



Committee Report

Date of Report: 05, 26, 2022
Date & Type of Meeting: 06, 15, 2022, Rural Affairs Committee
Author: Eileen Senyk, Planner
Subject: TEMPORARY USE PERMIT
File: T2201B
Electoral Area/Municipality B

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Regional Board to consider authorizing a Temporary Use Permit (TUP) in Electoral Area 'B'. The TUP would authorize the applicant to construct an accessory building prior to a dwelling in the Country Residential (R2) zone.

Staff recommend that the Board direct staff to provide notification pursuant to Section 494 of the *Local Government Act (LGA)* of the Board's intention to consider the TUP.

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION

Property Owner: Peter Kazda

Property Location: 1335 Airport Road, Electoral Area 'B'

Legal Description: LOT 2 PLAN EPP18797 TOWNSHIP 7 SECTION 12 KOOTENAY LAND DISTRICT (PID 028-937-601)

Property Size: 1 hectare (2.47 acres)

Current Zoning: Country Residential (R2)

Current Official Community Plan Designation: Country Residential (RC)

SURROUNDING LAND USES

North: Country Residential (R2)

East: Agriculture (AG) – within the Agricultural Land Reserve

South: Country Residential (R2)

West: Country Residential (R2)

Background Information and Subject Property

The subject property is located in Electoral Area 'B' south of the Town of Creston. The property is part of survey plan EPP18797, a six lot subdivision created in 2012. The property is surrounded by the Country Residential (R2) zone on three sides. To the east is Agricultural Land Reserve.

There is a water well and septic field already installed on the property, but the only structure currently on the property is a small pump house for the well.

The owners seek to construct an accessory building that has a footprint of 111 sq/m with two floors. The proposed building is 6.7 m high. The two floors bring the total gross floor area (GFA) to 222 sq/m. This GFA is larger than the 200 sq/m GFA allowed in the R2 zone, and so the owners have also applied for a Development Variance Permit to seek relief from this regulation.

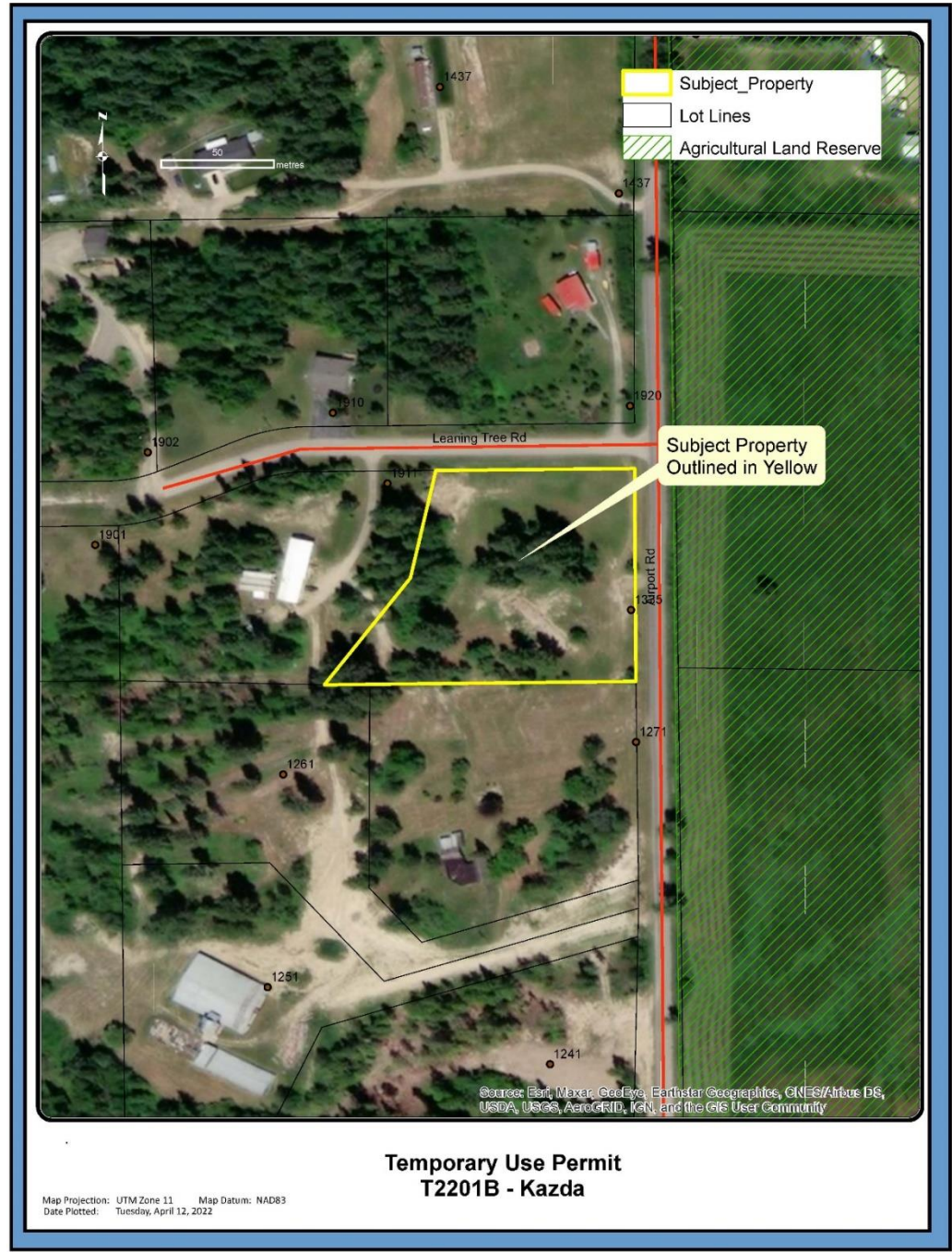


Figure 1: Overview Map

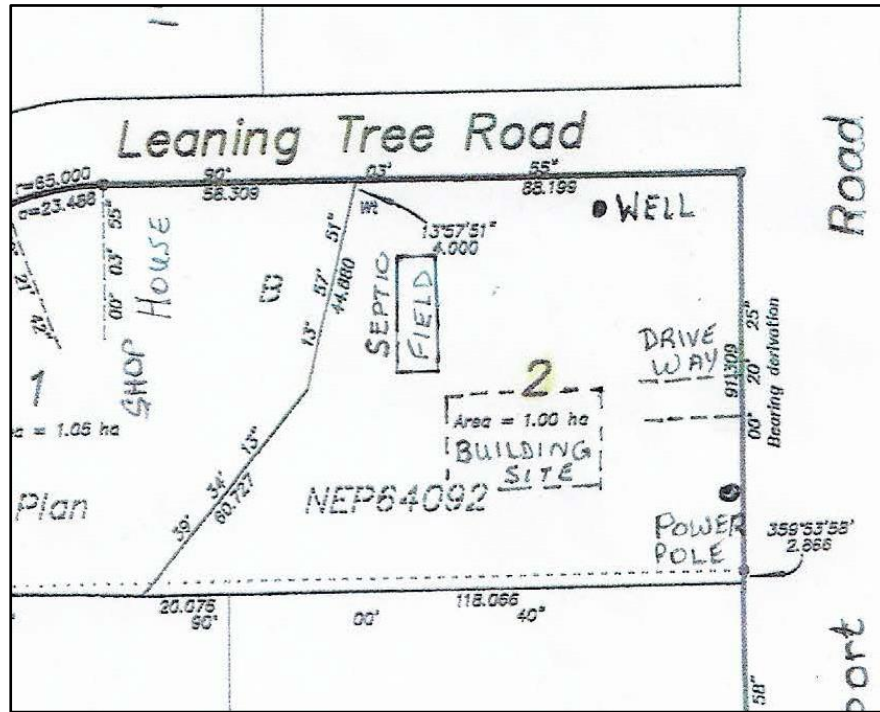


Figure 2: Site Plan

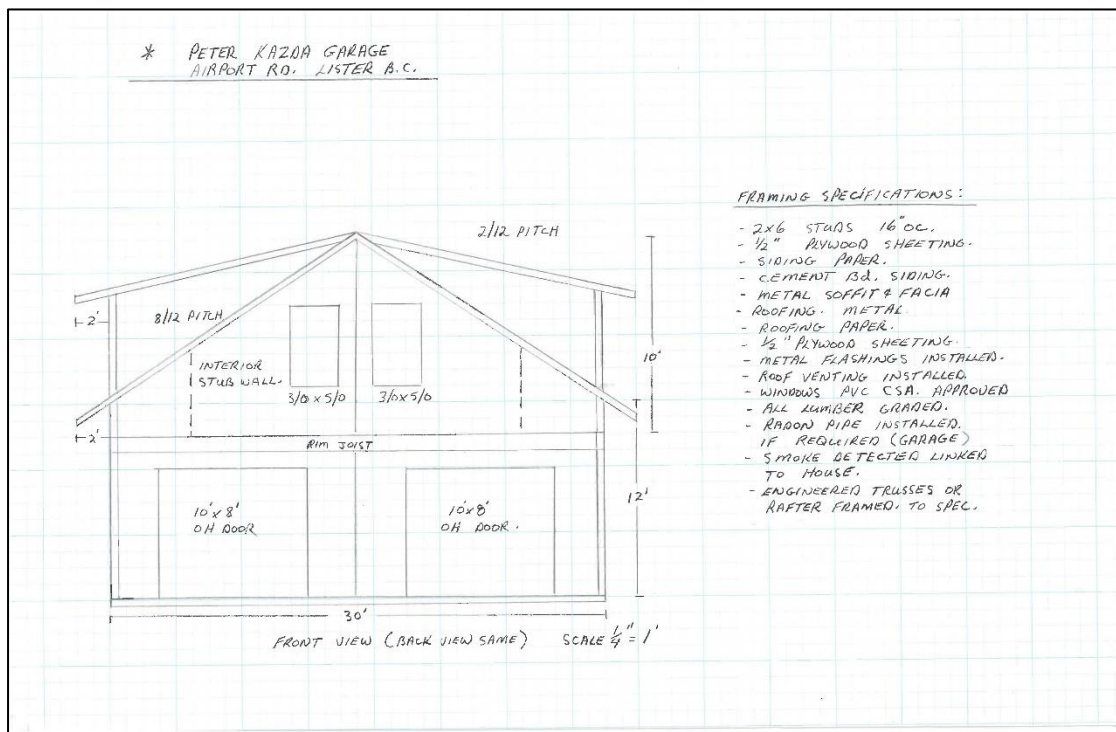


Figure 3: Building Plan Front View

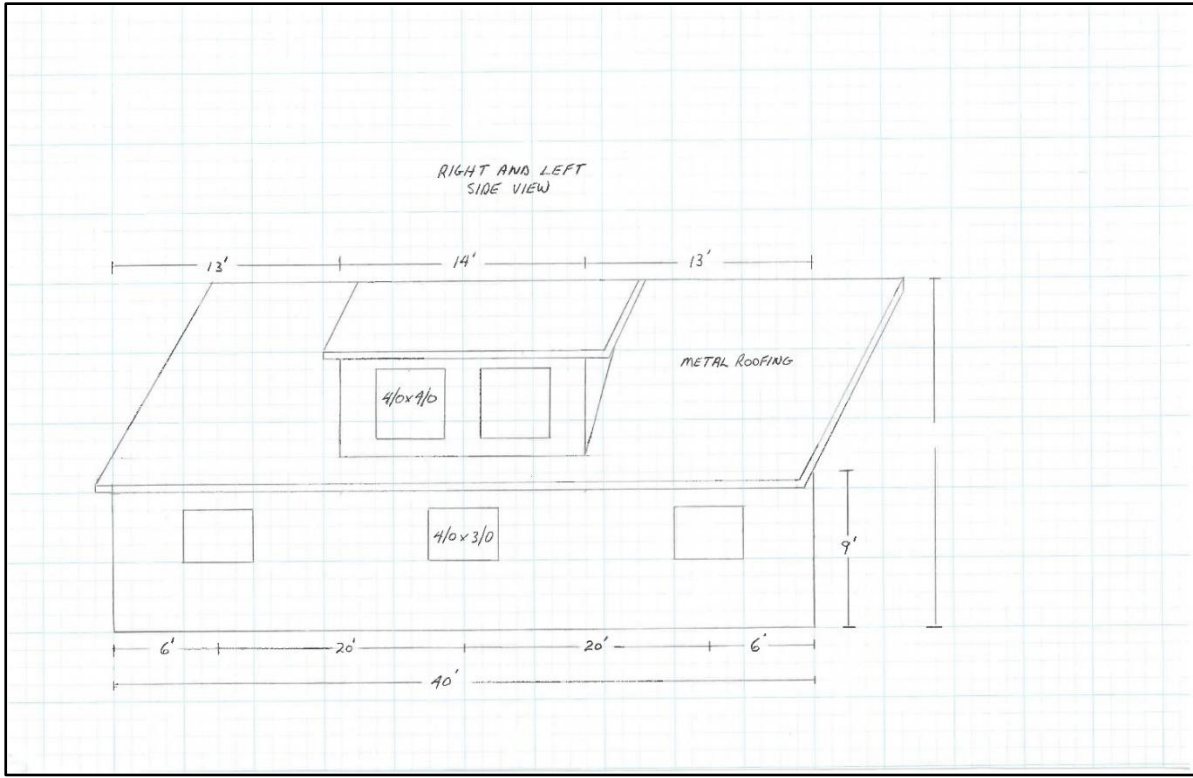


Figure 4: Building plan side view

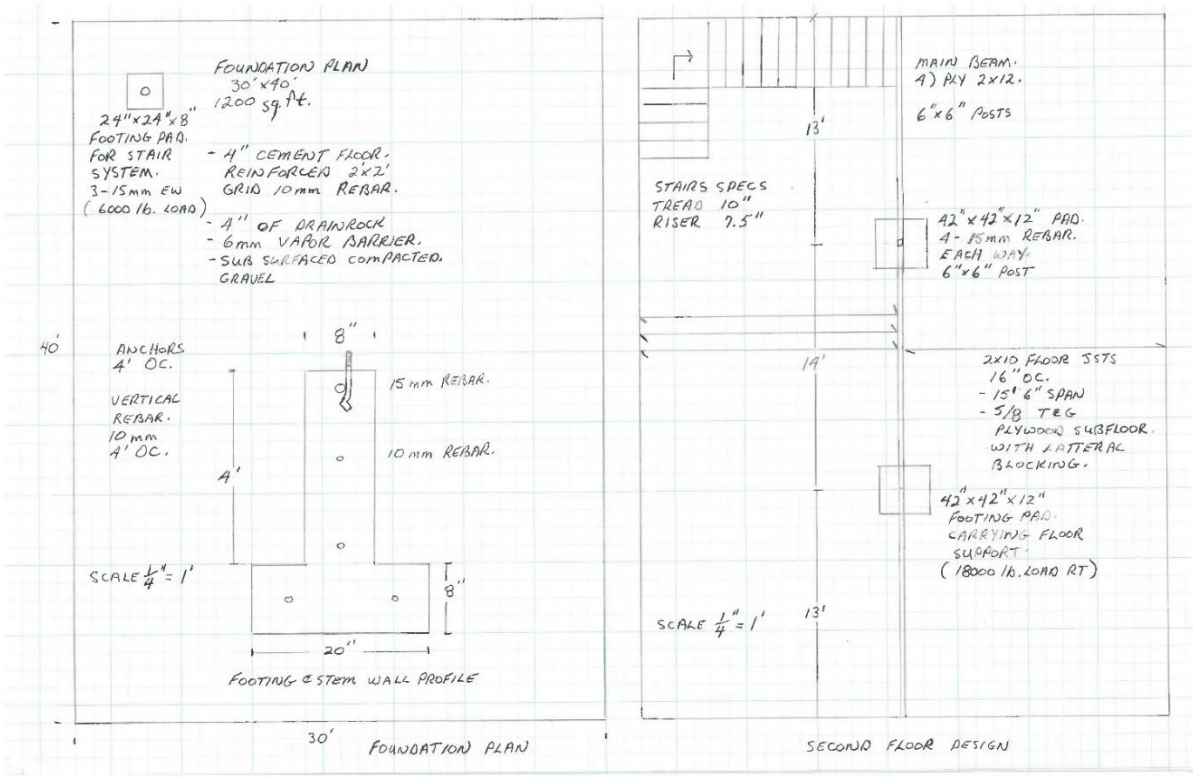


Figure 5: Building, floor plan



Figure 6: Facing south toward building site



Figure 7: Facing North West and showing the well



Figure 8: Facing north over the septic field

Planning Policy

Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013

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.

Community Specific Policies

Lister, Rykert, Riverview and Huscroft

16. Recognizes that the community is primarily characterized by larger residential parcels and large lot agricultural parcels, the majority of which are located within the Agricultural Land Reserve and will allow for a mix of parcel sizes dependent on type of land use and agricultural activity.

Section 41 Temporary Use Permits

The Regional Board:

2. 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. potential conflict with nearby land uses;
 - c. potential impacts on environmentally sensitive areas;
 - d. provision of adequate servicing that meets health requirements; and
 - e. relevant policies within other sections of this plan.
3. May require conditions under which a temporary use may be allowed, including: the buildings or structures that may be used; the period of applicability of the permit; the area, duration or timing of use; and required site rehabilitation upon cessation of the use.
4. May require security deposits, site restoration plans or letters of undertaking to ensure conditions are met.

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 application fee has been paid in full pursuant to the Planning Fees and Procedures Bylaw No. 2457, 2015.

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

Under Section 493 of the 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.

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,*
- (d) *the time and date when and, if applicable, the place where the resolution will be considered, and*
- (e) *if the meeting at which the resolution will be considered is conducted by means of electronic or other communication facilities, the way in which the meeting is to be conducted by those means.*

3.3 Environmental Considerations

None anticipated.

3.4 Social Considerations:

There was no opposition to the application which indicates that surrounding land owners do not have concerns. Staff conducted a site visit on the property and noted that there are no houses bordering the property.

3.5 Economic Considerations:

None anticipated.

3.6 Communication Considerations:

The application was referred to internal departments, other government agencies and five surrounding property owners. No responses were received from property owners. The following responses were received from government agencies.

Interior Health Authority – Team Leader: Healthy Community Development

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.

Ministry of Transportation and Infrastructure – Development Officer

Thanks for the opportunity to review this proposal. MOTI has no concerns with the proposed temporary use.

RDCK Building Department

The Regional District's Building Department noted that due to the fact that two floors are proposed in the building, it exceeds the maximum gross floor area for the R2 zone by 20 sq/m. The applicant was notified and has submitted an application for a Development Variance Permit. The Development Variance Permit is being processed concurrently with this Temporary Use Permit.

3.7 Staffing/Departmental Workplace Considerations:

Should the Regional Board resolve to provide the public with a 'Notice of Permit' staff will prepare the notification and publish it in the local paper, pursuant to Section 494 of the Local Government Act as cited in Section 3.2 of this report.

3.8 Board Strategic Plan/Priorities Considerations:

Not applicable.

SECTION 4: OPTIONS

Planning Discussion

The intended use for the accessory building is to be a double garage with a loft for an art studio. The owners are transitioning from the Yukon Territories to the Creston Valley and would like to phase development of the property for logistical and financial purposes. Having the accessory building in place three years in advance of the house will enable them to move their belongings from the Yukon over the course of three seasons. When the

owners sell their current home in the Yukon they will be in a financial position to build their home on the subject property.

The property is already serviced by a well and a septic field. The proposed building site meets all lot line setbacks. The proposed GFA of the accessory building slightly exceeds the 200 sq/m allowed in the R2 zone, but the owners have applied for a Development Variance Permit (DVP) application to seek relief from that regulation. Should the Board direct staff to provide notification of the Boards intent to consider the TUP at a future meeting, staff would prepare an accompanying report for the DVP in order that the Board might consider approval of that application at the same time.

The risk in issuing a TUP of this nature is that accessory buildings are sometimes used as dwellings, when they do not meet BC Building Code for this use. If this is a concern to the Board, a restrictive covenant pursuant to the *Land Title Act* could be registered on the property's title directing that the accessory building is not to be used for habitation, which could be a condition of TUP issuance.

Option 1

That the Board direct staff to provide notification of the Board's intention to consider Temporary Use Permit T2201B application by Peter & Lenka Kazda for the property located at 1335 Airport Road and legally described as LOT 2 PLAN EPP18797 TOWNSHIP 7 SECTION 12 KOOTENAY LAND DISTRICT (PID 028-937-601) at the next available opportunity.

Option 2

That consideration of Temporary Use Permit T2201B application by Peter & Lenka Kazda for the property located at 1335 Airport Road and legally described as LOT 2 PLAN EPP18797 TOWNSHIP 7 SECTION 12 KOOTENAY LAND DISTRICT (PID 028-937-601) be referred to the July 21, 2022 Board meeting.

SECTION 5: RECOMMENDATION

That the Board direct staff to provide notification of the Board's intention to consider Temporary Use Permit T2201B application by Peter & Lenka Kazda for the property located at 1335 Airport Road and legally described as LOT 2 PLAN EPP18797 TOWNSHIP 7 SECTION 12 KOOTENAY LAND DISTRICT (PID 028-937-601) at the next available opportunity.

Respectfully submitted,



Eileen Senyk

CONCURRENCE

Planning Manager – Nelson Wight

General Manager Development & Sustainability – Sangita Sudan

Chief Administrative Officer – Stuart Horn

ATTACHMENT:

Attachment A – Draft Temporary Use Permit