



# Committee Report

**Date of Report:** June 27, 2023  
**Date & Type of Meeting:** July 19, 2023 Rural Affairs Committee  
**Author:** Zachari Giacomazzo, Planner  
**Subject:** BYLAW AMENDMENT  
**File:** Z2303K - Hascarl  
**Electoral Area/Municipality** K

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Board to consider an application for a bylaw amendment for the subject property at 948 Highway 6, in Electoral Area 'K'.

The applicant seeks to re-zone the property from Rural Residential 'K' (R3K) to a site specific Heavy Industrial (M3) zone and amend the OCP land use designation from Rural Residential (R3) to Industrial (M) in order to permit "Concrete and Cement Manufacturing and Storage". The proposed site specific M3 zone would address a reduction of the minimum site area requirement from 3 hectares to 0.5 hectare and a reduction of the setback from a concrete batch plant to a lot line that abuts a Residential zone from 75 metres to approximately 18 metres.

Staff has received a significant number of submissions from the surrounding area residents expressing opposition to this industrial use in their neighbourhood. Given that opposition, the inconsistency of the proposed bylaw amendment with Electoral Area 'K' Official Community Plan Bylaw No. 2022, 2009 (the OCP), and the conflicts of use between the proposed industrial activity and the surrounding residential neighbourhood, Staff recommend that no further action be taken.

## SECTION 2: BACKGROUND/ANALYSIS

### SITE CONTEXT

The subject property is located at 948 Highway 6, approximately 3 km east of the Village of Nakusp in Electoral Area 'K'. The property is 5.9 ha in size and is currently used as a residence, farm and a repair shop for motor vehicles and farm equipment. The applicant has indicated that the operation of the motor vehicle and farm equipment repair shop predates the zoning regulations for Electoral Area 'K', however the applicant has not provided any information to the RDCK to recognize this use as "Legal Non-Conforming".

The property is surrounded by rural/suburban residential and agricultural uses. There is a 2 ha industrial property (848 Highway 6) approximately 300 metres west of the subject property on the north side of Highway 6 where the concrete batch plant business has been operating for more than 40 years.

### GENERAL INFORMATION

**Property Owner:** Kelly A. Hascarl and Neil A. Hascarl

**Property Location:** 948 Highway 6, Rural Nakusp, Electoral Area 'K'

**Legal Description:** LOT 1 DISTRICT LOT 298 KOOTENAY DISTRICT PLAN 17803 EXCEPT PLAN NEP90926 (PID: 010-445-609)  
**Property Size:** 5.9 hectares (14.6 acres)

SURROUNDING LAND USES	
North:	Suburban/Rural Residential
East:	Rural Residential
South:	Suburban Residential/Agriculture
West:	Suburban Residential/Agriculture



Figure 1 - Location Map





*Figure 2 - View of proposed concrete batch plant location from Hwy 6*



*Figure 3 - Location of proposed concrete batch plant in front of this existing building*



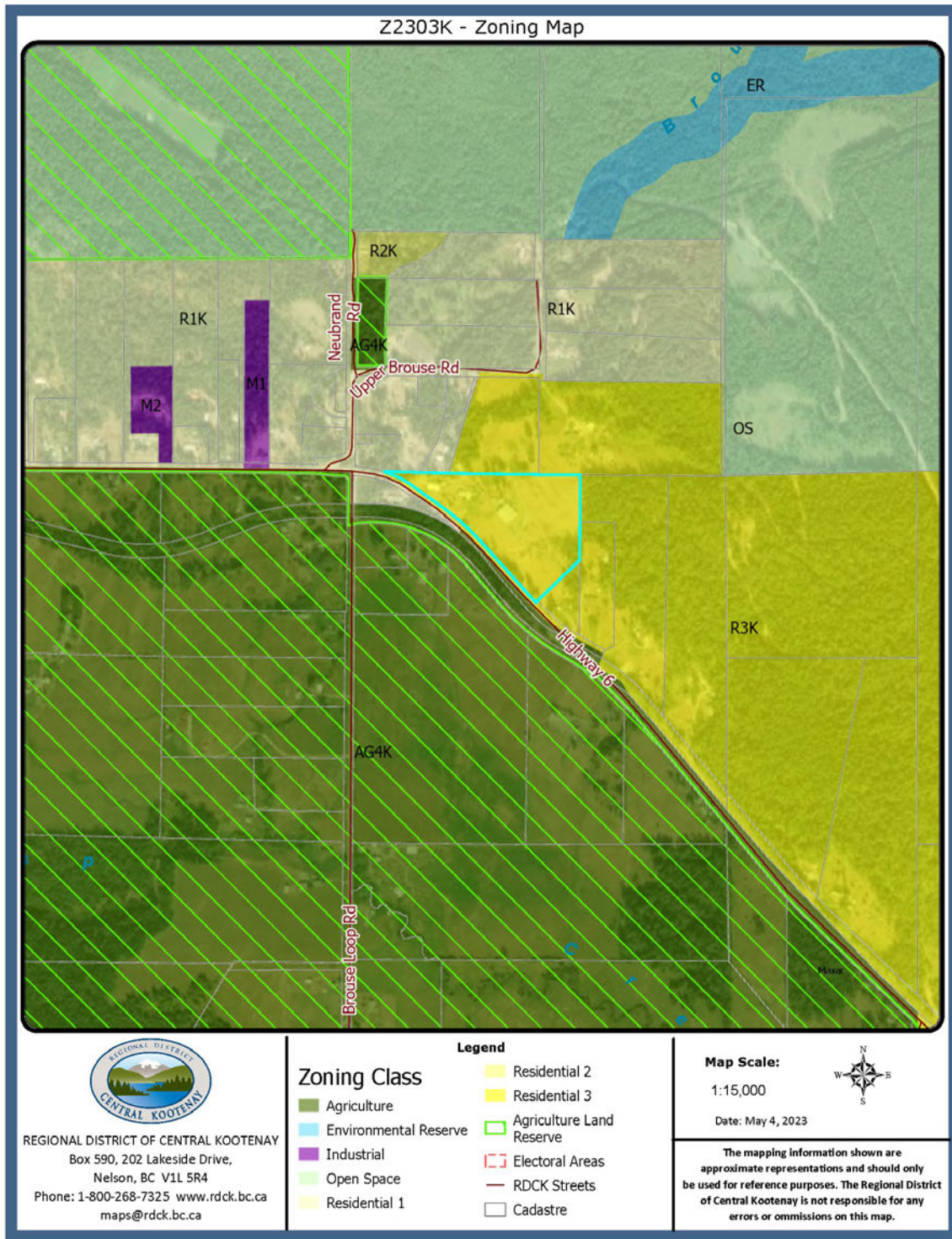


Figure 4 - Zoning map



## **EXISTING PLANNING POLICY**

### **Electoral Area 'K' Official Community Plan Bylaw No. 2022, 2009**

The following policies from the Electoral 'K' Official Community Plan (OCP) were noted as being relevant to the current application. These policies are intended to guide decision making when considering land use amendments and development applications.

#### **4.0 GOALS**

##### **General**

1. To encourage the appropriate use of land in recognition of the desires of area residents, existing uses, resource constraints and opportunities, compatibility between uses, and the efficient provision of community services.
2. To maintain opportunities for rural living through development which respects the lifestyles of area residents and the natural environment.

##### **Social**

1. Provide for safe, quiet, and attractive rural residential neighbourhoods that will satisfy the housing and social needs of all Arrow Lakes residents, with particular emphasis on affordable market, rental and seniors housing.
2. Protect and enhance the unique "community character" of the unincorporated settlements within the rural plan area.

#### **8.0 COMMERCIAL AND INDUSTRIAL**

##### **Objectives**

1. To accommodate commercial developments that service the local communities and travelling public.
2. To ensure that industrial uses are located in a manner which reduces impacts on neighbouring properties and the natural environment.
3. To accommodate temporary industrial and commercial uses in appropriate locations.

##### **Industrial (M) Policies**

The Regional Board:

1. Supports that upon application, a light industrial subdivision may be considered subject to good arterial highway access and subject to noise abatement and landscaping requirements and where land use conflicts are minimized.
2. Recognizes the maintenance of existing industry, and supports new small scale light industry so that a broader employment base may be achieved.
3. Recognizes existing aggregate processing uses in the area. However, further industrial or quarry operations are discouraged by the Regional District unless mitigative measures are taken to ensure such development will have no impact on the neighbouring property owners.
4. Supports that Industrial Development Permits pursuant to Section 488.1(1) (a) and (f) of the Local Government Act may be considered on any parcel designated as Industrial. Such permits may be

subject to the provision of performance bonds and/or registered covenants ensuring compliance of the permit.

5. Discourages industrial activities that are considered noxious or emit large volumes of pollutants, or are otherwise detrimental to the environment, neighbouring properties, and the community as a whole.
6. Supports that a Development Permit Area pursuant to Sections 488.1 and 489 of the Local Government Act shall be required for all industrial developments to ensure development is compatible with adjacent land uses.

## **12.0 NATURAL ENVIRONMENT**

### **Objectives**

1. To preserve and protect natural values within the Plan Area in recognition of their importance to the local economy, residents, visitors and for wildlife and ecological functioning.
2. To maintain high water quality of groundwater and surface water sources of domestic water supply
3. To foster an awareness of the natural environment and protect sensitive and significant natural features and values from negative impact as a result of development.
5. To preserve the aesthetic value of the landscape.
6. To regulate the siting and environmental design of development adjacent to watercourses, including sensitive and significant natural features and values.
7. To encourage Provincial and Federal governments, private organizations and private landowners to protect, enhance and manage sensitive habitat areas in the Plan area and to adhere to Federal and Provincial statutes and regulations for the protection of fish and wildlife habitats.

### **Policies**

The Regional Board:

1. Supports the identification, protection, and enhancement of environmentally sensitive areas, such as watercourses, wetlands, shorelines, steep rocky terrestrial areas and ungulate winter range.
4. Supports the objectives of the Province contained in the BC Stewardship Centre Stewardship Series documents, 'Stream Stewardship: A Guide for Planners and Developers', and 'Stewardship Bylaws: A Guide for Local Government', which describe measures for:
  - a. providing and protecting vegetated riparian areas adjacent to watercourses;
  - b. controlling soil erosion and sediment in run-off water;
  - g. preventing the discharge of deleterious substances into watercourses
9. Recognizes the ecological importance and functioning of all waterways in the Plan area.

## **18.0 COMMUNITY SPECIFIC POLICIES**

### **Brouse/Glenbank**

- Development in the Brouse and Glenbank areas shall be primarily rural residential and agricultural. Other forms of development shall be directed towards the boundary of the Village of Nakusp.



## 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

Pursuant to Planning Fees and Procedures Bylaw No. 2457, 2015 the applicant has paid the joint OCP/Zoning bylaw amendment fee of \$1800 in full.

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

The application was processed in accordance with Planning Fees and Procedures Bylaw No. 2457, 2015.

### 3.3 Environmental Considerations

Increased truck traffic, processing aggregate and batching concrete could have an impact on Upper Brouse Creek which flows through the subject property.

### 3.4 Social Considerations:

Staff have concerns that the proposed Industrial use of the subject property will have a significant negative impact on the public and specifically the surrounding residents. A number of complaints have been received from neighbours related to the unauthorized operation of the concrete batch plant and the related, noise, dust, truck traffic

### 3.5 Economic Considerations:

The proposed concrete batch plant has the potential to create a small number of jobs in the community. Staff also recognize that pursuant to Section 12.0 of the OCP, the natural environment is of significant value to the economy and the livelihood of the Plan area for recreation, education, tourism and spiritual well-being; and is recognized for its inherent value to wildlife and the ecological functioning of the area. Any potential economic benefits in the form of jobs, need to be considered against the possible environmental impact of a new industrial use adjacent to a fish bearing creek.

### 3.6 Communication Considerations:

Pursuant to the Planning Fees and Procedures Bylaw, the application was referred to 21 households in the community, the Ministry of Transportation, Ministry of Water, Lands and Resource Stewardship, Interior Health Authority, Village of Nakusp, RDCK Fire Services, RDCK Building Services, Fortis BC, BC Hydro, the Director and Alternative Director for Electoral Area 'K', and all First Nations identified as having interests through use of the Consultative Areas Database tool.

The following government agencies and First Nations responded to the referral:

#### Ministry of Transportation and Infrastructure – Development Officer

Thank you for the opportunity to review the application. The ministry has no concerns however an access permit will be required to ensure egress and ingress movements are safe and no impact to the highway users.

#### Fortis BC – Contract Land Agent

There are no FortisBC Inc (Electric) ("FBC(E)") facilities affected by this application. As such FBC(E) has no concerns with this circulation.

#### RDCK Building Department – Senior Building Official

No comments.

Ktunaxa Nation Council – Guardianship Referrals Administrator

The Ktunaxa Nation Council has no further concerns with this Bylaw Amendment.

Penticton Indian Band – Interim Referrals Coordinator

We are in receipt of the above referral. The proposed activity is located within Okanagan/syilx Nation Territory. All lands and resources within the vicinity of this referral are subject to unextinguished Okanagan/syilx Nation Aboriginal Title and Rights. The Penticton Indian Band has now had the opportunity to review the proposed activity. At this time, the Penticton Indian Band will be deferring further consultation and engagement to the Okanagan Indian Band.

Okanagan Indian Band

*No response received. RDCK Staff followed up with Okanagan Indian Band on June 15<sup>th</sup> however a response has not yet been provided.*

Village of Nakusp – Chief Administrative Officer

The Village is happy to support increased commercial activity in the general area, and particularly a cement operation. However we do have one concern which deals with the water source the applicant will be using to operate their business. This property is serviced by the Village of Nakusp’s water system. We do not want our potable water used for this purpose as the water consumption will be considerable and we are always conscious of our water use to ensure there is enough water for future housing growth in our community. Furthermore, we lack the means to adequately charge for and meter the water they would use.

We respectfully request that the applicant be required to use a different water source for their operation as a condition of the approval of their application. We do not believe this is an erroneous request since there is surface water available in the area alternatively a well could be drilled.

Community Referral Responses

Community members surrounding the subject property responded to the RDCK during the referral period. A total of 16 written submissions were received.

All responses from the neighborhood referral are included in Attachment E.

The detail included in the submissions was extensive. The following table is an effort to identify the concerns that were repeated in many of the submissions. The table also includes information for the RAC and Board to consider when evaluating the concerns.

<b>Concern</b>	<b>Details</b>	<b>Considerations</b>
Noise and Dust	Noise from trucks, rock crushing activities, moving/operating machinery and vehicles has been disturbing surrounding residents.  Neighbours are concerned with the dust that would be created	Is it possible for noise from trucks and the concrete manufacturing process to be mitigated? Can fences or vegetative screening sufficiently mitigate the impacts of noise and dust from an industrial use or are the issues



	from truck traffic and the manufacturing process itself. Concerns were also raised about dust from the concrete manufacturing process ending up in the creek.	noted by neighbours likely to persist?
Incompatibility with surrounding land uses	The Industrial land use designation and Heavy Industrial (M3) zone that is required to permit a concrete batch plant is not compatible with the surrounding suburban and rural residential land uses.	Is there a more suitable area for this proposed use? Is the proposed industrial use far enough from residential uses?
Water/Environment/Brouse Creek	Many residents identified concerns related to the impact on Brouse Creek which is a fish bearing stream and also a source of drinking water for the Village of Nakusp directly upstream from the proposed location of the concrete batch plant. Storing of vehicles, machinery, gravel, and manufacturing concrete products all have the ability to negatively impact the creek.	The Village of Nakusp, who provides water to the subject property has noted that they have concerns with an industrial business utilizing a domestic water connection.  A number of residents have concerns that this proposed industrial use would have on Brouse Creek and the associated riparian area.
Rural Character	The quiet rural character of the area would potentially be disturbed by allowing a new industrial business.	Is this proposed use compatible with the characteristics of the surrounding properties?
Reduction of required 75 metre setback from the concrete batch plant to residential properties	The proposal involves reducing the minimum required setback of 75 metres from the closest point of the batch plant or rock processing machinery/equipment to any lot lines abutting a residential zone. The closest lot line abutting a residential zone is approximately 18 metres from the proposed location of the concrete batch plant.	There are two residential properties that are not owned by the applicant that are within 75 metres of the proposed location of the concrete batch plant. For these two residential properties, the dwellings are located less than 75 metres from the proposed concrete batch plant location.
Un sightliness of the property and visual impact of the proposed batch plant	There are a large number of derelict and inoperable vehicles and machinery scattered throughout the subject property. The establishment of a concrete batch plant and the additional materials and machinery that are	Given the existing conditions of the subject property and how close the proposed batch plant is to the roadway (Hwy 6), it is likely that the property will remain in this current state and additional

	required for the manufacturing of concrete products would make this existing situation worse.	machinery/equipment will be stored adjacent to the roadway.
Conflict with existing land use policies	The proposal is not consistent with several sections of the Area 'K' Official Community Plan.	The OCP is the land use policy document that was developed by the RDCK in consultation with the community and other stakeholders to guide future land use planning decisions. The proposed Land Use Bylaw Amendment is not consistent with the OCP.
Negative impact on property values	Neighbouring property owners have concerns related to how the proposed industrial use could affect the value of their homes.	

### 3.7 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 'C' of the Planning Procedures and Fees Bylaw No. 2547, 2015.

### 3.8 Board Strategic Plan/Priorities Considerations:

The application falls under the operational role of Planning Services.

## SECTION 4: OPTIONS & PROS / CONS

### PLANNING DISCUSSION

This application proposes to amend the OCP land use designation from Rural Residential (R3) to Industrial (M) and amend the Zoning designation from Rural Residential 'K' (R3K) to a site specific Heavy Industrial (M3) zone for a 0.5 hectare portion of the subject property in order to permit a "concrete batch plant". Site specific zoning regulations are requested to be established in order to:

1. Permit a 0.5 hectare area to be zoned M3 because the minimum site area requirement pursuant to Section 4201 (1) of Zoning Bylaw No. 1675 is 3 hectares, and to;
2. Permit the proposed concrete batch plant to be constructed 18 metres from a lot line abutting a residential zone because pursuant to Section 4201 (4) of Zoning Bylaw No. 1675 a concrete batch plant must be a minimum of 75 metres from a lot line abutting a residential zone.

The portion of the subject property that is proposed to be rezoned Heavy Industrial (M3) is surrounded by residential properties. Figure 5 shows a red circle which represents an approximate 75 metre buffer around the location of the proposed concrete batch plant. Typically, the M3 zone requires that all residential properties are at least 75 metres from the machinery and equipment used as part of a batch plant. This map illustrates that two dwellings are within 75 metres of the proposed location of the batch plant.



Land Use Bylaw Amendment applications to establish new industrial land can negatively impact the community and this proposal to rezone a portion of an existing residential lot has received 16 submissions from neighbouring residents which is significant. The concerns raised by surrounding residents range from noise, environmental impact on the adjacent creek, dust, increase in truck traffic, negative impact on property values, incompatibility with adjacent land uses, and the overall unsightliness of the property and the proposed use.

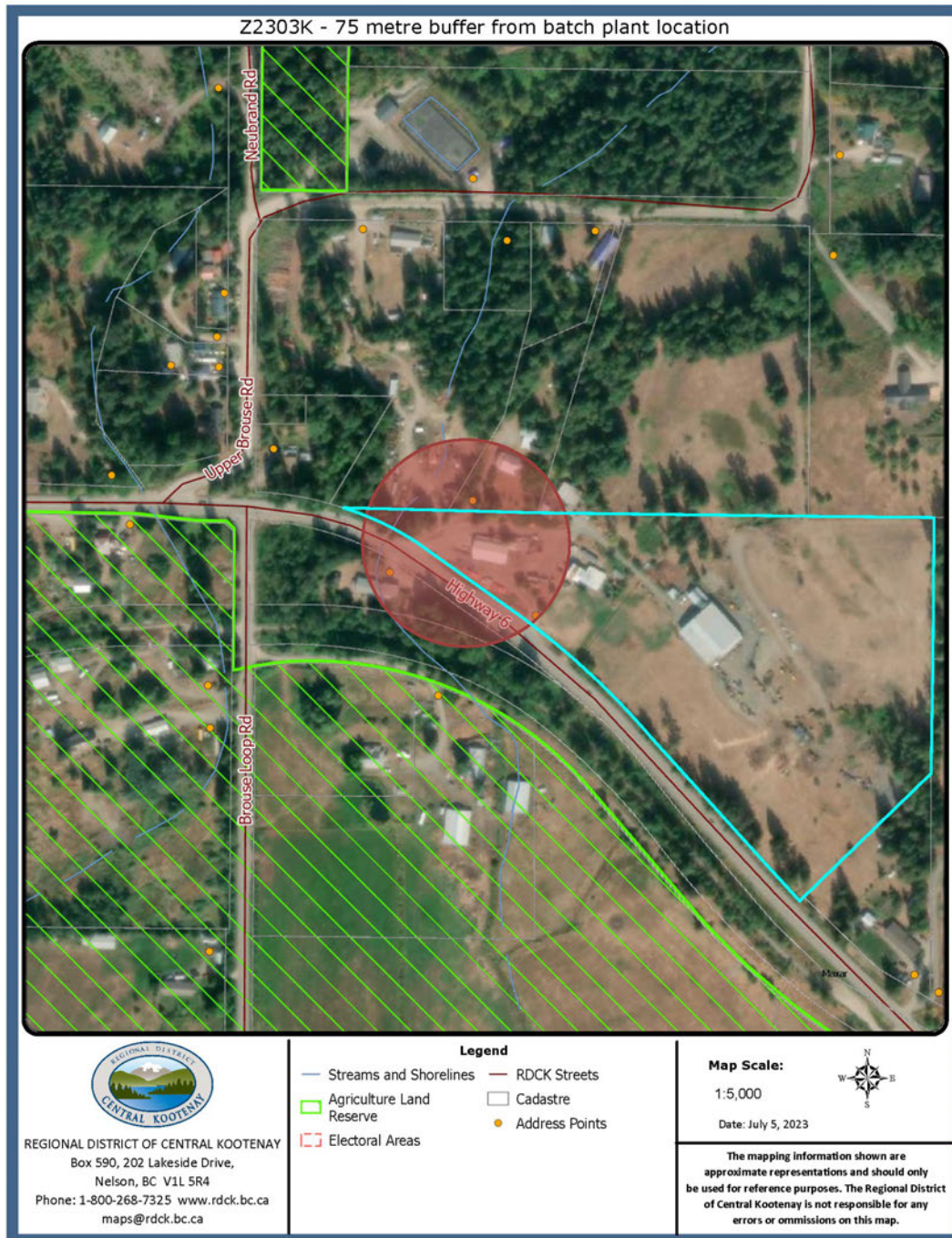


Figure 5 - Map showing an approximate 75 metre buffer from the approximate location of the proposed concrete batch plant

The OCP is the land use policy document that was developed by the RDCK in consultation with the community and other stakeholders to guide future land use planning decisions. This proposed Land Use Bylaw Amendment is not consistent with the existing land use policy in the Electoral Area 'K' Official Community Plan Bylaw No. 2022, 2009 and is in direct contradiction of many of the relevant sections that were mentioned in the "existing planning policy" section of this report.

If the proposed Land Use Bylaw Amendment application were to be supported, an Industrial Development Permit application pursuant to Section 19.0 of the Area 'K' Official Community Plan would subsequently be required in order to address:

1. impact on farm land;
2. capability of the natural environment to support the proposed development;
3. compatibility with adjacent land uses and designations, and the character of the area;
4. susceptibility to natural hazards, including but not limited to flooding, slope instability, or wildfire risk;
5. the size of the property in relation to the proposed industrial activity;

Given the opposition that was received from surrounding residents, the inconsistency of the proposed bylaw amendment with the OCP, and the conflicts of use between the proposed industrial activity and the surrounding residential neighbourhood, Staff recommend that no further action be taken with regard to this application.

## **OPTIONS**

### **Option 1**

1. That NO FURTHER ACTION be taken regarding Regional District of Central Kootenay Zoning Amendment Bylaw No. 2906, 2023 being a bylaw to amend the Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004.
2. That NO FURTHER ACTION be taken regarding Regional District of Central Kootenay Electoral Area K – The Arrow Lakes Official Community Plan Amendment Bylaw No. 2907, 2023 being a bylaw to amend to amend Electoral Area K – The Arrow Lakes Official Community Plan Bylaw No. 2022, 2009.

### **Option 2**

1. That Regional District of Central Kootenay Zoning Amendment Bylaw No. 2906, 2023 being a bylaw to amend the Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 is hereby given FIRST and SECOND reading by content and referred to a PUBLIC HEARING.
2. That Regional District of Central Kootenay Electoral Area K – The Arrow Lakes Official Community Plan Amendment Bylaw No. 2907, 2023 being a bylaw to amend to amend Electoral Area K – The Arrow Lakes Official Community Plan Bylaw No. 2022, 2009 is hereby given FIRST and SECOND reading by content and referred to a PUBLIC HEARING.
3. That in accordance with Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015, Electoral Area 'K' Director Teresa Weatherhead is hereby delegated the authority to chair the Public Hearing on behalf of the Regional District Board.

## **SECTION 5: RECOMMENDATIONS**

1. That NO FURTHER ACTION be taken regarding Regional District of Central Kootenay Zoning Amendment Bylaw No. 2906, 2023 being a bylaw to amend the Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004.

2. That NO FURTHER ACTION be taken regarding Regional District of Central Kootenay Electoral Area K – The Arrow Lakes Official Community Plan Amendment Bylaw No. 2907, 2023 being a bylaw to amend to amend Electoral Area K – The Arrow Lakes Official Community Plan Bylaw No. 2022, 2009.

Respectfully submitted,

Originally signed by

Zachari Giacomazzo, Planner

## CONCURRENCE

Planning Manager – Digitally approved by Nelson Wight

General Manager of Development Services and Community Sustainability – Digitally approved by Sangita Sudan

Chief Administrative Officer – Digitally approved by Stuart Horn

### ATTACHMENTS:

Attachment A – Bylaw Excerpts

Attachment B – Draft Zoning Amendment Bylaw No. 2906, 2023

Attachment C – Draft OCP Amendment Bylaw No. 2907, 2023

Attachment D – Site Plan

Attachment E – Referral Responses

**DIVISION 17 RURAL RESIDENTIAL K (R3K)****Permitted Uses**

1700 Land, buildings and structures in the Rural Residential K (R3K) zone shall be used for the following purposes only:

## Dwellings:

One-Family

Two-Family

Horticulture

Veterinary Clinics

## Accessory Uses:

Accessory Buildings and Structures

Accessory Tourist Accommodation

Home Based Business

Micro Cultivation, Cannabis

Micro Processing, Cannabis

Nursery, Cannabis

Keeping of Farm Animals

Small Scale Wood Product Manufacturing subject to Section 1702

Temporary Guest Accommodation subject to Section 1703

**Development Regulations**

## 1701

- 1 The minimum site area for each permitted use shall be two (2) hectares.
- 2 The maximum site coverage permitted shall be 50 percent of the lot area.
- 3 The keeping of farm animals shall comply with the requirements of section 613.
- 4 Buildings and structures in the case of a lot that may be further subdivided shall be sited so as to facilitate the further subdivision of the lot or adjacent lots.
- 5 Despite Section 1701(1), a manufactured home on a non-permanent foundation may be permitted in addition to a one-family dwelling.
- 6 *Deleted by Bylaw 2757.*
- 7 The maximum height of any accessory building or structure shall not exceed 8 metres.
- 8 The maximum footprint of any accessory building or structure shall not exceed 250 square metres.



- 9 The cumulative gross floor area of all accessory buildings or structures shall not exceed 500 square metres.
- 10 Any building or structure for the purposes of cannabis micro cultivation, cannabis micro processing or cannabis nurseries shall be a minimum of 15 metres from all property lines, with the exception of a structure that has a base entirely of soil which may be located within 7.5 metres of a property line.
- 11 Cannabis micro cultivation, cannabis micro processing or cannabis nursery shall not be permitted in a dwelling place.

### **Small Scale Wood Product Manufacturing**

1702 A small scale wood product manufacturing operation is subject to the following requirements:

- 1 The minimum parcel size shall be 2.0 hectares.
- 2 The sawmill is limited to a band sawmill powered by an engine of no more than 42 Horsepower.
- 3 The property owner will continue to reside in the principal residence on the property.
- 4 Despite the site area requirements detailed elsewhere in the R3K Zone, the maximum area used for a small scale wood processing business, including external storage shall not exceed 0.4 hectares.
- 5 Any portion of a property used for a small scale wood product manufacturing use shall be located a minimum of 30 metres from any property line.
- 6 No more than three (3) persons who are not residents of the principal dwelling may be employed in the business.
- 7 External storage of materials, mill and other equipment, finished product and parking shall be screened from view from adjacent residential uses and road right-of-ways with a landscape screen of no less than 1.8 metres in height.
- 8 No commodities may be offered for sale except those produced on the premises.
- 9 There shall be minimal noise, traffic, vibration, smoke, odour, glare or electrical interference or emissions other than that normally associated with a dwelling.
- 10 Operation of the sawmill shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday.

- 11 There shall be no operation of the small scale wood product manufacturing operation on Sundays or Statutory Holidays.
- 12 Access to the small scale wood products manufacturing site shall minimize the impact of any related traffic on neighbouring properties and have approval from the applicable authorities.
- 13 Any sawmill operation under this section may be subject to an annual inspection to ensure compliance with the zoning bylaw.

### **Temporary Guest Accommodation**

#### **1703**

- 1 Subject to compliance with the requirements of the Interior Health Authority for sewage disposal and water supply, two (2) cabins per lot for the temporary accommodation of guests is permitted as an accessory use to a one-family or two-family dwelling subject to the following:
  - a. the minimum site area for the guest cabin shall be 1.4 hectares; and
  - b. a maximum gross floor area for a cabin of 100 square metres.
- 2 Subject to section 1703(1), a recreation vehicle may be used for temporary guest accommodation provided that no more than two (2) recreation vehicles shall be located on a lot and recreation vehicles shall be required to be licensed and remain mobile consistent with the original design of the vehicle, and a recreation vehicle that has its wheels or towing hitch removed, or is placed on footings or foundation, or includes additions such as porches, decks or a roof structure or in any way is altered or situated so as to be permanently affixed to the lot shall be considered a dwelling or guest cabin.
- 3 The minimum separation distance between a guest cabin, inclusive of attached decks and porches, and another dwelling shall be three (3) metres.
- 4 Each guest cabin or recreation vehicle that is used as temporary guest accommodation shall have sufficient site area to accommodate two (2) off-street parking spaces.
- 5 Temporary Guest Accommodation cabins or recreational vehicles shall not be used as rental accommodation.
- 6 A Temporary Guest Accommodation use and an Accessory Tourist Accommodation Use cannot be operated on the same lot at the same time.

**DIVISION 42      HEAVY INDUSTRIAL (M3)**

**Permitted Uses**

4200    Land, buildings and structures in the Heavy Industrial (M3) zone shall be used for the following purposes only:

All Uses Permitted in the Light Industrial (M1) and Medium Industrial (M2) Zones

Asphalt Plant

Concrete and Cement Manufacturing and Storage

Landfill

Waste Management Facilities

Accessory Uses:

    Accessory Buildings and Structures

    Business Office

    One Dwelling Unit

**Development Regulations**

4201

- 1    The minimum site area for each permitted use shall be three (3) hectares.
- 2    The maximum site coverage permitted shall be 75 percent of the lot area unless otherwise approved by Interior Health.
- 3    No building or structure except a fence may be located within:
  - a.    15 metres of the front or exterior side lot lines,
  - b.    4.5 metres of the rear or interior side lot lines, or
  - c.    25 metres of a rear or interior side lot line that abuts an agricultural or residential zone.
- 4    No equipment or machinery that grades, washes, or crushes primary mineral resources shall operate or no concrete batch plant or asphalt processing plant shall be located within 75 metres of any lot line that abuts a Residential zone.
- 5    The maximum height of any structure on a lot shall be 15 metres.
- 6    Landscaping shall comply with all requirements of sections 621 and 622.
- 7    An Industrial Development Permit is required for developments on Industrial zoned land.

REGIONAL DISTRICT OF CENTRAL KOOTENAY

Bylaw No. 2906, 2023

A Bylaw to amend RDCK Zoning Bylaw No. 1675, 2004

WHEREAS it is deemed expedient to amend the RDCK Zoning Bylaw No. 1675, 2004, 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' of Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 be amended by changing the Zoning Designation of LOT 1 DISTRICT LOT 398 KOOTENAY DISTRICT PLAN 17803 (PID 010-445-609) from Rural Residential 'K' (R3K) to Site Specific Heavy Industrial (M3) as shown on Schedule 'A' which is attached hereto and forms part of this bylaw:

1.1. Division 42, Heavy Industrial Development Regulations, 4200, Site Specific LOT 1 DISTRICT LOT 398 KOOTENAY DISTRICT PLAN 17803 Division 4201 (1) The minimum site area for "Concrete and Cement Manufacturing and Storage" shall be 0.5 hectares and Division 4201 (4) No equipment or machinery that grades, washes, or crushes primary mineral resources and no asphalt processing plant shall operate within 75 metres of any lot line that abuts a Residential zone or no concrete batch plant shall be located within 18 metres of any lot line that abuts a Residential zone.

2. This Bylaw shall come into force and effect upon its adoption.

CITATION

3. This Bylaw may be cited as "Regional District of Central Kootenay Zoning Amendment Bylaw No. 2906, 2023."

READ A FIRST TIME this 19 day of July, 2023.

READ A SECOND TIME this 19 day of July, 2023.

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

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



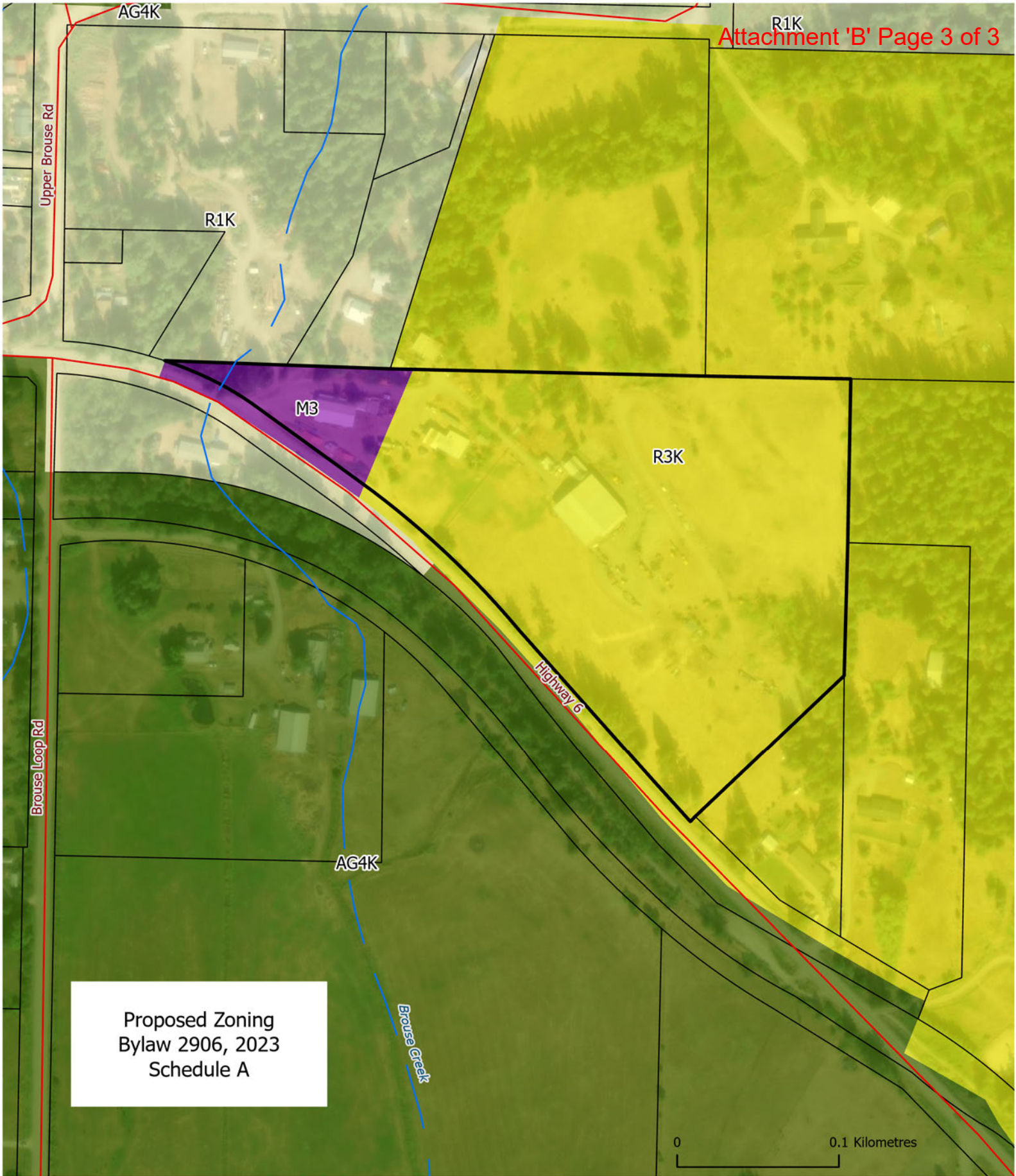
[Controlled Highway or Exceeds 4500 sq.m] APPROVED under **Section 52 (3)(a) of the Transportation Act** this [Date] day of [Month], 20XX.

\_\_\_\_\_  
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



Proposed Zoning  
Bylaw 2906, 2023  
Schedule A



- Subject Property
- Lot Lines
- Road
- Stream

**ZONING CLASS**

- Agriculture 4K (AG4K)
- Heavy Industrial (M3)
- Rural Residential K (R3K)
- Suburban Residential K (R1K)

213

Scale: 1:3,000  
PCS: NAD 1983 UTM Zone 11N  
Date: 6/29/2023

The mapping information shown are approximate representations and should only be used for reference purposes.

REGIONAL DISTRICT OF CENTRAL KOOTENAY

Bylaw No. 2907, 2023

A Bylaw to amend Electoral Area 'K' – The Arrow Lakes Official Community Plan Bylaw No. 2022, 2009

WHEREAS it is deemed expedient to amend the Electoral Area 'K' – The Arrow Lakes Official Community Plan Amendment Bylaw No. 2022, 2009, 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 'B' of Electoral Area 'K' – The Arrow Lakes Official Community Plan Amendment Bylaw No. 2022, 2009 be amended by changing the OCP Designation of LOT 1 DISTRICT LOT 398 KOOTENAY DISTRICT PLAN 17803 (PID 010-445-609) from Rural Residential (R3) to Industrial (M) as shown on Schedule 'B' which is attached hereto and forms part of this bylaw:
2. This Bylaw shall come into force and effect upon its adoption.

CITATION

- 3. This Bylaw may be cited as "Electoral Area K – The Arrow Lakes Official Community Plan Amendment Bylaw No. 2907, 2023."

READ A FIRST TIME this 19 day of July, 2023.

READ A SECOND TIME this 19 day of July, 2023.

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.

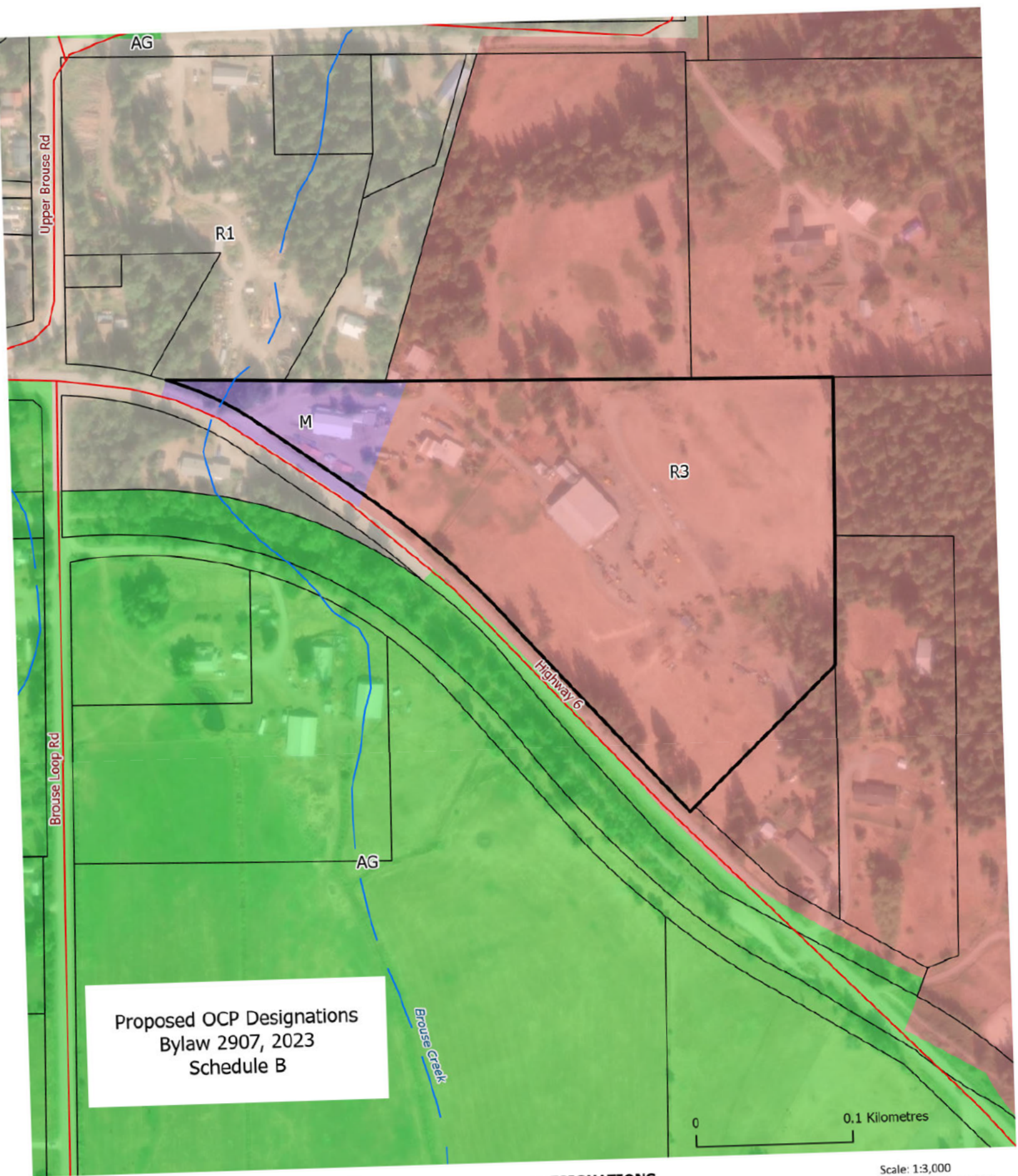
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[Name of Board Chair], Board Chair

---

[Name of CO], Corporate Officer





Proposed OCP Designations  
 Bylaw 2907, 2023  
 Schedule B

0 0.1 Kilometres



-  Subject Property
-  Lot Lines
-  Road
-  Stream

- OCP DESIGNATIONS**
-  Agriculture (AG)
  -  Community Residential (R1)
  -  Industrial (M)
  -  Rural Residential (R3)

Scale: 1:3,000  
 PCS: NAD 1983 UTM Zone 11N  
 Date: 6/29/2023

The mapping information shown are approximate representations and should only be used for reference purposes.





May 30, 2023

Zachari Giacomazzo  
Regional District of Central Kootenay  
Box 590  
202 Lakeside Drive  
Nelson, BC, V1L 5R4  
[zgiacomazzo@rdck.bc.ca](mailto:zgiacomazzo@rdck.bc.ca)  
250-352-8190

Dear Zachari, RDCK Planning Department and RDCK Board of Directors,

We are writing in response to Bylaw Amendment Application File Z2303K, Zoning/Land Use of 948 Highway 6, Nakusp, BC. We live in the area and are deeply concerned about having a heavy industrial operation located in this rural residential and agricultural area. There are a number of issues with the proposed bylaw amendment, and we hope the RDCK will consider all of these issues before making a decision.

1. Disregarding bylaws. Since November 2022, there have been numerous instances of illegal activity on the applicant's properties, both 948 Highway 6 and the neighbouring property at 159 Upper Brouse Road. In November 2022 he was operating a rock crusher, bulldozer and excavator, processing material and creating a stock pile of material, some of which has been trucked off site to various customers. Throughout the spring of 2023 Nakusp Redi mix trucks have been manufacturing concrete products (blocks) at 948 Highway 6, in complete violation of the zoning bylaws. Only after numerous warnings and fines did the activity temporarily cease, though there was activity again on May 26th, when a circular concrete lid was poured. Mr. Hascarl's disregard for bylaws gives us little faith that he will adhere to reduced operating hours and show any respect for his neighbours.
2. Noise and use. Since November 2022, we have noticed increased industrial activity at 948 Highway 6 and the neighbouring property, 159 Upper Brouse Road. At approximately 5:45am on November 8, 2022, under the cover of darkness, heavy equipment was moved onto site at 159 Upper Brouse Road to be used for the crushing and processing of gravel. Since then, various heavy industrial machinery has been used on both properties, including the pouring of concrete blocks at the proposed batch plant site. There have been numerous cases of heavy equipment operating early in the morning and late at night on both properties, including front end loaders, excavators, dump trucks and cement trucks. In Mr. Hascarl's letter supporting his rezoning application, he has written assurances that he will work with the neighbours and consider operating at reduced hours, but so far this is not the case. On November 3, 2022, he visited us at our property and mentioned that during the summer, concrete operations would occur early in the morning (6:00am) in order to beat the heat. His actions do not lie, and if given approval, we have little faith the applicant will adhere to reduced hours and work with his neighbours.

3. Setbacks. The setbacks listed in the M3 zoning are there for good reason - to ensure appropriate space and minimal disturbance of neighbours. Considering the previous activity and violations as well as dust and noise, reducing the setback of a concrete batch plant from a residential property from 75 metres to 18 metres (a 76% reduction) is absolutely unacceptable. With a hot and dry spring so far this year, we've already noticed increased dust with industrial traffic on the property.
4. Unsightly mess. Both properties are unsightly messes of derelict vehicles, old equipment and material, left to decay and leach chemicals into the ground and nearby streams. To date there has been no effort made to clean it up. We understand Mr. Hascarl has been dealing with an injury this spring, but he has still managed to continue other operations on the property, including manufacturing concrete blocks, digging and trucking gravel and top soil, and repairing heavy equipment. It is clear that he is only focused on the activities that maximize his profit. This gives us little faith he will do anything to mitigate dust, noise or any other pollution.
5. Environment. Brouse creek, a fish bearing stream and water source for many neighbours in the area, runs directly through the proposed concrete batch plant site. We've seen concrete trucks being hosed out on site with the effluent running into drainage ditches and nearby fish bearing creeks. There is no mention in the application of this creek, or what will be done to protect it. In the RDCK's draft climate action plan it talks about doing more to cut water use, monitor ground and surface water, and better manage community water systems. Locating a concrete batch plant and manufacturing site mere meters away from this stream, and increasing the risk of pollution into a fish bearing stream does not seem to be in line with this plan and is a recipe for environmental disaster.
6. Storage of material and equipment. Currently this application is only for a small portion 948 Highway 6, yet Mr. Hascarl has much of his equipment, and a pile of gravel, stored on his neighbouring property at 159 Upper Brouse Road, including his mobile batch plant, a rock crusher, tri-axle trailer and mobile power trailer. We are not familiar with all the equipment so I'm sure we missed some pieces. Where will his equipment be stored? He's mentioned storing the crusher at his gravel pit, but what about everything else?
7. Previous ownership and time operating. Mr. Hascarl has stated the business has operated for 47 years in its current location without issue or complaints. That may be the case under the previous ownership, but since purchasing the business, the activity at 948 Highway 6 has already caused numerous complaints. Basing a decision on the previous ownership of the business does not reflect the attitude and activities of the new owner. After witnessing the activities of Mr. Hascarl over the past 7 months, there is little faith he will be able to operate a concrete batch plant at 948 Highway 6 without disturbing the neighbours and causing further complaints. Mr. Hascarl also states they've owned the land for 100 years, but we fail to see how that should have any bearing on this application.



8. Late notification. Mr. Hascarl states he has been searching for a suitable property since he purchased the business in 2022. In November 2022 he mentioned his plans to move the batch plant to either 948 Highway 6 or 159 Upper Brouse Road. We finally received notification of his application on May 4, 2023 in a letter from the RDCK. It clearly states in the application guideline that a sign must be erected within 10 days of the application, yet it took until May 18th (14 days since the RDCK sent out the letter) for a Notice of Proposal sign to finally be erected on the property. We understand there may have been delays outside of his control, but considering the ongoing issues surrounding this application, it seems the applicant is not taking this process seriously. Delaying the notice means some people may not be aware of the application and have enough time to voice their concerns. It also speaks to the applicant's lack of respect for rules, regulations and due process. Similar to cleaning up the unsightly mess, this shows that unless it is for direct profit, the applicant does not seem to care. There have been no details given about actual operating hours, screening of the subject property or dust and noise mitigation and we are concerned these will fall to the wayside, just as erecting a sign in a timely fashion did.
  
9. Conflict with Official Community Plan (OCP) for Area K. Reading through the OCP for Area K, this application for re-zoning is in direct conflict with many portions of the bylaw. Re-zoning a portion of a residential property to heavy industrial, when it is surrounded by other residential and agricultural properties, and will also require a variance to reduce setbacks, is not in line with the OCP, and will create conflict. A heavy industrial site is not suited to this property and the application should be rejected. Please see the attached addendum below for highlighted excerpts from the OCP.

With all of this information, it is very clear to us and the rest of the neighbourhood that the subject property at 948 Highway 6 should not be considered for re-zoning to M3 heavy industrial. An obvious solution would be purchasing the existing property at 848 Highway 6, and if that is not an option, hopefully another industrial property can be made available to Mr. Hascarl. Thank you for your consideration.

Best Regards,



**Excerpt from ELECTORAL AREA 'K' - THE ARROW LAKES OFFICIAL  
COMMUNITY PLAN  
BYLAW NO. 2022, 2009**

2.0 PUBLIC CONSULTATION

Land Use Survey

In June of 2007 a land use survey was distributed to all residents of Electoral Area K. The purpose of the survey was to gather public comments on a range of land use planning issues. The results of this survey are reflected in the OCP.

Highlights of the survey results which are relevant to the OCP are as follows:

- Most people (50.8%) indicated that they choose to live in Electoral Area K to pursue a rural lifestyle. Furthermore most people (65.9%) identified themselves as full-time residents who have lived in Area K for more than 10 years (64%).
- Most people (51.1%) indicated that their property is 2 ha (5 ac) or larger however, most people (55.2%) said that their ideal minimum lot size is 1 ha (2.5 ac) or less.
- Most people (57.6%) support industrial and commercial development however there was also strong support (82.0%) for the Regional District to regulate the development of aggregate operations as well as commercial and industrial development.
- Most people (82.6%) recognize Arrow Lake as a significant landscape feature and support (89.7%) protecting the natural environment which includes watersheds and wildlife areas.
- Most people (63.7%) support preserving the Agricultural Land Reserve however most people (60.0%) also support a review of the current ALR boundaries.

4.0 GOALS

General

1. To encourage the appropriate use of land in recognition of the desires of area residents, existing uses, resource constraints and opportunities, compatibility between uses, and the efficient provision of community services.
2. To maintain opportunities for rural living through development which respects the lifestyles of area residents and the natural environment.
3. To maintain the integrity of the area's visual environment.
4. To protect heritage resource values and concerns in the course of public and private land development.
5. Balance economic, social, and environmental values in land use decision making.

Environmental

1. Protect the natural environment.
2. Work toward carbon neutrality by focusing on alternative methods of transportation and energy efficiency.
3. Ensure efficient transportation systems including the promotion of pedestrian and non-vehicular traffic
4. Direct development away from areas of high natural hazards to areas of no or low natural hazards, unless appropriate mitigation works are in place.

5. Ensure that development does not adversely harm or detract from identified wildlife corridors and areas with high wildlife and fisheries habitat value.
6. Protect the quantity and quality of water resources and waterways.

#### Social

1. Provide for safe, quiet, and attractive rural residential neighbourhoods that will satisfy the housing and social needs of all Arrow Lakes residents, with particular emphasis on affordable market, rental and seniors housing.

#### 8.0 Background

##### COMMERCIAL AND INDUSTRIAL

This section outlines the objectives and policies for General Commercial, Tourist Commercial and Industrial designations in the Plan area.

Industrial activities are provided for under the Industrial land use designation. The principal industrial activity in the Plan area is light, small scale industrial, and the Plan recognizes that heavy industrial development will be directed to existing settlement areas, which are better able to function as service centers.

#### Objectives

1. To accommodate commercial developments that service the local communities and travelling public.
2. To ensure that industrial uses are located in a manner which reduces impacts on neighbouring properties and the natural environment.
3. To accommodate temporary industrial and commercial uses in appropriate locations.

#### Industrial (M) Policies

The Regional Board:

1. Supports that upon application, a light industrial subdivision may be considered subject to good arterial highway access and subject to noise abatement and landscaping requirements and where land use conflicts are minimized.
2. Recognizes the maintenance of existing industry, and supports new small scale light industry so that a broader employment base may be achieved.
3. Recognizes existing aggregate processing uses in the area. However, further industrial or quarry operations are discouraged by the Regional District unless mitigative measures are taken to ensure such development will have no impact on the neighbouring property owners.
4. Supports that Industrial Development Permits pursuant to Section 488.1(1) (a) and (f) of the Local Government Act may be considered on any parcel designated as Industrial. Such permits may be subject to the provision of performance bonds and/or registered covenants ensuring compliance of the permit.
5. Discourages industrial activities that are considered noxious or emit large volumes of pollutants, or are otherwise detrimental to the environment, neighbouring properties, and the community as a whole.

6. Supports that a Development Permit Area pursuant to Sections 488.1 and 489 of the Local Government Act shall be required for all industrial developments to ensure development is compatible with adjacent land uses.



# RESPONSE SUMMARY FILE: Z2303K

## APPLICANT: KELLY HASCARL

### Item Number 1: Negative Impact on Property Values

This application, if approved, would negatively impact property values for all adjacent residential properties. This on its own is not reason to deny the application; however, taken into consideration with the other concerns we have, namely the tendency of the applicants to exceed their allowances, disregard their neighbours, and show little care, and even disdain for rules and regulations regarding land use, we feel that this line item is worth considering, as overreach is assured.

### Item Number 2: The Track Record of the Applicants

Unfortunately, we feel the past actions of the applicants are worth considering. In the past, we have witnessed the applicants break numerous environmental laws. If the application is approved, there is no reason to believe that any regulations will be respected, environmental or otherwise. Sadly, their past behavior has been highly exploitative, and will continue to be so. We fear that approving even a small portion of the subject property for M3 use will lead to the entire parcel being used.

### Item Number 3: The Lack of Necessity for Another Concrete Plant

In the letter addressed to the RDCK, the applicants argue that the need for more industrial land as a strong reason to approve their application. Of equal importance is the question of why Nakusp, a village of 1600 people, needs to have another concrete plant. We already have a well equipped and very successful concrete operation just outside the village, so we fail to see how a second plant offers anything to the community aside from a few jobs. The applicant's failure to plan ahead and secure an appropriately zoned property to move the concrete business onto prior to purchasing it is no reason to approve this re-zoning application and subject the neighbourhood to this unwanted and unnecessary industry.

### Item Number 4: The Disregard for Due Process

This item is our biggest concern and is closely linked to item number 2. The applicants have not shown any regard for the neighborhood or for due process for several months. Multiple instances of industrial work on the property have been reported, some of which has caused water issues for downstream residents. Most recently, the applicants failed to erect the appropriate signage within the ten day period set out by the RDCK. If they are unable to meet this simple requirement, what faith should we in the neighborhood have in their ability to abide by any other regulations? We feel that with the pictorial and written records of infractions gathered thus far, there would be legal grounds to have any zoning approval deemed void in court.

## Item Number 5: The Loss of Enjoyment of Property – Noise/Aesthetics

Residents in the area have the right to the quiet enjoyment of their property. Approving this application would impact that – severely for those nearest. This needs to be considered; nobody in this quiet area should be subjected to the noise and dust of heavy industry, whether there is a privacy fence or not.

## Item Number 6: Interference with Other Interests

Many locals rent out rooms, suites, or secondary dwellings on their properties either for vacationers, for short term renters, or long term renters. These viable and necessary home based businesses would suffer if encroached upon by heavy industry.

## Item Number 7: Conflicts with OCP for Area K

We feel that a change is taking place in Nakusp, and that the village is transitioning from a primary industry economy to a more balanced one that includes tourism and hospitality. The Wensley cross country ski area at the end of Upper Brouse Road is expanding, and more people are coming here for the area's natural beauty and our many hot springs. To us, this is good, and we want to see this process of economic diversification continue. Endorsing redundant heavy industry encroaching on rural residential property is not the path the RDCK should take. Our neighborhood, with its trail network, streams, and abundance of natural beauty, is a prime location for sustainable tourism, recreation, and agriculture. Heavy industry is completely contrary to this, and to the values they represent. We understand that some uses on the subject property have been 'grandfathered' in, but we are not willing to accept any additional industrial uses that run contrary to our values. We have attached an addendum, which is an excerpt from the OCP developed in 2022, to highlight specific conflicts of this re-zoning request with the values of the community as reflected in the OCP; most notably, we consider this re-zoning request as an obvious precursor to an Industrial Development Permit for the purposes of heavy industrial activities which we consider noxious, polluting, and detrimental to the environment, neighbouring properties, and the community as a whole.

## Conclusion:

We feel that our position is strongly supported by the *Canadian Bill of Rights* which guarantees all Canadians the "right of the individual to life, liberty, security of the person and enjoyment of property" and the right not to be deprived of any of those rights except in accordance with "due process," meaning basic procedural fairness. This area was zoned residential for a reason and we hope and trust that the RDCK will abide by its own regulations and code of ethics, and the official community plan, while keeping in mind the *Canadian Bill of Rights*, to uphold the values of its citizens and decline this re-zoning request.

## Addendum: excerpt from THE ARROW LAKES ELECTORAL AREA 'K' – THE ARROW LAKES OFFICIAL COMMUNITY PLAN BYLAW NO. 2022, 2009

### Rural Residential (R3) Policies

The Regional Board: 1. Directs that the principal use shall be single detached or duplex dwellings. 2. Directs that the minimum lot size be 2.0 ha (4.94 acres). 3. Supports that existing lots smaller than the minimum lot size permitted may be used for the purposes permitted in the designation provided that all other regulations are met. 4. Supports that the clustering of strata lots and subdivision lots shall be encouraged subject to density not exceeding the requirements above and subject to the protection of green space or provision of public amenity. 5. Directs that accessory uses include provisions to allow for accessory tourist accommodation, home-based business, the keeping of farm animals subject to health and agricultural regulations, and the sale of site grown horticultural produce.

### Background

This section outlines the objectives and policies for General Commercial, Tourist Commercial and Industrial designations in the Plan area. Industrial activities are provided for under the Industrial land use designation. The principal industrial activity in the Plan area is light, small scale industrial, and the Plan recognizes that heavy industrial development will be directed to existing settlement areas, which are better able to function as service centers.

### Objectives

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**From:** [REDACTED]  
**To:** [Zachari Giacomazzo](#)  
**Cc:** [Nelson Wight](#)  
**Subject:** Application for zoning/land use bylaw amendment-Z2303K 948 Hwy 6  
**Date:** May 27, 2023 3:26:52 PM

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To Whom it May Concern,

I am writing to express my concerns in regards to the recent rezoning application on the above noted property. I am not in favor of the M3 rezoning request for many reasons, which has prompted my lack of support and raised many questions.

First and foremost my main concern is the proximity of the proposed cement batch plant and gravel/sand storage to Brouse Creek which runs through the 0.5 hectare piece in question. Brouse Creek is a fish bearing stream and the only source of water to my household and many others. Myself and the other households do hold active water licenses on this creek. My question is "Why weren't all of the active license holders notified of this rezoning request?" I am extremely concerned that my water will be compromised. There is a high risk of contamination from the cement and other products that will be used as well as from all the extra machinery that the batch plant will bring with it. This could be very toxic to my families health and also to the other households. The constant flow of heavy equipment and movement of material may be detrimental to the fish and cause erosion throughout the creek and culvert causing sediment to build up and affect the creek path and household water lines. Contaminants from cement materials surrounding the batch plant and storage areas will absorb into the ground and eventually leach into the creek itself, once again affecting the fish and our families who use the water daily in their households. This creek is a very very important asset to our lives and to have this type of industry surrounding it is extremely dangerous to the health of human beings. Rock and cement dust are highly toxic to the respiratory system. With all the activities involved in the cement plant I am concerned that the dust will be moved through the air and into the surrounding households and embedded in the creek. This can cause severe respiratory issues in those who already have existing conditions. Another question that comes to mind with this proposed batch plant and relocation is "What is an allowable distance for building/construction from a main water source that provides to other households? and does this meet the requirements?" The cement trucks would need to be washed out after use, where would this be taking place and which source of water would be used? This also will be affecting the creek as the water from washing out the cement trucks has to go somewhere, whether it runs into the ground or across the road, it will eventually end up in the creek where we source our water from.

Excess noise is another big concern. Although the property in question already comes with a lot of noise, adding an industrial business can only increase that. I do not believe for a moment that the noise will stay the same or even be less with the addition of further heavy equipment, employees, and production. Generally more activity increases noise levels and traffic.

M3 zoning would make our neighborhood an undesirable area to live in for current and future property owners. I'm sure that it will decrease the value of our properties and those in the ALR who are already limited. Not only does M3 Industrial make our neighborhood



undesirable it opens the door for more unsightly operations.

One more thing that is concerning to me and would like some further clarification on is what the reasoning is for the request of reduced setbacks from 75 meters to 18 meters. This seems a bit unusual.

In closing I would like to say that I feel like whether your property has been in a family for 100 yrs(as many other neighboring properties have also been) this should have no bearing on an application. What should be considered is the strength of the application and rules and regulations that are required to followed. The current lack of respect for neighbors is appalling and I can't see that it would be improved with rezoning approval. It would only stay the same or become worse. Please consider all these points before a decision is made on the rezoning application.

Kindly,

A large black rectangular redaction box covering the signature area.

**From:** [REDACTED]  
**To:** [Planning](#)  
**Subject:** Re: File 22303 Applicant: Kelly Hascarl  
**Date:** May 17, 2023 1:33:00 PM

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Good afternoon Mr Giacomazzo.

When we moved to Nakusp over thirty years ago, I never dreamt that someone would want to change this residential area, even a part of it, into an industrial area. I'm sure if this was done then back then, I and many of the neighbours would not have purchased our homes here. It would have been our choice to or not to purchase. It seems unreasonable for someone to now expect everyone to be happy with an industry that is noisy, earth shaking and increased road truck traffic on Upper Brouse Rd. ( no doubt, he will use an access off, Upper Brouse, since his family property back on to it)

A stone crushing machine should be in a gravel pit, not on anyone's doorstep. To the best of my knowledge, there was not one at the previous cemetery shop just down hwy 6 from us.

In short, what has been proposed, is not in the best interest of the majority...one family should not have all the say in what is a benefit to just them.

I sincerely hope our neighbour can remain as is.

Thank you for your time.

[REDACTED]

Sent from my iPad

**From:** [REDACTED]  
**To:** [Planning](#)  
**Subject:** Attn Zachari Giacomazzo rezoning application for Neil & Kelly Hascarl  
**Date:** May 8, 2023 10:45:06 PM  
**Attachments:** [REDACTED]

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Hi Zachari

I received the rezoning application that was submitted by Neil and Kelly Hascarl for their property at 948 Hwy 6 Nakusp.

In reviewing the maps I need to bring to your attention that they are not accurate in regards to the actual layout of the land.

Brouse creek actually runs about 15 meters from my Dad's house and runs along the entire length of his driveway. My Dad's property is located at 920 Hwy 6.

My Dad has also lived at his residence since approximately 1966. He has used the driveway that runs through the Hascarl property since that time. There is a legal easement on the Hascarl property title that states: "To enter and be upon the **existing Access Road**, on foot and together with vehicles and animals, for purpose of ingress to and egress from the Transfee's Lands." I have attached a copy of the easement that needs to be attached to their application for rezoning. If Kelly and Neil want to put the cement plant where they are planning to, my Dad's driveway would have to be moved, the easement protects us from that happening. From what I see on the drawings that they submitted there is no driveway to get up my Dad's property.

My Dad gets his water from the Village Water line that ends at the bottom of his property. From the drawings that were submitted Kelly wants the Village to hook him into the same water line that goes to my Dad's. If that water line is used for a commercial business my Dad would not have any water. Because he is at the end of the line and it goes up hill to his property he has hardly any water pressure as is.

I am in the process of getting Natural resources to come to my Dad's property. Kelly informed me that he is going to flatten the property they own at 159 upper Brouse Road (adjacent to my Dad's property) and remove all the trees that run along the creek. These trees are very old and stand only about 1,5 meters from a fish bearing stream called Brouse Creek.

I have had a couple run ins with Kelly Hascarl in the past few months. He has told me more than once that he doesn't care about his neighbors and will do whatever he wants and none of us are going to stop him.

On their property at 159 upper Brouse road they run a wood cutting business (grandfathered in). The saw is very noisy when it's going. I do not believe we should have to deal with the noise, dust and traffic that will be created by the Cement plant as well.

Putting a building at the bottom of my Dad's driveway will probably block his view of the Valley. He cherishes that view. I'm pretty sure that if Kelly is allowed to go ahead with the cement plant that my Dad's property will depreciate in value. This is something we cannot afford to have happen.

This whole situation has caused some very stressful times for my father. He is 90 years old and not handling this very well.

We are 100% apposed to their property being rezoned for Industrial purposes.

Please note I am on title of the property at [REDACTED] with my father.

I would appreciate it if I am kept informed of any changes to the Hascarl's application.

Regards [REDACTED]



**From:** [REDACTED]  
**To:** [Planning](#)  
**Subject:** Fwd: Application for zoning/land use bylaw amendment - Z2303k  
**Date:** June 5, 2023 6:57:42 AM

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**From:** [REDACTED]  
**Sent:** Monday, June 5, 2023 6:54:52 AM  
**To:** zgiacomazzo@rdck.bc.ca <zgiacomazzo@rdck.bc.ca>  
**Subject:** Application for zoning/land use bylaw amendment - Z2303k

To whom it may concern,

We bought the house next door to Mr. Hascarl . We bought it to retire in. A beautiful residential area. Since we bought our house we have paid it off so we won't have to many worries while we relax after working for so many years. At first it was nice and quiet even with traffic going by then some kind of machine started making banging and grinding noises next door. Didn't think to much of it at first. This is when I could hear pretty good still. In the evening you could hear frogs singing their little tunes. In the day you would see deer , different kinds of birds and bears.

Mr. Hascarl came up to us recently and wants to buy some of our land in exchange he will give us a smaller piece of his above us. Rite now he is using a part of our land for a drive way. There is a small stream that runs between the properties that is a source of water for small animals. He is going to cut down the trees that divide our properties and make ours into a useless piece of land. Can you imagine your retirement property looking onto a cement plant and listening to a loud grinding that goes on and on.

We bought a house in a residential area to enjoy peace and quiet, now someone wants to make into an industrial/residential area. I say no! We worked hard all our lives to enjoy retirement not to see and listen to a cement plant.

Sincerely,

[REDACTED]

**From:** [REDACTED]  
**To:** [Planning](#)  
**Subject:** Proposed Zoning Change 948 Highway 6- RDCK File Z2303K  
**Date:** May 25, 2023 12:26:36 PM

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Hello Zachari

I am writing in regard to an application for property re zoning at 948 Highway 6 Nakusp BC. It is my understanding that Kelly and Neil Hascarl are hoping to set up a Cement Batch Plant on a portion of this property. This would require having the property changed from R3K to M3.

I do not feel this is the appropriate location for a Cement Batch Plant.

The current Cement Batch Plant is located at 848 Hwy 6, a short distance down the road from the new proposed location. Kelly has purchased Nakusp Red Mix and now needs to move the cement silo and equipment.

This bussiness has been in operation at this site for 47 years, land use approvals have changed dramatically since that time.

From environmental standards to new understandings regarding health hazards, noise pollution and rural land protection we have come along way since 1976.

This particular batch plant silo has no cement dust reclamation filter, when being filled with cement the dust plumes out the top of the silo, there is no rinse out pond and often when the trucks are being rinsed out the residual cement and water mix runs into the ditch and across Highway 6.

One can attempt to justify anything, however rules, regulations and even RDCK bylaws are put in place for a reason. I believe since the purchase of Nakusp Red Mix by Kelly Hascarl, the plan was always to move the plant to Neil Hascarl's property.

I am also aware that he has not adhered to RDCK bylaws while starting to set up the operation.

I do hope all past history relating to the first dealings Kelly had with his neighbors and the RDCK Bylaw Department will form background information for the Planning Committee in regard to his re zoning application.

In closing, Industrial land is where Industrial Operations should be based.

Hopefully common sense will prevail and the concerns of a neighborhood will out way the convenience factor of two individuals requesting this property zoning change.

Sincerely

[REDACTED]

[REDACTED]

June 4, 2023

ZACHARI GIACOMAZZO, PLANNER  
DEVELOPMENT AND COMMUNITY SUSTAINABILITY SERVICES  
REGIONAL DISTRICT OF CENTRAL KOOTENAY  
BOX 590, 202 LAKESIDE DRIVE  
NELSON, BC V1L 5R4  
Ph. 250-352-8190  
Email: [plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca)

Subject: Application for Zoning/Land Use Bylaw Amendment #Z2302K

Dear Mr. Giacomazzo,

We hope this letter finds you well. We are writing to express our deep concern and strong opposition to the establishment of a new cement batch plant in close proximity to our farm and the creek to which we have water rights. We believe it is crucial to bring to your attention the potential negative consequences this project may have on the environment, our community, and local businesses.

First and foremost, the location of the proposed cement factory uphill from our farm and bordering Brouse Creek raises serious concerns about water pollution to our drinking water. This creek serves as a vital water source for up to five properties and their animals, including our farm. It is also a fish habitat for local trout.

The pollution caused by the factory's operations could have a devastating impact on the quality and safety of the water, jeopardizing not only our livelihood but also the health and well-being of the entire community. While the applicant states that the rock crushing activities will be located offsite there is currently such machinery visible on the property.

In addition to the environmental implications, the establishment of this cement factory would have adverse effects on the businesses in our area. Our main source of income is the hay grown on the field served by Brouse Creek, it is also within a windy area which could cause silica dust from the plant to contaminate our field above ground. Our neighbors, who operate a bed and breakfast, heavily rely on the pristine environment and tranquility of the surroundings to attract guests. The noise generated by the factory's operations would undoubtedly deter visitors from choosing their accommodation, leading to a substantial loss of income and potentially jeopardizing the viability of their business.

Furthermore, we would like to bring to your attention the issue of changing residential land to industrial use. Nakusp is already in great need of additional housing, rentals, and other accommodations to meet the growing demands of the population. By converting residential land into industrial space, we would

exacerbate the existing housing crisis, further limiting the availability of housing options for the local residents. As per the bylaw amendment proposed in 2021, a focus on the development and protection of existing residential properties is a priority of the village's residents. The current use of the property as a repair provider for farm and logging equipment would be, in our opinion, a much more valuable resource to the area, if residential accommodation cannot be implemented.

The current location of the cement batch plant at 848 Highway 6 may not be far from the location of this new property, however it has been in decline for many years with little production to create pollution or noise for its neighbors. It should also be noted that having been in operation for more than 40 years it is likely that bylaws to prevent environmental damage would not have been in place at the time and the plant would have been grandfathered into that location. This is evidenced by the note in the applicant's letter of the new property being established as a repair shop before zoning was made for the area. By allowing such an amendment now would set precedent for others to operate heavy industrial locations that could further impact vulnerable ALR properties.

Please understand that our opposition to the establishment of the cement factory does not imply a resistance to the growth and development of our town. We recognize the importance of industry for economic progress, but it is crucial that such developments are located in areas that are appropriate and compatible with their operations, ensuring minimal negative impacts on the community and the environment.

Therefore, we strongly urge you to reconsider the proposed location of the cement batch plant and explore alternative sites that are more suitable for its operations. This would help protect our water source, preserve the tranquility and attractiveness of our area for local businesses, and ensure the availability of much-needed housing options for the residents of Nakusp.

We request an environmental study be done to establish the risks to the environment from the proposed cement batch plant and rezoning the property to heavy industrial should the amendment be considered.

Thank you for your attention to this matter. We look forward to a prompt and favorable resolution that will safeguard our community's well-being, prosperity and the environment. We would appreciate any updates or information regarding the progress of this issue.

Yours sincerely,

[REDACTED]

Cc Katrine Conroy  
[Katrine.Conroy.MLA@leg.bc.ca](mailto:Katrine.Conroy.MLA@leg.bc.ca)

**From:** [REDACTED]  
**To:** [Planning](#)  
**Subject:** file #Z2303K  
**Date:** June 4, 2023 8:42:32 AM

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**CAUTION** This email originated from outside the organization. Please proceed only if you trust the sender.

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Attention:  
Zachari Giacomazzo

Dear Mr. Giacomazzo,

I am against the change applied for by Kelly Hascar to make the neighbouring Rural Residential Zone into a Heavy Industrial Zone.

There is an existing Heavy Industrial Zone to the north of Nakusp and that is the place he should find a piece of property if he wants to operate his business.

Mr. Hascarl believed he could begin to operate without permits or applications for permits, when he ran the cement batch plant and dug onto the land for rocks to crush for that business on his property. The RDCK has already fined him for those infractions.

I have no reason to believe that Mr. Hascarl would respect the RDCK bylaws or his neighbours if he were to be granted a permit for a Heavy Industrial zoning.

This is a lovely area where we are fortunate to live. Our residential property would be devalued to a fraction of its worth.

Heavy Industrial Zoning does not belong here.

I don't believe anyone in this area wants this change.

Thank you for your attention to this,

[REDACTED]



To Whom it may concern:

This letter is in response to the re-zoning application for 948 Hwy 6, Central Kootenay  
Attention: Zachari Giacomazzo, planner RDCK.

The first and foremost issue is the inaccuracy of the mapping of the Streams and Shorelines on page 4 of the application pkg. There is a secondary stream that separates from Brouse Creek and joins the Twin Lakes / Neubrand Rd. stream directly below Hwy 6 and above the rail trail. These conjoined streams provide household water for Brouse Loop residents until it joins with Nakusp Creek. This stream is in danger of serious pollution from the batch plant proposal.

There is cement powder dust out of the batch plant stack everytime a load is mixed up. It is a huge dust cloud. Where does it settle?

After delivery of cement the truck returns to the batch plant and a hose is used to rinse out the drum. The contaminated water runs across the top of the ground ending up in a ditch and inevitably will end up in the stream.

I have observed both of the above mentioned activities at the current batch plant location that is not located closer than 75 metres to the stream. It is not acceptable to re-locate the batch plant so close to tributaries of Brouse Creek. Brouse Creek is an important source of water for humans, livestock, wildlife, and birds. We are all stewards of the land and need to think of how pollution will affect the land and streams and living creatures in the future.

The firewood cutting operation at the same location is a prime example of how things change over time. In the beginning there was minimal firewood being cut but over the years this operation has grown exponentially. A steady stream of chain oil on the cutting blades is applied to keep the saws working. This oil is saturating the soil and can be observed in the ditch below the property.

We sincerely hope all parties involved will put a stop to this re-zoning application. We are requesting a public townhall meeting for all concerned residents to attend.

Please put boots on the ground and look at how unsuitable this peice of land is for a cement batch plant. Working together the owners and RDCK can surely find a more suitable location.







To Regional District Columbia Kootenay Area "K":

I am writing to express strong opposition to the possible rezoning of 948 Highway 6 East, Nakusp BC from R3 to M3 for the purpose of allowing the establishment of a concrete batch plant. The proposed location is bordered by properties zoned R1, R3 and AGR and is in direct contact with Brouse Creek. This type of industry and its related operations is well known to have significant negative impacts on human health, animal health, the environment and fragile ecosystems. In addition, a zone change in this area sets a dangerous precedent for future requests in Area K, and directly contradicts The Arrow Lakes Electoral Area "K" Official Community Plan Bylaw No. 2022, 2009. Finally, there is no economic benefit to having a concrete batch plant in this location provided there is another manufacturer supplying the area that is established and operating in a properly zoned area.

### Location

948 Highway 6 East, Nakusp is surrounded by properties zoned R1, R3 and AGR (see image 1), and is located in Development Permit Area #1: Environmentally Sensitive Residential Cluster Development (ESRC DP) Area.

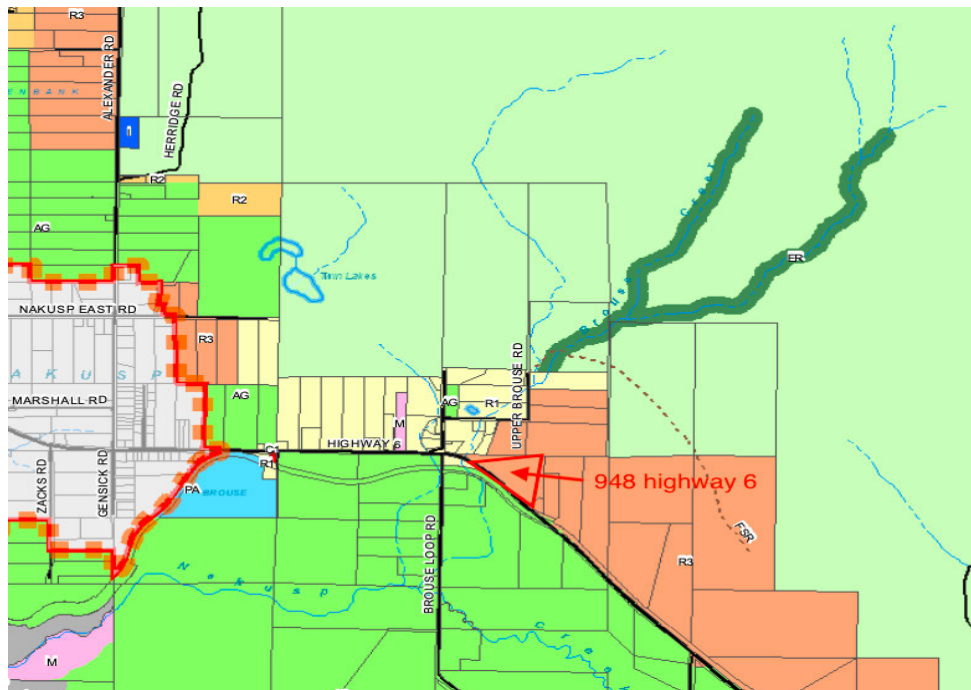


Image 1 – 2022-K-OCP Schedule B

According to the Official Community Plan which states, "The ESRC DP area is designated under Section 488.1 (1) (a) and (e) of the Local Government Act for protection of the natural environment, its ecosystems and biological diversity and the establishment of objectives for the form and character of intensive residential development." The demands are already intense for someone who might be interested in developing this area for residential, so it is inconceivable, that there would be consideration for an industrial designation in this same area that touts the need for protection of the natural environment.

In addition, Brouse Creek runs through this property which prior to meeting residentially zoned properties, is a designated Environmental Reserve. This creek runs down through AGR land, into Nakusp Creek and eventually flows West into the Upper Arrow Lakes. The creek not only houses a vast array of aquatic life, it also is a water source contributing to a 1 million gallon reservoir that supplies the Village of Nakusp residents with water. As per the Village of Nakusp 2020 Annual Water Report, "Raw water is supplied by surface water intakes on Halfway Creek, Upper Brouse Creek and Lower Brouse Creek."

According to weatherspark.com prevailing winds in this area are due West for approximately 6.3 months of the year from April to October (2). All properties West of 948 Highway 6 are zoned R1 and have active residents year around.

The Arrow Lakes Official Community Plan, Section 4.0 states the general goals for the area include, but isn't limited to;

1. To encourage the appropriate use of land in recognition of the desires of area residents, existing uses, resource constraints and opportunities, compatibility between uses, and the efficient provision of community services;
2. To maintain opportunities for rural living through development which respects the lifestyles of area residents and the natural environment; and
3. To maintain the integrity of the area's visual environment.

### **Health Impacts:**

Concrete batch plants emit a variety of pollutants into the air, water, and soil. These pollutants can have significant negative impacts on human health, particularly for those living in close proximity to the plant. In addition to the pollutants created directly by the manufacturing of the concrete, there is also the emissions from diesel-powered vehicles

idling and high-idling while batching concrete, and heavy equipment used to load aggregate.

Studies have shown that communities living near concrete batch plants have a higher risk of respiratory problems and other health issues. Particulate matter (PM) is one of the most significant pollutants emitted by concrete batch plants. "The PM is typically comprised of cement and dust from the additives; there are metals associated with the PM" (3). Particulate emissions are a complex mixture of extremely small particles and liquid droplets. "Once inhaled, these particles can affect the heart and lungs and cause serious health effects, including increased risk of heart attacks, aggravation of asthma, and decreased in lung function" (4). Silica is a major component in portland cement for manufacturing concrete. According to Work Safe BC "inhaling silica dust can cause silicosis, a serious and irreversible lung disease. It can be lethal. Silica damages the lung and causes scar tissue to form. This causes the lung tissue to become thicker. Silica exposure can also cause lung cancer" (5).

Studies have shown that silica dust particles can travel 750 metres away from the origin point, and some organizations suggest air quality monitoring up to 1,500 metres from the origin point to ensure residents are not at risk (8). This dust is not only harmful from a health perspective, but also will coat the exterior of homes and vehicles, and enter through screens of open windows. Given the outdoor construction industry in Nakusp typically runs from April until November, residents in the surrounding area will be unable to open their windows for fresh air, hang laundry on their outdoor lines, enjoy their yards or have their gardens without a constant layer of silica dust, not to mention noise pollution.

### **Environmental Impacts:**

Health impacts aside, concrete batch plants can also have significant negative effects on the environment. The emissions from the plants can contribute to acidification of soils and waterways, leading to the decline of fish and other aquatic life. The particulate matter will be carried with the Western prevailing winds and affect nearby plant life, trees and water sources, i.e. Brouse Creek, which as mentioned above is a water source for the Village of Nakusp and feeds into Nakusp Creek, which feeds into the Upper Arrow Lakes. Nakusp Creek is home to various trout species and the Upper Arrow Lakes has a vast number of fish species (see image 2).



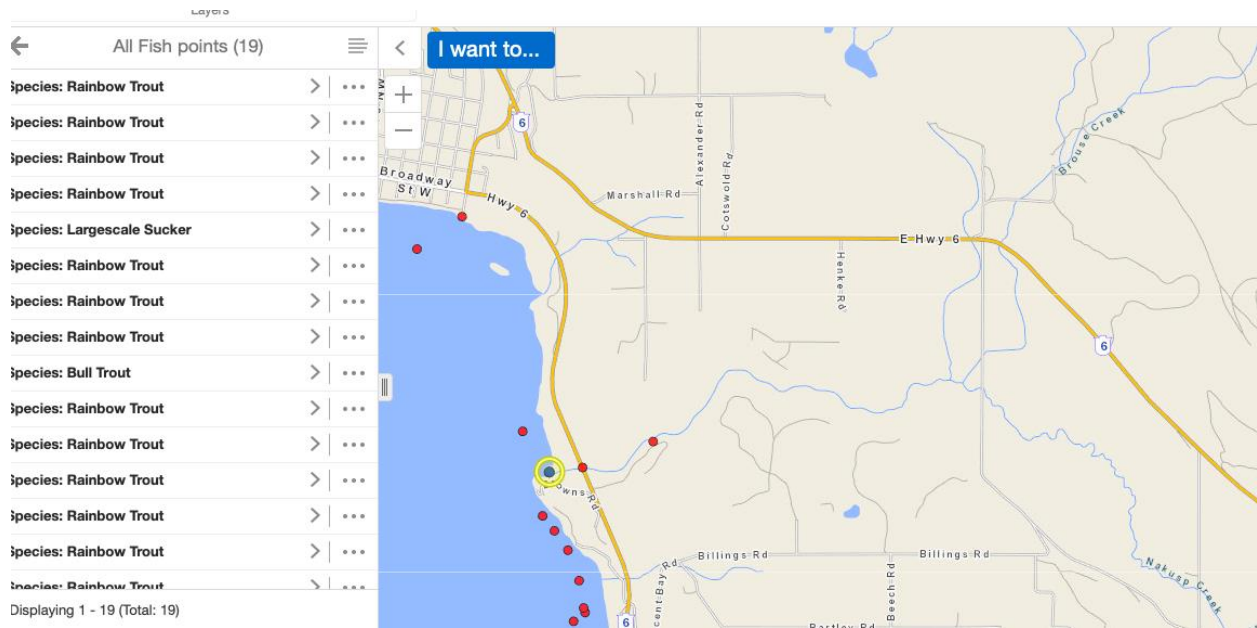


Image 2 – BC iMap indicating Trout species in waterway directly connected to Brouse Creek.

Under the Code of Practice for the Concrete and Concrete Products Industry, Section 7 (4), “in respect of any process water or establishment runoff, mean that the process water or establishment runoff, at 100% concentration, kills more than 50% of the rainbow trout in a 96-hour LC50 rainbow trout bioassay” (7).

The production of concrete also requires large amounts of water, which can have negative impacts on local water resources. Approximately 1000 litres of water is required to manufacture one 8 cubic meter load of concrete. “On average each ready mix truck returns about half cubic metre of cement per day. After this concrete is discharged there is still about 300 kg of solids (cement, sand and stone) that is washed out with about 1000 litres of water” (6). This is a minimum of 2000 litres of fresh water required per 8 cubic metres of concrete. The discharge of wastewater from concrete batch plants can also contain high levels of pollutants, including suspended solids, oil and grease, and heavy metals. These pollutants can have negative impacts on aquatic ecosystems and can be harmful to human health if they contaminate local drinking water sources or leach into the soil where the trucks are washing out. Typically wastewater is washed out in the a “pit” or another wastewater receptacle and it takes great care and diligence to ensure this is not contaminating the ground beneath, or the area surrounding.

The Arrow Lakes Official Community Plan, Section 4.0 states the environmental goals for the area include, but isn’t limited to;

1. To protect the natural environment;

2. Ensure that development does not adversely harm or detract from identified wildlife corridors and area with high wildlife and fisheries habitat value; and
3. Protect the quantity and quality of water resources and waterways.

**The Arrow Lakes Electoral Area "K" – The Arrow Lakes Official Community Plan Bylaw 2022, 2009.**

Consideration of this rezoning violates numerous sections of the Official Community Plan and sets a dangerous precedent for all other future rezoning requests that could affect residents living in a residential area in the RDCK. The below snippets demonstrate some of the sections where allowing 948 Highway 6 to install and operate a concrete batch plant would breach the promises and goals used to guide Area "K".

Section 4.0 – Social

"2. Protect and enhance the unique "community character" of the unincorporated settlements within the rural plan area."

Section 8.0 – Commercial and Industrial

"Industrial activities are provided for under the industrial land use designation...the Plan recognizes that heavy industrial development will be directed to existing settlement areas."

Objectives

"2. To ensure that industrial uses are located in a manner which reduces impacts on neighbouring properties and the natural environment."

Industrial (M) Policies (this is listed with the knowledge that this property is currently zoned for R3 only)

"3. Recognizes existing aggregate processing uses in the area. However, further industrial or quarry operations are discouraged by the Regional District unless mitigative measures are taken to ensure such development will have no impact on the neighbouring property owners."

"5. Discharges industrial activities that are considered noxious or emit large volumes of pollutants, or are otherwise detrimental to the environment, neighbouring properties, and the community as a whole."

"6. Supports that a Development Permit Area according to sections 488.1 and 489 of the Local Government Act shall be required for all industrial developments to ensure development is compatible with adjacent land uses."

## Section 11.0 – Servicing and Transportation

### Servicing Objectives

"4. To ensure that new development proposals do not put undue strain or pressure on existing domestic and irrigation water supply."

"5. To ensure that new developments are subject to the requirements of adequate water supply for both domestic and fire protection purposes."

## Section 12.0 – Natural Environment

### Objectives

"2. To maintain high water quality of groundwater and surface water sources of domestic water supply."

"3. To foster an awareness of the natural environment and protect sensitive and significant natural features and values from negative impact as a result of development."

"6. To regulate the siting and environmental design of development adjacent to watercourses, including sensitive and significant natural features and values."

## Section 18.0 – Community Specific Policies

### Brouse/Glenbank

"Development in the Brouse and Glenbank areas shall be primarily rural residential and agricultural. Other forms of development shall be directed towards the boundary of the Village of Nakusp."

## Section 19.0 – Development Permit Areas

As mentioned above regarding location, 948 Highway 6 is located in Development Permit Area #1: Environmentally Sensitive Residential Cluster Development (ESRC DP) Area. Even if an industrial designation was already in place, the Plan states, "development shall be in accordance with the following guidelines and considerations:

1. Impact on farmland;
2. Capability of the natural environment to support the proposed development;
3. Compatibility with adjacent land uses and designations, and the character of the area; and
6. The Province is requested to ensure industrial activities involving emission of toxic or irritant material meet the highest standards regarding the protection of groundwater catchment areas, surface water and riparian areas, and air-borne industrial pollutants.”

### **Sustainable Development:**

Finally, we believe that the establishment of a concrete batch plant is inconsistent with sustainable development principles. Sustainable development requires that economic development occurs in a way that does not compromise the health and well-being of present and future generations. The negative impacts of concrete batch plants on human health and the environment are not consistent with this principle, nor the goals as outlined in the Official Community Plan. In addition, the community is already serviced by a concrete batch plant in the area and it is located in a designated M3 zone. Therefore, there is no economic benefit to Nakusp and the surrounding area to having a second batch plant located in an area that is bordered by R1, R3 and AG properties.

### **Conclusion**

In conclusion, I urge the RDCK to deny the establishment of any new concrete batch plants in residential areas. The scientific evidence clearly shows that these facilities have significant negative impacts on human health and the environment and are inconsistent with sustainable development principles and the Official Community Plan.

### **Final Comments and Questions**

1. If this M3 designation is being considered in an R3, R1 and AGR zone, I would expect a thorough description on the special conditions or objectives to justify this designation.
2. Would the proposed site location for the batch plant at 948 highway 6 be able to conform the Zoning Bylaw section 4201 (4), “No equipment or machinery that grades, washes, or crushes primary mineral resources shall operate, or no

concrete batch plant or asphalt processing plant shall be located within 75 metres of any lot line that abuts a residential zone”?

3. The current unsightly state of 948 highway 6 indicates that there is not a lot of care and due diligence when it comes to following the rules. The property is clearly in violation of the Zoning Bylaw section 609, “Except in the M2 and M3 zones, no lot may be used as a junkyard, auto wrecking or for the outdoor storage of more than two (2) wrecked vehicles in any R1, R2, R5 and R6 zones, or more than six (6) wrecked vehicles in any R3, R4 and AG zone.” If this designation is allowed, will the RDCK be doing periodic inspections and critical oversight to ensure the natural environment and surrounding residents are protected in a “Environmentally Sensitive Residential Cluster Development Area”? And to ensure the owner is complying with all provincial and regional district guidelines while actively doing business?
4. An email dated December 5, 2022 from Grace Allen, former Senior Bylaw Officer stated, “I have received an update from planning. Planning has spoken to Kelly Hascarl on his rezoning application and advised him, due to the large number of complaints already received, Planning not only discouraged an application but advised that Planning will be recommending the rezoning application be refused by the Regional Board should it be submitted.

Planning further suggested Kelly Hascarl start looking for another property that is already zoned for industrial use. Again, due to the high volume of complaints already received, including the number of letters in opposition that have been submitted and forwarded to Planning.”

As far as I have been informed it sounds like there is still present momentum behind this pursuit of a rezoning application. Is the communication from Grace still accurate? Will Planning be recommending the rezoning application be refused by the Regional Board should it be submitted?

Thank you for taking the time to read this letter and consider all the points made within. I truly hope that this issue is being taken under serious consideration and all residents in the surrounding area will have the opportunity to voice their opinions on the record.

Sincerely,

A Concerned Nakusp Area Resident



## References

- (1) <https://nakusp.com/wp-content/uploads/2021/07/Annual-Water-Report-2020-final.pdf>
- (2) <https://weatherspark.com/y/2035/Average-Weather-in-Nakusp-Canada-Year-Round#Sections-Wind>
- (3) U.S. EPA, Background Document: General Air Quality Permit for New or Modified True Minor Source Concrete Batch Plants (July 2, 2014), p.1.
- (4) <https://www.epa.gov/pm-pollution>
- (5) <https://www.worksafebc.com/en/health-safety/hazards-exposures/silica>
- (6) <https://www.mekaglobal.com/en/blog/environmental-aspects-of-concrete>
- (7) [https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/16\\_329\\_2007](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/16_329_2007)
- (8) <https://www.ewg.org/research/danger-air>

## SUBJECT: RDCK PLANNING FILE Z2303K

[REDACTED]

Zachari Giacomazzo

Planner, RDCK

250-352-8190

[zgiacomazzo@rdck.bc.ca](mailto:zgiacomazzo@rdck.bc.ca)

May 29, 2023

Dear Zachari Giacomazzo:

My wife and I want to state our absolute rejection to the proposed zoning and land use amendments of the subject property. The Z2303K proposal should not be allowed to go past the Rural Affairs Committee.

1. We have a financial interest in the residential dwelling directly across the road – specifically 923 Highway 6. The house and property are currently zoned R1K. Allowing these zoning amendments would sharply decrease the value of 923. Its market value would then stay reduced if Z2303K is allowed to proceed.
2. We do not agree with the applicant that there will not be any impairment of the value of 923 Highway 6 by allowing Z2303K bylaw amendment to be passed. In fact, the admission by the applicant of reduced working hours and noise reducing fence illustrates that there will be impairment, not only of the property value, but also in the property owners' quality of living and general health. Concrete batching plants are a significant source of noise and air pollution due to the emission of particulate matter,

nitrogen oxides and volatile organic compounds. Due to environmental and health impacts, such a plant should not be located in a residentially zoned area.

3. The applicant submits that the location of the M3 and M zoning areas will be at the extreme western portion of their 14.56 HA property. The location of the house at 923 Hi Way 6 will then be closer to these new M3 and M areas. We also observe that M3 and M would be close to Brouse Creek. There is significant concern this water source could be seriously compromised not only for 923, but for all the other downstream landowners, as the plant would consume large amounts of water and generate waste that could contribute to water pollution.
4. The request to reduce the setback from 75 meters to 18 meters is completely unacceptable. The zoning by-laws are in place to protect current R1K landowners from instances like Z2303K.
5. We submit that the applicant has other options that do not necessitate the severe land use changes from Z2303K. For example, keep the current batch plant at the same location of 848 Highway 6 since it has been there for 47 years. Secondly, the applicant states that their gravel pit and rock crusher are 14 km north of Nakusp and presumably it is zoned M3. It seems like a perfect place for the concrete batch plant.

In summary, we anticipate Z2303K will be rejected and does not proceed past the Rural Affairs Committee.

Sincerely,

[REDACTED]  
[REDACTED]

From: [REDACTED]  
To: [Planning](#)  
Subject: Fwd: letter to RDCK  
Date: June 4, 2023 8:51:52 AM

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**CAUTION** This email originated from outside the organization. Please proceed only if you trust the sender.

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----- Forwarded

email:  
[plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca)

subject:  
File Z2303K

Attention Zacharia Giacomazzo

I am opposed to Kelly Hascarl's application for a zoning change at #940 Hwy. 6, Nakusp, BC, from Rural Residential to Heavy Industrial.

Such a change involving an amendment to OCP Bylaw #2022, 2009, would open the area to more Heavy Industrial zoning changes, allowing businesses such as asphalt plant, landfill and waste management, according to RDCK definitions.

We bought our property in 2005 and have put in years of time, money and energy to make it the pleasant home we now enjoy.

As with most people our home is our largest investment. A Heavy Industrial zoning would make a huge drop in property value. What we have worked for could not be sold for its real value and we would likely not be able to find a place we could afford to buy.

This zoning change would affect all of our residential property values in the neighbourhood. Kelly Hascarl has neglected to properly investigate and prepare a business plan. Securing a property in an industrial zone would have been the first thing to do. Instead, he assumed he could operate without RDCK permits or the consent of the many people he would affect.

We have no reason to believe he would comply with the bylaws. The RDCK has already fined him for operating the batch plant and rock crusher without permits.

We do not want this zone change and all that it would bring to our Rural Residential Zone.

Respectfully,

[REDACTED]

ZACHARI GIACOMAZZO, PLANNER  
DEVELOPMENT AND COMMUNITY SUSTAINABILITY SERVICES REGIONAL DISTRICT OF CENTRAL  
KOOTENAY  
BOX 590, 202 LAKESIDE DRIVE  
NELSON, BC V1L 5R4

Ph. 250-352-8190

Email: [plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca)



To: Development and Community Sustainability Services  
REGIONAL DISTRICT OF CENTRAL KOOTENAY  
BOX 590, 202 LAKESIDE DRIVE  
NELSON, BC V1L 5R4

Attention: Zachari Giacomazzo, RDCK Planner  
Charmain Daoust, RDCK Bylaw Officer  
Teresa Weatherhead, RDCK Area K Representative

June 3, 2023

Dear Mr. Giacomazzo,

I am writing to you in response to Kelly Hascarl's request for rezoning of 948 Highway 6, RDCK File Z2303K.

The request for the reduction of the minimum site area for Heavy Industrial (M3) in order to rezone the Hascarl's property from Rural Residential (K) ignores the effect heavy industry, a cement batch plant would have on the rural residents living on all sides of their property. The effects of the Hascarl's industrial operations are already being felt and their increase to heavy industrial would permanently mar the area.

We have already been subjected to the noise of the rock crusher even in advance of the approval of the rezoning, and, unfortunately, the illegal operation of the rock crusher before approval indicates the Hascarls are not waiting for the goodwill of their neighbours before creating noise. If they are interested to know if the noise of operations bothers anyone or would in the future as indicated in the rezoning application, seeking the opinions and input of neighbours would be the direct line of action, one which has not been explored.

Over the years since their business was grandfathered in, the Hascarls have expanded operations of their firewood business to include managing a log pile which, in addition to being unsightly and noisy, is also a hazard. Due to a lack of room from the road setback, manipulating the logs carries extra risk. Not only do the logs hang into the road setback, they have fallen into the road which is used by residents, Village of Nakusp employees visiting the water treatment plant, and families and visitors accessing the Wensley Creek recreation area at the top of Upper Brouse Road. This is a clear hazard, one which would not exist if the Hascarls had sufficient room for their operations.

On July 8, 2021, a lightning strike caused a rapidly spreading fire in a log pile at the NACFOR log yard. Fortunately, because there was room in the industrial area to manoeuvre the burning logs with heavy equipment, the fire was put out before it could spread. The Hascarl's pile of birch logs and its lack of proper setbacks creates conditions which could result in a severe fire hazard for all residents in the area, many of whom have been cleaning up their properties to Fire Smart standards.

The lack of proper setbacks for their current industrial operations has a significant impact on the surrounding area, and I am concerned that having another operation in too close quarters would also have unintended but nevertheless serious impacts as well. It appears from their application that the Hascarl's may not be aware that their current operations, both legal and not, negatively affect their neighbours.

The operations would not only inject industrial noise at any time of day into our neighbourhood, but likely would impact the creek which flows through the property and down into Brouse Loop, a creek upon which both humans and many animals depend.

Changing the zoning to M3 would set a dangerous precedent in the RDCK, and would signal that residents in Rural Residential zones are not at all safe in their homes. Mr. Hascarl is correct that there is a severe shortage of residential homes, but that does not mean there aren't better opportunities for industrial development in areas which are not already zoned residential and peopled with households.

Recently, Nakusp and Area Community Forest (NACFOR) was able to purchase industrial property north of the Kuskanax on Hot Springs Road, which may be something Kelly Hascarl could explore, rather than attempting a rezoning which would destroy our neighbourhood.

Sincerely,

A solid black rectangular redaction box covering the signature.A solid black rectangular redaction box covering contact information, with a jagged right edge.

**From:** [REDACTED]  
**To:** [Zachari Giacomazzo](#)  
**Subject:** Fwd: Bylaw change for rural property 948 Highway 6  
**Date:** May 23, 2023 8:57:45 PM

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Sent from my iPhone

Begin forwarded message:

**Subject: Bylaw change for rural property 948 Highway 6**

Attention: Charmaine Daoust

I have concerns as to this change of bylaw from residential rural to heavy industrial. The noise pollution, caustic materials, big industrial vehicles entering and exiting onto the highway at the beginning or end of a corner. This property has a creek at the edge of the property, which has water rights ownership down stream from said property on the existing water in the creek after the village reservoir usage. The leaching and runoff of materials and chemicals from an industrial site with heavy equipment and cement producing products into this creek would be hazardous to the homes downstream. The creek is a tributary that runs into the Arrow Lakes after joining with Box Creek, which would have the residue from the cement manufacturing and heavy equipment runoff and leaching going into our fish habitat. Making cement emits danger air pollution. The EPA says it is the 3rd largest industrial pollution emitting sulfur diode, nitrogen oxides and carbon monoxide causing many lung diseases and other illnesses, making it dangerous to live near a cement plant. PLEASE do not authorize a change of bylaw for property 948 Highway 6 to allow a cement plant and heavy equipment operation surrounded by residential rural properties, with probable contamination of two creeks draining into the Arrow Lakes and the air surrounding the plant. Refer to the internet for the numerous dangers of a cement plant in a residential area.

Thank you, [REDACTED]

[REDACTED]  
Sent from my iPhone

**From:** [REDACTED]  
**To:** [Planning](#)  
**Subject:** Bylaw change on property 948 Highway 6  
**Date:** May 27, 2023 1:35:45 PM

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**CAUTION** This email originated from outside the organization. Please proceed only if you trust the sender.

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Attention: Z Giacomazza

I would like to add to my previous email as I have been informed that Mr Kelly Hascarl has been receiving fines and infractions for his actions on property 948 Highway 6, plus actions on another property with regards to cement production. I am concerned that if Mr Hascarl receives approval for the bylaw change he will continue to disregard the rules and regulations and will cause an environmental issue that will harm the habitat of various animals and fish.

Thank you

[REDACTED]