



Committee Report

Date of Report: 06, 22, 2022
Date & Type of Meeting: 07, 20, 2022, Rural Affairs Committee
Author: Eileen Senyk, Planner
Subject: LAND USE BYLAW AMENDMENTS
File: Z2207G-05608.025-ANDERSON-BA000061
Electoral Area/Municipality 'G'

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and RDCK Board to consider an application for a bylaw amendment to the subject property at 161 Sheloff Road in Electoral Area 'G'.

The proponents wish to amend the land use designation and zoning for a portion of the subject site from Agriculture (AG) to Rural Residential (RC), and to rezone from Agriculture (AG) to Rural Residential (R3). Approval of these bylaw amendments are being sought to facilitate a subdivision creating one 2.4 ha lot, and 4.2 ha remainder parcel.

Staff recommends that the Board give first and second readings to *Electoral Area 'G' Land Use Amendment Bylaw No. 2856, 2022*, and refer this application to a Public Hearing.

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION

Property Owner: Kevin and Rose Anderson

Property Location: 161 Sheloff Rd, Electoral Area 'G'

Legal Description: Lot 2 District Lot 1237 Kootenay District Plan 6791 (PID 017-579-015)

Property Size: 6.6 hectares (16.48 acres)

Current Zoning: Agriculture (AG)

Current Official Community Plan Designation: Agriculture

SURROUNDING LAND USES

North: Rural Residential (R3)

East: Agriculture (AG) and Parks and Recreation (PR) – Salmo Valley Rail Trail

South: Agriculture (AG) and Parks and Recreation (PR) – Salmo Valley Rail Trail

West: Agriculture (AG) and Parks and Recreation (PR) – Salmo Valley Rail Trail and Country Residential (R2)

Background and Site Context

The subject property is located just north of the Village of Salmo. It is approximately 6.6 hectares in size. It is partially located in the Agricultural Land Reserve. Much of the southeastern portion of the property is flat farmland, but there is a break in the topography on the west side where there is a short, steep rise to a flat bench. The applicants seek to subdivide that portion of the property and create one additional 2.4 ha lot, leaving the 4.2 ha remainder. This proposed remainder is the most farmable portion of the property. There is a large, level building site on the upper bench.

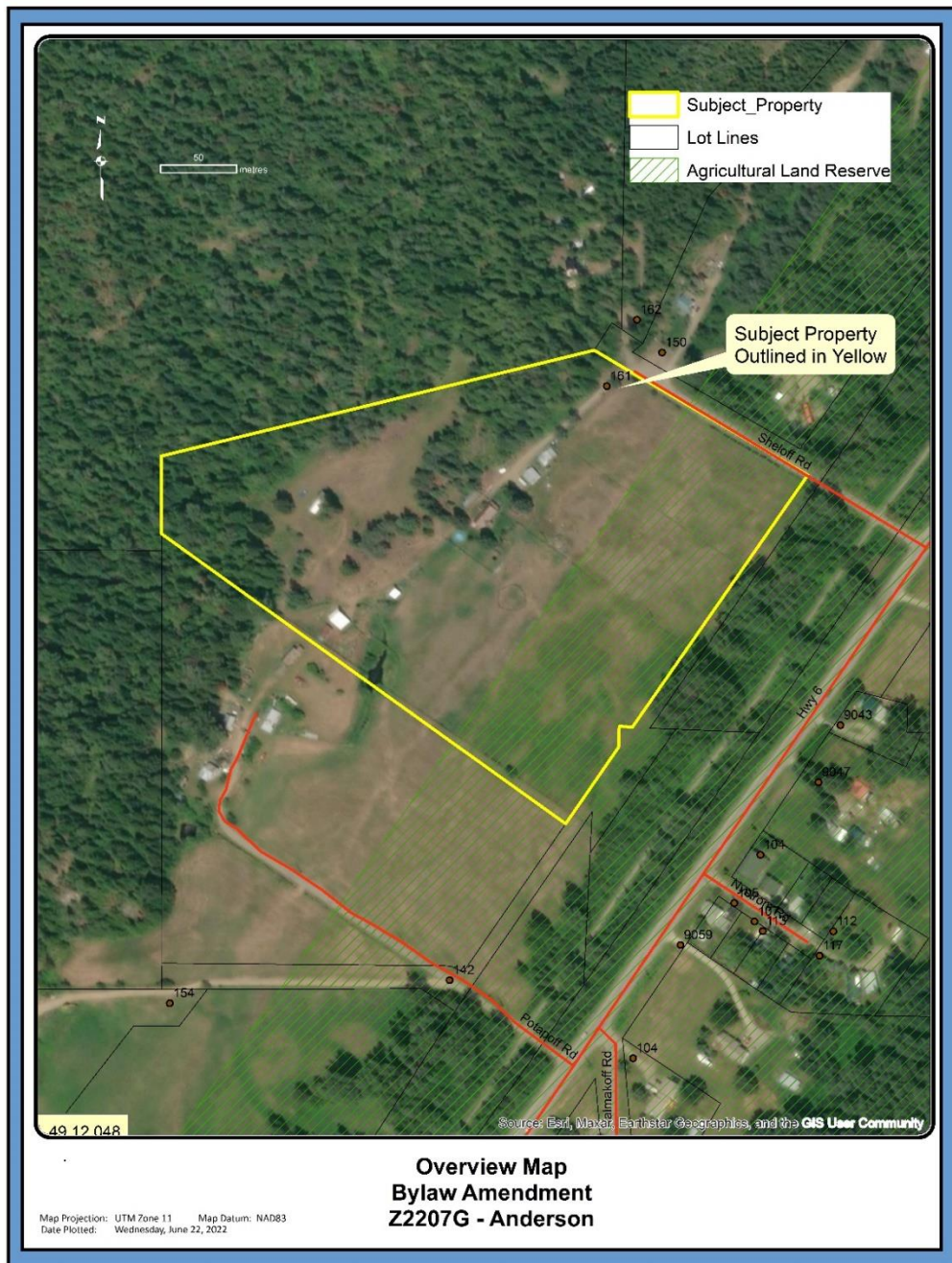


Figure 1: Overview Map

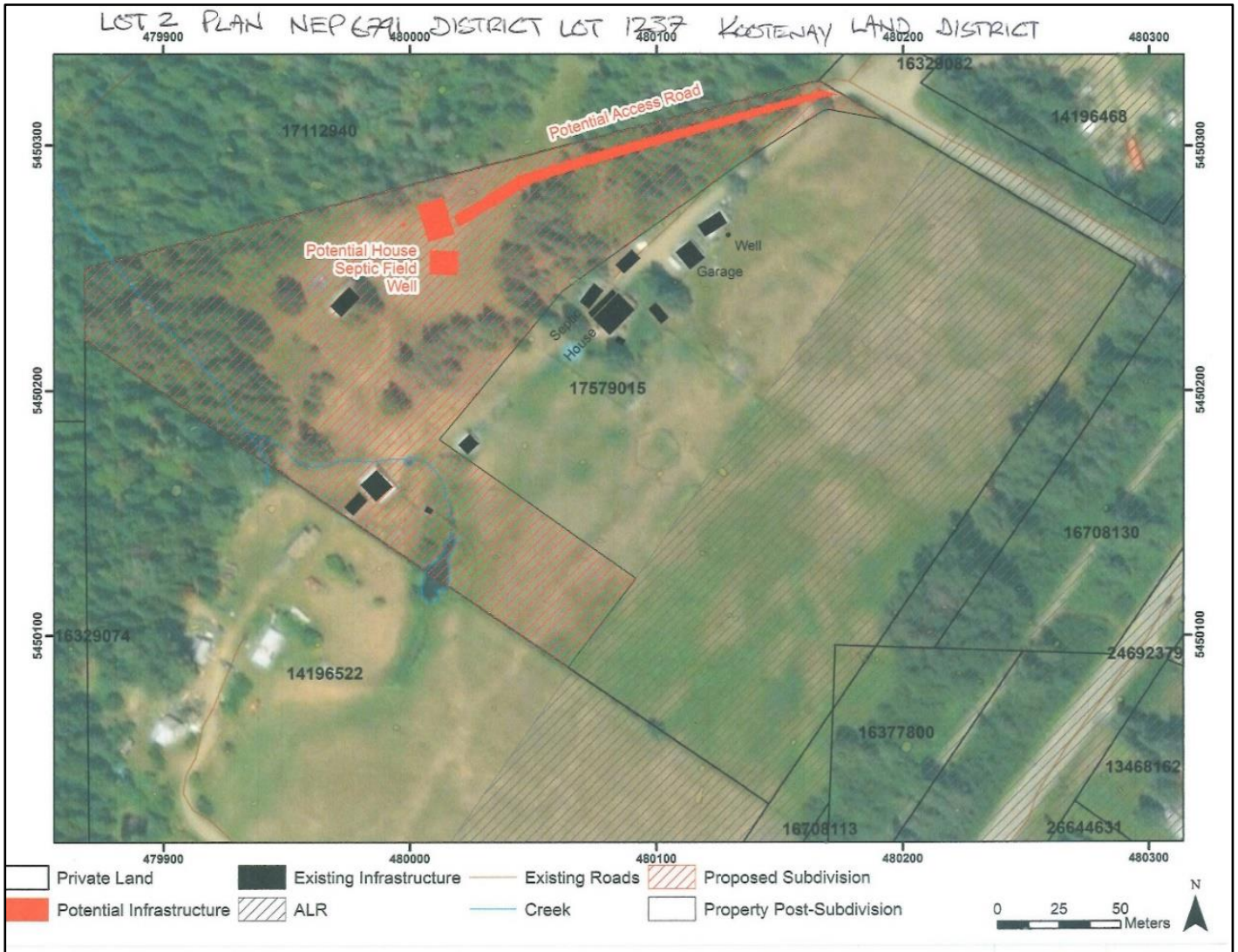


Figure 2: Site Plan

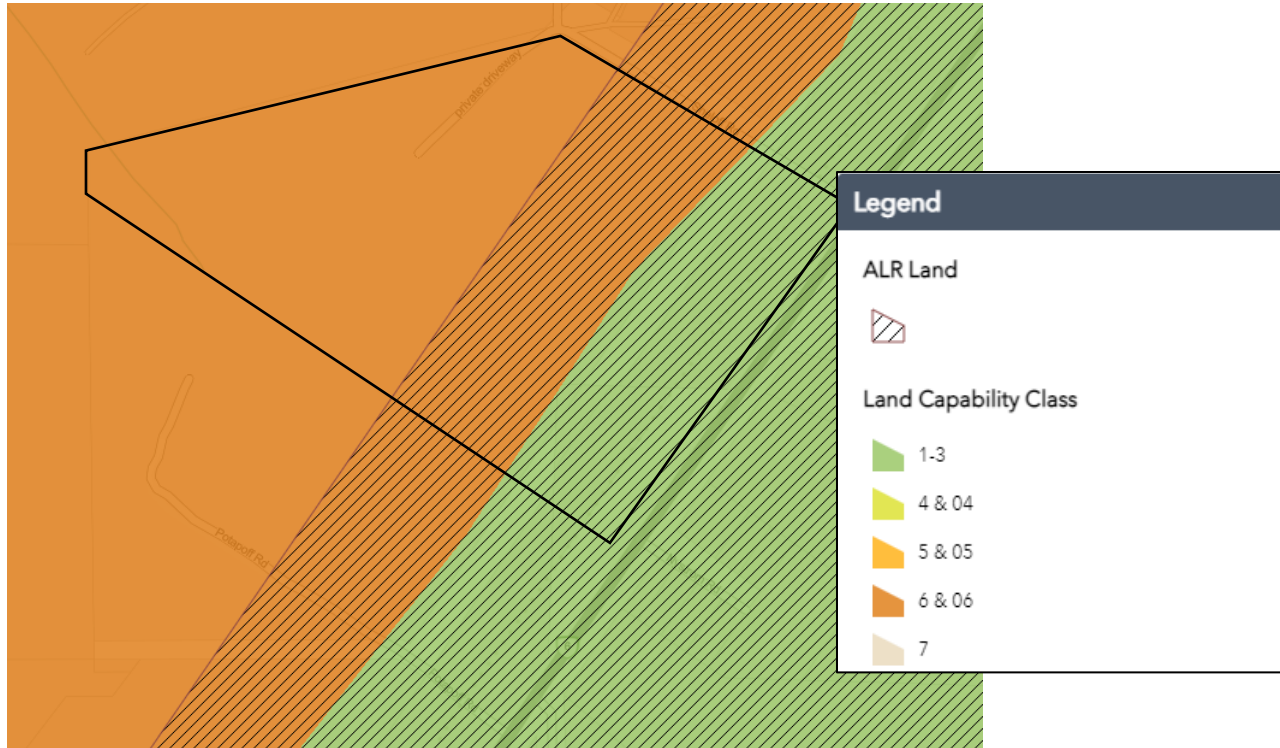


Figure 3 - Agriculture Capability



Figure 4: Proposed line of subdivision



Figure 5: Driveway Access, short steep rise on right side of image



Figure 6: Proposed new lot and building site

Planning Policy

Salmo River Valley Electoral Area 'G' Land Use Bylaw No. 2452, 2018

Official Community Plan – Land Use Designations

Section 6: Agriculture Policies

The Regional Board:

6.8. Anticipates that agricultural production will be accommodated within existing lands contained within the Agricultural Land Reserve and as designated on Schedule A.1 mapping.

6.9. Existing and future agriculture will also be encouraged and accommodated where possible on lands outside of the Agricultural Land Reserve (ALR) to help meet local food demands.

6.10. Directs that the principal use of land designated Agriculture shall be farm use.

6.11. Discourages applications to the Agricultural Land Commission for subdivision and non-farm use in the ALR unless the proposal provides evidence that it does not negatively impact agriculture or agricultural potential on the subject lot and adjacent agricultural operations.

6.12. Supports the consolidation of legal lots that may support more efficient agricultural operations.

6.13. Should consider potential impacts on water resources in agricultural areas when considering land use amendment applications not related to agriculture or subdivision and non-farm use proposals in the Agricultural Land Reserve.

6.14. Directs residential and non-farm uses to lands where there is low agricultural capability.

6.15. May consider buffering of commercial, industrial and high density residential development adjacent to agricultural areas.

6.16. Directs intensive agricultural operations to larger lots with increased building setbacks and other possible mitigation measures to prevent potential conflict with adjacent land uses.

6.17. Will enable secondary agricultural uses including home based business, agri-tourism or accessory tourist accommodation opportunities that are consistent with the provisions of the *Agricultural Land Reserve Act*, associated regulations, orders and decisions of the Provincial Agricultural Land Commission.

6.18. May consider secondary dwelling applications within the ALR in accordance with the density provisions of the associated zoning regulations of this Bylaw and with Provincial approval where necessary.

6.19. Will encourage food processing activities and broadened market opportunities, such as: market gardens, craft wineries, breweries and meaderies, farmers' markets and farm gate sales.

6.20. Supports the efforts of non-profit and community organizations with regard to sustaining local food security by enabling access to healthy foods for all residents.

Section 3: General Residential Policies

The Regional Board:

3.9. Will accommodate anticipated residential growth in the areas designated as residential on Schedule A.1 mapping.

- 3.10. Will increase housing diversity and choice in the community through allowing for accessory dwellings such as: secondary suites, cottages, carriage houses and garage suites to increase the number of dwellings available for rental occupancy and to single occupancy households.
- 3.11. Will support initiatives to provide for special needs housing required for seniors and those with mobility issues or in need of support, within the Village of Salmo or Ymir where servicing needs can be met given the predominately rural nature of the Plan area.
- 3.12. Will assess and evaluate proposed residential development based on the following:
- a. capability of accommodating on-site domestic water and waste water disposal;
 - b. capability of the natural environment to support the proposed development, and any impacts on 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 the 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; and
 - f. mitigation of visual impacts where development is proposed on hillsides and other visually sensitive areas.
- 3.13. Recognizes that existing lots smaller than the minimum lot size permitted by designation may be used for the purposes permitted in the designation provided all other regulations are met.
- 3.14. Encourages the clustering of residential development to create separation between neighbouring developments and to avoid continuous sprawl-like development where feasible.
- 3.15. Encourages the infill of vacant residential lots before development of new residential areas, in addition to the consolidation of small residential lots to address safe building and servicing requirements.
- 3.16. Recognizes the limitations for further residential development in specified areas of Ymir and Rosebud Lake where water supply may be limited or septic servicing at capacity.

Rural Residential (RR) Policies

The Regional Board:

- 3.25. Directs that the principal use shall be one-family or two-family dwellings, horticulture or portable sawmills.
- 3.26. Will allow for accessory buildings and structures, accessory dwellings, accessory tourist accommodation, home-based business, horticulture, keeping of farm animals, kennels and small scale wood product manufacturing as accessory uses.
- 3.27. Supports rural residential development with lot sizes for subdivision that generally exceed 2.0 hectares.

3.28. Supports remote residential development with lot sizes for subdivision that generally exceed 4.0 hectares for properties that do not have access to a maintained public road or other servicing constraints.

Zoning

The property is zoned Agriculture. The minimum site area for the AG Zone is 4.0 hectares. The minimum site area for the proposed R3 zone on the northern portion of the property is 2.0 hectares. At 6.6 hectares the property is large enough for the creation one lot zoned AG and one lot zoned R3. It is not large enough to subdivide into two AG zoned lots.

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 was paid in full pursuant to *Planning Procedures and Fees Bylaw No. 2457, 2015*.

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

Section 475 of the *Local Government Act (LGA)* directs that the Board must provide one of more opportunities it considers appropriate for consultation with persons and entities it believes will be impacted by the development.

On May 19, 2022 the Regional Board established a policy (No. 400-02-19) to ensure a consistent process to comply with S.475 of the *LGA*. Pursuant to Policy 400-02-19, this application is defined as a minor amendment, and by means of that policy, the Board has identified what it considers appropriate for consultation with persons, organizations and authorities it considers will be affected.

If the amending bylaw is adopted, an application for subdivision will be required to comply with the RDCK's *Subdivision Bylaw No. 2159, 2011*.

3.3 Environmental Considerations

There is an unnamed creek that crosses the southwest portion of the property. The water pools on the property where it meets the flat land. *Salmo River Valley Electoral Area 'G' Land Use Bylaw No. 2452, 2018* identifies creeks where Watercourse Development Permits are required. Water Course Development Permit Areas (WDPAs) are mapped for clarity. This creek is not identified as being within a WDPA. It is located on a portion of the property that is not a potential building site. There is no loss of riparian area anticipated with this development proposal.

At this time a second driveway access is not proposed. If a second driveway is constructed in the future, some land clearing would be required. No land clearing is required for construction of a house on the upper bench as the land is already clear of trees.

3.4 Social Considerations:

None anticipated.

3.5 Economic Considerations:

None anticipated.

3.6 Communication Considerations:

The application was referred to six (6) neighboring property owners, internal RDCK departments, government agencies and First Nations. The following responses were received.

RDCK Building Department

Any existing buildings on either proposed property adjacent to new property line shall conform to Sections 9.10.14 and 9.10.15 of the British Columbia Building Code 2018 for maximum building openings and construction type relative to proposed distance from the property line.

Interior Health Authority

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 Agriculture and Food

From an agricultural perspective, the Ministry offers the following comments:

- *Approximately 2.4 ha of the 6.6 ha Subject Property is located within the Agricultural Land Reserve (ALR).*
- *The proposed subdivision is entirely on the portion of the Subject Property that is not in the ALR and hence, the submission of a subdivision application to the Agricultural Land Commission is not required.*
- *Ultimately, given that the ALR portion of the Subject Property will not be impacted by the proposed rezoning and subdivision, Ministry staff have no concerns with respect to this application.*
- *Given that other land within the ALR in the vicinity of the Subject Property is zoned AG, Ministry staff recommend that the ALR portion of the Subject Property is rezoned back to AG once the proposed subdivision is complete to ensure consistent zoning for land in the ALR.*

Penticton Indian Band

The proposed activity is located within syilx (Okanagan) Nation Territory and the Penticton Indian Band (PIB) area of responsibility. All lands and resources within the vicinity of the proposed project are subject to our unextinguished Aboriginal Title and Rights. Based upon our review and engagement today we advise that the Penticton Indian Band will offer Conditional Approval for the activity proposed above provided that the following conditions are met:

- 1. The proposed activity does not have deleterious lasting effect on the environment.*
- 2. The proposed activity does not adversely impact syilx culture, resources, environment, or archaeology.*
- 3. The PIB will continue to be meaningfully engaged.*

4. Prior to any ground disturbance/land altering activities the PIB will be contacted and a Cultural Heritage Resource

Assessment will be undertaken at the expense of the proponent.

Please advise the Penticton Indian Band in writing as to your ability to meet the conditions listed above. Failure to meet these conditions will result in the revocation of our Conditional Approval for the proposed activity.

Ministry of Transportation and Infrastructure

The main interest was to ensure that the proposed driveway access to the new future R3 lot will be viable. It should be sufficient and acceptable from MOTI's perspective.

We have no concerns with the proposed zoning amendment. Thanks for the opportunity to review the proposal.

3.7 Staffing/Departmental Workplace Considerations:

Should the Board choose to give the amending bylaw First and Second readings and refer to a public hearing, staff will organize the public hearing pursuant to the *Planning Fees and Procedures Bylaw No. 2457, 2015*.

3.8 Board Strategic Plan/Priorities Considerations:

Not applicable.

SECTION 4: OPTIONS

Planning Discussion

At first glance the proposal seems to conflict with the policy direction that seeks to maintain land designated for agriculture. This amendment to the land use designation, however, is more a refinement of the truly farmable portion of the property. When the Salmo River Valley comprehensive land use bylaw land use designations were established, they mostly followed logical boundaries, such as, property lines. Seeing as the proposed new lot does not result in a loss of ALR land, or land with the highest agriculture capability rating (see Figure 3 – Agriculture Capability), re-designating this land for residential purposes would not impact agriculture. The Ministry of Agriculture and Food has also noted no concerns with the proposal. The amending bylaw has been drafted to ensure that the proposed 4.2 ha remainder parcel within the ALR would maintain its agricultural zoning and land use designation.

The Ministry of Transportation and Infrastructure conducted a site visit to ensure that the proposed zoning would allow sufficient room for an access to be constructed on the R3 portion, which eventually would become its own lot. The Ministry then responded to the referral noting that they have no concerns.

The proponent has worked with the Penticton Indian Band to obtain conditional approval. The Interior Health Authority has no concerns.

It is for the above reasons, that staff support this OCP land use designation and rezoning application proceeding to a public hearing.

Options

Option 1

That *Land Use Amendment Bylaw No. 2856, 2022* being a bylaw to amend the *Electoral Area 'G' Land Use Bylaw No. 2452, 2018* is hereby given FIRST and SECOND reading by content and referred to a PUBLIC HEARING.

That in accordance with *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*, Electoral Area 'G' Director Hans Cunningham is hereby delegated the authority to chair the Public Hearing on behalf of the Regional District Board.

Option 2

That further consideration of *Land Use Amendment Bylaw No. 2856, 2022* being a bylaw to amend the BE REFERRED to the August 17, 2022 Rural Affairs Committee meeting.

Option 3

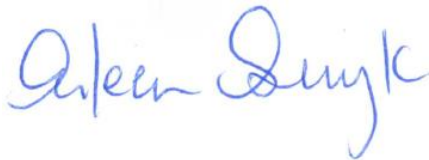
That no further action be taken with respect to *Land Use Amendment Bylaw No. 2856, 2022* being a bylaw to amend the *Electoral Area 'G' Land Use Bylaw No. 2452, 2018* .

SECTION 5: RECOMMENDATIONS

That *Land Use Amendment Bylaw No. 2856, 2022* being a bylaw to amend the *Electoral Area 'G' Land Use Bylaw No. 2452, 2018* is hereby given FIRST and SECOND reading by content and referred to a PUBLIC HEARING.

That in accordance with *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*, Electoral Area 'G' Director Hans Cunningham is hereby delegated the authority to chair the Public Hearing on behalf of the Regional District Board.

Respectfully submitted,



Eileen Senyk

CONCURRENCE

Planning Manager – Nelson Wight

General Manager Sustainability and Development Services – Sangita Sudan

Chief Administrative Officer – Stuart Horn

ATTACHMENTS:

Attachment A – Draft Bylaw

REGIONAL DISTRICT OF CENTRAL KOOTENAY

Bylaw No. 2856, 2022

A Bylaw to amend Salmo River Valley Electoral Area G Land Use Bylaw No. 2316, 2013

WHEREAS it is deemed expedient to amend the Salmo River Valley 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' and Schedule 'B' of the Salmo River Valley Electoral Area 'G' Land Use Bylaw No. 2452, 2018 be amended by changing the Land Use Designation of the portion of Lot 2 District Lot 1237 Kootenay District Plan 6791 (PID 017-579-015) shown on Schedule 'A' from Agriculture to Rural Residential and the zoning of the portion of Lot 2 District Lot 1237 Kootenay District Plan 6791 (PID 017-579-015) shown on Schedule 'B' from Agricultural to Rural Residential, as shown on the attached Maps.
2 This Bylaw shall come into force and effect upon its adoption.

CITATION

- 3 This Bylaw may be cited as "Salmo River Valley Electoral Area G Land Use Bylaw No. 2856, 2022"

READ A FIRST TIME this 21st day of July, 2022.

READ A SECOND TIME this 21st day of July, 2022.

WHEREAS A PUBLIC HEARING was held this [Date] day of [Month], 20XX.

READ A THIRD TIME this [Date] day of [Month], 20XX.







[Controlled Highway or Exceeds 4500 sq.m] APPROVED under Section 52 (3)(a) of the Transportation Act this [Date] day of [Month], 20XX.

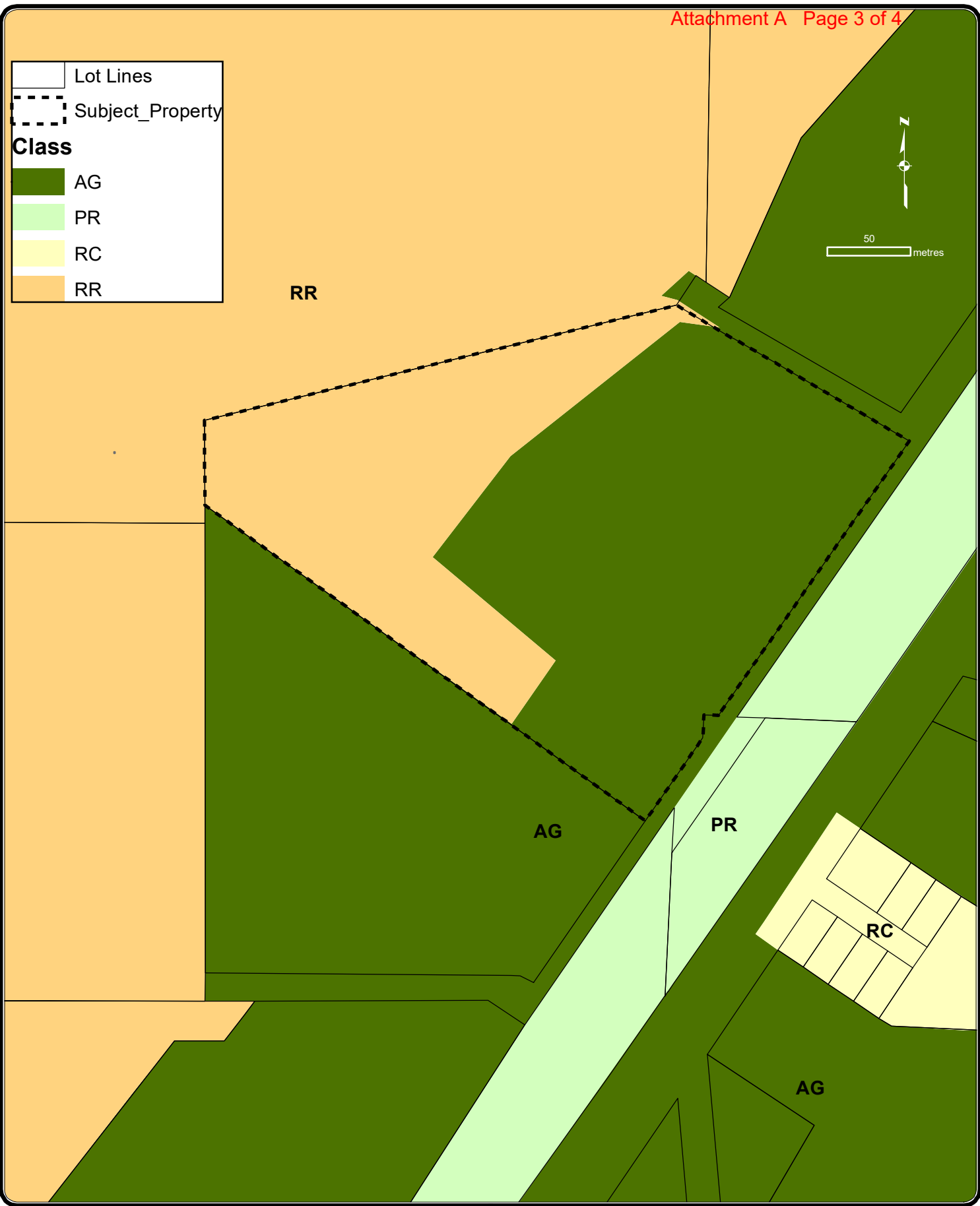
Approval Authority,
Ministry of Transportation and Infrastructure

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

[Name of Board Chair], Board Chair

[Name of CO], Corporate Officer

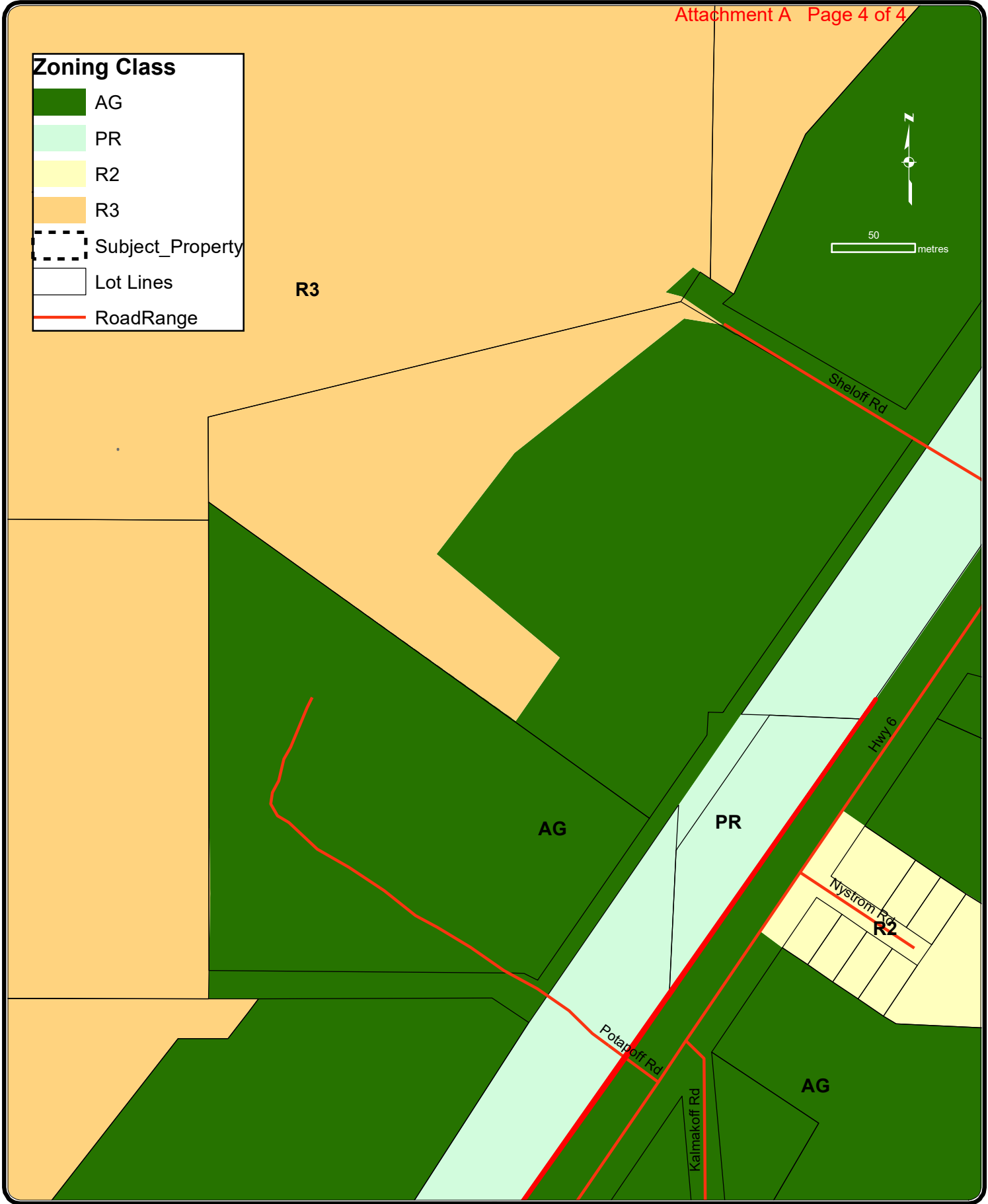
	Lot Lines
	Subject_Property
Class	
	AG
	PR
	RC
	RR



Schedule 'A'
Bylaw 2856, 2022

Zoning Class

- AG
- PR
- R2
- R3
- Subject_Property
- Lot Lines
- RoadRange



Schedule 'B'
Bylaw 2856, 2022