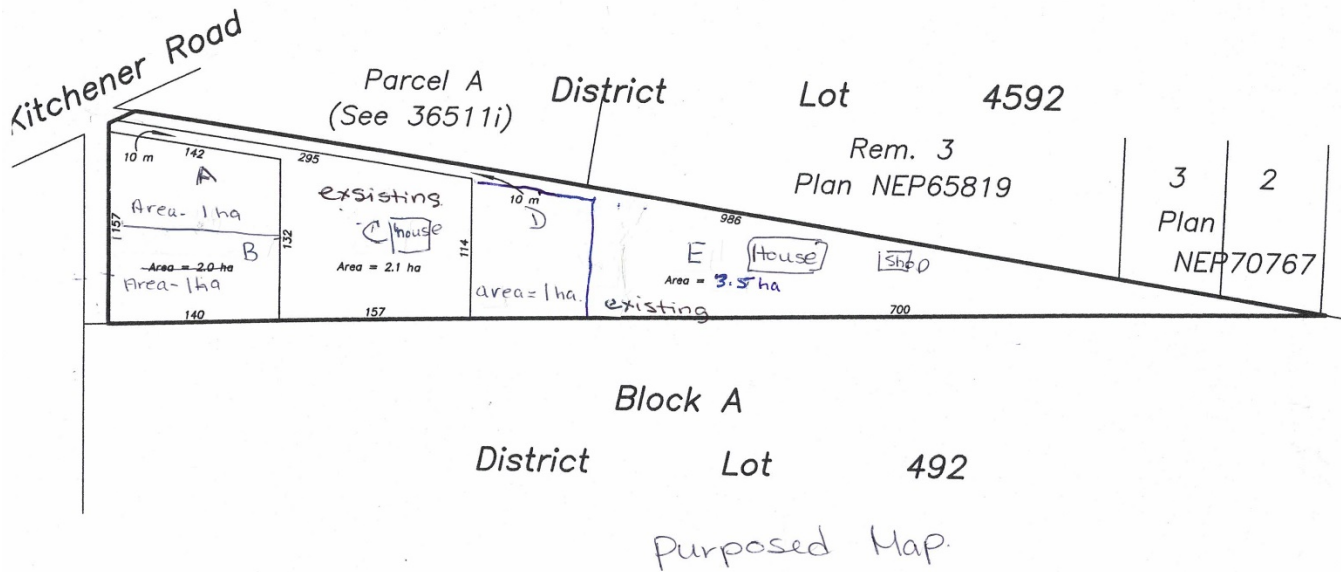


Figure 2: Site Plan



Figure 3: Accessory Building on property, Facing South toward Meadow (Kitchener) Creek



Figure 4: Facing East



Figure 5: Facing West

Planning Policy

Comprehensive Land Use Bylaw No. 2316, 2013

General Residential Policies

The Regional Board:

8. Will assess and evaluate proposed residential development based on the following criteria, irrespective of land use designation:

- a. capability of accommodating on-site domestic water and waste water disposal;
- b. capability of the natural environment to support the proposed development, and its impact on wildlife habitat and riparian areas;
- c. susceptibility to natural hazards including but not limited to flooding, slope instability or wildfire risk;
- d. compatibility with adjacent land uses and designations, and how its form and character complements the surrounding rural area;
- e. proximity and access to existing road networks, and other community and essential services, if they exist;
- f. mitigation of visual impacts where development is proposed on hillsides and other visually sensitive areas; and
- g. type, timing, and staging of the development.

9. Recognizes that existing lots smaller than the minimum lot size permitted by designation, may be used for the purposes permitted in the designation providing all other regulations are met.

10. Encourages the clustering of residential development to create separation between neighbouring developments, to protect ecologically significant areas and to avoid continuous sprawl-like development.
11. Encourages the use of local materials and green building techniques in new and retrofitted developments to reduce greenhouse gas emissions (GHGs) and reduce impacts to the natural environment.
12. Encourages the infill of vacant residential parcels before developing new residential areas.
13. Supports that home based businesses and/or occupations in residential areas consider the quality of life enjoyed by residents in the area and that related activities not generate undue conflict with adjacent property owners and residents.

Country Residential (RC) Policies

The Regional Board:

18. Directs that the principal use shall be single-family or two-family dwellings.
19. Supports low density residential development with lot sizes for subdivision purposes being determined by the requirements of on-site servicing, such as ground or surface water and Type 1 waste water disposal.
20. Provides for property owners or residents to diversify and enhance uses secondary to 'Country Residential' uses with home based business, agri-tourism, home occupations, or bed and breakfast opportunities, provided that they are compatible with the character of the surrounding area.

Rural Residential (RR) Policies

The Regional Board:

21. Directs that the principal use shall be single-family or two-family dwellings.
22. Supports rural residential development with lot sizes for subdivision purposes that generally exceed 2.0 ha (4.94 acres).
23. Provides for property owners or residents to diversify and enhance uses secondary to Rural Residential uses with home based business, agri-tourism, home occupation, or bed and breakfast opportunities, provided that they are compatible with the character of the surrounding area.

Community Specific Policies

Kitchener and Arrow Creek

27. Recognizes that the community is primarily characterized by a mix of residential, commercial and light industrial development with very little land within the Agricultural Land Reserve.
28. Directs that subdivision of lands outside of the Agricultural Land Reserve shall be a minimum lot size of one (1) hectare unless served by community water, in which case the minimum lot size can be reduced to 0.2 hectares.
29. Recognizes the importance of the Kitchener and Kidd Creek Water Systems in the provision of domestic and commercial water supply and supports the improvement and enhancement of local water systems to meet future community needs.

30. Supports the creation of a fire service area for the community of Kitchener or alternatively expansion of the Yahk Kingsgate Fire Service Area, if and when feasible, or supported by the community.

31. Recognizes the Kitchener Community Associations role in providing important community services, such as administration of the Community Hall and Community Park.

32. A number of ‘commercially’ designated lands have been identified within the community of Kitchener. It is the policy of the Regional Board that no further lands will be designated commercial until existing commercial lands are developed and fully utilized for commercial purposes.

33. Lands within the Agricultural Land Reserve east of Kitchener are designated ‘Agriculture’.

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 \$1600 fee has been paid in full pursuant to RDCK Planning Fees and Procedures Bylaw No. 2457, 2015.

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

The purpose of the application is to facilitate subdivision. The RDCK is given authority to have a Subdivision Bylaw under Section 506 of the Local Government Act. RDCK Subdivision Bylaw No. 2159, 2011 identifies provisions for servicing including water, septic disposal and access. In rural areas, the Ministry of Transportation and Infrastructure is the subdivision authority pursuant to the Land Title Act.

3.3 Environmental Considerations

None anticipated.

3.4 Social Considerations:

None anticipated.

3.5 Economic Considerations:

None anticipated.

3.6 Communication Considerations:

All referral responses are included below. Staff have communicated with the Splotsin First Nation through the Nations Connect portal as requested. The standard method of identifying all First Nations with interests in the area was conducted by using the Provincial Consultative Areas Database tool. Specifically, the referral was sent to the Ktunaxa Nation Council, the Shuswap Nation Tribal Council and the Tk’emlups Band. No other responses were received from these Nations. The RDCK has followed up with the Ktunaxa Nation Council on this matter but no response was received.

Splotsin First Nation – Splotsin Referrals – November 19, 2021

'Splatsin acknowledges receipt of your letter dated 2021-11-19T13:07:47 providing notice of Adams (the "Project").

About Splatsin Splatsin is the southernmost campfire of the Secwepemc people, and we have occupied the south-central part of British Columbia for at least 10,000 years. Secwepemc territory stretches from the British Columbia-Alberta border near the Yellowhead Pass to the plateau west of the Fraser River, southwest to the Arrow Lakes and the upper reaches of the Columbia River.

Splatsin are the caretakers or Yucwmenlúcucw of our area of responsibility of Secwepemculucw. Our stewardship area is generally considered to be the Shuswap River Valley, the Salmon River Valley and the Eagle River Valley. Historical and genealogical records as well as oral history link Splatsin to the Arrow Lakes, to the Sicamous Narrows, to the Columbia River at Revelstoke, north to where the Mica Dam is now located, and everywhere in between. We have cared for the lands and waters in our territory for thousands of years.

Our caretaker responsibilities, or Yucwminmen, are a deeply imbedded aspect of Secwepemc law and way of life. These responsibilities guide us in our role as stewards of the land. The protection and maintenance of Secwepemculucw means the resources Splatsin people rely on for sustenance and cultural practices will continue to support current and future generations. Our stewardship allows us to continue our way of life, which is constitutionally protected under s. 35(1) of the Constitution Act, 1982.

We recognize that this Project is not in the core area of our territory. Therefore, we ask for confirmation that further engagement and consultation was conducted with the First Nations and the Indigenous Bands who have a strong strength of claim to the project area. If they were adequately engaged, then we support, and defer to the responses of those communities.

If your project was initially submitted through NationsConnect, please use the messages function on NationsConnect to respond to this letter.'

Interior Health Authority – Environmental Health Officer – November 22, 2021

'The IH Healthy Community Development Team has received the above captioned referral from your agency. Typically we provide comments regarding potential health impacts of a proposal. More information about our program can be found at [Healthy Built Environment](#).

An initial review has been completed and no health impacts associated with this proposal have been identified. As such, our interests are unaffected by this proposal. Please note that this response does not automatically confer Interior Health support for a future subdivision. additional information will be required at the subdivision stage in order for Interior Health to meaningfully comment on the sewerage servicing capability of the land and long-term sustainability.'

Ministry of Transportation and Infrastructure – Development Officer – December 13, 2021

'MOTI does not have any concerns with the proposed zoning bylaw amendment. The proposed subdivision will need to undergo review separately, of course, and there are no guarantees that the subdivision layout will be approved as proposed. The applicant is welcome to contact us with any subdivision related questions.'

3.7 Staffing/Departmental Workplace Considerations:

As per public hearing and bylaw adoption.

3.8 Board Strategic Plan/Priorities Considerations:

Not applicable.

SECTION 4: OPTIONS

Planning Discussion

The subject property is approximately 8 hectares in size and is very flat. A septic assessment was conducted on the property in 2013. At the time, the septic assessment was done to support a 3 lot subdivision which was never completed. The septic assessment indicates that the entire property has good septic capacity due to the fact that it is flat and located on stony, gravelly sands with interbedded loamy sands and sands of various grades. As a result, a septic field can be located almost anywhere on the property. Domestic water is proposed by wells. There are currently two wells on the property.

In terms of existing policy, the proposal aligns with all General Residential policies. It has capacity for on-site servicing and proposed lots are all 1 hectare or more in size. While Meadow Creek is nearby, the property sits well outside of the riparian area. The neighboring land to the north is already mostly zoned Country Residential. and so re-zoning these lands the same may help reduce neighbor conflicts over time. The current Rural Resource zoning is much more permissive in

terms of intensive uses. For example, the Rural Resource zone allows for horse riding stables and boarding stables, horticulture, micro cultivation, cannabis micro processing, cannabis nursery, cannabis nurseries, greenhouses and

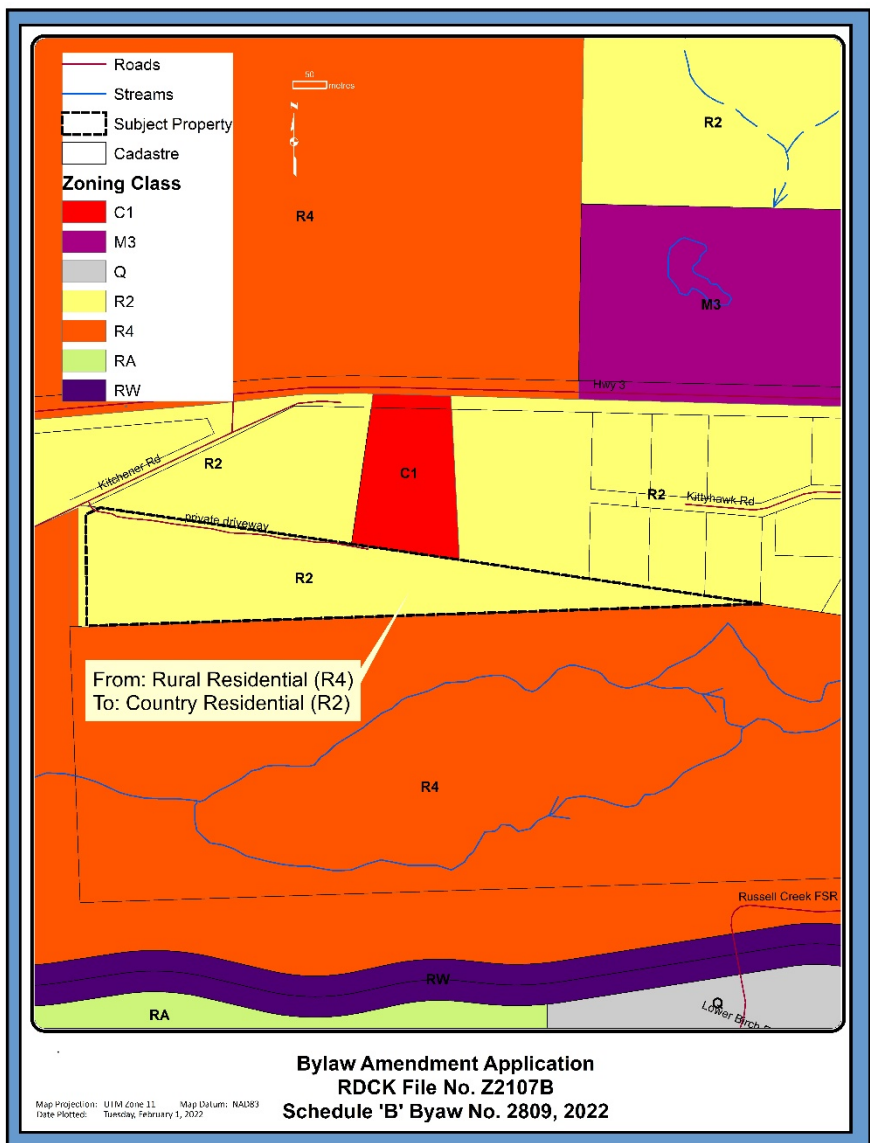


Figure 6: Proposed Schedule B - Zoning

florists, veterinary clinics and kennels. Eliminating these uses could render the properties more compatible with those to the north (see Figure 6).

Finally, the property is located very close to Kitchener, which has a community hall and other community amenities. While road access to the subject property is somewhat limited, Highway 3A is very close by meaning that traffic coming to and from the property would have limited reliance on secondary roads. For these reasons, staff recommend supporting the application.

Public Hearing

A public hearing was held virtually on June 9th, 2022. There were no submissions and no public attended the hearing. Public Hearing minutes are included as Attachment A.

Option 1

That Electoral Area 'B' Comprehensive Land Use Amendment Bylaw No. 2809, 2022 being a bylaw to amend the Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013 is hereby given THIRD READING.

And

That the consideration of adoption BE WITHHELD for Electoral Area 'B' Comprehensive Land Use Amendment Bylaw No. 2809, 2022 being a bylaw to amend the Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013 until the following items have been obtained:

- i. Approval from the Ministry of Transportation and Infrastructure pursuant to Section 52(3)(a) of the Transportation Act (Controlled Access).

Option 2

That no further action be taken regarding Electoral Area 'B' Comprehensive Land Use Amendment Bylaw No. 2809, 2022 being a bylaw to amend the Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013 is hereby given FIRST and SECOND reading by content and referred to a PUBLIC HEARING.

SECTION 5: RECOMMENDATIONS

That Electoral Area 'B' Comprehensive Land Use Amendment Bylaw No. 2809, 2022 being a bylaw to amend the Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013 is hereby given THIRD READING.

And

That the consideration of adoption BE WITHHELD for Electoral Area 'B' Comprehensive Land Use Amendment Bylaw No. 2809, 2022 being a bylaw to amend the Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013 until the following items have been obtained:

- i. Approval from the Ministry of Transportation and Infrastructure pursuant to Section 52(3)(a) of the Transportation Act (Controlled Access).

Respectfully submitted,

A handwritten signature in blue ink that reads "Eileen Senyk".

Eileen Senyk, Planner

CONCURRENCE

Planning Manager – Nelson Wight

General Manager Development and Community Sustainability – Sangita Sudan

Chief Administrative Officer – Stuart Horn

ATTACHMENTS:

Attachment A – Public Hearing Minutes

Attachment B – Draft Bylaw