



Regional District of Central Kootenay  
RURAL AFFAIRS COMMITTEE  
Open Meeting Agenda

**Date:** Wednesday, April 17, 2024  
**Time:** 9:00 am  
**Location:** Hybrid Model - In-person and Remote

Directors will have the opportunity to participate in the meeting electronically. Proceedings are open to the public.

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Pages

**1. WEBEX REMOTE MEETING INFO**

To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote (hybrid model).

**Meeting Time:**

9:00 a.m. PST

**Join by Video:**

<https://nelsonho.webex.com/nelsonho/j.php?MTID=md8e850c3669e773450ffbd52a39e0b7c>

**Join by Phone:**

+1-604-449-3026 Canada Toll (Vancouver)

**Meeting Number (access code):** 2770 924 9707

**Meeting Password:** RPbjg3UHe33 (77254384 from phones)

**In-Person Location:** RDCK Head Office - Board Room, 202 Lakeside Drive, Nelson, B.C.

**2. CALL TO ORDER**

Chair Jackman called the meeting to order at \_\_\_\_ a.m.

**3. TRADITIONAL LANDS ACKNOWLEDGEMENT STATEMENT**

We acknowledge and respect the Indigenous peoples within whose traditional

lands we are meeting today.

#### 4. ADOPTION OF THE AGENDA

**RECOMMENDATION:**

The agenda for the April 17, 2024 Rural Affairs Committee meeting be adopted as circulated.

#### 5. RECEIPT OF MINUTES

7 - 17

The March 20, 2024 Rural Affairs Committee meeting minutes, have been received.

#### 6. DELEGATIONS

No delegations.

#### 7. PLANNING & BUILDING

##### 7.1 BUILDING BYLAW CONTRAVENTION – EVANS

18 - 25

File No.: 3135-20-I-709.05749.300-BP021431  
1726 Thrums East Rd – Accessory Building  
(Dobie & Alisha Evans)  
Electoral Area I

The Committee Report dated March 23, 2023, re: Building Bylaw Contravention - Evans, has been received.

*Rural Affairs Committee*

*Referred July 19, 2023 to September 13, 2023*

*Referred September 13, 2023 to December 13, 2023. The item was missed on the December 13, 2023 RAC meeting agenda and is being brought forward to the January 17, 2024 RAC meeting for consideration.*

*Referred January 17, 2024 to March 20, 2024*

*Referred March 20, 2024 to April 17, 2024*

**RECOMMENDATION:**

That it be recommended to the Board:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 1726 Thrums East Road, Electoral Area I and legally described as LOT C, PLAN NEP68184, DISTRICT LOT 1239, KOOTENAY LAND DISTRICT MANUFACTURED HOME REG. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

##### 7.2 BUILDING BYLAW CONTRAVENTION - EVANS

26 - 33

**File No.: 3135-20-I-709.05749.300-BP024256**  
**1726 Thrums East Road - Deck Only**  
**(Dobie & Alisha Evans)**  
**Electoral Area I**

The Committee Report dated March 23, 2023, re: Building Bylaw Contravention - Evans, has been received.

***Rural Affairs Committee***

***Referred July 19, 2023 to September 13, 2023.***

***Referred September 13, 2023 to December 13, 2023. The item was missed on the December 13, 2023 RAC meeting agenda and is being brought forward to the January 17, 2024 RAC meeting for consideration.***

***Referred January 17, 2024 to March 20, 2024.***

***Referred March 20, 2023 to April 17, 2024***

**RECOMMENDATION:**

That it be recommended to the Board:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 1726 Thrums East Road, Electoral Area I and legally described as LOT C, PLAN NEP68184, DISTRICT LOT 1239, KOOTENAY LAND DISTRICT MANUFACTURED HOME REG. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

- 7.3 BUILDING BYLAW CONTRAVENTION - EVANS & MCLEAN**  
**File No.: 3135-20-I-709.05749.300-BP023217**  
**1726 Thrums East Rd – Manufactured Home**  
**(Dobie Evans & Ronald Mclean)**  
**Electoral Area I**

34 - 39

The Committee Report dated March 23, 2023, re: Building Bylaw Contravention - Evans & Mclean, has been received.

***Rural Affairs Committee***

***Referred July 19, 2023 to September 13, 2023.***

***Referred September 13, 2023 to December 13, 2023. The item was missed on the December 13, 2023 RAC meeting agenda and is being brought forward to the January 17, 2024 RAC meeting for consideration.***

***Referred January 17, 2024 to March 20, 2024.***

***Referred March 20, 2024 to April 17, 2024***

**RECOMMENDATION:**

That it be recommended to the Board:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 1726 Thrums East Road, Electoral Area I and legally described as LOT C, PLAN NEP68184, DISTRICT LOT 1239, KOOTENAY LAND DISTRICT MANUFACTURED HOME REG. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

**7.4 DEVELOPMENT VARIANCE PERMIT - CAMPBELL**

40 - 57

**File No.: V2402A – Campbell**  
**4481 Highway 3A**  
**(James & Yvonne Campbell, Agent: Jeff Shatzko)**  
**Electoral Area A**

The Committee Report dated April 3, 2024 from Zachari Giacomazzo, Planner, re: Development Variance Permit - Campbell, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Board APPROVE the issuance of Development Variance Permit V2402A to Jeff Shatzko for the property located at 4481 Highway 3A, Electoral Area A and legally described as LOT 2, DISTRICT LOT 4595, KOOTENAY DISTRICT PLAN 9520, EXCEPT PART INCLUDED IN PLAN 10068 (PID: 007-640-510) to vary Section 18.17 of *Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315, 2013* in order to permit a 1.5 metre setback from the southern interior lot line and a 0.4 metre setback from the eastern lot line whereas the bylaw requires a 2.5 metre setback from an interior lot line.

**7.5 DEVELOPMENT VARIANCE PERMIT - MCBLAIN**

58 - 72

**File No.: V2405-62449.010-MCBLAIN-DVP00253**  
**4328 – 40th Street**  
**(Jody & Delaney McBlain)**  
**Electoral Area B**

The Committee Report dated April 3, 2024 from Stephanie Johnson, Planner, re: Development Variance Permit - McBlain, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Board APPROVE the issuance of Development Variance Permit V2405B to Jody McBlain and Delaney McBlain for the property located at 4328 – 40th Street, Electoral Area B and legally described as LOT 174, DISTRICT LOT 812, KOOTENAY DISTRICT PLAN 921 (PID: 009-896-490) to vary Section 23.5 in the *Rural Creston Electoral Area 'B' Comprehensive*

*Land Use Bylaw No. 2316, 2013, as follows:*

- From a 60 metre maximum depth from the Front Lot Line for a Farm Residential Footprint to allow a Farm Residential Footprint with a maximum depth of 140 metres from the Front Lot Line to permit the conversion of an existing structure in to a dwelling unit.

**7.6 DEVELOPMENT VARIANCE PERMIT - SPERLING**  
**File No.: V2309I-09362.000-SPERLING-DVP00243**  
**2464 Pass Creek Road**  
**(Terese and Arthur Sperling)**  
**Electoral Area I**

73 - 94

The Committee Report dated April 3, 2024 from Stephanie Johnson, Planner, re: Development Variance Permit - Sperling, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Board APPROVE the issuance of Development Variance Permit V2309I to Arthur Patrick Sperling and Terese Sperling for the property located at 2464 Pass Creek Road, Electoral Area I and legally described as DISTRICT LOT 8430, KOOTENAY DISTRICT EXCEPT PART INCLUDED IN PLANS 12090 & 15269 (PID: 016-449-312) to vary Section 2901.3, 2901.4, and 2901.6 b. of the *Regional District of Central Kootenay's Zoning Bylaw No. 1675, 2004* to permit, as follows:

1. To permit a Farm Residential Footprint of approximately 3,800 m<sup>2</sup> (40, 903 ft<sup>2</sup>) whereas the bylaw permits a Farm Residential Footprint of 2,500 m<sup>2</sup> (26,910 ft<sup>2</sup>) for a Single Family Dwelling and additional permitted dwelling unit.
2. To allow a Farm Residential Footprint with a maximum depth of 200 metres (656 ft) from the Front Lot Line whereas the bylaw requires that the maximum depth of the Farm Residential Footprint shall not exceed 60 metres from the Front Lot Line.
3. To permit an accessory dwelling with a maximum Gross Floor Area (GFA) of 136 m<sup>2</sup> (1,464 ft<sup>2</sup>) whereas the bylaw permits a maximum GFA of 90 m<sup>2</sup> (969 ft<sup>2</sup>).

**7.7 SITE SPECIFIC FLOODPLAIN EXEMPTION - PRUETT**  
**File No.: F2401E-02256.131-PRUETT-FLD00072**  
**389 Park Avenue**  
**(Holly & Donald Pruett)**  
**Electoral Area E**

95 - 130

The Committee Report dated April 3, 2024 from Stephanie Johnson, Planner, re: Site Specific Floodplain Exemption - Pruett, has been received.

**RECOMMENDATION:**

That it be recommended to the Board:

That the Board APPROVE a Site Specific Floodplain Exemption to reduce the required setback from Kootenay Lake from 15 metres from the natural boundary to 8.86 metres from the natural boundary in accordance with the Engineering Report prepared by Vast Resource Solutions Inc., dated December, 2023, for property located at 389 Park Avenue, Electoral Area E and legally described as STRATA LOT 31, DISTRICT LOT 873, KOOTENAY DISTRICT STRATA PLAN NES3286, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V (PID: 027-785-114) SUBJECT to preparation by Holly Pruettt and Donald Pruettt of a restrictive covenant under Section 219 of the *Land Title Act* and Section 56 of the *Community Charter* in favour of the Regional District of Central Kootenay.

**8. ENVIRONMENTAL SERVICES**

No items.

**9. RURAL ADMINISTRATION**

No items.

**10. PUBLIC TIME**

The Chair will call for questions from the public and members of the media at \_\_\_\_\_ a.m./p.m.

**11. ADJOURNMENT**

**RECOMMENDATION:**

The meeting be adjourned at \_\_\_\_\_



## Regional District of Central Kootenay

### RURAL AFFAIRS COMMITTEE MEETING

### Open Meeting Minutes

Wednesday, March 20, 2024

9:00 a.m.

Hybrid Model - In-person and Remote

RDCK Board Room, 202 Lakeside Dr., Nelson, BC

#### COMMITTEE MEMBERS

##### PRESENT

Chair G. Jackman	Electoral Area A – In-person
Director R. Tierney	Electoral Area B – In-person
Director K. Vandenberghe	Electoral Area C – In-person
Director A. Watson	Electoral Area D – In-person
Director C. Graham	Electoral Area E – In-person
Director T. Newell	Electoral Area F – In-person
Director H. Cunningham	Electoral Area G – In-person
Director A. Davidoff	Electoral Area I
Director H. Hanegraaf	Electoral Area J – In-person
Director T. Weatherhead	Electoral Area K – In-person

##### COMMITTEE MEMBERS ABSENT

Director W. Popoff	Electoral Area H
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##### GUEST DIRECTOR

Director L. Main	Village of Silverton
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##### STAFF PRESENT

S. Horn	Chief Administrative Office
S. Sudan	General Manager of Development and Community Sustainability Initiatives
N. Wight	Planning Manager
S. Johnson	Planner
Z. Giacomazzo	Planner
J. Dupuis	Bylaw Enforcement Supervisor
C. Feeney	Corporate Administrative Assistant

C. Hopkyns

Corporate Administrative Coordinator –  
Meeting Coordinator

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**1. WEBEX REMOTE MEETING INFO**

To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote.

**Join by Video:**

<https://nelsonho.webex.com/nelsonho/j.php?MTID=m00d09d2b03f9e089a774f5eb3b5265b0>

**Join by Phone:**

+1-604-449-3026 Canada Toll (Vancouver)

**Meeting Number (access code):** 2771 787 9868

**Meeting Password:** AmMnMcEg336 (26666234 from phones)

**2. CALL TO ORDER**

Chair Jackman called the meeting to order at 9:00 a.m.

**3. TRADITIONAL LANDS ACKNOWLEDGEMENT STATEMENT**

We acknowledge and respect the Indigenous peoples within whose traditional lands we are meeting today.

**4. ADOPTION OF THE AGENDA**

Moved and seconded,

And resolved:

The agenda for the March 20, 2024 Rural Affairs Committee meeting be adopted as circulated.

**Carried**

Moved and seconded,

And resolved:

Director Main have freedom of the floor.

**Carried**

**5. RECEIPT OF MINUTES**

The February 14, 2024 Rural Affairs Committee meeting minutes, have been received.



## 6. DELEGATIONS

Item 7.5 - Jonas Horvath

Item 7.6 - John and Bradley Drysdale

Item 7.7 - Mike Crottey and Deborah Weiland

Item 7.8 - Jordan Baer

Item 7.9 - Isaac Maxfield, Kaslo InfoNet Society

## 7. PLANNING & BUILDING

### 7.1 CANCEL - BUILDING BYLAW CONTRAVENTION - JANSSEN

**File No.: 3130-20-K-710.02704.000-BP26682**

**851 Lower Inonoaklin Road**

**(Martin Nolan Janssen)**

**Electoral Area K**

The Memorandum dated March 7, 2024 from Chris Gainham, Building Manager, re: Cancel - Building Bylaw Contravention - Janssen, has been received.

- No delegation was present.
- Sangita Sudan, General Manager of Development and Community Sustainability Initiatives, had no further information.
- Chair Jackman thanked staff and referred the recommendation to Committee for consideration.

Moved and seconded,

And resolved that it be recommended to the Board:

That the Corporate Officer be authorized to remove the Notice on Title relating to 851 Lower Inonoaklin Road, Electoral Area K, currently owned by Martin Nolan Janssen, property legally described as LOT 1, DISTRICT LOT 8135, KOOTENAY DISTRICT PLAN 10859, the RDCK Building Department has confirmed that has confirmed that a building permit has been obtained and the deficiencies associated with the construction have been rectified.

**Carried**

### 7.2 BUILDING BYLAW CONTRAVENTION – EVANS

**File No.: 3135-20-I-709.05749.300-BP021431**

**1726 Thrums East Rd – Accessory Building**

**(Dobie & Alisha Evans)**

**Electoral Area I**

The Committee Report dated March 23, 2023, re: Building Bylaw Contravention - Evans, has been received.

***Rural Affairs Committee******Referred July 19, 2023 to September 13, 2023******Referred September 13, 2023 to December 13, 2023. The item was missed on the December 13, 2023 RAC meeting agenda and is being brought forward to the January 17, 2024 RAC meeting for consideration.******Referred January 17, 2024 to March 20, 2024***

- No delegation was present.
- Staff are recommending referral to the April 17, 2024 RAC meeting when the Committee will be provided an update.
- Chair Jackman thanked staff and referred the recommendation to Committee for consideration.

Moved and seconded,

And resolved:

That the following motion BE REFERRED to the April 17, 2024 Rural Affairs Committee meeting:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 1726 Thrums East Road, Electoral Area I and legally described as LOT C, PLAN NEP68184, DISTRICT LOT 1239, KOOTENAY LAND DISTRICT MANUFACTURED HOME REG. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

**Carried****7.3 BUILDING BYLAW CONTRAVENTION - EVANS****File No.: 3135-20-I-709.05749.300-BP024256****1726 Thrums East Road - Deck Only****(Dobie & Alisha Evans)****Electoral Area I**

The Committee Report dated March 23, 2023, re: Building Bylaw Contravention - Evans, has been received.

***Rural Affairs Committee******Referred July 19, 2023 to September 13, 2023.******Referred September 13, 2023 to December 13, 2023. The item was missed on the December 13, 2023 RAC meeting agenda and is being brought forward to the January 17, 2024 RAC meeting for consideration.***

***January 17, 2024 to March 20, 2024.***

***Referred January 17, 2024 to March 20, 2024.***

- No delegation was present.
- Staff are recommending referral to the April 17, 2024 RAC meeting when the Committee will be provided an update.
- Chair Jackman thanked staff and referred the recommendation to Committee for consideration.

Moved and seconded,

And resolved:

That the following motion BE REFERRED to the April 17, 2024 Rural Affairs Committee meeting:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 1726 Thrums East Road, Electoral Area I and legally described as LOT C, PLAN NEP68184, DISTRICT LOT 1239, KOOTENAY LAND DISTRICT MANUFACTURED HOME REG. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

**Carried**

**7.4 BUILDING BYLAW CONTRAVENTION - EVANS & MCLEAN**

**File No.: 3135-20-I-709.05749.300-BP023217**

**1726 Thrums East Rd – Manufactured Home**

**(Dobie Evans & Ronald Mclean)**

**Electoral Area I**

The Committee Report dated March 23, 2023, re: Building Bylaw Contravention - Evans & Mclean, has been received.

***Rural Affairs Committee***

***Referred July 19, 2023 to September 13, 2023.***

***Referred September 13, 2023 to December 13, 2023. The item was missed on the December 13, 2023 RAC meeting agenda and is being brought forward to the January 17, 2024 RAC meeting for consideration.***

***Referred January 17, 2024 to March 20, 2024.***

- No delegation was present.

- Staff are recommending referral to the April 17, 2024 RAC meeting when the Committee will be provided an update.
- Chair Jackman thanked staff and referred the recommendation to Committee for consideration.

Moved and seconded,  
And resolved:

That the following motion BE REFERRED to the April 17, 2024 Rural Affairs Committee meeting:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 1726 Thrums East Road, Electoral Area I and legally described as LOT C, PLAN NEP68184, DISTRICT LOT 1239, KOOTENAY LAND DISTRICT MANUFACTURED HOME REG. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

**Carried**

**7.5 DEVELOPMENT VARIANCE PERMIT - HORVATH & DOLLEVOET**  
**File No.: V2307J-01455.042-HORVATH&DOLLEVOET-DVP000241**  
**2875 Broadwater Road**  
**(Jonas Russell Horvath and Lexis Tori Dollevoet)**  
**Electoral Area J**

The Committee Report dated March 6, 2024 from Stephanie Johnson, Planner, re: Development Variance Permit - Horvath & Dollevoet, has been received.

The property owner, Jonas Horvath, provided background to the Committee regarding his property and the Development Variance permit.

Moved and seconded,  
And resolved that it be recommended to the Board:

That the Board APPROVE the issuance of Development Variance Permit V2307J-01455.042 to Jonas Russell Horvath and Lexis Tori Dollevoet for the property located at 2875 Broadwater Road, Electoral Area J and legally described as LOT 2, DISTRICT LOT 301A, KOOTENAY DISTRICT PLAN 4417, EXCEPT PART INCLUDED IN PLAN 5566 (PID: 013-787-381) to vary Sections 701.7 and 701.8 of the Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 to permit the existing unauthorized accessory structure, as follows:

1. Increase the maximum height of an accessory building from 6.0 metres to 7.54 metres; and,
2. Increase the maximum gross floor area of an accessory building from 100 m<sup>2</sup> to 101.1 m<sup>2</sup>.

**Carried**

**7.6 SITE SPECIFIC EXEMPTION TO THE FLOODPLAIN MANAGEMENT BYLAW - DRYSDALE**

**File No.: F2304A – Drysdale**

**10789 Highway 3A**

**(John & Bradley Drysdale)**

**Electoral Area A**

The Committee Report dated March 1, 2024 from Zachari Giacomazzo, Planner, re: Site Specific Exemption To The Floodplain Management Bylaw, has been received.

The property owners, John and Bradley Drysdale were available to answer the Committee's questions.

Staff answered the Committee's questions.

Moved and seconded,

And resolved that it be recommended to the Board:

That the Board APPROVE a Site Specific Floodplain Exemption to permit the construction of a deck with a floodplain setback of 10 metres in accordance with the Engineering Report prepared by SNT Geotechnical Ltd. for property located at 10789 Highway 3A, Electoral Area A and legally described as LOT A, DISTRICT LOT 913, KOOTENAY DISTRICT PLAN 5183 (PID: 014-539-551), SUBJECT to preparation by John Drysdale and Bradley Drysdale of a restrictive covenant under Section 219 of the Land Title Act and Section 56 of the *Community Charter* in favour of the Regional District of Central Kootenay.

**Carried**

**7.7 SITE SPECIFIC FLOODPLAIN EXEMPTION - PILLA & CROTTEY**

**File No.: F2304E-22199.160-CROTTEY-FLD00069**

**1434 Highway 31**

**(Ruth Pilla, Lisa Crottey & Michael Crottey)**

**Electoral Area E**

The Committee Report dated March 6, 2024 from Stephanie Johnson, Planner, re: Site Specific Floodplain Exemption - Pilla & Crottey, has been received.

The property owner, Mike Crottey, and contractor Deborah Weiland from Weiland Construction share they support the staff recommendation.

Staff answered the Committee's questions.

Moved and seconded,

And resolved that it be recommended to the Board:

That the Board APPROVE a Site Specific Floodplain Exemption to reduce the required setback from Kootenay Lake from 15 metres from the natural boundary to 11.42 metres from the natural boundary in accordance with the Engineering Report prepared by Crowsnest Engineering (dated January 12, 2024) for property located at 1434 Highway 31, Queens Bay, Electoral Area E and legally described as LOT B, PLAN NEP78423, DISTRICT LOT 12075, KOOTENAY LAND DISTRICT (PID: 026-329-981) as follows:

1. SUBJECT to preparation by Ruth Elizabeth Pilla, Lisa Marie Crottey and Michael Raymond Crottey of a restrictive covenant under Section 219 of the Land Title Act and Section 56 of the *Community Charter* in favour of the Regional District of Central Kootenay; and,
2. SUBJECT TO the registration of a Section 219 restrictive covenant, which identifies on the subject property a primary and back up area of land for sewerage systems by an Authorized Person.

**Carried**

**7.8 OFFICIAL COMMUNITY PLAN & ZONING BYLAW AMENDMENTS**  
**File No.: Z2307105783.005-TSL DEVELOPMENTS LTD – BA000073**  
**2016 Highway 3A**  
**(TSL Developments Ltd., Inc. No. BC1085036 c/o Jordan Baer)**  
**Electoral Area I**

The Committee Report dated March 6, 2024 from Stephanie Johnson, Planner, re: Official Community Plan and Zoning Bylaw Amendments, has been received.

The property owner, Jordan Baer, thanked staff for the work done on this application.

Moved and seconded,

And resolved that it be recommended to the Board:

That Kootenay-Columbia Rivers Official Community Plan Amendment Bylaw No. 2932, 2024 being a bylaw to amend the Kootenay-Columbia Rivers Official Community Plan Bylaw No. 1157, 1996 is hereby given FIRST and SECOND reading by content and referred to a PUBLIC HEARING.

**Carried**

Moved and seconded,

And resolved that it be recommended to the Board:

That Regional District of Central Kootenay Zoning Amendment Bylaw No. 2931, 2024 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.

**Carried**

Moved and seconded,

And resolved that it be recommended to the Board:

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

**Carried**

## **7.9 CROWN REFERRAL - LICENCE OF OCCUPATION FOR UTILITIES**

**File No.: R2404ADE – Kaslo InfoNet Society**

**Electoral Area A, D & E**

The Committee Report dated March 1, 2024 from Zachari Giacomazzo, Planner, re: Crown Referral - Licence Of Occupation For Utilities, has been received.

Zac Giacomazzo provided an overview to the Committee regarding a crown referral for proposed telecommunication utilities.

Isaac Maxfield from Kaslo InfoNet Society, provided an overview to the Committee regarding the referral and answered the Committee's questions.

Moved and seconded,

And resolved that it be recommended to the Board:

That the Board direct staff to respond to Front Counter BC regarding "Referral Number 163692944 – 002, a Crown Referral for proposed telecommunication utilities" as described in the Committee Report "Crown Referral – Licence of Occupation for Utilities (File: R2404ADE – Kaslo InfoNet Society)" dated March 1, 2024.

**Carried**

## **8. ENVIRONMENTAL SERVICES**

No items.

**9. RURAL ADMINISTRATION**

**9.1 DISCUSSION ITEM: FIREWORKS**

The Committee had a discussion regarding fireworks regulations in the RDCK. The Committee discussed the concerns regarding human caused wildfire risk, such as firework and possible enforcement.

CAO Horn shared that the Provincial Wildfire restrictions at Stage 2 ban fireworks in the area.

Jordan Dupuis, Bylaw Enforcement Supervisor, provided background to the Committee regarding firework noise complaints and the challenges with enforcement.

With fireworks being provincially regulated, the RDCK can work on education regarding firework. Staff will add information to the RDCK website Bylaw page.

**10. PUBLIC TIME**

The Chair called for questions from the public and members of the media at 10:59 a.m.

Public was looking for clarity regarding the Floodplain Exemption process and will reach out to Directors.

**11. IN CAMERA**

**11.1 MEETING CLOSED TO THE PUBLIC**

Moved and seconded,  
And resolved:

In the opinion of the Board and, in accordance with Section 90 of the Community Charter the public interest so requires that persons other than DIRECTORS, ALTERNATE DIRECTORS, DELEGATIONS AND STAFF be excluded from the meeting;

AND FURTHER, in accordance with Section 90 of the Community Charter, the meeting is to be closed on the basis(es) identified in the following Subsections:

90 (1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

(g) litigation or potential litigation affecting the municipality;

**Carried**



**11.2 RECESS OF OPEN MEETING**

Moved and seconded,  
And resolved:

The Open Meeting be recessed in order to conduct the Closed In Camera meeting.

**Carried**

**12. ADJOURNMENT**

Moved and seconded,  
And resolved:

The meeting be adjourned at 11:43 p.m.

**Carried**

**Digitally approved**

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Chair Jackman, Chair



# Committee Report

## Notice on Title

**Date of Report:** Mar 23, 2023  
**Date & Type of Meeting:** Jul 19, 2023, Rural Affairs Committee  
**Author:** Tony Hadfield \_Building/Plumbing Official  
**Subject:** NOTICE ON TITLE REPORT  
**File:** 3135-20-I-709.05749.300-BP021431  
**Electoral Area:** I  
**Registered Owners:** Evans, Dobie and Evans, Alisha  
**Civic Address:** 1726 Thrums East Rd – Accessory Building  
**Legal Description:** Lot C Plan Nep68184 District Lot 1239 Kootenay Land District  
Manufactured Home Reg. # 36149.  
**Zoning:** R2I  
**ALR:** No

### SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the RDCK Board to consider placing a Notice on Title on the above noted property as a consequence of a building bylaw contravention-**Expired permit.**

### SECTION 2: BACKGROUND/ANALYSIS

**Jan 23, 2018** Building Permit (BP) application was received to construct an accessory building (shop).  
**Sep 26, 2019** Framing Inspection completed.  
**Nov 19, 2020** Emailed expiry letter was sent, and email bounced back.  
**Jan 12, 2021** Mailed expiry letter to Owner.  
**Feb 05, 2021** Building Official visited the site; approved another one year renewal.  
**May 11, 2021** Mailed expired letter to Owner.  
**Jul 19, 2021** Owner called Building Department and confirmed he will extend shop permit for one year as it expired in February 2021.  
**Nov 01, 2021** BO approved BP to be renewed for one year, and the new expiry date is May 31, 2022.



**Mar 23, 2023** No Further contact from the Owner

### 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

In keeping with past practice, and further to Building Bylaw Section 22, the following estimate of penalties and costs are provided:

Notice on Title Removal Fee	\$750.00
RDCK Building Permit Fee based upon total value of construction in the case of a Stop Work Order (estimated)	\$1500.00
Penalty as per Clause 22.3 of Building Bylaw (25% of the Building Permit fee) minimum	\$200.00

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

1. Section 57 Community Charter;
2. BC Building Code;
3. RDCK Policy No. 400-01-03 Action for Compliance – Notice on Title Procedures;
4. Building Bylaw Contravention – This contravenes RDCK Building Bylaw 2200, Section 13.3.3 the permit shall expire and the rights of the owner shall terminate in the event and at the time that either of the above conditions is not met or in any event thirty-six months after the date the permit was issued.

#### 3.3 Environmental Considerations

N/A

#### 3.4 Social Considerations:

N/A

#### 3.5 Economic Considerations:

N/A

#### 3.6 Communication Considerations:

N/A

#### 3.7 Staffing/Departmental Workplace Considerations:

N/A

#### 3.8 Board Strategic Plan/Priorities Considerations:

N/A

### SECTION 4: OPTIONS & PROS / CONS

1. Do not accept recommendation as presented – the property will remain in contravention of the BC Building Code and RDCK Building Bylaw.
2. Accept recommendation as presented – file Notice on Title.

Notice on Title 00686 – Evans, Dobie and Evans, Alisha  
1726 Thrums East Rd

## SECTION 5: RECOMMENDATIONS

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 1726 Thrums East Rd Electoral Area I, legally described as Lot C Plan Nep68184 District Lot 1239 Kootenay Land District Manufactured Home Reg. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

Respectfully submitted,  
Tony Hadfield\_Building/Plumbing Official  
Digitally approved by John Southam for BO

## CONCURRENCE

Chris Gainham/Building Manager  
Digitally approved by Chris Gainham  
Sangita Sudan/General Manager of Development and Community Sustainability Services  
Digitally approved by Sangita Sudan  
Stuart J. Horn/Chief Administrative Officer  
Digitally approved by Stuart J. Horn



**BY REGISTERED MAIL**

File: 3135-20-I-709.05749.300-BP021431

**REGISTERED OWNERS:**

Evans, Dobie and Evans, Alisha  
1726 Thrums Rd  
Castlegar BC, V1N 4N4

**SUBJECT:** Notice on Title

**CIVIC ADDRESS:** 1726 Thrums East Rd

The Rural Affairs Committee members (RAC) hereby invite you to attend and address their meeting, the **Jul 19, 2023** RAC Committee. To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote.

**Date:** Jul 19, 2023  
**Time:** 9:00 a.m. PST  
**Hybrid Meeting:** **In-Person Location** - RDCK Board Room, 202 Lakeside Drive, Nelson, BC  
**Remote Attendance** - Please visit [rdck.ca](http://rdck.ca) for meeting call-in information

At this time, committee members will consider making a recommendation to the Regional District Board to direct the Corporate Officer to file a Notice, in the Land Title Office under Section 57 of the *Community Charter*, against the above noted property.

Please advise in advance whether you and/or a representative, who may be legal council, will be present at the Rural Affairs Committee meeting by contacting the Administration Department at (250) 352-1575 or by email [chopkyns@rdck.bc.ca](mailto:chopkyns@rdck.bc.ca) **no less than 3 business days prior to the meeting.**

Should you have no objection to the filing of the subject Notice, please sign and return the attached statement in the stamped, self-addressed envelope. All owners named on the statement must sign this statement. This will allow the Corporate Officer to proceed with filing of the Notice against your property in the Land Title Office. A copy of the Notice will be forwarded for your records.

A copy of the building official's report relative to your property is attached for your reference, as well as a copy of Section 57 of the *Community Charter*.

In order to avoid a Notice on Title, you must contact the building department to resolve concerns noted in the building official's report **no later than 3 business days prior** to the meeting. For specific building inspection inquiries respecting the above, you may contact the writer at either 1-800-268-7325 or (250) 352-8156.

Yours truly,

Building Official

Notice on Title 00686 – Evans, Dobie and Evans, Alisha  
1726 Thrums East Rd

Enclosures

CC: Electoral Area I Director



## REGIONAL DISTRICT OF CENTRAL KOOTENAY

### FILING OF SECTION 57 NOTICE

Building / Plumbing Official  
Regional District of Central Kootenay  
Box 590  
202 Lakeside Drive  
NELSON, BC  
V1L 5R4

We, Evans, Dobie and Evans, Alisha hereby confirm that we have no objection to the Corporate Officer of the Regional District of Central Kootenay filing a Notice in the Land Title Office under Section 57 of the *Community Charter* against our/my property legally described as Lot C Plan Nep68184 District Lot 1239 Kootenay Land District Manufactured Home Reg. # 36149.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Evans, Dobie

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Evans, Alisha



File No: 3135-20-«FolioNumbers»

[Click here to enter a date.](#)

«Name1»«Name2»  
«MailingAddress»

Dear «Name1»and «Name2»:

**RE: FILING OF NOTICE IN LAND TITLE OFFICE UNDER SECTION 57 OF THE COMMUNITY CHARTER**  
«LongLegals»

We wish to advise that the Board, at its meeting held [Click here to enter a date.](#), adopted the following resolution:

[Click here to enter text.](#)

Pursuant to Resolution [Click here to enter text.](#), a Notice has been forwarded to the Land Title Office for filing against your property, a copy of which is attached for your records.

The Community Charter offers the following avenues of resolution respecting removal of the Notice:

- 58(1) “On receiving a report from a building inspector that the condition that gave rise to the filing of the notice under section 57(3) has been rectified, the corporate officer must file a cancellation notice and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates.”
- 58(2) “An owner of land with respect to which a notice has been filed under section 57(3), may apply to the council for a resolution that the note be cancelled.”
- 58(3) “After hearing an applicant under subsection (2), the council may pass a resolution directing the corporate officer to file a cancellation notice.”

We also wish to bring to your attention that pursuant to Regional District of Central Kootenay Building Bylaw No. 2200, 2010, you will be charged an Administrative Fee of \$750.00 for removal of the “Notice on Title”.

If you have any questions, please contact the Building Inspection Department at 250.352.8155.

Sincerely

Sangita Sudan  
General Manger of Development Services



Notice on Title 00686 – Evans, Dobie and Evans, Alisha  
1726 Thrums East Rd

Attachment

c.c. BC Assessment Authority  
Interior Health Authority, Nelson



# Committee Report

## Notice on Title

**Date of Report:** Mar 23, 2023  
**Date & Type of Meeting:** Jul 19, 2023, Rural Affairs Committee  
**Author:** Tony Hadfield\_Building/Plumbing Official  
**Subject:** NOTICE ON TITLE REPORT  
**File:** 3135-20-I-709.05749.300-BP024256  
**Electoral Area:** I  
**Registered Owners:** Evans, Dobie and Evans, Alisha  
**Civic Address:** 1726 Thrums East Rd--Deck Only  
**Legal Description:** Lot C Plan Nep68184 District Lot 1239 Kootenay Land District  
Manufactured Home Reg. # 36149.  
**Zoning:** R2I  
**ALR:** No

### SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the RDCK Board to consider placing a Notice on Title on the above noted property as a consequence of a building bylaw contravention-**Work has not been carried out in accordance with the BC Building Code**

NOTE: The RDCK has initiated three NoT reports simultaneously for this one property

### SECTION 2: BACKGROUND/ANALYSIS

**Apr 14, 2014** A building permit (BP) application was received to construct a deck, site plan and drawing were not provided at the time of application.

**Jun 02, 2014** Stop Work Order (SWO) posted on the construction of a deck.

**Jun 13, 2014** BP21431 was issued for the deck's construction.

**Aug 17, 2015** Last inspection letter sent to Owner.

**Aug 24, 2015** Owner called to let us know that he had an engineer look at the deck and will call for an inspection later.

**Feb 27, 2017** BB renewed for one year from the expiry date.

**Jul 09, 2018** BP renewed for another year.

**Apr 10, 2018** Pending expiry letter sent to Owner.

**Apr 26, 2018** Framing inspection failed: Framing is acceptable for most of the deck except the ridge beam needs support at the house end. P.Eng will provide a report but no report received to date

**Jun 27, 2018** Final expiry letter sent to Owner.

**Jul 02, 2019** Final expiry letter sent to Owner.

**Nov 19, 2020** Emailed Owner expiry letter for BP21431 and BP024256

**Jan 04, 2021** Email no longer valid; mailed expiry letter to Owner. The Building Officials (BO) recommends Notice on Title (NoT), posted Do Not Occupy and SWO.



- Jan 04, 2021** BO recommends not renewing or opening a new permit; we will need complete plans, engineering letter or Schedule B.
- Feb 09, 2021**
- Jul 19, 2021** BO posts a Do Not Occupy notice on the deck  
 Owner called and is working on getting structural still for the other buildings
- Mar 23, 2023** No further contact from Owner.

**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

In keeping with past practice, and further to Building Bylaw Section 22, the following estimate of penalties and costs are provided:

Notice on Title Removal Fee	\$750.00
RDCK Building Permit Fee based upon total value of construction in the case of a Stop Work Order (estimated)	\$1500.00
Penalty as per Clause 22.3 of Building Bylaw (25% of the Building Permit fee) minimum	\$200.00

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

1. Section 57 Community Charter;
2. BC Building Code;
3. RDCK Policy No. 400-01-03 Action for Compliance – Notice on Title Procedures;
4. Building Bylaw Contravention – This contravenes RDCK Building Bylaw 2200, Section 4.3 It is the full and sole responsibility of the owner (and where the owner is acting through a representative, the

Notice on Title 00697 – Evans, Dobie and Alisha Dobie  
1726 Thrums East Rd

representative) to carry out the work, in respect of which a permit is issued under this Bylaw, in compliance with the Building Code, this Bylaw and other applicable enactments respecting safety.

### 3.3 Environmental Considerations

N/A

### 3.4 Social Considerations:

N/A

### 3.5 Economic Considerations:

N/A

### 3.6 Communication Considerations:

N/A

### 3.7 Staffing/Departmental Workplace Considerations:

N/A

### 3.8 Board Strategic Plan/Priorities Considerations:

N/A

## SECTION 4: OPTIONS & PROS / CONS

1. Do not accept recommendation as presented – the property will remain in contravention of the BC Building Code and RDCK Building Bylaw.
2. Accept recommendation as presented – file Notice on Title.

## SECTION 5: RECOMMENDATIONS

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 1726 Thrums East Rd Electoral Area I, legally described as Lot C Plan Nep68184 District Lot 1239 Kootenay Land District Manufactured Home Reg. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

Respectfully submitted,  
Tony Hadfield\_Building/Plumbing Official  
**Digitally approved by John Southam for BO**

## CONCURRENCE

Chris Gainham/Building Manager  
**Digitally approved by Chris Gainham**  
Sangita Sudan/General Manager of Development and Community Sustainability Services  
**Digitally approved by Sangita Sudan**  
Stuart J. Horn/Chief Administrative Officer  
**Digitally approved by Stuart J. Horn**



**BY REGISTERED MAIL**

File: 3135-20-I-709.05749.300-BP024256

**REGISTERED OWNERS:**

Evans, Dobie and Evans, Alisha  
1726 Thrums Rd  
Castlegar BC, V1N 4N4

**SUBJECT:** Notice on Title

**CIVIC ADDRESS:** 1726 Thrums East Rd

The Rural Affairs Committee members (RAC) hereby invite you to attend and address their meeting, the **Jul 19, 2023** RAC Committee. To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote.

**Date:** Jul 19, 2023

**Time:** 9:00 a.m. PST

**Hybrid Meeting:** **In-Person Location** - RDCK Board Room, 202 Lakeside Drive, Nelson, BC  
**Remote Attendance** - Please visit [rdck.ca](http://rdck.ca) for meeting call-in information

At this time, committee members will consider making a recommendation to the Regional District Board to direct the Corporate Officer to file a Notice, in the Land Title Office under Section 57 of the *Community Charter*, against the above noted property.

Please advise in advance whether you and/or a representative, who may be legal council, will be present at the Rural Affairs Committee meeting by contacting the Administration Department at (250) 352-1575 or by email [chopkyns@rdck.bc.ca](mailto:chopkyns@rdck.bc.ca) **no less than 3 business days prior to the meeting.**

Should you have no objection to the filing of the subject Notice, please sign and return the attached statement in the stamped, self-addressed envelope. All owners named on the statement must sign this statement. This will allow the Corporate Officer to proceed with filing of the Notice against your property in the Land Title Office. A copy of the Notice will be forwarded for your records.

A copy of the building official's report relative to your property is attached for your reference, as well as a copy of Section 57 of the *Community Charter*.

In order to avoid a Notice on Title, you must contact the building department to resolve concerns noted in the building official's report **no later than 3 business days prior** to the meeting. For specific building inspection inquiries respecting the above, you may contact the writer at either 1-800-268-7325 or (250) 352-8156.

Yours truly,

Building Official

Notice on Title 00697 – Evans, Dobie and Alisha Dobie  
1726 Thrums East Rd

Enclosures

CC: Electoral Area I Director



## REGIONAL DISTRICT OF CENTRAL KOOTENAY

### FILING OF SECTION 57 NOTICE

Building / Plumbing Official  
Regional District of Central Kootenay  
Box 590  
202 Lakeside Drive  
NELSON, BC  
V1L 5R4

We, Evans, Dobie and Evans, Alisha hereby confirm that we have no objection to the Corporate Officer of the Regional District of Central Kootenay filing a Notice in the Land Title Office under Section 57 of the *Community Charter* against our/my property legally described as Lot C Plan Nep68184 District Lot 1239 Kootenay Land District Manufactured Home Reg. # 36149.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Evans, Dobie

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Evans, Alisha



File No: 3135-20-«FolioNumbers»

[Click here to enter a date.](#)

«Name1»«Name2»  
«MailingAddress»

Dear «Name1»and «Name2»:

**RE: FILING OF NOTICE IN LAND TITLE OFFICE UNDER SECTION 57 OF THE COMMUNITY CHARTER**  
«LongLegals»

We wish to advise that the Board, at its meeting held [Click here to enter a date.](#), adopted the following resolution:

[Click here to enter text.](#)

Pursuant to Resolution [Click here to enter text.](#), a Notice has been forwarded to the Land Title Office for filing against your property, a copy of which is attached for your records.

The Community Charter offers the following avenues of resolution respecting removal of the Notice:

- 58(1) “On receiving a report from a building inspector that the condition that gave rise to the filing of the notice under section 57(3) has been rectified, the corporate officer must file a cancellation notice and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates.”
- 58(2) “An owner of land with respect to which a notice has been filed under section 57(3), may apply to the council for a resolution that the note be cancelled.”
- 58(3) “After hearing an applicant under subsection (2), the council may pass a resolution directing the corporate officer to file a cancellation notice.”

We also wish to bring to your attention that pursuant to Regional District of Central Kootenay Building Bylaw No. 2200, 2010, you will be charged an Administrative Fee of \$750.00 for removal of the “Notice on Title”.

If you have any questions, please contact the Building Inspection Department at 250.352.8155.

Sincerely



Notice on Title 00697 – Evans, Dobie and Alisha Dobie  
1726 Thrums East Rd

Sangita Sudan  
General Manger of Development Services

Attachment

c.c. BC Assessment Authority  
Interior Health Authority, Nelson



# Committee Report

## Notice on Title

**Date of Report:** Mar 23, 2023  
**Date & Type of Meeting:** Jul 19, 2023, Rural Affairs Committee  
**Author:** Tony Hadfield \_Building/Plumbing Official  
**Subject:** NOTICE ON TITLE REPORT  
**File:** 3135-20-I-709.05749.300-BP023217  
**Electoral Area:** I  
**Registered Owners:** Evans, Dobie  
 Mclean, Ronald  
**Civic Address:** 1726 Thrums East Rd – Manufactured Home  
**Legal Description:** Lot C Plan Nep68184 District Lot 1239 Kootenay Land District  
 Manufactured Home Reg. # 36149.  
**Zoning:** R2I  
**ALR:** No

### SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the RDCK Board to consider placing a Notice on Title on the above noted property as a consequence of a building bylaw contravention-**Expired Permit**

NOTE: The RDCK has initiated three NoT reports simultaneously for this one property

### SECTION 2: BACKGROUND/ANALYSIS

**Aug 30, 2016** Building Permit (BP) application was received for placing a manufactured home (MH).  
**Dec 12, 2016** BP23217 was issued to establish a MH.  
**Nov 14, 2016** Received complaint that Owner is building a shop, advised Bylaw enforcement.  
**Apr 26, 2018** Rough-In-Plumbing inspection completed. MH snow load of 65 PSF is not adequate.  
**Oct 17, 2019** First expiry notice sent.  
**Jan 03, 2020** Final expiry notice sent.



**Mar 23, 2023** No Further contact from Owner.

### 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

Notice on Title 00685– Evans, Dobie and Mclean, Ronald  
1726 Thrums East Rd

In keeping with past practice, and further to Building Bylaw Section 22, the following estimate of penalties and costs are provided:

Notice on Title Removal Fee	\$750.00
RDCK Building Permit Fee based upon total value of construction in the case of a Stop Work Order (estimated)	\$1500.00
Penalty as per Clause 22.3 of Building Bylaw (25% of the Building Permit fee) minimum	\$200.00

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

1. Section 57 Community Charter;
2. BC Building Code;
3. RDCK Policy No. 400-01-03 Action for Compliance – Notice on Title Procedures;
4. Building Bylaw Contravention – This contravenes RDCK Building Bylaw 2200, Section 4.3 It is the full and sole responsibility of the owner (and where the owner is acting through a representative, the representative) to carry out the work, in respect of which a permit is issued under this Bylaw, in compliance with the Building Code, this Bylaw and other applicable enactments respecting safety.

**3.3 Environmental Considerations**

N/A

**3.4 Social Considerations:**

N/A

**3.5 Economic Considerations:**

N/A

**3.6 Communication Considerations:**

N/A

**3.7 Staffing/Departmental Workplace Considerations:**

N/A

**3.8 Board Strategic Plan/Priorities Considerations:**

N/A

**SECTION 4: OPTIONS & PROS / CONS**

1. Do not accept recommendation as presented – the property will remain in contravention of the BC Building Code and RDCK Building Bylaw.
2. Accept recommendation as presented – file Notice on Title.

**SECTION 5: RECOMMENDATIONS**

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 1726 Thrums East Rd Electoral Area I,

Notice on Title 00685– Evans, Dobie and Mclean, Ronald  
1726 Thrums East Rd

legally described as Lot C Plan Nep68184 District Lot 1239 Kootenay Land District Manufactured Home Reg. # 36149., and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

Respectfully submitted,  
Tony Hadfield\_Building/Plumbing Official  
Digitally approved by John Southam for BO

## CONCURRENCE

Chris Gainham/Building Manager

Digitally approved by Chris Gainham

Sangita Sudan/General Manager of Development and Community Sustainability Services

Digitally approved by Sangita Sudan

Stuart J. Horn/Chief Administrative Officer

Digitally approved by Stuart J. Horn



**BY REGISTERED MAIL**

File: 3135-20-I-709.05749.300-BP023217

**REGISTERED OWNERS:**

Evans Dobie and Mclean, Ronald  
1726 Thrums Rd  
Castlegar BC, V1N 4N4

**SUBJECT:** Notice on Title

**CIVIC ADDRESS:** 1726 Thrums East Rd

The Rural Affairs Committee members (RAC) hereby invite you to attend and address their meeting, the **Jul 19, 2023** RAC Committee. To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote.

**Date:** Jul 19, 2023  
**Time:** 9:00 a.m. PST  
**Hybrid Meeting:** **In-Person Location** - RDCK Board Room, 202 Lakeside Drive, Nelson, BC  
**Remote Attendance** - Please visit [rdck.ca](http://rdck.ca) for meeting call-in information

At this time, committee members will consider making a recommendation to the Regional District Board to direct the Corporate Officer to file a Notice, in the Land Title Office under Section 57 of the *Community Charter*, against the above noted property.

Please advise in advance whether you and/or a representative, who may be legal council, will be present at the Rural Affairs Committee meeting by contacting the Administration Department at (250) 352-1575 or by email [chopkyns@rdck.bc.ca](mailto:chopkyns@rdck.bc.ca) **no less than 3 business days prior to the meeting.**

Should you have no objection to the filing of the subject Notice, please sign and return the attached statement in the stamped, self-addressed envelope. All owners named on the statement must sign this statement. This will allow the Corporate Officer to proceed with filing of the Notice against your property in the Land Title Office. A copy of the Notice will be forwarded for your records.

A copy of the building official's report relative to your property is attached for your reference, as well as a copy of Section 57 of the *Community Charter*.

In order to avoid a Notice on Title, you must contact the building department to resolve concerns noted in the building official's report **no later than 3 business days prior** to the meeting. For specific building inspection inquiries respecting the above, you may contact the writer at either 1-800-268-7325 or (250) 352-8156.

Yours truly,

Building Official

Notice on Title 00685– Evans, Dobie and Mclean, Ronald  
1726 Thrums East Rd

Enclosures

CC: Electoral Area I Director



## REGIONAL DISTRICT OF CENTRAL KOOTENAY

### FILING OF SECTION 57 NOTICE

Building / Plumbing Official  
Regional District of Central Kootenay  
Box 590  
202 Lakeside Drive  
NELSON, BC  
V1L 5R4

We, Evans, Dobie and Mclean, Ronald hereby confirm that we have no objection to the Corporate Officer of the Regional District of Central Kootenay filing a Notice in the Land Title Office under Section 57 of the *Community Charter* against our/my property legally described as Lot C Plan Nep68184 District Lot 1239 Kootenay Land District Manufactured Home Reg. # 36149.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Evans, Dobie

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Mclean, Ronald



# Committee Report

**Date of Report:** April 3, 2024  
**Date & Type of Meeting:** April 17, 2024 Rural Affairs Committee  
**Author:** Zachari Giacomazzo, Planner  
**Subject:** DEVELOPMENT VARIANCE PERMIT  
**File:** V2402A – Campbell  
**Electoral Area/Municipality** A

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Regional Board to consider a Development Variance Permit (DVP) in Electoral Area ‘A’. The purpose of this application is to allow the applicant to re-build a detached garage on an existing concrete slab that remains from the original structure that was destroyed by a fire.

The DVP would authorize a detached garage to be constructed 1.5 metres from the southern lot line and 0.4 metres from the eastern lot line. Staff recommend that the Board approve the Development Variance Permit.

## SECTION 2: BACKGROUND/ANALYSIS

### GENERAL INFORMATION

**Property Owner(s):** James Campbell and Yvonne Campbell

**Agent:** Jeff Shatzko (Z-ko Construction Ltd.)

**Property Location:** 4481 Highway 3A, Wynndel, Electoral Area ‘A’

**Legal Description:** LOT 2 DISTRICT LOT 4595 KOOTENAY DISTRICT PLAN 9520, EXCEPT PART INCLUDED IN PLAN 10068 (PID: 007-640-510)

**Property Size:** 0.76 hectares (1.87 acres)

**Current Zoning:** Country Residential (R2)

**Current Official Community Plan Designation:** Suburban Residential (RS)

### SURROUNDING LAND USES

**North:** Country Residential (R2)

**East:** Country Residential (R2)

**South:** Country Residential (R2)

**West:** Country Residential (R2)

### Background Information and Subject Property

The subject property is located in Electoral Area ‘A’ on the west side of Highway 3A approximately 7 km north of the Town of Creston.



The property is presently being used for residential purposes and has been improved with a one-family dwelling that is serviced by a private well and on-site wastewater (septic) system. It is surrounded by similarly sized residential properties with individual driveways to access Highway 3A. The original detached garage that was destroyed by a fire was constructed approximately 1.5 metres from the southern lot line and 0.4 metres from the eastern lot line. The applicant is proposing to build a new garage in the same location and on the concrete slab that remains from the original structure.



Figure 1 – Overview Map



Figure 2 – Zoning Map

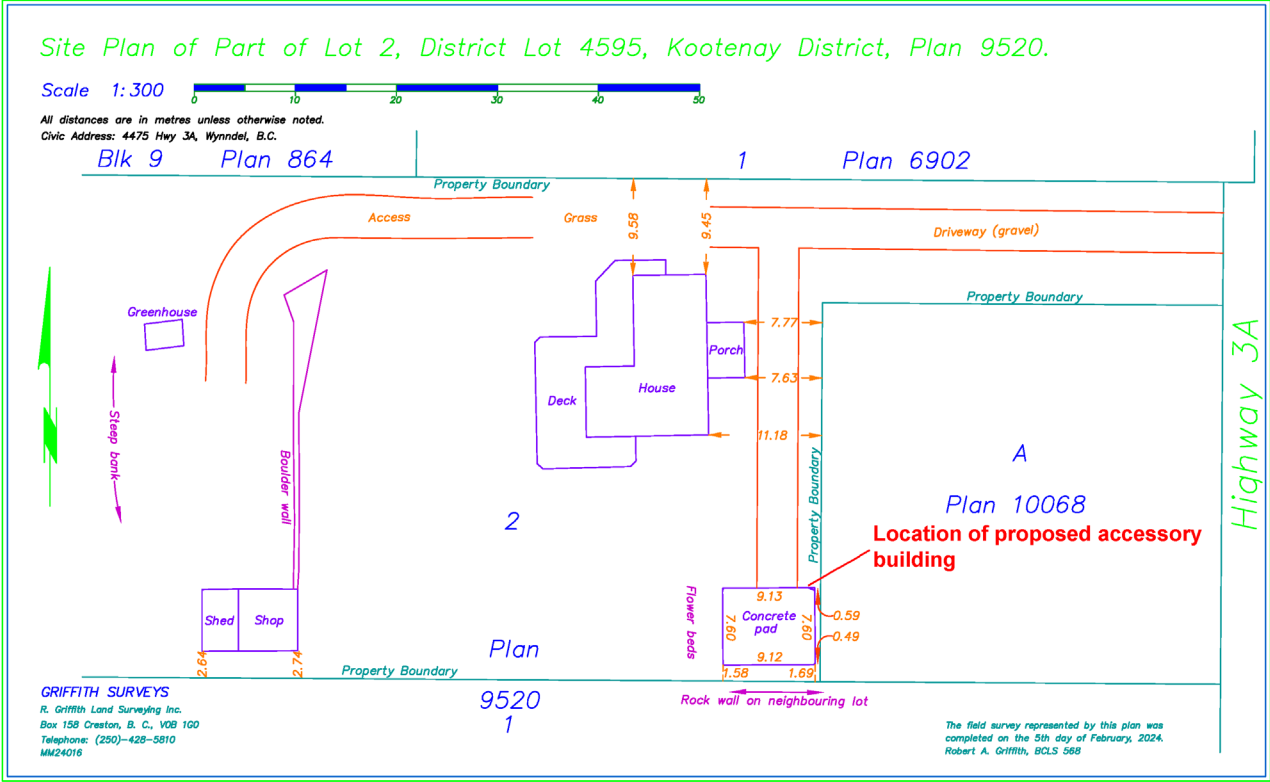
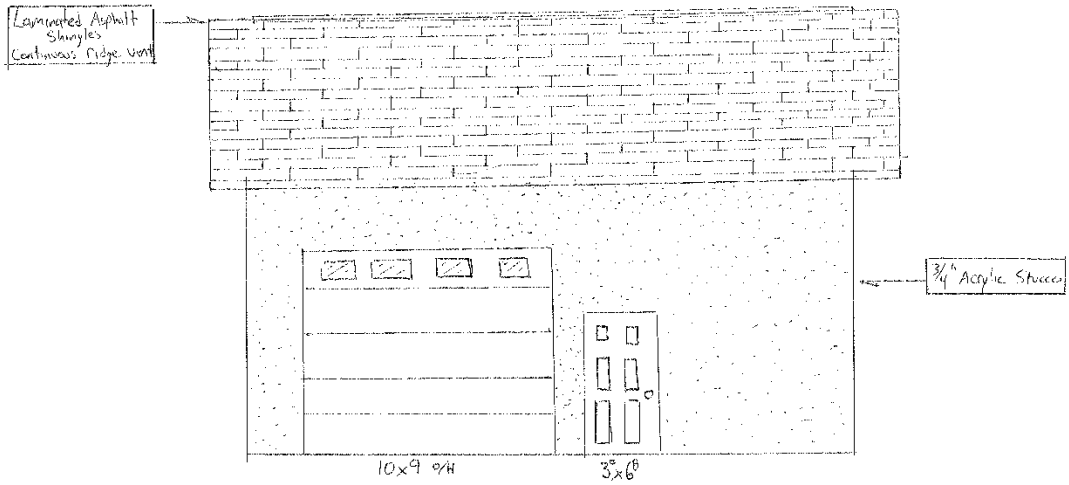


Figure 3 – Site Plan showing location of existing concrete pad and proposed accessory building.

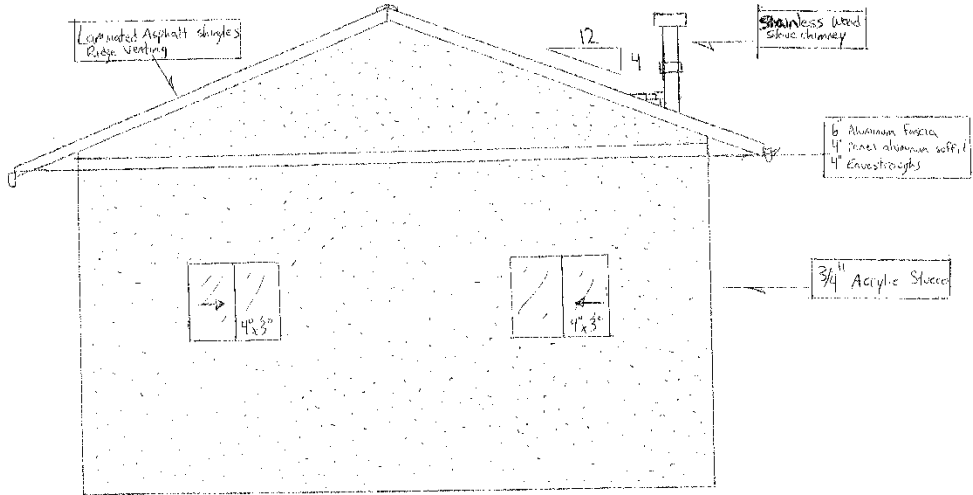
NORTH ELEVATION



James & Yvonne Campbell 4475 Highway 3A Weynodel BC	PAGE
Shop Rebuild	3

Figure 4 – Site plan/floor plan with the proposed emergency exit ramp circled red.

WEST ELEVATION



James & Yvonne Campbell 4475 Highway 3A Weynodel BC	PAGE
Shop Rebuild	4

Figure 5 – Emergency exit ramp details. The proposed 0.2 metre setback measurement is circled in red.



Figure 6 – View looking east towards the existing concrete slab that remains from the original building that burnt down.



Figure 7 – View looking east that shows the 1.5 metre distance from the existing concrete slab to the property line.



Figure 8 – View looking south that shows the 0.4 metre setback from the eastern property line.

## **Planning Policy**

### **Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315, 2013**

#### **General Residential Objectives**

4. To minimize conflict between housing and other adjacent non-residential land uses.
8. To encourage residential development that is compatible with neighbouring properties.

#### **General Residential Policies**

The Regional Board:

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

#### **Suburban Residential (RS) Policies**

The Regional Board:

20. Directs that the principal use shall be one-family or two-family dwellings.

24. Directs that building heights may be regulated where new construction may obstruct views on neighbouring properties.

### SECTION 3: DETAILED ANALYSIS

#### 3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan:  Yes  No      Financial Plan Amendment:  Yes  No  
Debt Bylaw Required:  Yes  No      Public/Gov't Approvals Required:  Yes  No

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

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

Section 18.17 of Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315, 2013 indicates that no principal or accessory building or structure except a fence may be located within 7.5 metres of a front or exterior side lot line or within 2.5 metres of any other lot line.

Section 498 of the Local Government Act gives authority to vary provisions of a zoning bylaw provided that they do not affect use and density.

#### 3.3 Environmental Considerations

None anticipated.

#### 3.4 Social Considerations:

Two letters of support were received from adjacent landowners, and no expressions of concern or opposition were received.

#### 3.5 Economic Considerations:

None anticipated.

#### 3.6 Communication Considerations:

The application was referred to internal departments, other government agencies and 13 surrounding property owners. No responses were received from the surrounding property owners. The following responses were received from government agencies.

##### RDCK Building Services

*In accordance with the BC Building Code please be advised of the following requirements:*

- *Non-vented soffits facing the nearest property lines*
- *Non combustible siding pursuant to Section 9.10 of BC Building Code*
- *45 minute fire rated wall assemblies*
- *No openings on either side facing nearest property lines*
- *Existing slab will need to be reviewed by engineer pursuant to Section 9.15 of BC Building Code*

##### Area 'A' APHC (comments from the approved minutes of March 7, 2024 meeting)

*Director Jackman and staff provided a brief overview of the application and relevant setback regulations. The commission discussed the following: the history of the property including extent of the fire and the remaining slab, the potential fire concerns and possibility of building measures to mitigate risk, concern about current and future neighbours and the development variance permit application process generally.*

**Moved** and seconded,

AND Resolved that it be recommended to the Board:

That the Area A Advisory Planning Commission **SUPPORT** the Development Variance Permit Application to Jeff Shatzko for the property located 4481 Highway 3A, Wynndel and legally described as LOT 2 DISTRICT LOT 4595 KOOTENAY DISTRICT PLAN 9520, EXCEPT PART INCLUDED IN PLAN 10068

Interior Health Authority – Team Leader: Healthy Community Development

No comments provided.

**Staff Note:** The construction plans for the proposed building do not show a washroom or any plumbing fixtures.

Ministry of Transportation and Infrastructure – Development Officer

Thank you for the opportunity to comment on the above noted file.

The subject property is located along Highway 3A, which requires issuance of an access permit from the Ministry.

Application can be made at the following link: <https://www2.gov.bc.ca/gov/content/transportation/funding-engagement-permits/permits>. Should the owners have any questions regarding the permit, they can reach out to [BCMOT.WKD@gov.bc.ca](mailto:BCMOT.WKD@gov.bc.ca).

Fortis BC

*Land Rights Comments*

- There are no immediate concerns or requests for additional land rights, however there may be additional land rights requested stemming from changes to the existing FortisBC Electric (“FBC(E)”) services, if required.

*Operational & Design Comments*

- There are FortisBC Electric (“FBC(E)”) primary distribution facilities along Highway 3A.
- All costs and land right requirements associated with changes to the existing servicing are the responsibility of the applicant.
- The applicant and/or property owner are responsible for maintaining safe limits of approach around all existing electrical facilities within and outside the property boundaries.
- For any changes to the existing service, the applicant must contact an FBC(E) designer as noted below for more details regarding design, servicing solutions, and land right requirements.

**In order to initiate the design process, the customer must call 1-866-4FORTIS (1-866-436-7847).** Please have the following information available in order for FBC(E) to set up the file when you call.

- Electrician’s Name and Phone number
- [FortisBC Total Connected Load Form](#)
- Other technical information relative to electrical servicing

For more information, please refer to FBC(E)’s overhead and underground design requirements:

FortisBC Overhead Design Requirements

<http://fortisbc.com/ServiceMeterGuide>

FortisBC Underground Design Specification

<http://www.fortisbc.com/InstallGuide>



### 3.7 Staffing/Departmental Workplace Considerations:

Should the Board approve the requested variance, staff would issue the Permit and register a Notice of Permit on the property's Title. A Building Permit would then be required prior to constructing the accessory structure.

### 3.8 Board Strategic Plan/Priorities Considerations:

Not applicable.

## SECTION 4: OPTIONS

### Planning Discussion

Planning staff support the issuance of this DVP since:

- The variance would reduce the required setback for the reconstruction of a building that previously existed in that location, making use of the existing concrete foundation.
- The form and character of the surrounding residential area is not impacted by the request to reduce the setback from the northern interior lot line and the footprint of the building is not changing.
- The proposal is consistent with all other applicable zoning regulations in Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315, 2013
- There has been no opposition or feedback from surrounding landowners in response to the notice of proposal sign posted on the subject property or the notice of application that was sent by mail.
- Two letters of support were provided by the applicant that were signed by the adjacent landowners that would be most affected by the reduced setback.

Based on the above, staff recommend that the Board approve the issuance of the Development Variance Permit Application.

#### Option 1

That the Board APPROVE the issuance of Development Variance Permit V2402A to Jeff Shatzko for the property located at 4481 Highway 3A and legally described as LOT 2 DISTRICT LOT 4595 KOOTENAY DISTRICT PLAN 9520, EXCEPT PART INCLUDED IN PLAN 10068 (PID: 007-640-510) to vary Section 18.17 of Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315, 2013 in order to permit a 1.5 metre setback from the southern interior lot line and a 0.4 metre setback from the eastern lot line whereas the bylaw requires a 2.5 metre setback from an interior lot line.

#### Option 2

That the Board NOT APPROVE the issuance of Development Variance Permit V2402A to Jeff Shatzko for the property located at 4481 Highway 3A and legally described as LOT 2 DISTRICT LOT 4595 KOOTENAY DISTRICT PLAN 9520, EXCEPT PART INCLUDED IN PLAN 10068 (PID: 007-640-510) to vary Section 18.17 of Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315, 2013 in order to permit a 1.5 metre setback from the southern interior lot line and a 0.4 metre setback from the eastern lot line whereas the bylaw requires a 2.5 metre setback from an interior lot line.

## SECTION 5: RECOMMENDATIONS

That the Board APPROVE the issuance of Development Variance Permit V2402A to Jeff Shatzko for the property located at 4481 Highway 3A and legally described as LOT 2 DISTRICT LOT 4595 KOOTENAY DISTRICT PLAN 9520, EXCEPT PART INCLUDED IN PLAN 10068 (PID: 007-640-510) to vary Section 18.17 of Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315, 2013 in order to permit a 1.5 metre setback from the southern interior lot line and a 0.4 metre setback from the eastern lot line whereas the bylaw requires a 2.5 metre setback from an interior lot line.

Respectfully submitted,

Zachari Giacomazzo

## CONCURRENCE

Planning Manager – Nelson Wight **Digitally approved**

General Manager Development & Sustainability – Sangita Sudan **Digitally approved**

Chief Administrative Officer – Stuart Horn **Digitally approved**

### ATTACHMENTS:

**Attachment A – Development Variance Permit**

**Attachment B – Excerpt from *Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315, 2013***

**Attachment C – Letters of Support**



# Development Variance Permit

V2402A (James Campbell and Yvonne Campbell)

Date: April 3, 2024

Issued pursuant to Section 498 of the *Local Government Act*

TO: James Campbell and Yvonne Campbell c/o Jeff Shatzko

## ADMINISTRATION

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

## APPLICABILITY

4. This DVP applies to and only to those lands within the RDCK described below, and any and all buildings, structures and other development thereon, substantially in accordance with Schedules '1' and '2':

Address: 4481 Highway 3A, WYNNDEL, ELECTORAL AREA 'A'

Legal: LOT 2 DISTRICT LOT 4595 KOOTENAY DISTRICT PLAN 9520, EXCEPT PART INCLUDED IN PLAN 10068 (PID: 007-640-510)

## CONDITIONS

5. Development Variance

Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315, 2013, Section 18.17 is varied as follows:

From:

Unless otherwise stated, no principal or accessory building or structure except a fence may be located within 7.5 metres of a front or exterior side lot line or within 2.5 metres of any other lot line.

To:

Unless otherwise stated, no principal or accessory building or structure except a fence may be located within 7.5 metres of a front or exterior side lot line or within 1.5 metres of the southern interior lot line and a 0.4 metre of the eastern lot line whereas the bylaw requires a 2.5 metre setback from an interior lot line.

As shown on Schedule '1', and '2'.

6. Schedule

If the holder of the DVP does not substantially start any construction or does not register the subdivision with respect to which the permit was issued within two years after the date it is issued, the permit lapses.

7. Other

Authorized resolution ---/24 passed by the RDCK Board on the 18<sup>th</sup> day of April, 2024.

The Corporate Seal of  
THE REGIONAL DISTRICT OF CENTRAL KOOTENAY  
was hereunto affixed in the presence of:

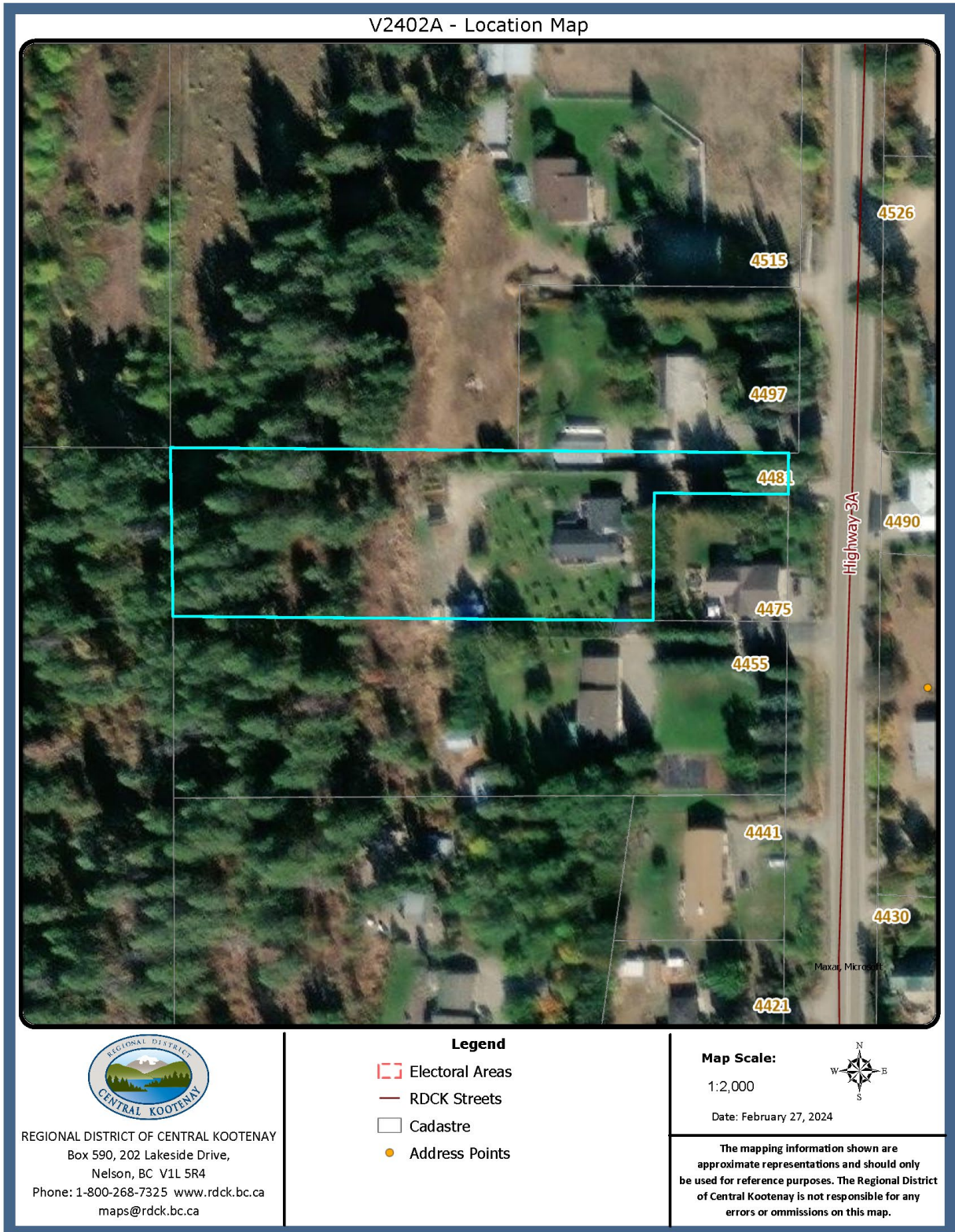
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Aimee Watson, Board Chair

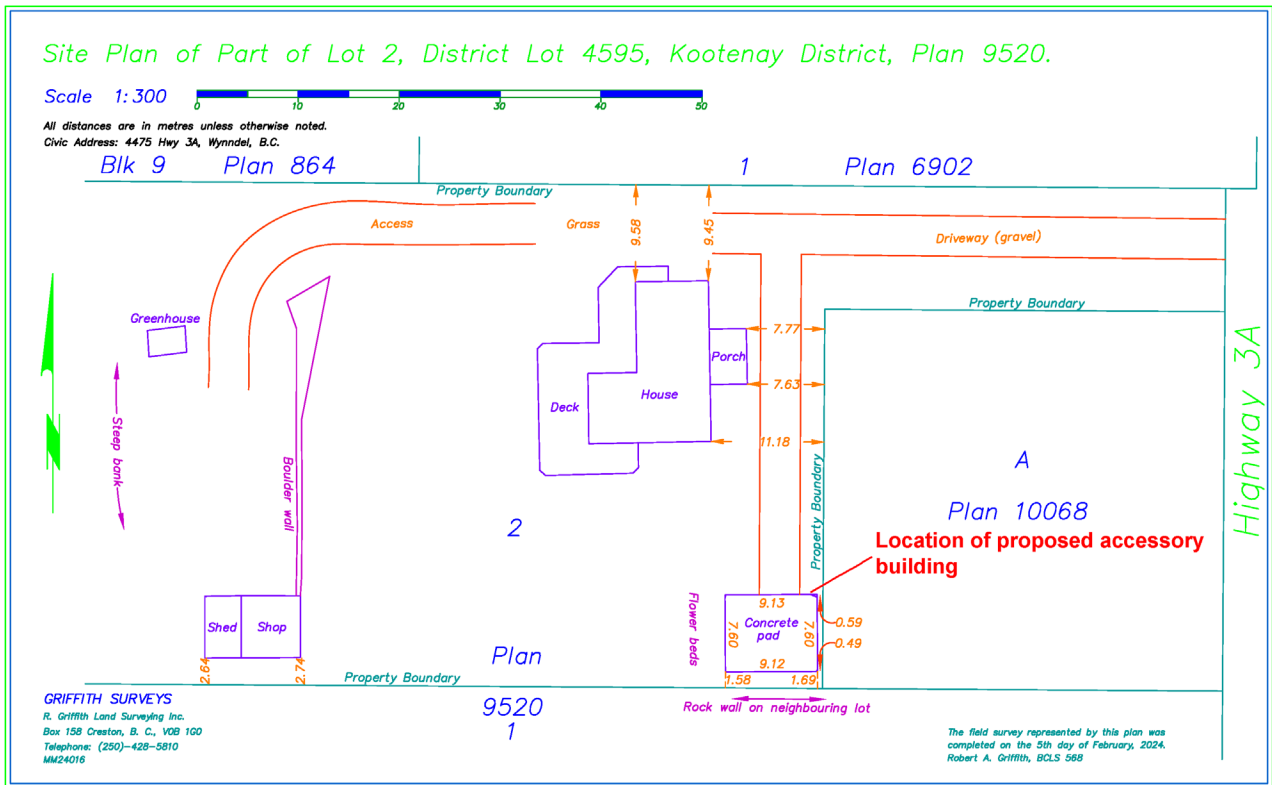
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Mike Morrison, Corporate Officer

**Schedule 1: Subject Property**



Schedule 2: Site Plan



allow property owners to legitimize the structure as long as no lot is reduced in site area.

### **Subdivision Servicing Requirements**

14. All subdivisions shall comply with the provisions of the *Local Services Act* and the Subdivision Regulations thereto.
15. All subdivisions shall be in full compliance with any Regional District of Central Kootenay Subdivision Bylaw currently in effect for the area.
16. All subdivisions shall comply with the *Drinking Water Protection Act*, the *Health Act* and the *Waste Management Act*.

### **Setback Requirements**

17. Unless otherwise stated, no principal or accessory building or structure except a fence may be located within 7.5 metres of a front or exterior side lot line or within 2.5 metres of any other lot line. Lands on the Kootenay Lake side of Highway 3A shall be permitted a 3.0 metre setback from front or exterior side lot line due to general topographical constraints, subject to approval by the Ministry of Transportation and Infrastructure.
18. Despite sub-section 17, buildings or structures shall be setback a minimum of fifteen (15) metres from lot lines adjacent to the Agricultural Land Reserve.
19. Unless otherwise stated, no portable sawmill may be located within 100 metres from a property line.
20. Despite sub-section 17, on all lots less than 0.2 hectares in area, the minimum setback to front or exterior lot lines shall be 4.5 metres, with the exception of lots on the Kootenay Lake side of Highway 3A that shall be permitted a 3.0 meter setback from front or exterior side lot lines due to general topographical constraints, subject to approval by the Ministry of Transportation and Infrastructure.

### **Setback Exceptions**

21. Where the top surface of an underground structure projects no more than 0.6 metre above the average finished ground elevation, that structure may be sited in any portion of a lot.
22. Freestanding lighting poles, warning devices, antennae, masts, solar collectors, utility poles, wires, flagpoles, up to ten (10) metres in height may be sited on any portion of a lot.
23. Where chimneys, cornices, leaders, gutters, pilasters, belt courses, sills, bay windows, or ornamental features project beyond the face of the building, the minimum distance to an abutting lot line as permitted elsewhere in this bylaw may

RDCK

I, Catherine Hines at 4481 Hwy 3A.

am aware of the situation with regard to the reconstruction of the garage at James & Fronne Campbell. I am aware that this structure, if built at the exact same location as the previous, is closer the property line than the bylaw requirement and accept this situation. I agree to the variance with regard to the rebuilding of this structure.

Car A.12/22/23Chase Hines



RDCK

I, PHIL OLIVE at 4453 HIGHWAY 3A  
~~WYNNEDEL, B.C. JOB 2N1~~  
 am aware of the situation with regard of the  
 reconstruction of the garage at James & Yvonne  
 Campbell. I am aware that this structure, if built  
 at the exact same location as the previous, is closer  
 to the property line than the bylaw requirement and  
 accept this situation. I agree to the variance with  
 regard to the rebuilding of this structure.

Phil Olive  
PHIL OLIVE

Phil Olive  
 12/22/23



# Committee Report

**Date of Report:** April 3, 2024  
**Date & Type of Meeting:** April 17, 2024, Rural Affairs Committee  
**Author:** Stephanie Johnson, Planner  
**Subject:** DEVELOPMENT VARIANCE PERMIT  
**File:** V2405-62449.010-MCBLAIN-DVP00253  
**Electoral Area/Municipality** B

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Regional Board to consider a Development Variance Permit (DVP) application.

This DVP seeks to vary Section 23.5 under the Agriculture One (AG1) Zone in the *Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316*, as follows:

- To allow a Farm Residential Footprint with a maximum depth of 140 metres from the front property line whereas the bylaw requires that the maximum depth of the Farm Residential Footprint shall not exceed 60 metres from the Front Lot Line.

Staff recommend that the Regional Board approve issuance of this DVP.

## SECTION 2: BACKGROUND/ANALYSIS

### GENERAL INFORMATION

<b>Property Owner:</b> Jody McBlain and Delaney McBlain
<b>Property Location:</b> 4328 – 40 <sup>th</sup> Street, Canyon, Electoral Area 'B'
<b>Legal Description:</b> LOT 174 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN 921 (PID: 009-896-490)
<b>Property Size:</b> 4 hectares (ha)
<b>Current Zoning:</b> Agriculture One (AG1)
<b>Current Official Community Plan Designation:</b> Agriculture (AG)

### SURROUNDING LAND USES

<b>North:</b> Agriculture One (AG1) / Agricultural Land Reserve (ALR) lands
<b>East:</b> Agriculture One (AG1) / ALR lands
<b>South:</b> Agriculture One (AG1) / ALR lands and 40 <sup>th</sup> Street
<b>West:</b> Agriculture One (AG1) / ALR lands

### Background Information and Site Context

The subject property is surrounded on all sides by parcels within the ALR, designated Agriculture and zoned Agriculture One (AG1). The parcel has Farm Status and is currently used for hay production. An existing hay shed

is located in the rear (northwest) corner of the lot. The applicants seek to convert an existing workshop building on site into a dwelling unit (approximately 80.3 m<sup>2</sup> / 864 ft<sup>2</sup> in size), since there is already driveway access, and power, water and sewerage infrastructure to service this structure.

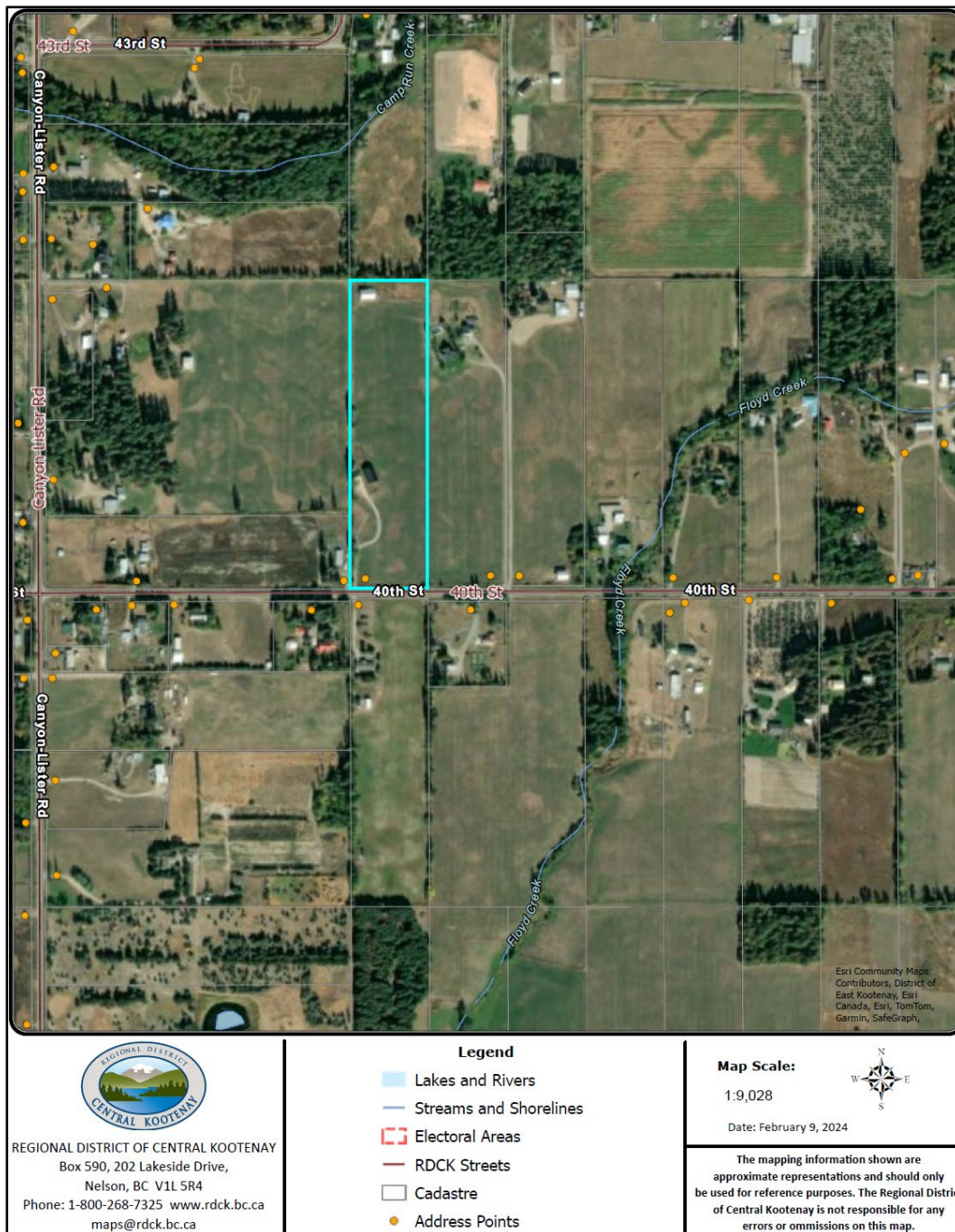


Figure 1: Site Location Overview Map

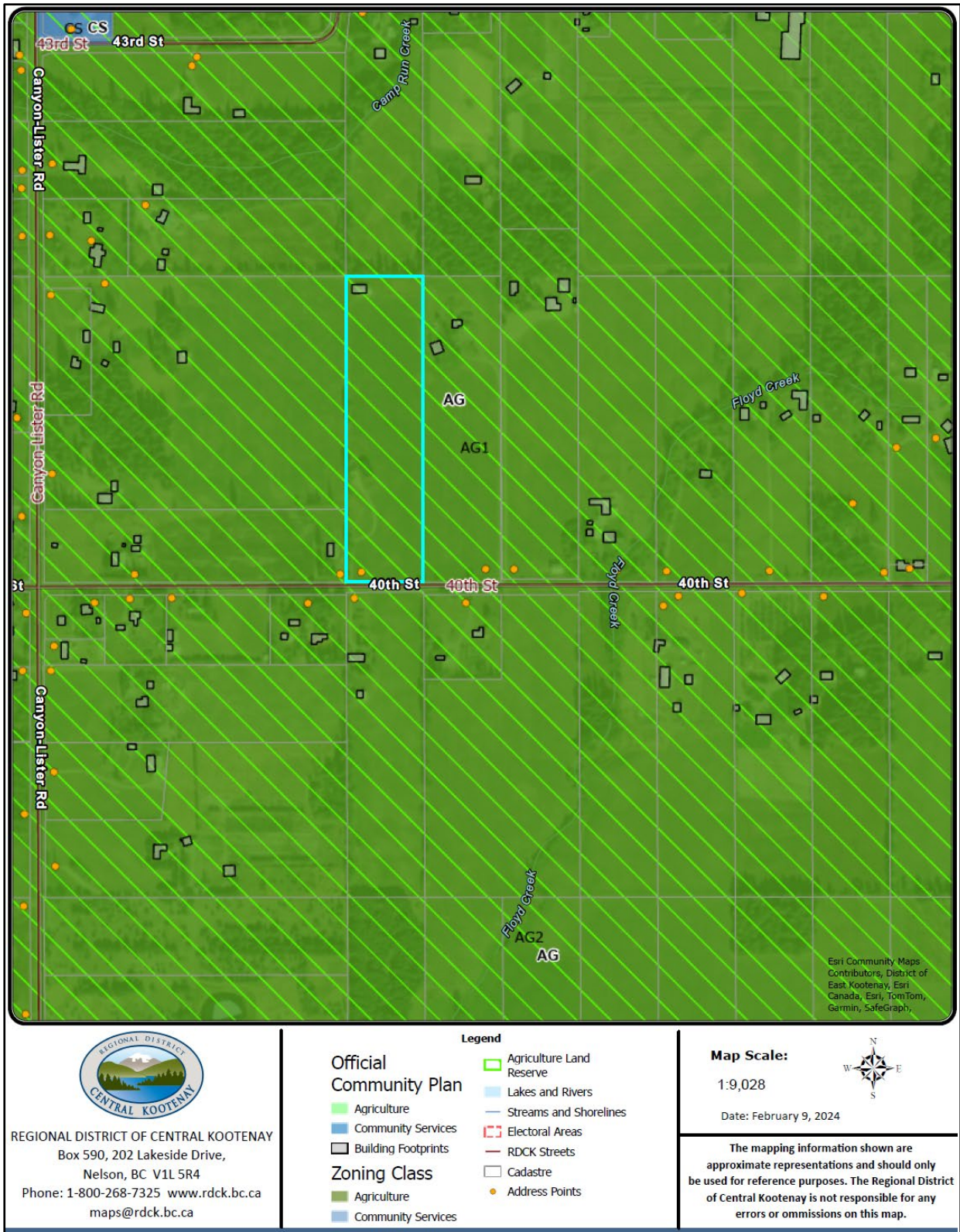


Figure 2: Zoning, ALR and Building Footprint Map

**Development Proposal**

The applicants seek to convert an existing accessory building currently used as a workshop on site into a dwelling unit (approximately 80.3 m<sup>2</sup> / 864 ft<sup>2</sup> in size). The intent is to utilize the current driveway providing access to the structure, and existing power, water and sewerage infrastructure to service the proposed new residence. This DVP seeks to vary Section 23.5 in the Agriculture One (AG1) Zone under the *Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316*, as follows:

**Section 23.5:** To allow a Farm Residential Footprint with a maximum depth of 140 metres from the front property line whereas the bylaw requires that the maximum depth of the Farm Residential Footprint shall not exceed 60 metres from the Front Lot Line.

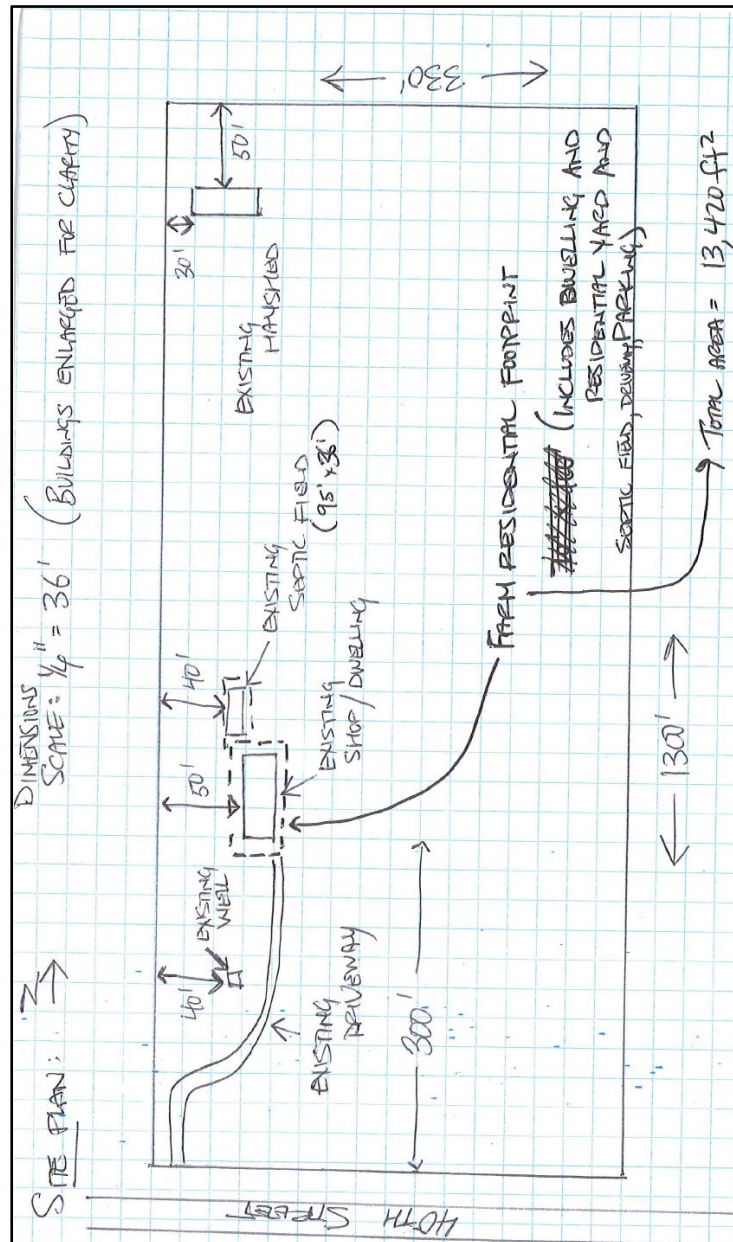


Figure 3: Site Plan



Figure 4: Conceptual Farm Residential Footprint Map

## **Planning Policy**

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

#### **Agriculture Objectives**

1. To preserve and promote the use of agricultural land for current and future agricultural production, and to protect this land from uses which are inconsistent with agricultural use or are incompatible with existing agricultural uses in the area.
2. To encourage the agricultural sector's viability by pursuing supportive land use policies within and adjacent to farming areas and to ensure adequate water and land resources for agricultural purposes with recognition of the importance of local food production.

3. To support agricultural land use practices that do not adversely affect the surrounding environment not compromise the capability of the land for future food production.
4. To support agricultural land use practices within and adjacent to farming areas that seek to minimize conflicts between agriculture and other land uses.
5. To support a strategy for diversifying and enhancing farm income by creating opportunities for uses secondary to and related to agricultural use.
7. To recognize distinct agricultural areas reflecting unique historical development trends, soils and climate.

**Agriculture Policies**

The Regional Board:

9. Directs that the principal use of land designated ‘Agriculture’ shall be for agricultural use.
14. May require that new development adjacent to agricultural areas provide sufficient buffering in the form of setbacks, fencing or landscaping.
16. Supports directing intensive agricultural operations to larger lots or increasing building setbacks and other possible mitigation measures to prevent potential conflicts with adjacent land uses.
17. Supports the use of minimum and maximum setback distances for residential development and the clustering of built structures on agricultural lands to reduce the impact to agricultural potential and operations.

**Community Specific Policies**

**Canyon**

9. Recognizes that the community is primarily characterized by a mix of small residential parcels and medium lot agricultural parcels, the majority of which are located within the ALR and will allow for a mix of parcel sizes dependent of type of land use and agricultural activity.

**SECTION 3: DETAILED ANALYSIS**

**3.1 Financial Considerations – Cost and Resource Allocations:**

**Included in Financial Plan:**  Yes  No      **Financial Plan Amendment:**  Yes  No  
**Debt Bylaw Required:**  Yes  No      **Public/Gov’t Approvals Required:**  Yes  No

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

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

Under Section 498 of the *Local Government Act*, the Board has the authority to vary provisions of a Zoning Bylaw other than use or density through a DVP.

**3.3 Environmental Considerations**

The proposed conversion of an existing structure, driveway access and servicing would minimize the environmental impact of this development proposal.

**3.4 Social Considerations:**

No negative social considerations are anticipated from the requested variance.

**3.5 Economic Considerations:**

No economic considerations are anticipated from this proposed DVP application.

### 3.6 Communication Considerations:

In accordance with the LGA and the RDCK's Planning Procedures and Fees Bylaw No. 2457, 2015 a sign describing the proposal was posted on the subject property, and notices were mailed to surrounding neighbours within a 100 metre radius of the subject property. To date, no comments have been received in response to from the above notification.

Planning staff referred the application to all relevant government agencies, internal RDCK departments, the Director for Electoral Area 'B' Advisory Planning and Heritage Commission (APHC) for review. The following comments were received:

#### RDCK Building Services

*"...Building has no objections to the proposed variance on the condition that the owner/applicant satisfactorily submits all documentation and completes all work required to convert the structure in accordance with requirements of BP28224 (if and when it is issued) and the BC Building Code".*

#### Electoral Area 'B' APHC

It was resolved, *"That the Area B Advisory Planning Commission SUPPORT the Development Variance Permit Application to Jody McBlain for the property located at 4328 – 40th Street, Canyon (ELECTORAL AREA 'B') and legally described as LOT 174 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN 921".*

#### Ministry of Agriculture

*"Ministry staff recognize that converting the existing workshop to a residence minimizes the impact on the Subject Property given that the workshop is serviced with existing water, power and septic infrastructure and is accessed by an existing driveway. From the information provided, it appears that no additional land will be impacted by the proposed conversion.*

*Ministry staff understand and support the applicant's rationale for requesting a variance to the maximum depth of the Farm Residential Footprint given that the proposed location does not impact any of the existing land under agricultural production and ultimately, view this application as beneficial for both the current and any future agricultural use of the Subject Property".*

#### Ministry of Transportation and Infrastructure

*"The Ministry has no concerns with the proposed Development Variance Permit. Should the applicant be conducting farming operations on the property resulting in larger equipment frequently utilizing the driveway access, it is requested that they apply for an agricultural access permit".*

#### Fortis BC

*"Land Rights Comments -*

- *There are no immediate concerns or requests for additional land rights, however there may be additional land rights requested stemming from changes to the existing FortisBC Electric ("FBC(E)") services, if required.*

*Operational & Design Comments -*

- *There are FortisBC Electric ("FBC(E)") primary distribution facilities along 40 Street.*
- *All costs and land right requirements associated with changes to the existing servicing are the responsibility of the applicant.*



- *The applicant and/or property owner are responsible for maintaining safe limits of approach around all existing electrical facilities within and outside the property boundaries*
- *For any changes to the existing service, the applicant must contact an FBC(E) designer as noted below for more details regarding design, servicing solutions, and land right requirements.*

*In order to initiate the design process, the customer must call 1-866-4FORTIS (1-866-436-7847)”.*

Agricultural Land Commission (ALC)

*“The [ALC] has no concerns about this setback variance considering it’s an existing building”.*

### **3.7 Staffing/Departmental Workplace Considerations:**

Should the Regional Board approve issuance of the requested variance, staff would issue the Permit and register a Notice of Permit on the property’s Title. Submission of a Building Permit application would then be required for the conversion of the structure in to a dwelling unit.

### **3.8 Board Strategic Plan/Priorities Considerations:**

This application falls under the operational role of Planning Services.

## **SECTION 4: OPTIONS**

### **Planning Discussion**

The Agriculture Policy Review project (Phase Two - 2023) considered current legislation, existing plans and best management practices, as well as, input from farmers, technical advisors and the public to amend RDCK land use regulations with the goal of supporting farming and protecting farmland in the Regional District. This project identified that the DVP application process would be the best tool for the RDCK to consider site specific circumstances when the agricultural residential footprint regulations would not result in the desired objective of protecting farmland. This application is one such case, and why Staff recommend the DVP be approved.

Staff cite the following rationale in support of the recommendation:

- The proposal is consistent with the relevant agricultural objectives and policies in the *Electoral Area ‘B’ Comprehensive Land Use Bylaw (CLUB) No. 2316, 2013*, and all other zoning regulations in the CLUB, including farm residential footprint at less than 2,000 m<sup>2</sup> (please see Figure 4).
- The variance requested proposes the conversion and use of an existing structure, which would create no net loss of agriculture on the parcel.
- In accordance with comments from the Ministry of Agriculture, staff concur with and *“support the applicant’s rationale for requesting a variance to the maximum depth of the Farm Residential Footprint given that the proposed location does not impact any of the existing land under agricultural production and ultimately, view this application as beneficial for both the current and any future agricultural use of the subject property”.*
- No comments were received in response to the notice of development proposal letter sent to adjacent property owners within 100 metres of the subject property.

It is for the above reasons that Planning Services recommends that the Regional Board proceed with issuance of this DVP.

### Option 1

That the Board APPROVE the issuance of Development Variance Permit V2405B to Jody McBlain and Delaney McBlain for the property located at 4328 – 40<sup>th</sup> Street and legally described as LOT 174 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN 921 (PID: 009-896-490) to vary Section 23.5 in the *Rural Creston Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013*, as follows:

- From a 60 metre maximum depth from the Front Lot Line for a Farm Residential Footprint to allow a Farm Residential Footprint with a maximum depth of 140 metres from the Front Lot Line to permit the conversion of an existing structure in to a dwelling unit.

### Option 2

That the Board NOT APPROVE the issuance of Development Variance Permit V2405B to Jody McBlain and Delaney McBlain for the property located at 4328 – 40<sup>th</sup> Street and legally described as LOT 174 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN 921 (PID: 009-896-490) to vary Section 23.5 in the *Rural Creston Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013*, as follows:

- From a 60 metre maximum depth from the Front Lot Line for a Farm Residential Footprint to allow a Farm Residential Footprint with a maximum depth of 140 metres from the Front Lot Line to permit the conversion of an existing structure in to a dwelling unit.

## SECTION 5: RECOMMENDATIONS

That the Board APPROVE the issuance of Development Variance Permit V2405B to Jody McBlain and Delaney McBlain for the property located at 4328 – 40<sup>th</sup> Street and legally described as LOT 174 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN 921 (PID: 009-896-490) to vary Section 23.5 in the *Rural Creston Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013*, as follows:

- From a 60 metre maximum depth from the Front Lot Line for a Farm Residential Footprint to allow a Farm Residential Footprint with a maximum depth of 140 metres from the Front Lot Line to permit the conversion of an existing structure in to a dwelling unit.

Respectfully submitted,

Stephanie Johnson

## CONCURRENCE

Planning Manager – Nelson Wight **Digitally approved**

General Manager Development & Sustainability – Sangita Sudan **Digitally approved**

Chief Administrative Officer – Stuart Horn **Digitally approved**

### ATTACHMENTS:

**Attachment A – Development Variance Permit**

**Attachment B – Excerpt from *Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013***



# Development Variance Permit

V2405B (McBlain)

Date:

Issued pursuant to Section 498 of the *Local Government Act*

TO: Delaney McBlain and Jody McBlain

## ADMINISTRATION

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

## APPLICABILITY

4. This DVP applies to and only to those lands within the RDCK described below, and any and all buildings, structures and other development thereon, substantially in accordance with Schedules '1' and '2':

Address: 4328 – 40<sup>th</sup> STREET

Legal: LOT 174 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN 921

PID: 009-896-490

## CONDITIONS

5. Development Variance

*Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013* Sections 23.5 is varied as follows:

**Section 23.5: FROM** a maximum depth of the Farm Residential Footprint of 60 metres to the Front Lot Line **TO** allow a Farm Residential Footprint with a maximum depth of 140 metres from the Front Lot Line.

As shown on Scheduled '1' and '2'.

6. Schedule

If the holder of the DVP does not substantially start any construction or does not register the subdivision with respect to which the permit was issued within two years after the date it is issued, the permit lapses.

7. Other

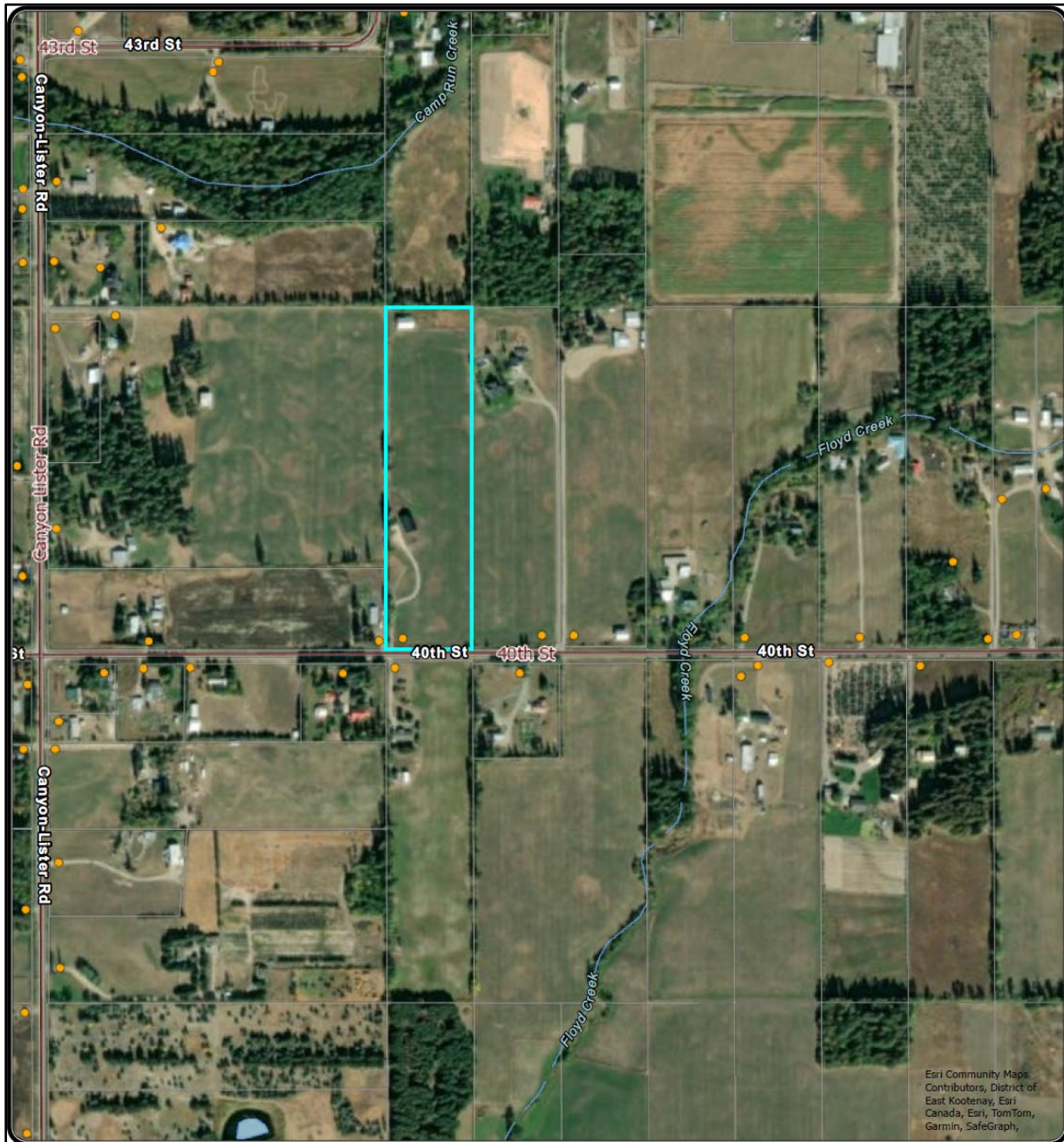
Authorized resolution *[enter resolution number]* passed by the RDCK Board on the \_\_\_\_\_ day of \_\_\_\_\_, 202\_.

The Corporate Seal of  
THE REGIONAL DISTRICT OF CENTRAL KOOTENAY  
was hereunto affixed in the presence of:

\_\_\_\_\_  
Aimee Watson, Board Chair

\_\_\_\_\_  
Mike Morrison, Corporate Officer

**Schedule 1: Subject Property**



REGIONAL DISTRICT OF CENTRAL KOOTENAY  
 Box 590, 202 Lakeside Drive,  
 Nelson, BC V1L 5R4  
 Phone: 1-800-268-7325 www.rdck.bc.ca  
 maps@rdck.bc.ca

**Legend**

- Lakes and Rivers
- Streams and Shorelines
- Electoral Areas
- RDCK Streets
- Cadastre
- Address Points

**Map Scale:**

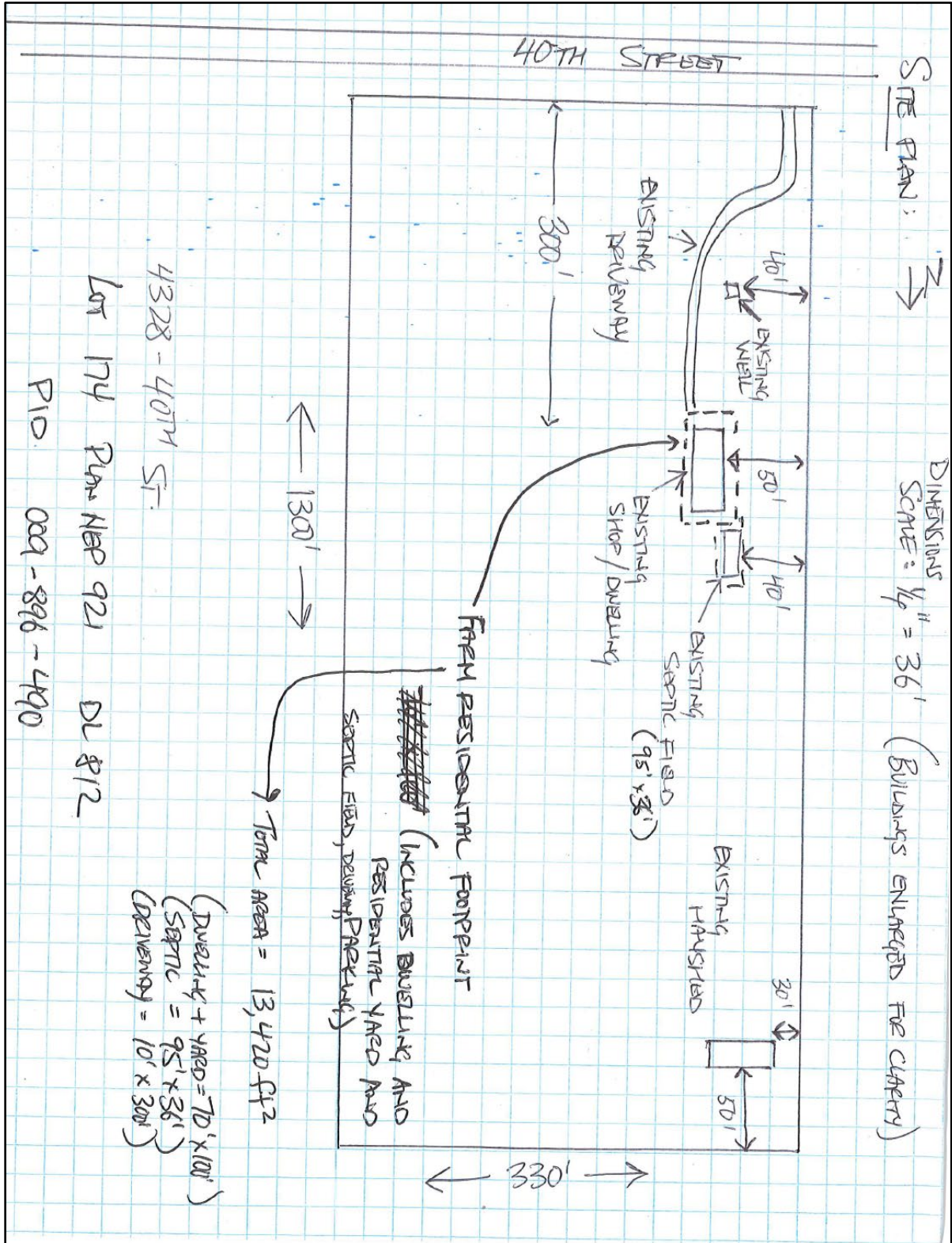
1:9,028

Date: February 9, 2024



The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.

Schedule 2: Site Plan



## 23.0 AGRICULTURE 1 (AG1)

### Permitted Uses

1. Subject to the *British Columbia Agricultural Land Commission Act, Agricultural Land Reserve Use Regulation* and Orders, land, buildings and structures in the Agriculture 1 (AG1) zone shall be used for the following purposes only:

#### Agriculture

All activities designated as "Farm Use" as defined in the *Agricultural Land Commission Act* and Part 2 of the *Agricultural Land Reserve Use Regulation* as amended or replaced from time to time

#### Kennel

Micro Cultivation, Cannabis

Micro Processing, Cannabis

Nursery, Cannabis

Nursery, Greenhouses and Florist

Single Family Dwelling

Standard Cultivation, Cannabis

Standard Processing, Cannabis

Veterinary Clinic (*may require ALC non-farm use approval*)

#### Accessory Uses:

- Accessory Buildings or Structures
- Accessory Tourist Accommodation
- Home Based Business
- Farm Product Processing of farm product from another parcel in the Regional District of Central Kootenay (*may require ALC non-farm use approval*)
- Farmworker Dwelling Unit
- Portable Sawmills for processing of material harvested on site only
- Secondary Suite
- Temporary Farmworker Housing (*may require ALC non adhering residential use approval*)

### Development Regulations

2. The minimum lot area shall be 4 hectares.
3. The maximum site coverage permitted shall be 35 percent of the lot area unless an area not larger than 60 percent of the lot is covered with greenhouses.
4. The maximum Farm Residential Footprint shall be a maximum of 2000 square meters where one dwelling unit is permitted plus 500 square meters per additional permitted dwelling unit.
5. The maximum depth of the Farm Residential Footprint shall not exceed 60.0 metres measured from the Front Lot Line or Exterior Side Lot Line.
6. The Maximum Gross Floor Area of the Single Family Dwelling is 300.0 square metres.
7. A Farmworker Dwelling Unit is permitted on a lot provided that all of the following apply:
  - a. The maximum Gross Floor Area is 90.0 square metres;

- b. The lot is classified as a farm under the Assessment Act;
  - c. The lot is larger than 2 hectares; and
  - d. The Farm Business has been operation for at least 3 years.
8. Temporary Farmworker Housing is permitted on a lot provided that all of the following apply:
- a. The lot is classified as a farm under the Assessment Act;
  - b. The lot is larger than 1.2 hectares;
  - c. The minimum setback is 6.0 metres from the Front Lot Line and Exterior Lot Line and 15.0 metres from other lot lines; and
  - d. The minimum setback from the nearest exterior wall of a dwelling unit on another lot is 30.0 metres, or where a landscape screen comprised of a thick hedge of hardy shrubs or evergreen trees not less than 1.8 metres in height and 1.5 metres in width and maintained in a healthy growing condition is provided, the minimum setback from the nearest exterior wall of a dwelling unit shall not be required.
9. No building, structures or enclosures used for housing farm animals; no drinking or feeding troughs and no manure piles may be located within 5 metres of a lot line.
10. Section (9) does not apply to fences adjacent to lot lines that are used for enclosures for the grazing of farm animals.
11. Farm Product processing that involves processing livestock:
- a. must be located on a minimum 2 hectare site outside the Agricultural Land Reserve; and
  - b. must be located at least 30 meters from the nearest business or residence on another parcel.
12. The minimum setback for a kennel building shall be 30 metres from any lot line. All kennel operations shall ensure that dogs are held within the kennel building between the hours of 8 pm and 7 am.

### **Cannabis Regulations**

13. 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.
14. Any building or structure for the purposes of cannabis standard cultivation or cannabis standard processing shall be a minimum of 30 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.
15. The maximum height of any building or structure for the purposes of cannabis standard cultivation, cannabis standard processing, cannabis micro cultivation, cannabis micro processing or cannabis nurseries shall be 15 metres.
16. The maximum footprint of any building or structure for the purposes of cannabis standard cultivation, cannabis standard processing, cannabis micro cultivation, cannabis micro processing or cannabis nurseries shall not exceed 250 square metres.





# Committee Report

**Date of Report:** April 3, 2024  
**Date & Type of Meeting:** April 17, 2024, Rural Affairs Committee  
**Author:** Stephanie Johnson, Planner  
**Subject:** DEVELOPMENT VARIANCE PERMIT  
**File:** V2309I-09362.000-SPERLING-DVP00243  
**Electoral Area/Municipality** |

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Regional Board to consider a Development Variance Permit (DVP) application. The subject property is located at 2464 Pass Creek Road in Electoral Area 'I'.

This DVP application seeks to vary Sections 2901.3, 2901.4, and 2901.6 b. of the *RDCK's Zoning Bylaw No. 1675, 2004*, as follows:

- To permit a Farm Residential Footprint of approximately 3,800 m<sup>2</sup> (40, 903 ft<sup>2</sup>) whereas the bylaw permits a Farm Residential Footprint of 2,500 m<sup>2</sup> (26,910 ft<sup>2</sup>) for a Single Family Dwelling and additional permitted dwelling unit.
- To allow a Farm Residential Footprint with a maximum depth of 200 metres (656 ft) from the Front Lot Line whereas the bylaw requires that the maximum depth of the Farm Residential Footprint shall not exceed 60 metres from the Front Lot Line.
- To permit an accessory dwelling with a maximum Gross Floor Area (GFA) of 136 m<sup>2</sup> (1,464 ft<sup>2</sup>) whereas the bylaw permits a maximum GFA of 90 m<sup>2</sup> (969 ft<sup>2</sup>).

Staff recommend that the Regional Board approve issuance of this DVP.

## SECTION 2: BACKGROUND/ANALYSIS

### GENERAL INFORMATION

<b>Property Owners:</b> Terese Sperling and Arthur Patrick Sperling
<b>Property Location:</b> 2464 Pass Creek Road, Pass Creek, Electoral Area 'I'
<b>Legal Description:</b> DISTRICT LOT 8430 KOOTENAY DISTRICT EXCEPT PART INCLUDED IN PLANS 12090 & 15269 (PID: 016-449-312)
<b>Property Size:</b> 126.7 hectares (ha)
<b>Current Zoning:</b> Agriculture Three (AG3)
<b>Current Official Community Plan Designation:</b> Agriculture (AG)

### SURROUNDING LAND USES

<b>North:</b> No zoning / Electoral Area 'H' boundary and a portion of Agricultural Land Reserve (ALR) lands
<b>East:</b> Agriculture One (AG1) and Agriculture Three (AG3) / ALR lands
<b>South:</b> Agriculture 2 (AG1)/ ALR lands and Country Residential I (R2I)
<b>West:</b> Country Residential I (R2I) and no zoning/Electoral Area 'H' boundary

**Background Information and Site Context**

The 126.7 ha subject property lies partially in the ALR. A small portion of the lot is currently used for hay production adjacent to the existing residence. To the north the parcel abuts the Electoral Area 'H' boundary; agricultural uses to the south; and, a combination of agricultural and country residential uses to east and west. Pass Creek Road bisects the subject site from east to west, and Shepard Drive runs through a portion of the parcel to the south to access lands beyond. Due to the floodplain and creek drainages adjacent to the existing residence, and hay production in front of this existing dwelling the applicant is proposing to develop an additional dwelling unit outside of the floodplain and existing residential footprint to utilize a former house site pre-dating land use regulations in the area, which has existing access, and servicing.

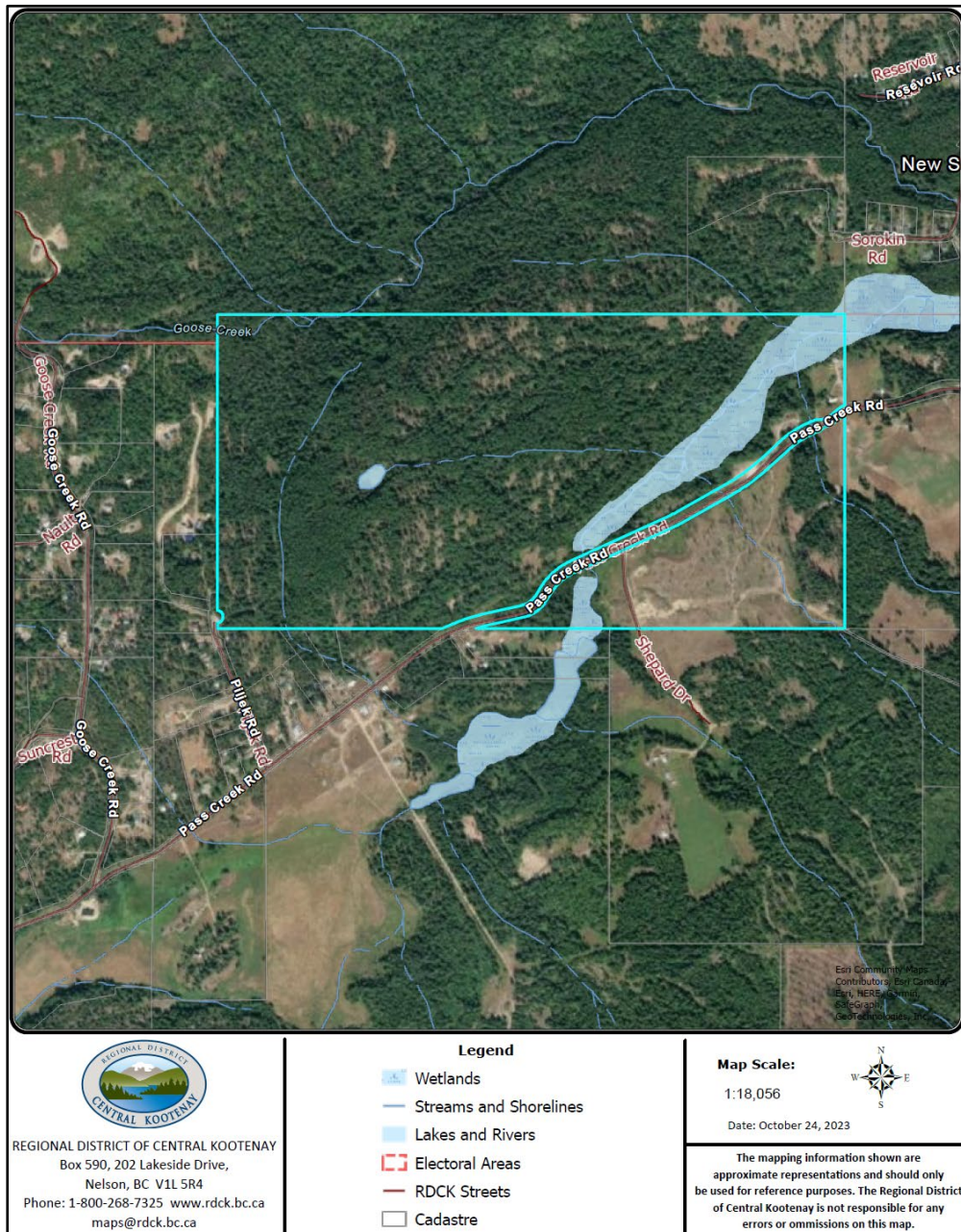
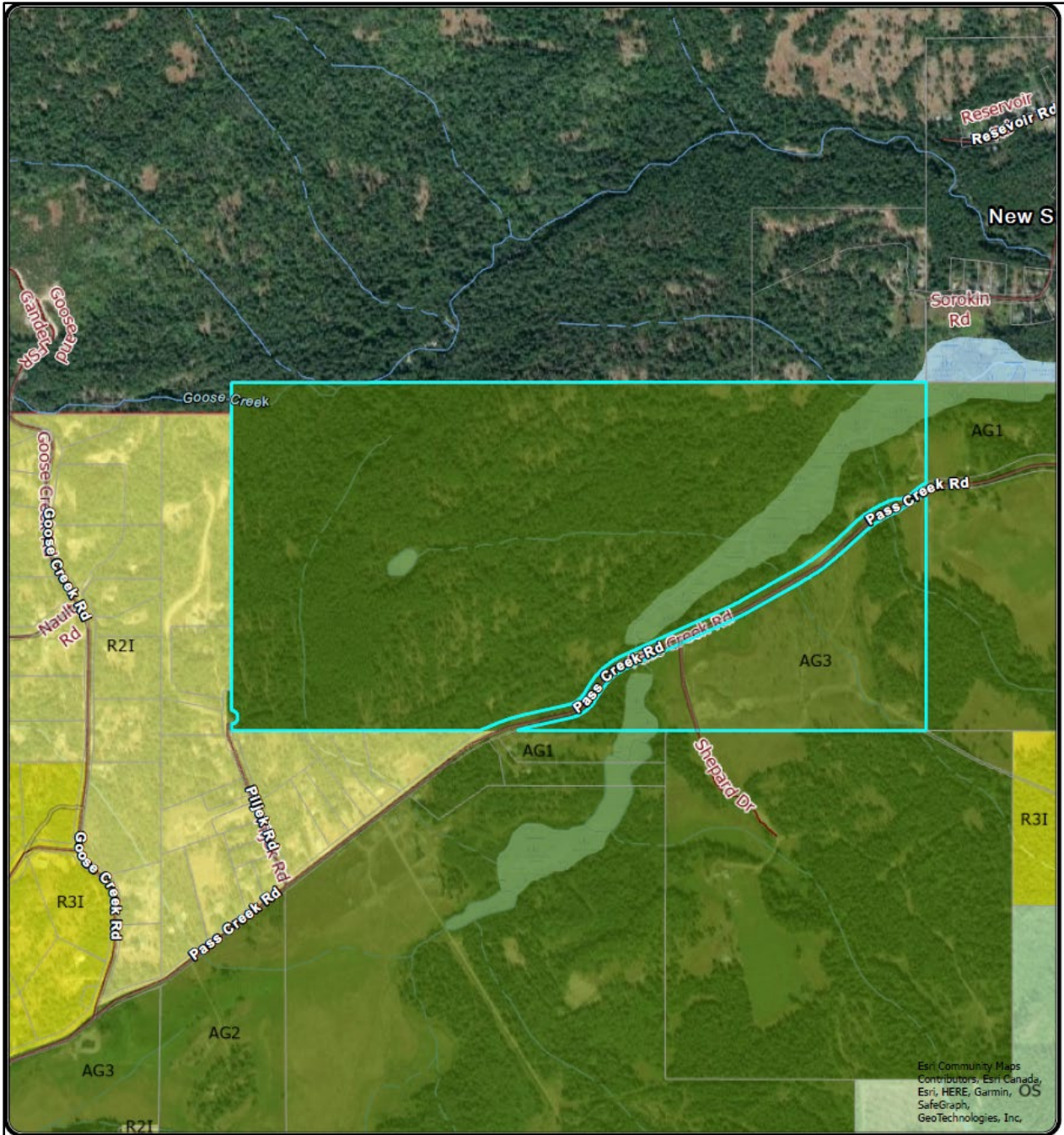



Figure 1: Overview Map



  
 REGIONAL DISTRICT OF CENTRAL KOOTENAY  
 Box 590, 202 Lakeside Drive,  
 Nelson, BC V1L 5R4  
 Phone: 1-800-268-7325 www.rdck.bc.ca  
 maps@rdck.bc.ca

**Zoning Class**


- Agriculture
- Open Space
- Residential 2
- Residential 3

**Legend**

- Wetlands
- Streams and Shorelines
- Lakes and Rivers
- Electoral Areas
- RDCK Streets
- Cadastre

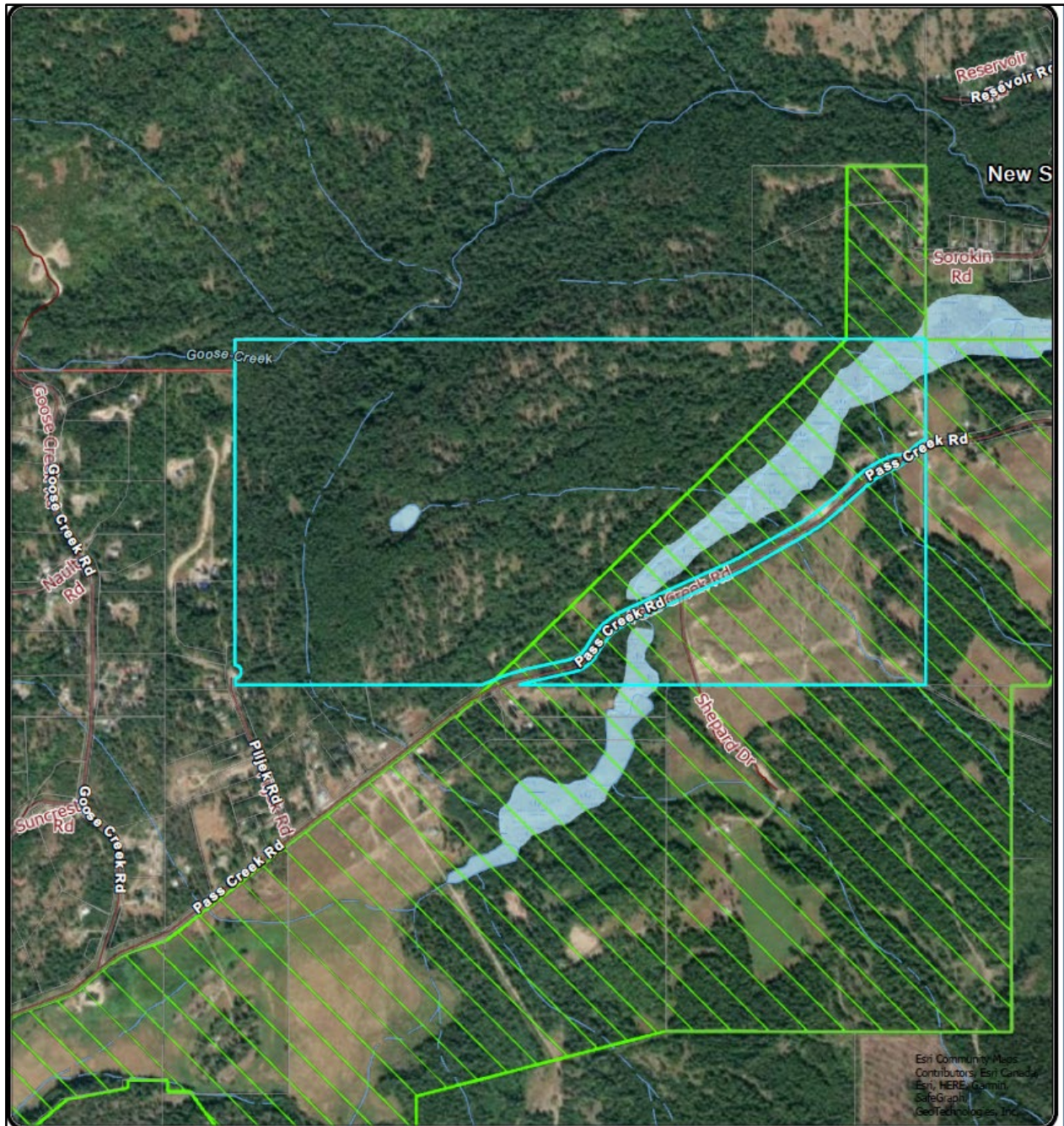
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Date: October 24, 2023


  
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The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.

Figure 2: Zoning Map



Esri Community Maps  
 Contributors: Esri Canada,  
 Esri, HERE, Garmin,  
 SafeGraph,  
 GeoTechnologies, Inc.




REGIONAL DISTRICT OF CENTRAL KOOTENAY  
 Box 590, 202 Lakeside Drive,  
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Legend	
Agriculture Land Reserve	Lakes and Rivers
Wetlands	Electoral Areas
Streams and Shorelines	RDCK Streets
	Cadastre

**Map Scale:**  
 1:18,056

Date: October 24, 2023



The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.

Figure 3: ALR Map

Development Proposal

This DVP application seeks to permit the construction of an additional dwelling unit for a family member(s) on the subject property. The preferred siting of that dwelling requires variances to Sections 2901.3, 2901.4, and 2901.6 b. of the RDCK's Zoning Bylaw No. 1675, as follows:

**Section 2901.3:** To permit a Farm Residential Footprint of approximately 3,800 m<sup>2</sup> (40, 903 ft<sup>2</sup>) whereas the bylaw permits a Farm Residential Footprint of 2,500 m<sup>2</sup> (26,910 ft<sup>2</sup>) for a Single Family Dwelling and additional permitted dwelling unit.

**Section 2901.4:** To allow a Farm Residential Footprint with a maximum depth of 200 metres (656 ft) from the front property line whereas the bylaw requires that the maximum depth of the Farm Residential Footprint shall not exceed 60 metres from the Front Lot Line.

**Section 2901.6 b.:** To permit an accessory dwelling with a maximum Gross Floor Area (GFA) of 136 m<sup>2</sup> (1,464 ft<sup>2</sup>) whereas the bylaw permits a maximum GFA of 90 m<sup>2</sup> (969 ft<sup>2</sup>).

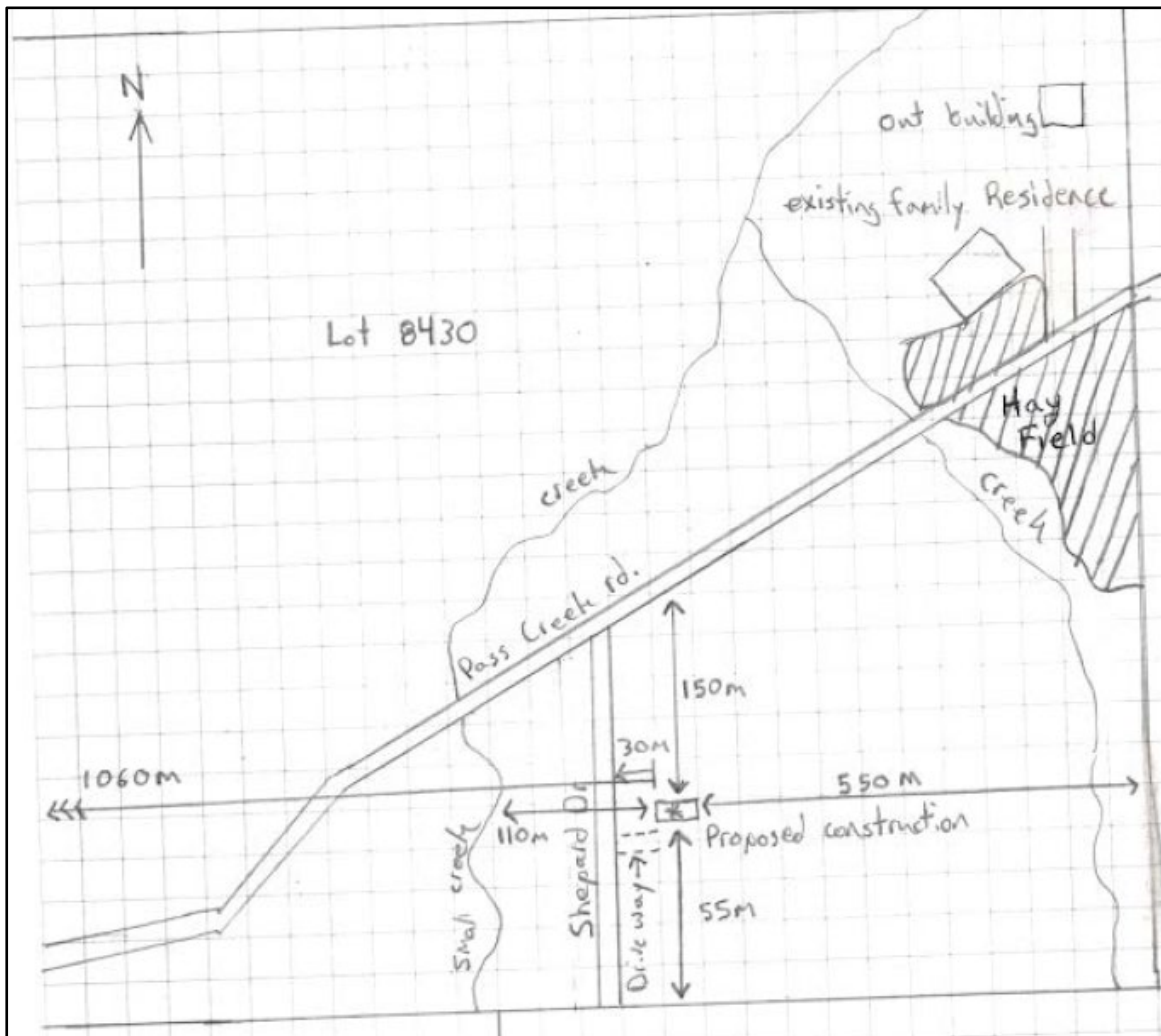


Figure 4: Site Plan showing the proposed Accessory Dwelling location

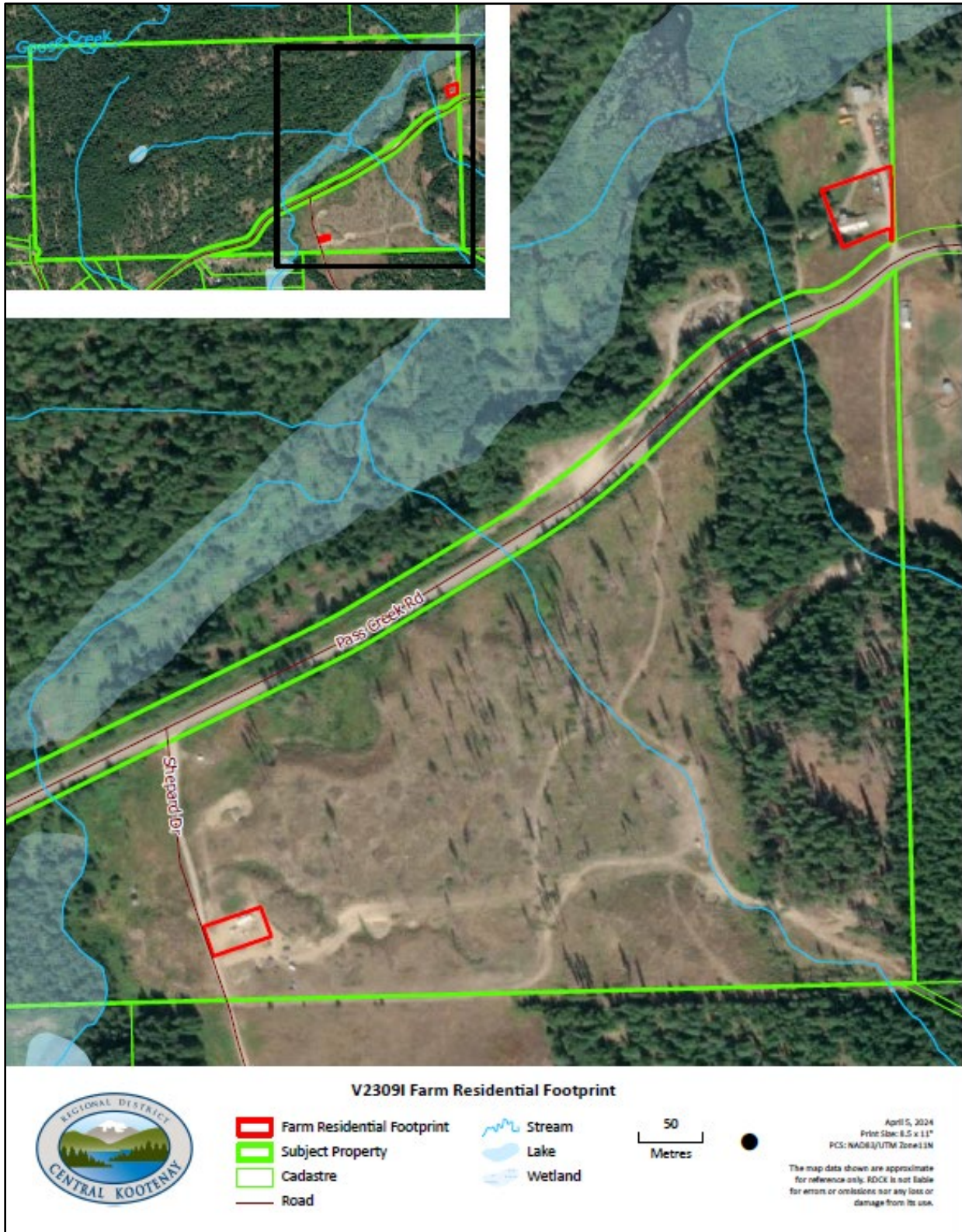


Figure 5 - Conceptual New Farm Residential Footprint – General Overview



Figure 6 – Proposed Accessory Dwelling Unit Elevations

## Planning Policy

### Kootenay Columbia Rivers Official Community Plan Bylaw No. 1157, 1996

## Objectives

### 2.3. Agricultural

- 2.3.2 To encourage the protection and agricultural use of land with continuing value for agriculture.
- 2.3.3 To encourage optimum use and development of agricultural activities on agricultural land.
- 2.3.4 To encourage agricultural practices that do not adversely affect the surrounding environment nor compromise the capability of the land for future food production.
- 2.3.5 To minimize conflicts between agriculture and other land uses.
- 2.3.7 To promote buffered cluster development to maximize the preservation of suitable agricultural land within the ALR.

## Policies

### 3.4 Agriculture

- 3.4.1. The principal use of lands designated as Agriculture on Schedule 'B' – Land Use Designations shall be agriculture.
- 3.4.2 All land within the Agricultural Land Reserve shall be zoned for agricultural use unless otherwise approved by the Agricultural Land Commission.

- 3.4.4 May consider an accessory dwelling to accommodate farm help and support secondary farm income where the additional density can be sustainably serviced.
- 3.4.14 The clustering of development in either single detached or multi-residential dwellings subject to the maintenance of buffers on agricultural lands will be considered and supported by the Board of the Regional District through zoning regulations.

## SECTION 3: DETAILED ANALYSIS

### 3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan:  Yes  No      Financial Plan Amendment:  Yes  No  
 Debt Bylaw Required:  Yes  No      Public/Gov't Approvals Required:  Yes  No

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

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

Under Section 498 of the *Local Government Act (LGA)*, the Board has the authority to vary provisions of a Zoning Bylaw (other than use or density) through a DVP.

### 3.3 Environmental Considerations

This variance request would permit the applicants to build in a location outside of the existing floodplain and Non Standard Flooding and Erosion Areas on the subject lot, which would be consistent with the Regional District's land use and flood hazard management bylaws.

### 3.4 Social Considerations:

No negative social considerations are anticipated from this DVP application, however, the applicant's have stated that they intend to improve and actively farm this section of the subject lot south of Pass Creek Road.

### 3.5 Economic Considerations:

While residential uses can alienate arable land and negatively affect long-term agricultural potential the existing road access and water servicing infrastructure associated with this residential footprint is proposed to assist with increasing agricultural production on this portion of the subject property.

### 3.6 Communication Considerations:

In accordance with the *LGA* and the RDCK's *Planning Procedures and Fees Bylaw No. 2457, 2015* a sign describing the proposal was posted on the subject property, and notices were mailed to surrounding neighbours within a 100 metre radius of the subject property. To date, one verbal submission in support and one written submission (Attachment 'C') outlining concerns about the proposal have been received in response to the above notification and/or notice sign posted.

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

Ministry of Water, Land and Resource Stewardship

*"Development specific Best Management Practices (BMPs) should be applied to help meet necessary legislation, regulations, and policies. Current BC BMPs can be found at: Natural Resource Best Management Practices - Province of British Columbia (gov.bc.ca) and Develop with Care 2014 - Province of British Columbia.*



Vegetation clearing, if required, should adhere to the least risk timing windows for nesting birds (i.e., development activities should only occur during the least risk timing window). Nesting birds and some nests are protected by Section 34 of the provincial Wildlife Act and the federal Migratory Birds Convention Act. Guidelines to avoid harm to migratory birds can be found at: *Guidelines to avoid harm to migratory birds - Canada.ca*. If vegetation clearing is required during the bird nesting period (i.e., outside of the least risk timing window) a pre-clearing bird nest survey should be completed by a QP. The following least risk windows for birds are designed to avoid the bird nesting period:

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

The introduction and spread of invasive species is a concern with all developments. The provincial Weed Control Act requires that an occupier must control noxious weeds growing or located on land and premises, and on any other property located on land and premises, occupied by that person. Information on invasive species can be found at: *Invasive species - Province of British Columbia*. The Invasive Species Council of BC provides BMPs that should be followed, along with factsheets, reports, field guides, and other useful references. For example, all equipment, including personal equipment such as footwear, should be inspected prior to arrival at the site and prior to each daily use and any vegetative materials removed and disposed of accordingly. If noxious weeds are established as a result of this project or approval, it is the tenure holder’s responsibility to manage the site to the extent that the invasive, or noxious plants are contained or removed.

Section 33.1 of the provincial Wildlife Act prohibits feeding or attracting dangerous wildlife. Measures should be employed to reduce dangerous human-wildlife conflicts. Any food, garbage or organic waste that could attract bears or other dangerous wildlife should be removed from the work area. If this is not feasible and waste is not removed, it should be stored in a bear-proof container to avoid drawing wildlife into the area and increasing the threat of human/wildlife conflict.

If this referral is in relation to a potential environmental violation it should be reported online at Report All Poachers & Polluters (RAPP) or by phone at 1-877-952-RAPP (7277).

Developments must be compliant with all other applicable statutes, bylaws, and regulations”.

Provincial Archaeological Branch

“According to Provincial records, there are no known archaeological sites recorded on the subject property.

However, archaeological potential modelling for the area (shown as the purple areas in the screenshot below) indicates there is high potential for previously unidentified archaeological sites to exist on the property. Archaeological potential modelling is compiled using existing knowledge about archaeological sites, past indigenous land use, and environmental variables. Models are a tool to help predict the presence of archaeological sites and their results may be refined through further assessment.

## Archaeology Branch Advice -

*If land-altering activities (e.g., home renovations, property redevelopment, landscaping, service installation) are planned on the subject property, a Provincial heritage permit is not required prior to commencement of those activities.*

*However, a Provincial heritage permit will be required if archaeological materials are exposed and/or impacted during land-altering activities. Unpermitted damage or alteration of a protected archaeological site is a contravention of the Heritage Conservation Act and requires that land-altering activities be halted until the contravention has been investigated and permit requirements have been established. This can result in significant project delays.*

*Therefore, the Archaeology Branch strongly recommends engaging an eligible consulting archaeologist prior to any land-altering activities. The archaeologist will review the proposed activities, verify archaeological records, and possibly conduct a walk-over and/or an archaeological impact assessment (AIA) of the project area to determine whether the proposed activities are likely to damage or alter any previously unidentified archaeological sites.*

*Please notify all individuals involved in land-altering activities (e.g., owners, developers, equipment operators) that if archaeological material is encountered during development, they must stop all activities immediately and contact the Archaeology Branch for direction at 250-953-3334”.*

## RDCK Building Services

No comments received.

## Ministry of Agriculture

- *“Ministry staff understand that a significant portion of the Subject Property is impacted by both the floodplain and creek drainage, which in turn, limits suitable locations to construct an additional residence.*
- *The proposed location for the additional residence utilizes both an existing road and homesite and is serviced which minimizes the impact on the Subject Property.*
- *The only portion of the Subject Property being used for agricultural production is a small hay field located in the vicinity of the existing residence. While Ministry staff recognize the importance of clustering buildings to reduce the impact on the land, in this instance, locating the additional residence in close proximity to the existing residence would likely negatively impact the existing hay field.*
- *To reduce the impact on the current and any future farming activity occurring on the Subject Property, Ministry staff understand and support the applicant’s rationale for requesting a variance to both the maximum depth and size of the Farm Residential Footprint.*
- *However, Ministry staff note that no agricultural rationale has been supplied to justify an increase to the Maximum Gross Floor Area of the proposed residence. Further, the applicant has not indicated that agricultural production on the Subject Property will increase beyond the very limited farming activity that is currently occurring.*

*Ultimately, Ministry staff support the proposed location of the new residence but not the increase to the Maximum Gross Floor Area”.*

### Ministry of Transportation and Infrastructure

*“The Ministry has no concerns with the proposed Development Variance Permit. Should the applicant be conducting farming operations on the property resulting in larger equipment frequently utilizing the driveway access, it is requested that they apply for an agricultural access permit”.*

### Fortis BC

*“Land Rights Comments -*

- *There are no immediate concerns or requests for additional land rights, however there may be additional land rights requested stemming from changes to the existing FortisBC Electric (“FBC(E)”) services, if required.*

*Operational & Design Comments -*

- *There are FortisBC Electric (“FBC(E)”) primary distribution facilities along Pass Creek Road and Shepard Road.*
- *All costs and land right requirements associated with changes to the existing servicing are the responsibility of the applicant.*
- *The applicant and/or property owner are responsible for maintaining safe limits of approach around all existing electrical facilities within and outside the property boundaries.*
- *For any changes to the existing service, the applicant must contact an FBC(E) designer as noted below for more details regarding design, servicing solutions, and land right requirements.*

*In order to initiate the design process, the customer must call 1-866-4FORTIS (1-866-436-7847)”.*

### Electoral Area ‘I’ Advisory Planning and Heritage Commission (APHC)

*It was resolved, “THAT the Area I APHC support all of the variances requested under DVP application V2309I”.*

### **3.7 Staffing/Departmental Workplace Considerations:**

Should the Board approve the requested variances, staff would issue the Permit and register a Notice of Permit on the property’s Title. A Building Permit would then be required prior to constructing the new dwelling.

### **3.8 Board Strategic Plan/Priorities Considerations:**

The application falls under the operational role of Planning Services.

## **SECTION 4: OPTIONS**

### Planning Discussion

The Agriculture Policy Review project (Phase Two - 2023) considered current legislation, existing plans and best management practices, as well as, input from farmers, technical advisors and the public to amend RDCK land use regulations with the goal of supporting farming and protecting farmland in the Regional District. This project identified that the DVP application process would be the best tool for the RDCK to consider site specific circumstances when the agricultural residential footprint regulations would not result in the desired objective of protecting farmland. This application is an example where alternative siting—while perhaps not protecting farmland—is posing nor further erosion of it, given that the chosen site was previously developed for that purpose.

Consequently, Staff cite the following rationale in support of the recommendation:

- Existing site conditions including that it is bisected by Pass Creek Road, includes significant areas undevelopable due to watercourses and important wetland habitat constrain the ability to site the additional dwelling within the same farm residential footprint as the existing dwelling.
- The requested variance to increase the maximum GFA of an accessory dwelling to 136 m<sup>2</sup> (1,464 ft<sup>2</sup>) seems a reasonable size for a family dwelling in a rural context and on a property over 125 ha in area.
- The existing residence is approximately half the size (190 m<sup>2</sup> / 2,000 ft<sup>2</sup>) of a primary single family dwelling permitted under that AG3 Zone at 375 m<sup>2</sup> (approximately 4,000 ft<sup>2</sup>), so the proposed overall residential building(s) footprint on this parcel would still be less at 326 m<sup>2</sup> / 3,500 ft<sup>2</sup> if approved.
- No new driveway construction would be required as the existing road access proposed to the proposed new expanded residential footprint would be via Shepherd Drive. In addition, locating the proposed new farm residential footprint closer to the road would mean siting a dwelling within a floodplain hazard area.
- The proposed development site is an area used previously as a home site, and therefore would not result in any further loss of farm land.

## Options

### Option 1

That the Board APPROVE the issuance of Development Variance Permit V2309I to Arthur Patrick Sperling and Terese Sperling for the property located at 2464 Pass Creek Road and legally described as DISTRICT LOT 8430 KOOTENAY DISTRICT EXCEPT PART INCLUDED IN PLANS 12090 & 15269 (PID: 016-449-312) to vary Section 2901.3, 2901.4, and 2901.6 b. of the *Regional District of Central Kootenay's Zoning Bylaw No. 1675, 2004* to permit, as follows:

1. To permit a Farm Residential Footprint of approximately 3,800 m<sup>2</sup> whereas the bylaw permits a Farm Residential Footprint of 2,500 m<sup>2</sup> (26,910 ft<sup>2</sup>) for a Single Family Dwelling and additional permitted dwelling unit.
2. To allow a Farm Residential Footprint with a maximum depth of 200 metres (656 ft) from the Front Lot Line whereas the bylaw requires that the maximum depth of the Farm Residential Footprint shall not exceed 60 metres from the Front Lot Line.
3. To permit an accessory dwelling with a maximum Gross Floor Area (GFA) of 136 m<sup>2</sup> (1,464 ft<sup>2</sup>) whereas the bylaw permits a maximum GFA of 90 m<sup>2</sup> (969 ft<sup>2</sup>).

### Option 2

That the Board NOT APPROVE the issuance of Development Variance Permit V2309I to Arthur Patrick Sperling and Terese Sperling for the property located at 2464 Pass Creek Road and legally described as DISTRICT LOT 8430 KOOTENAY DISTRICT EXCEPT PART INCLUDED IN PLANS 12090 & 15269 (PID: 016-449-312) to vary Section 2901.3, 2901.4, and 2901.6 b. of the *Regional District of Central Kootenay's Zoning Bylaw No. 1675, 2004* to permit, as follows:

1. To permit a Farm Residential Footprint of approximately 3,800 m<sup>2</sup> (40, 903 ft<sup>2</sup>) whereas the bylaw permits a Farm Residential Footprint of 2,500 m<sup>2</sup> (26,910 ft<sup>2</sup>) for a Single Family Dwelling and additional permitted dwelling unit.

2. To allow a Farm Residential Footprint with a maximum depth of 200 metres (656 ft) from the Front Lot Line whereas the bylaw requires that the maximum depth of the Farm Residential Footprint shall not exceed 60 metres from the Front Lot Line.
3. To permit an accessory dwelling with a maximum Gross Floor Area (GFA) of 136 m<sup>2</sup> (1,464 ft<sup>2</sup>) whereas the bylaw permits a maximum GFA of 90 m<sup>2</sup> (969 ft<sup>2</sup>).

## SECTION 5: RECOMMENDATIONS

That the Board APPROVE the issuance of Development Variance Permit V2309I to Arthur Patrick Sperling and Terese Sperling for the property located at 2464 Pass Creek Road and legally described as DISTRICT LOT 8430 KOOTENAY DISTRICT EXCEPT PART INCLUDED IN PLANS 12090 & 15269 (PID: 016-449-312) to vary Section 2901.3, 2901.4, and 2901.6 b. of the *Regional District of Central Kootenay's Zoning Bylaw No. 1675, 2004* to permit, as follows:

1. To permit a Farm Residential Footprint of approximately 3,800 m<sup>2</sup> (40,903 ft<sup>2</sup>) whereas the bylaw permits a Farm Residential Footprint of 2,500 m<sup>2</sup> (26,910 ft<sup>2</sup>) for a Single Family Dwelling and additional permitted dwelling unit.
2. To allow a Farm Residential Footprint with a maximum depth of 200 metres (656 ft) from the Front Lot Line whereas the bylaw requires that the maximum depth of the Farm Residential Footprint shall not exceed 60 metres from the Front Lot Line.
3. To permit an accessory dwelling with a maximum Gross Floor Area (GFA) of 136 m<sup>2</sup> (1,464 ft<sup>2</sup>) whereas the bylaw permits a maximum GFA of 90 m<sup>2</sup> (969 ft<sup>2</sup>).

Respectfully submitted,

Stephanie Johnson

## CONCURRENCE

Planning Manager – Nelson Wight **Digitally approved**

General Manager Development & Sustainability – Sangita Sudan **Digitally approved**

Chief Administrative Officer – Stuart Horn **Digitally approved**

### ATTACHMENTS:

**Attachment A** – Development Variance Permit

**Attachment B** – Excerpt from *RDCK Zoning Bylaw No. 1675, 2004*

**Attachment C** – Community Correspondence



# Development Variance Permit

V2309I (Sperling)

Date:

Issued pursuant to Section 498 of the *Local Government Act*

TO: Terese Sperling and Arthur Sperling

## ADMINISTRATION

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

## APPLICABILITY

4. This DVP applies to and only to those lands within the RDCK described below, and any and all buildings, structures and other development thereon, substantially in accordance with Schedules '1', '2' and '3':

Address: 2464 PASS CREEK ROAD

Legal: DISTRICT LOT 8430 KOOTENAY DISTRICT EXCEPT PART INCLUDED IN PLANS 12090 & 15269

PID: 016-449-312

## CONDITIONS

5. Development Variance

*Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004*, Sections 2901.3, 2901.4, and 2901.6 b. are varied as follows:

**Section 2901.3: FROM** a Farm Residential Footprint of 2,500 m<sup>2</sup> **TO** a Farm Residential Footprint of approximately 3,800 m<sup>2</sup> to permit a Single Family Dwelling and additional permitted dwelling unit.

**Section 2901.4: FROM** a maximum depth of the Farm Residential Footprint of 60 metres to the Front Lot Line **TO** allow a Farm Residential Footprint with a maximum depth of 200 metres from the Front Lot Line.

**Section 2901.6 b.: FROM** a maximum Gross Floor Area (GFA) of 90 m<sup>2</sup> for accessory dwelling unit **TO** permit an accessory dwelling with a maximum GFA of 136 m<sup>2</sup>.

As shown on Scheduled '1','2' and '3'.

6. Schedule

If the holder of the DVP does not substantially start any construction or does not register the subdivision with respect to which the permit was issued within two years after the date it is issued, the permit lapses.

7. Other

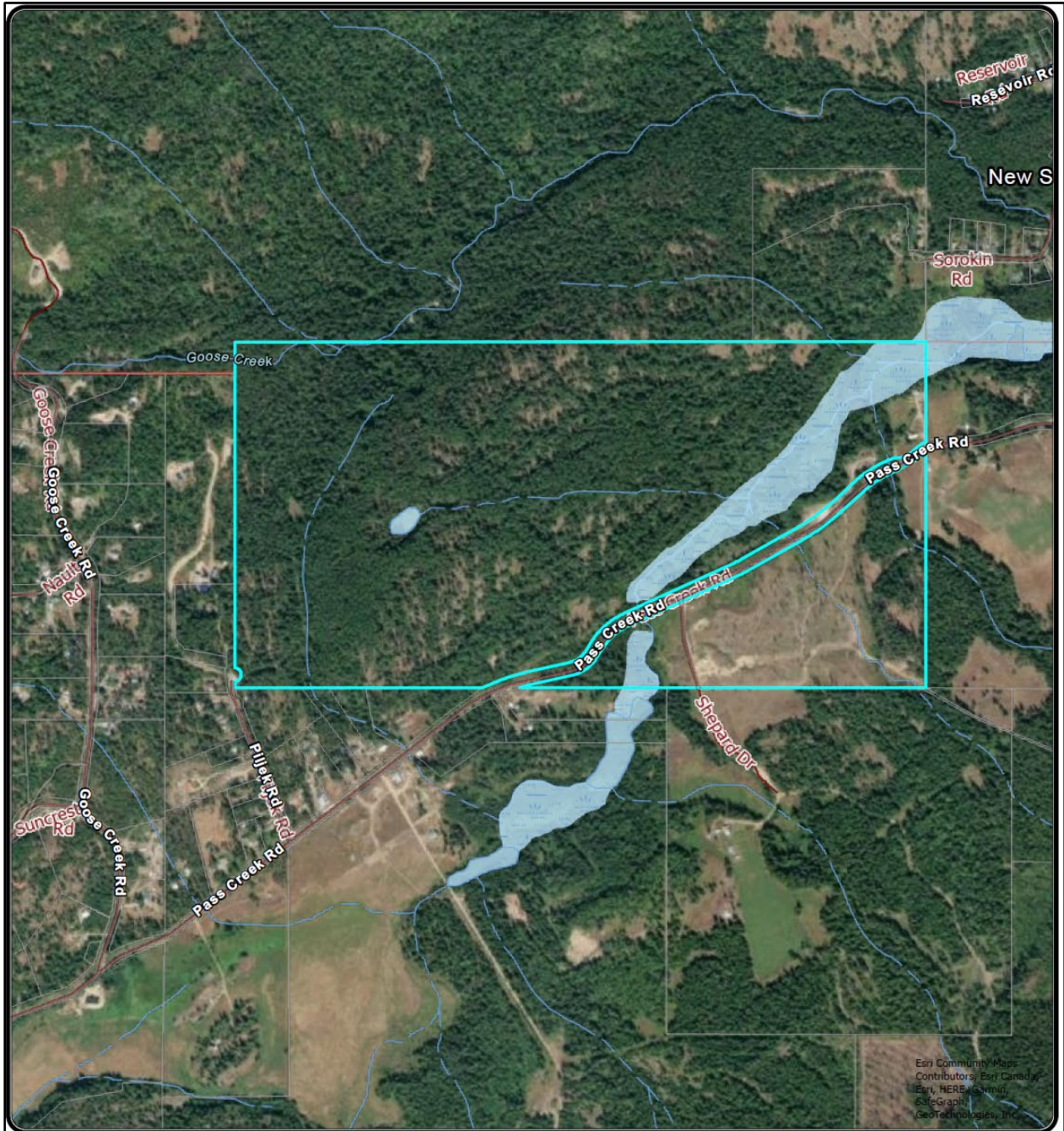
Authorized resolution [*enter resolution number*] passed by the RDCK Board on the \_\_\_\_\_ day of \_\_\_\_\_, 202\_.



The Corporate Seal of  
THE REGIONAL DISTRICT OF CENTRAL KOOTENAY  
was hereunto affixed in the presence of:

\_\_\_\_\_  
Aimee Watson, Board Chair

\_\_\_\_\_  
Mike Morrison, Corporate Officer

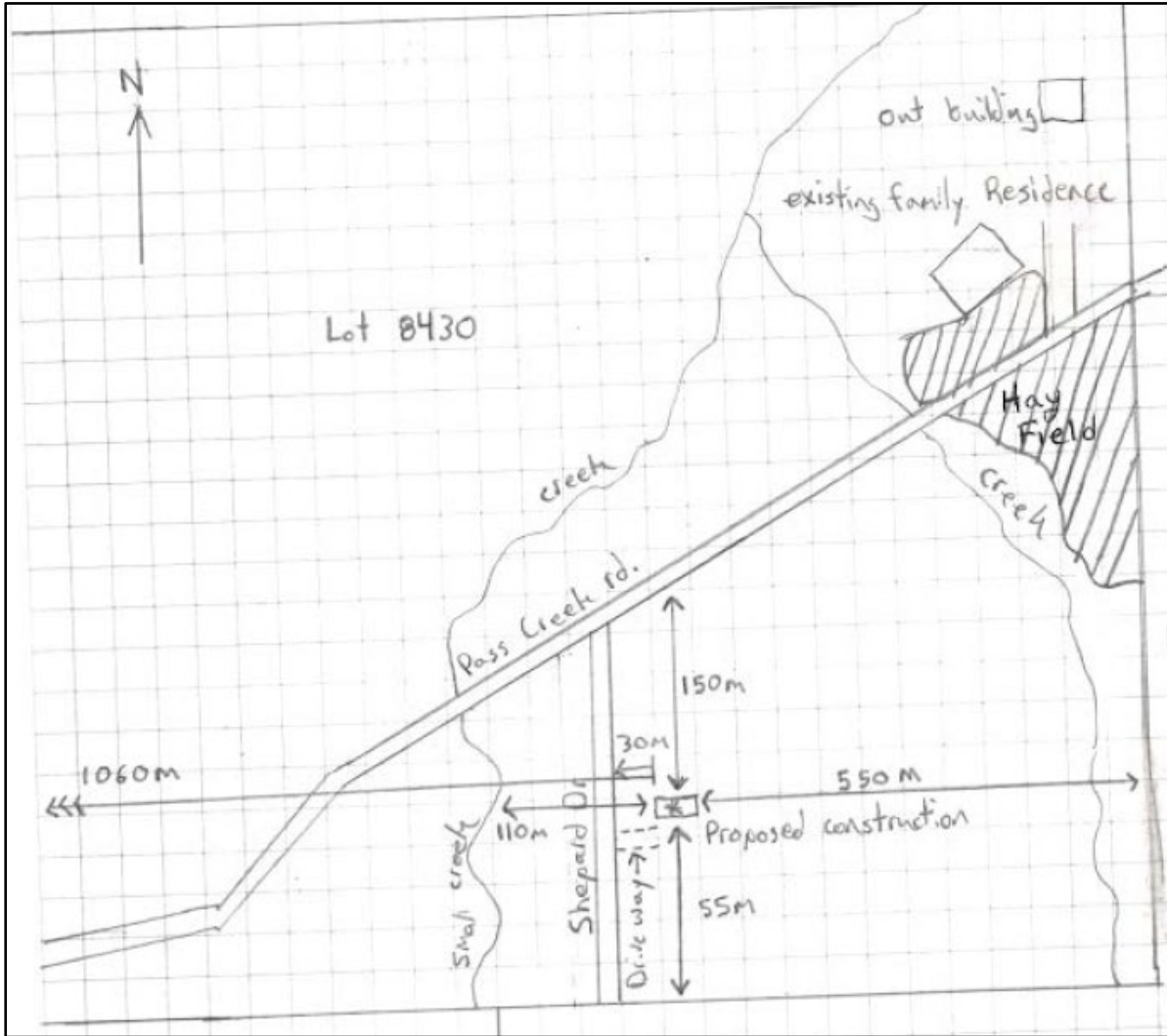
**Schedule 1: Subject Property**



 REGIONAL DISTRICT OF CENTRAL KOOTENAY Box 590, 202 Lakeside Drive, Nelson, BC V1L 5R4 Phone: 1-800-268-7325 www.rdck.bc.ca maps@rdck.bc.ca	<p><b>Legend</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: lightblue; border: 1px solid black; margin-right: 5px;"></span> Wetlands</li> <li><span style="display: inline-block; width: 15px; border-bottom: 1px solid blue; margin-right: 5px;"></span> Streams and Shorelines</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: lightblue; margin-right: 5px;"></span> Lakes and Rivers</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 2px dashed red; margin-right: 5px;"></span> Electoral Areas</li> <li><span style="display: inline-block; width: 15px; border-bottom: 2px solid red; margin-right: 5px;"></span> RDCK Streets</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; margin-right: 5px;"></span> Cadastre</li> </ul>	<p><b>Map Scale:</b></p> <p>1:18,056</p> <p>Date: October 24, 2023</p> <div style="text-align: center;">  </div> <p style="font-size: small;">The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.</p>
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Schedule 2: Site Plan



**Schedule 3: Dwelling Unit Plan**

CUSTOM PRINT

FRONT SIDE ELEVATION

FRONT END ELEVATION

BACK END ELEVATION

BACK SIDE ELEVATION

5/12 ROOF PITCH  
 12" SIDE WALL EAVES  
 16" FRONT & REAR EAVES

27' W X 54' L = 1458 sqft

NOTES: MODULINE ASSUMES NO RESPONSIBILITY FOR FIRE SEPARATION, SEISMO OR DOOR/WINDOW PENETRATION REQUIREMENTS. CONSULT YOUR LOCAL BUILDING OFFICIAL OR ENGINEER OF RECORD TO CONFIRM.

Any renderings and depictions are conceptual only and are for the convenience of reference. They should not be relied upon as representations, express or implied, of the final detail of the units. Moduline Industries expressly reserves the right to make modifications, revisions, and changes it deems desirable in its sole and absolute discretion. All depictions of appliances, counters, furniture, finishes, lighting, plumbing fixtures, soffits, floor coverings and other matters of detail are conceptual only and are not necessarily included in each Unit. Consult your Purchase Agreement and the Offering Documents for the items included with the Unit. Dimensions and square footage are approximate and may vary with actual construction.

<p style="font-size: 8px; margin: 0;">MODULINE PENTICTON                  P.O. BOX 190                  1175 RAILWAY STREET                  PENTICTON, B.C. V2A 6R3                  (250) 493-8122</p>	CUSTOMER: <u>SOA</u>	DEALER: <u>SOA</u>	DATE: _____	DEALER CHANGE REQUEST	TITLE: A004080-A/B
	A	B	C	DRAWING NO: Q14156B - 27C05402	DRAWN BY: RCS
				DATE: 09/25/23	SPEERUNG

## DIVISION 29      AGRICULTURE 3 (AG3)

### Permitted Uses

2900 Subject to the *British Columbia Agricultural Land Commission Act*, *Agricultural Land Reserve Use Regulation* and Orders, land, buildings and structures in the Agriculture 1 (AG1) zone shall be used for the following purposes only:

#### Agriculture

All activities designated as "Farm Use" as defined in the *Agricultural Land Commission Act* and Part 2 of the *Agricultural Land Reserve Use Regulation* as amended or replaced from time to time

Dwelling, One

Family Kennel

Micro Cultivation, Cannabis

Micro Processing, Cannabis

Nursery, Cannabis

Standard Cultivation, Cannabis

Standard Processing, Cannabis

Veterinary Clinic (*may require ALC non-farm use approval*)

#### Accessory Uses:

- Accessory Buildings or Structures
- Accessory Dwelling
- Accessory Tourist Accommodation
- Farm Product Processing of farm product from another parcel in the Regional District of Central Kootenay (*may require ALC non-farm use approval*)
- Home Based Business
- Portable Sawmills for processing of material harvested on site only
- Temporary Farm Worker Housing (*may require ALC non adhering residential use approval*)

### Development Regulations

2901

1. The minimum lot area shall be 60 hectares in the Agricultural Land Reserve and 8 hectares outside the Agricultural Land Reserve.
2. The maximum site coverage permitted shall be 35 percent of the lot area

unless an area not larger than 60 percent of the lot is covered with greenhouses.

3. The maximum Farm Residential Footprint shall be a maximum of 2000 square meters where one dwelling unit is permitted plus 500 square meters per additional permitted dwelling unit.
4. The maximum depth of the Farm Residential Footprint shall not exceed 60.0 metres measured from the Front Lot Line or Exterior Side Lot Line.
5. The Maximum Gross Floor Area of the Single Family Dwelling is 375.0 square metres.
6. Subject to approval from the regional health authority for sewage disposal and water supply, 2 accessory dwellings per lot are permitted as an accessory use subject to the following:
  - a. the minimum site area for each accessory dwelling shall be 1 hectare;
  - b. the maximum gross floor area is limited to 90 square metres;
  - c. one of the accessory dwellings shall be a secondary suite; and
  - d. the accessory dwelling shall not be a recreational vehicle or other vehicle.
7. Temporary Farmworker Housing is permitted on a lot provided that all of the following apply:
  - a. The lot is classified as a farm under the Assessment Act;
  - b. The lot is larger than 1.2 hectares;
  - c. The minimum setback is 6.0 metres from the Front Lot Line and Exterior Lot Line and 15.0 metres from other lot lines; and
  - d. The minimum setback from the nearest exterior wall of a dwelling unit on another lot is 30.0 metres, or where a landscape screen comprised of a thick hedge of hardy shrubs or evergreen trees not less than 1.8 metres in height and 1.5 metres in width and maintained in a healthy growing condition is provided, the minimum setback from the nearest exterior wall of a dwelling unit shall not be required.
8. No building, structures or enclosures used for housing farm animals; no drinking or feeding troughs and no manure piles may be located

within 5 metres of a lot line.

9. Section 2901 (8) does not apply to fences adjacent to lot lines that are used for enclosures for the grazing of farm animals.
10. Farm Product processing that involves processing livestock:
  - a. must be located on a minimum 2 hectare site outside the Agricultural Land Reserve;
  - b. must be setback at least 7.5 metres from any lot line; and
  - c. must be located at least 30 metres from the nearest business or residence on another parcel.
11. The minimum setback for a kennel building shall be 7.5 metres from any lot line.

### **Cannabis Regulations**

12. 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.
13. Any building or structure for the purposes of cannabis standard cultivation or cannabis standard processing shall be a minimum of 30 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.
14. The maximum height of any building or structure for the purposes of cannabis standard cultivation, cannabis standard processing, cannabis micro cultivation, cannabis micro processing or cannabis nurseries shall be 15 metres.
15. The maximum footprint of any building or structure for the purposes of cannabis standard cultivation, cannabis standard processing, cannabis micro cultivation, cannabis micro processing or cannabis nurseries shall not exceed 250 square metres.
16. The maximum gross floor area of any building or structure for the purposes of cannabis standard cultivation, cannabis standard processing, cannabis micro cultivation, cannabis micro processing or cannabis nurseries shall not exceed 600 square metres.

Dear RDCK Planners and regional district organizers

I live at 2389 Pass Creek road, on autonomous sinixt territory. My lot is zoned ALR and RR1. I am a bordering neighbour to the proposed variance permit and I have concerns. I know Art Sperling and some of his family and know him to be a hardworking man with a lot of land in the area. I do not know his son but know people who know him.....I do not know Micheal Gagnier but have asked many around here if he lives in the neighbourhood, no one knows him or what his interests in Pass Creek are.....

I am concerned that the development will wreck the character of the neighbourhood in many, many ways. Locals are already being priced out of the area. In my opinion, Art may build himself a home for his son there, but I worry that after Art is gone, the property will be sold yet again and a more opulent house will be built there. This is ALR! not a suburb for the rich and wealthy! .

I also have concerns for the species at risk that dwell at 2464 Pass Creek Road. There are saw whet owls, long eared owls and a few nights ago I heard a spotted owl call!!! There are nighthawks and red listed frogs, many woodpeckers and blue skinks. These are many, many red listed and nearly extinct species that will be threatened due to this development.

I know part of the development plan for 2464 Pass Creek road is to log around a small lake on the western bench above Pass Creek road. I feel if RDCK allows this, it puts at risk my property, the 2 adjacent properties and more. This is a spot where a state of emergency was called in 2011 due to logging debris left in the creek. If the RDCK proceeds with allowing a development(logging around the lake ) with a gentle over steep pitch, I feel you as a governing organization have prior notice will be liable and I myself, a property owner have warned you of the dangers in advance.

I would appreciate a response from the RDCK regarding my concerns.

Thank you in advance,

Marianne Choi

Addendum: I also think it is unwise for the RDCK to populate the downtown with social housing and neglect rural social housing needs. I am aware that a much requested bus service in Pass Creek requires a density adjustment. A parcel such as the one under proposed development could solve the bus issues for the many, many seniors in the area with smart and thoughtful planning..I would hope for a plan that includes rural social housing, needs of elders, hard to house, refugees and newcomers. This neighbourhood could also benefit from helping an intentional community and Pass Creek is beautiful. Not everyone can live in a city and all deserve the peace that rural living affords



# Committee Report

**Date of Report:** April 3, 2024  
**Date & Type of Meeting:** April 17, 2024, Rural Affairs Committee  
**Author:** Stephanie Johnson, Planner  
**Subject:** SITE SPECIFIC FLOODPLAIN EXEMPTION  
**File:** F2401E-02256.131-PRUETT-FLD00072  
**Electoral Area/Municipality** E

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Regional Board Board’s consideration of a site-specific floodplain exemption application at 389 Park Avenue within the Kootenay Lake Village development located in Proctor, Electoral Area ‘E’.

This application seeks to reduce the floodplain setback from Kootenay Lake from 15 metres to 8.86 metres under the *RDCK’s Floodplain Management Bylaw No. 2080, 2009* to allow for the construction of a new residence.

Staff recommends that the Board approve the site specific floodplain exemption subject to the registration of a Section 219 restrictive covenant, indemnifying the Regional District and confirming that construction of the new residence is safe for the intended residential use.

## SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION	
<b>Property Owners:</b>	Holly Pruett and Donald Pruett
<b>Property Location:</b>	389 Park Avenue, Proctor, Electoral Area ‘E’
<b>Legal Description:</b>	STRATA LOT 31 DISTRICT LOT 873 KOOTENAY DISTRICT STRATA PLAN NES3286 TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V (PID: 027-785-114)
<b>Property Size:</b>	0.14 hectares (ha)
<b>OCP Designation:</b>	Suburban Residential (RS)
<b>Zoning:</b>	Not Applicable

### SURROUNDING LAND USES

<b>NORTHWEST:</b> Residential – unzoned
<b>NORTHEAST:</b> Kootenay Lake – unzoned
<b>SOUTHEAST:</b> Residential – unzoned
<b>SOUTHWEST:</b> Industrial (Canada Pacific Railroad) - unzoned

### Background Information and Site Context

The 0.14 ha subject property is part of a bare land strata (2007), and is connected to community water and septic systems. The subject lot was created prior to the floodplain setback from Kootenay Lake being extended from 7.5

metres to 15 metres (2009), and before the adoption of the *Electoral 'E' Rural Official Community Plan 2260, 2013*, which included a new Watercourse Development Permit (WDP) Area to “regulate development activities... to conserve, enhance and, where necessary, restore watercourses and riparian areas”.

In 2021, the current owners made a site specific floodplain exemption application to reduce the floodplain setback from Kootenay Lake from 15 metres under the *RDCK's Floodplain Management Bylaw No. 2080, 2009* to 6 metres to allow for the construction a new residence that was 102 m<sup>2</sup> (1,110 ft<sup>2</sup>) larger in area than their current submission. For the previous application, Planning Services recommended that the Board NOT approve the Site Specific Exemption to reduce the setback to Kootenay Lake due to a deficient geotechnical report from a different engineer. The application was ultimately referred to another meeting for a decision by the Board and then ultimately, abandoned by the applicants after ongoing communication with planning staff.

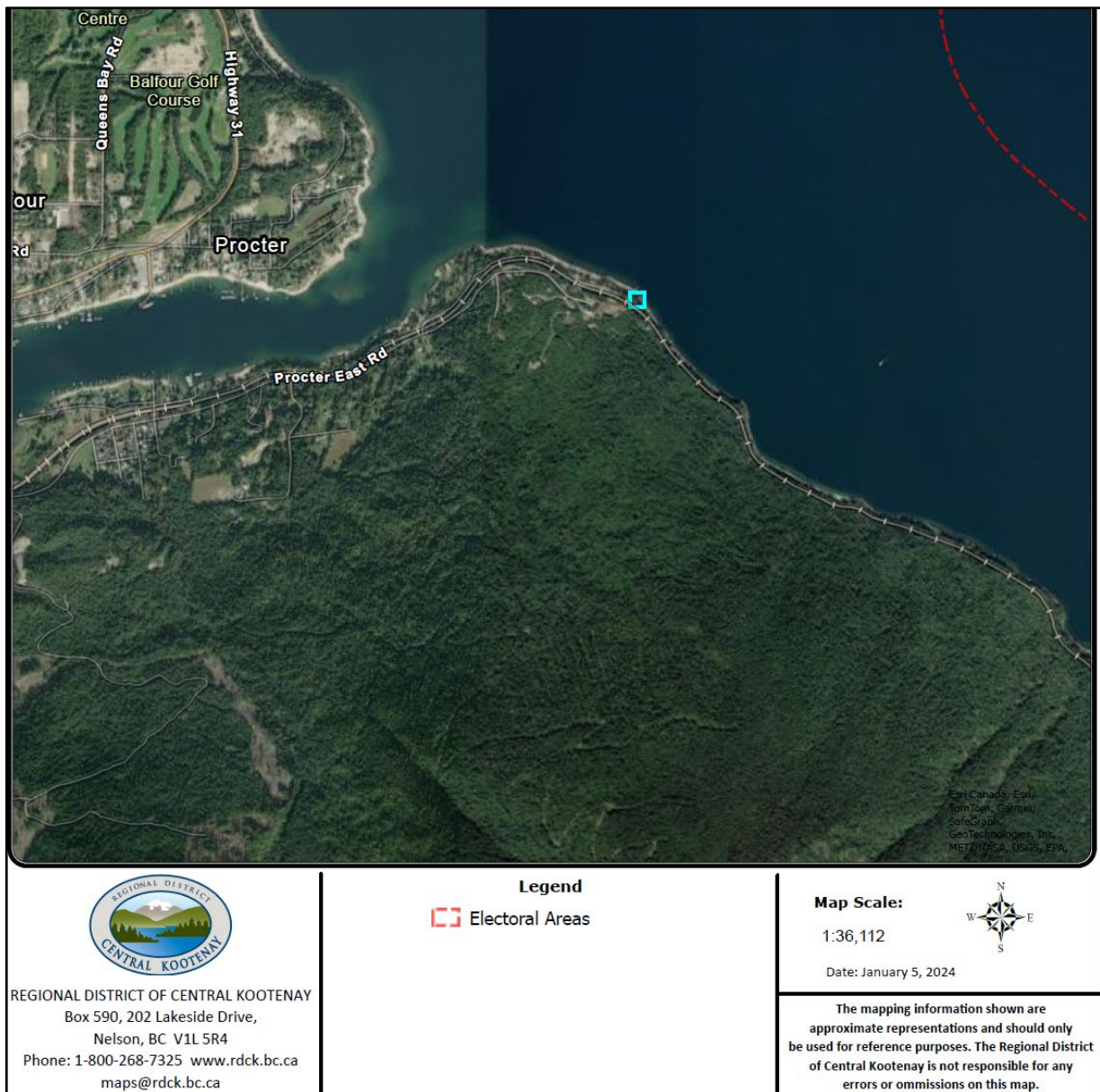


Figure 1: Location Overview





Esri Community Maps  
Contributors, Esri Canada,  
Esri, TomTom, Garmin,  
SafeGraph,  
GeoTechnologies, Inc.



REGIONAL DISTRICT OF CENTRAL KOOTENAY  
Box 590, 202 Lakeside Drive,  
Nelson, BC V1L 5R4  
Phone: 1-800-268-7325 www.rdck.bc.ca

**Legend**

**Official  
Community Plan**

- Industrial
- Resource Area

- Suburban Residential
- Electoral Areas
- RDCK Streets
- Cadastre
- Address Points

**Map Scale:**

1:2,257

Date: January 5, 2024



The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any

Figure 2: Official Community Plan Designation Map

### Development Proposal

The owners seek to develop a main residence that is 102 m<sup>2</sup> (1,100ft<sup>2</sup>) in size and a sleeping cabin (36 m<sup>2</sup> / 390 ft<sup>2</sup> in size) in a previously disturbed area on the subject lot, as shown on the site plan in Attachment A. This application seeks to reduce the floodplain setback from Kootenay Lake from 15 metres to 8.86 metres under the *RDCK's Floodplain Management Bylaw No. 2080, 2009* to allow for the construction of the main residence. The proposed sleeping cabin is outside of the floodplain setback from Kootenay Lake.

After the owners' 2021 land use application, a complete review and redesign of their development concept was undertaken to better align with the constraints on the site. The revised 2024 application includes:

- a reduction in the size of the residence by 102 m<sup>2</sup> (1,110 ft<sup>2</sup>) in area;
- minimizing tree removal in the riparian area by lessening the building's overall footprint by incorporating a design that has elevated structures on piles to reduce impacts to natural lake flow movement, ground disturbance, preservation of small mammal movements and facilitation of plant growth under the front deck structures; and,
- An increase to the required Flood Construction Level (FCL) elevation to 536.86 G.S.C. whereas the *RDCK's Floodplain Management Bylaw No. 2080, 2009* has a minimum FCL of 536.5 G.S.C. for this section of Kootenay Lake.

Should the floodplain setback exemption be approved staff will process the concurrent WDP application to regulate the above proposed development activities adjacent to Kootenay Lake and its riparian area.

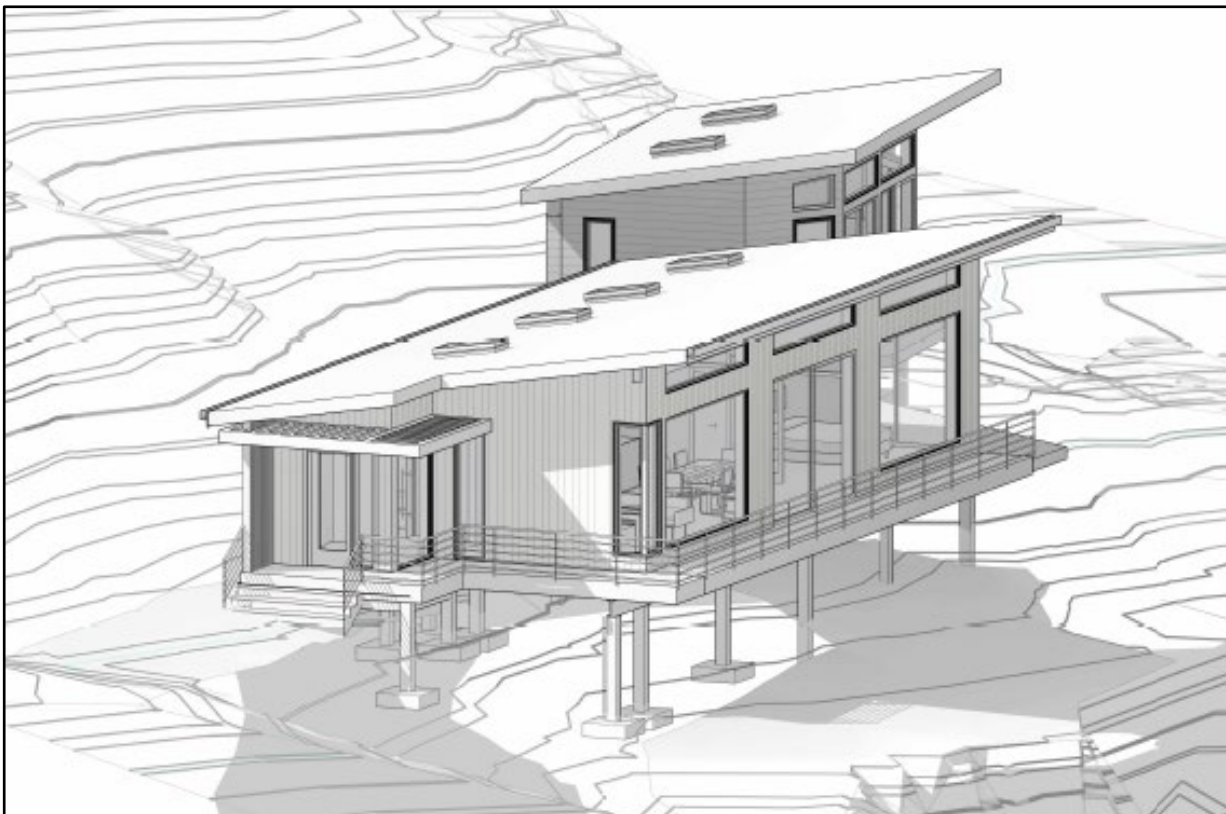


Figure 3: Design Rendering showing Residence (\*Sleeping Cabin behind residence is outside of the Floodplain setback)

## Legislative Framework and Applicable Policy

Under Section 524 of the *Local Government Act (LGA)*, a local government may exempt a person from the application of a floodplain bylaw in relation to a specific building if the local government considers it advisable and either:

- Considers that the exemption is consistent with the Provincial Guidelines; or
- Has received a report that the land may be used safely for the use intended where such a report is certified by a person who is a professional engineer or geoscientist and experienced in geotechnical engineering.

The Province's "Flood Hazard Land Use Management Guidelines" states that, "*setback requirements should not be reduced unless a serious hardship exists and no other reasonable option is available*". This site specific floodplain exemption, however, is requesting that the Board consider permitting the construction of a dwelling with a habitable basement that would meet/exceed the floodplain setback requirements for Kootenay Lake.

The Board adopted 'Terms of Reference for Professional Engineers/Geoscientists undertaking Geotechnical Reports/Flood Hazard Assessment Reports' to outline basic information that should be included in such reports. The Flood Hazard Assessment Report prepared by Vast Resource Solutions Inc., dated December, 2023, was submitted in conjunction with the application for an exemption (please see Attachment B) and meets the requirements set out under the above Terms of Reference. The report verified that "*the land may be used safely for its intended use*".

Setback requirements should not be reduced unless a serious hardship exists and no other reasonable option is available. A valid hardship should only be recognized where the physical characteristics of the lot (e.g., exposed bedrock, steep slope, the presence of a watercourse, etc.) and size of the lot are such that building development proposals, consistent with land use zoning bylaws, cannot occur unless the requirements are reduced. In order to avoid setting difficult precedents these site characteristics should be unique to the subject property and environment. The economic circumstances or design and siting preferences of the owner should not be considered as grounds for hardship. Before agreeing to a modification, consideration should be given to other options such as the use of alternate building sites, construction techniques and designs (e.g., constructing an additional storey and thereby reducing the size of the 'building footprint').

## **SECTION 3: DETAILED ANALYSIS**

### **3.1 Financial Considerations – Cost and Resource Allocations:**

**Included in Financial Plan:**  Yes  No      **Financial Plan Amendment:**  Yes  No  
**Debt Bylaw Required:**  Yes  No      **Public/Gov't Approvals Required:**  Yes  No

The \$500 fee for a Site Specific Floodplain Exemption application has been paid pursuant to the RDCK's *Planning Procedures and Fees Bylaw No. 2457, 2015*.

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

Under Section 524 of the *LGA*, the Board has the authority to exempt a development proposal from "*requirements in relation to floodplain areas*" provided a report prepared by a professional engineer or geoscientist is received stating that the land may be used safely for the use intended.

### **3.3 Environmental Considerations**

A riparian assessment has been provided by Masse Environmental Ltd. as required in conjunction with the concurrent processing of the WDP application for the overall subject site.

### 3.4 Social Considerations:

No negative social impacts are associated with site specific exemption application.

### 3.5 Economic Considerations:

Should this site specific floodplain setback exemption application be approved and flooding/flood damage occur, there would be costs associated with the restoration works.

### 3.6 Communication Considerations:

In accordance with the RDCK's *Planning Procedures and Fees Bylaw No. 2457, 2015* staff referred the application to all relevant government agencies, internal RDCK departments, and the Area Director and the for review. The following comments were received:

#### Ministry of Water, Land and Resource Stewardship

*"It is not possible to meet the "no net loss" principle of the Shoreline Guidance Document. The proposed construction of both the main house and sleeping cabin on piers reduces ground disturbance and reduces the impact on remaining tree roots and allows for some light penetration below the front side of the structures to facilitate the growth of vegetation under the deck areas and small mammal movement. However, there is still a significant loss of riparian habitat including 107 m2 within the 15 m WDP setback of the Floodplain Management Bylaw".*

#### Ministry of Transportation and Infrastructure

*"The Ministry has no concerns with the proposal, subject to all parking and turning movements being located on private property and not public right of way".*

#### Provincial Archaeological Branch

*"According to Provincial records, there are no known archaeological sites recorded on the subject property.*

*However, given the lot's waterfront location, there is high potential for a previously unidentified archaeological site to exist on the property.*

#### *Archaeology Branch Advice -*

*If land-altering activities (e.g., home renovations, property redevelopment, landscaping, service installation) are planned for the subject property, a Provincial heritage permit is not required prior to commencement of those activities.*

*However, a Provincial heritage permit will be required if archaeological materials are exposed and/or impacted during land-altering activities. Unpermitted damage or alteration of a protected archaeological site is a contravention of the Heritage Conservation Act and requires that land-altering activities be halted until the contravention has been investigated and permit requirements have been established. This can result in significant project delays.*

*Therefore, the Archaeology Branch recommends engaging an eligible consulting archaeologist prior to any land-altering activities. The archaeologist will review the proposed activities, verify archaeological records, and possibly conduct a walk-over and/or an archaeological impact assessment (AIA) of the project area to determine whether the proposed activities are likely to damage or alter any previously unidentified archaeological sites.*

*Please notify all individuals involved in land-altering activities (e.g., owners, developers, equipment operators) that if archaeological material is encountered during development, they must stop all activities immediately and contact the Archaeology Branch for direction at 250-953-3334.*

*If there are no plans for land altering activities on the property, no action is required at this time.*

#### *Rationale and Supplemental Information -*

- *There is high potential for previously unidentified archaeological deposits to exist on the property.*
- *Archaeological sites are protected under the Heritage Conservation Act and must not be damaged or altered without a Provincial heritage permit issued by the Archaeology Branch. This protection applies even when archaeological sites are previously unidentified or disturbed.*
- *If a permit is required, be advised that the permit application and issuance process takes approximately 15 to 35 weeks; the permit application process includes referral to First Nations and subsequent engagement.*
- *The Archaeology Branch must consider numerous factors (e.g., proposed activities and potential impacts to the archaeological site[s]) when determining whether to issue a permit and under what terms and conditions.*
- *The Archaeology Branch has the authority to require a person to obtain an archaeological impact assessment, at the person's expense, in certain circumstances, as set out in the Heritage Conservation Act.*
- *Occupying an existing dwelling or building without any land alteration does not require a Provincial heritage permit".*

### **3.7 Staffing/Departmental Workplace Considerations:**

Should the Board support the requested site specific floodplain exemption, including registration of a restrictive covenant on title, the WDP application will then be processed by Planning Services. A Building Permit would then be required for the construction of the new residence and sleeping cabin.

### **3.8 Board Strategic Plan/Priorities Considerations:**

This application falls under the operational role of Planning Services.

## **SECTION 4: OPTIONS & PROS / CONS**

### Planning Discussion

Staff have reviewed this site specific floodplain exemption application, conducted a site visit and support the requested floodplain exemption, since:

- The owners have engaged a professional geotechnical engineer, Vast Resource Solutions Inc., who have submitted a report confirming that the proposed construction of the residence, as designed, is safe for the use intended.
- A complete review and redesign of this development concept has been undertaken to now better align with the constraints on the site, which includes a smaller residence (reduced in size by 102 m<sup>2</sup> / 1,110 ft<sup>2</sup>) in area) and an increase to the required FCL elevation to 536.86 G.S.C., which exceeds the RDCK's *Floodplain Management Bylaw No. 2080, 2009* minimum FCL of 536.5 G.S.C. for this section of Kootenay Lake.
- The flood hazard assessment geotechnical report submitted has been reviewed by Regional District staff and meets the necessary assurance requirements and is consistent with the Provincial flood hazard land use management guidelines.

- The proposed development meets the requirements of hardship due to the restrictive building envelope resulting from existing topographic and size constraints (i.e. large rock outcropping(s), and small lot created prior to more restrictive floodplain setback regulation).

It is for the above reasons that staff recommend that the Board approve this site specific floodplain setback exemption.

## OPTIONS

**Option 1:** That the Board APPROVE a Site Specific Floodplain Exemption to reduce the required setback from Kootenay Lake from 15 metres from the natural boundary to 8.86 metres from the natural boundary in accordance with the Engineering Report prepared by Vast Resource Solutions Inc., dated December, 2023, for property located at 389 Park Avenue, Proctor, Electoral Area 'E' and legally described as STRATA LOT 31 DISTRICT LOT 873 KOOTENAY DISTRICT STRATA PLAN NES3286 TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V (PID: 027-785-114) SUBJECT to preparation by Holly Pruett and Donald Pruett of a restrictive covenant under Section 219 of the Land Title Act and Section 56 of the Community Charter in favour of the Regional District of Central Kootenay.

**Option 2:** That the Board NOT APPROVE a Site Specific Floodplain Exemption to reduce the required setback from Kootenay Lake from 15 metres from the natural boundary to 8.86 metres from the natural boundary in accordance with the Engineering Report prepared by Vast Resource Solutions Inc., dated December, 2023, for property located at 389 Park Avenue, Proctor, Electoral Area 'E' and legally described as STRATA LOT 31 DISTRICT LOT 873 KOOTENAY DISTRICT STRATA PLAN NES3286 TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V (PID: 027-785-114) SUBJECT to preparation by Holly Pruett and Donald Pruett of a restrictive covenant under Section 219 of the Land Title Act and Section 56 of the Community Charter in favour of the Regional District of Central Kootenay.

## SECTION 5: RECOMMENDATION

That the Board APPROVE a Site Specific Floodplain Exemption to reduce the required setback from Kootenay Lake from 15 metres from the natural boundary to 8.86 metres from the natural boundary in accordance with the Engineering Report prepared by Vast Resource Solutions Inc., dated December, 2023, for property located at 389 Park Avenue, Proctor, Electoral Area 'E' and legally described as STRATA LOT 31 DISTRICT LOT 873 KOOTENAY DISTRICT STRATA PLAN NES3286 TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V (PID: 027-785-114) SUBJECT to preparation by Holly Pruett and Donald Pruett of a restrictive covenant under Section 219 of the Land Title Act and Section 56 of the Community Charter in favour of the Regional District of Central Kootenay.

Respectfully submitted,

*"Submitted electronically"*

Stephanie Johnson

## CONCURRENCE

Planning Manager – Nelson Wight **Digitally approved**

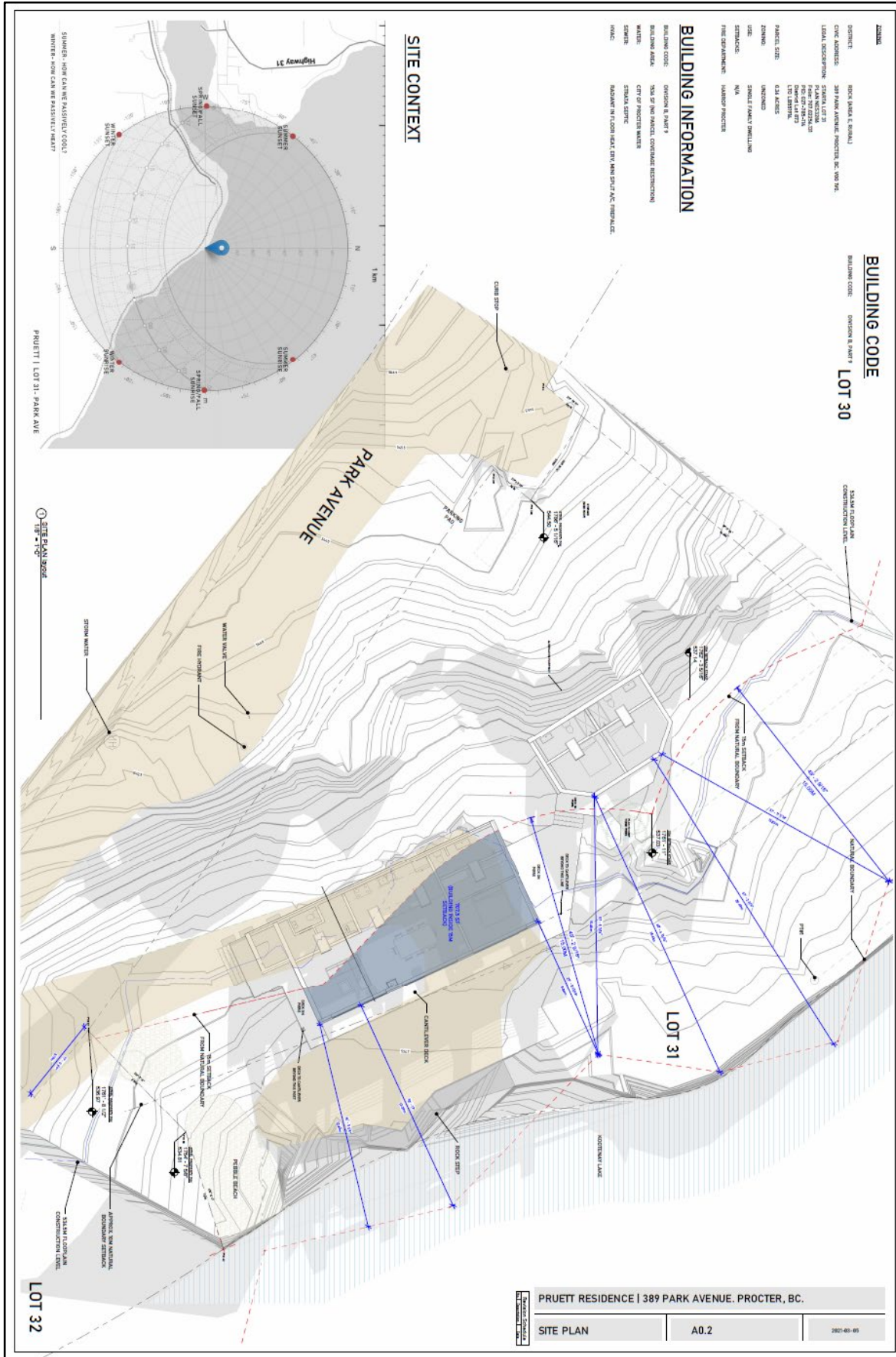
General Manager of Development Services – Sangita Sudan **Digitally approved**

Chief Administrative Officer – Stuart Horn **Digitally approved**

**ATTACHMENT:**

**Attachment A** – Proposed Site Plan

**Attachment B** – Geotechnical Report prepared by Vast Resource Solutions Inc.







**Flood Hazard Assessment**  
**Pruett**  
**389 Park Avenue**  
**Revision 1**

**Procter, BC**

Prepared For: Ms. Holly Pruet  
423 Lyon Street  
San Francisco, California  
914117

Prepared By: VAST Resource Solutions Inc.  
304 Industrial Road G  
Cranbrook, BC  
V1C 7J4

December, 2023

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December 18, 2023

VAST File: 22.0221.00

Ms. Holly Pruett  
423 Lyon Street  
San Francisco, California

**Re: Site Specific Exemption from Floodplain Bylaw Report (Revision 1) – 389 Park Avenue, Procter BC**

Dear Ms. Pruett,

This report presents the findings of a Flood Hazard Assessment (Revision 1) completed at 389 Park Avenue, within the Community of Procter, BC (The Subject Property), as it relates to two (2) proposed new residential structures.

This report was commissioned by the property owner to support a site-specific exemption application to the Regional District of Central Kootenay (RDCK) to allow residential construction within the 15 metre (m) floodplain setback as a requirement of Bylaw No. 2080, 2009. This report comprises an assessment of the natural hazards imposed by Kootenay Lake on the Subject Property and evaluates the suitability of constructing residential dwelling structures within the defined set back area.

The objectives of this assessment include:

- Complete a field assessment of the area within and adjacent to The Subject Property and assess the existing site conditions;
- Evaluate the natural Hazards (flooding, wave action, erosion) imposed by Kootenay Lake within The Subject Property and assess the suitability of the proposed building site based on current engineering practices;
- Prepare a Flood Hazard Assessment Report and provide recommendations based on the assessment, and;
- Complete a Flood Hazard Assessment Assurance statement.

VAST Resource Solutions Inc. (VAST) was retained to conduct this assessment at the owner's expense. VAST has not acted for or as an agent of the Regional District of Central Kootenay (RDCK) or any local government in the preparation of this report.

## **1.0 STUDY AREA**

The Subject Property and proposed residential dwelling structures are located in the Regional District of Central Kootenay, in the community of Procter, BC (Appendix A). The site is accessed via Procter Road East and Park Avenue.

## 2.0 REFERENCES

In this report, reference is made to soil and geological maps, aerial images viewed from GoogleEarth, Basic Coastal Engineering by Robert Sorenson, the Canadian Foundation Engineering Manual (CFEM). Meteorological data collected by the BC Ministry of Transportation and Infrastructure was obtained from the Pacific Climate Impacts Consortium website.

Reference was made to the Local Government Act Section 524, the RDCK Floodplain Management Bylaw 2080, 2009 for the Regulatory basis and Building Bylaw requirements.

This report follows the Guidelines for Legislated Flood Assessments in a Changing Climate in BC (Version 2.1, August 28, 2018) as developed by the Engineers and Geoscientists of British Columbia (now EGBC).

A list of references follows the Signature page.

## 3.0 REGULATORY BASIS AND BYLAW REQUIREMENTS

### 3.1.1 Local Government Act Section 524

The Local Government Act Section 524, subsections (7) and (8) provide the regulatory basis for a site specific floodplain exception:

(7) Subject to the Provincial regulations and a plan or program a local government has developed under those regulations, the local government may exempt a person from the application of subsection (6), or a bylaw under subsection (3), in relation to a specific parcel of land or a use, building or other structure on the parcel of land, if the local government considers it advisable and either:

- (a) considers that the exemption is consistent with the Provincial guidelines, or
- (b) has received a report that the land may be used safely for the use intended, which report is certified by a person who is:
  - (i) a person in a class prescribed by the environment minister under subsection (9).

(8) The granting of an exemption, and the exemption, under subsection (7) may be made subject to the terms and conditions the local government considers necessary or advisable, including, without limitation,

- (a) imposing any term or condition contemplated by the Provincial guidelines in relation to an exemption,
- (b) requiring that a person submit a report described in subsection (7) (b), and
- (c) requiring that a person enter into a covenant under section 219 of the Land Title Act.

### 3.1.2 RDCK Bylaw 2080, 2009, Section 11, Site Specific Exemptions

This report is prepared in accordance to the requirements of The RDCK Floodplain Management Bylaw 2080, 2009, Section 11, Site Specific Exemptions, pursuant to Section 910 of the Local Government Act. Requirements in this section are as follows:

- 11.1 An application by a property owner to the Regional District for a site specific exemption of Floodplain Specifications shall be completed in the form provided by the Regional District and submitted in accordance with the instructions on the application. This provision is not a substitute for any requirements under Section 56 of the Community Charter.
- 11.2 As a condition of a site specific exemption, the property owner will be required at his/her own expense to commission a Professional Engineer's Report that addresses exemption

precedents in the surrounding area and provide a summary report containing a description of the proposed development, and recommendations for conditions, as applicable.

- 11.3 As a condition of a site specific exemption, the property owner will be required at his/her expense to prepare and register a restrictive covenant under Section 219 of the Land Title Act and Section 56 of the Community Charter in favor of the Regional District specifying conditions that would enable the land to be safely used for the use intended according to the terms of the Professional Engineer's report which will form part of the restrictive covenant

### **3.1.3 RDCK Bylaw 2080, 2009, Section 7.1 and 7.2, Floodplain Specifications**

The RDCK Floodplain Management Bylaw 2080, Section 7.1, Flood Construction Levels, Sub-Section b, states that for development adjacent to Kootenay Lake the Flood Construction Level / top of the foundation elevation shall be at a minimum elevation of 536.5 metres G.S.C. The floodplain setback is defined in Section 7.2, Sub-Section k, which states that the minimum setback for all lakes and small watercourses not specifically named in this section, including Kootenay Lake shall be 15 metres from the natural boundary.

### **3.1.4 RDCK Bylaw 2080, 2009, Section 8.6, Floodplain Regulations**

The development proposes foundation construction to be below the Kootenay Lake flood construction level of 536.5 m G.S.C.; therefore, Section 8.6 of the RDCK Floodplain Management Bylaw 2080, 2009, applies:

- 8.6 When a building permit is applied for with frontage on Kootenay Lake, the Building Official shall request a structurally engineered foundation or geotechnical report if any part of a footing up to and including the level of a slab, or portion of the foundation is intended by its design to be submersible or subject to water fluctuation below 536.5 metres or wave action. A covenant shall be placed on Title noting such structure may be subject to damage by water.

## **4.0 FIELD ASSESSMENT**

The field assessment was conducted by examination of areas of interest within and adjacent to The Subject Property under snow free conditions. The assessment was completed on September 6<sup>th</sup>, 2022 by Mr. Shawn Bendig, P.Eng., of VAST Resource Solutions Inc. (VAST).

The assessment comprised field traversing the area within and adjacent to The Subject Property including the shoreline of Kootenay Lake and a visual examination of the surface conditions. No subsurface exploration (i.e. test pits, boreholes) was completed as part of the assessment.

## **5.0 SITE DESCRIPTION**

### **5.1 Setting and Topography**

The Subject Property is located at the shoreline on the west side of Kootenay Lake approximately 600 m south of the entrance to the West Arm of Kootenay Lake, as shown on the project location map in appendix A.

The Subject Property is bound by Park Avenue on the south west side, Kootenay Lake on the east side, and residential properties and dwellings are present in all other directions. A Canadian Pacific (CP) railway line is situated on the west side of Park Avenue, approximately 30 m from The Subject Property.

The Subject Property is within a toe slope position with a north east aspect. Ground slopes at the building site have a concave profile descending to Kootenay Lake ranging, from as steep as 90% gradient on the

western side of the property and to 10-15% on the eastern side. Steep rocky slopes and outcrops present above the building sites are steeper than 90% gradient.

The ground surface elevation at the proposed building sites is approximately 536 m.

## 5.2 Bedrock Geology and Surficial Soils

It is anticipated that bedrock will be encountered during construction of the proposed residence. Geological mapping in the area was consistent with field observations and comprises sedimentary rocks of the Index formation within the Lardeau group. Anticipated rock types include siltstone, mudstone, shale, and fine clastic sedimentary rocks.

Surficial soil observed during the field assessment comprises a veneer (<1.0 m deep) of topsoil and colluvium (cobbles, boulders) generated from the outcrops on site.

The bedrock outcrops located on the shoreline are stable and resistant to scour and erosion processes.

## 5.3 Geomorphic Processes

Active geomorphic processes observed within and adjacent to the study area comprise relatively slow in-situ weathering of soil and bedrock including wave erosion and sedimentation caused by Kootenay Lake.

## 5.4 Shoreline Composition

The shoreline of Kootenay lake at the Subject Property comprises steeply placed block shaped landscaping rock (boulders) and natural bedrock outcrops with a small (approximately 6 m x 8 m) gravel deposit (pebble beach) that exists in between the other features. The landscaping rock is inferred to have been installed during the original development of the subdivision. The gravel on the pebble beach is of unknown origin.

## 5.5 Proposed Building and Foundation Locations and Elevations

The main house foundation is proposed to be constructed approximately 8.86 m horizontal distance from the natural boundary of Kootenay Lake at its closest point. The second structure, the sleeping cabin, is proposed to be 15.68 m from the natural boundary at its closest point. The locations were selected to avoid the steep terrain and rock outcrops on the west side of the lot.

Building foundations are proposed to be founded on the shallow underlying bedrock that is resistant to shoreline erosion.

The location of the proposed residential foundation for the main house is within the 15 metre floodplain setback of Kootenay Lake, and both foundations (i.e. the main house, and the sleeping cabin) are below the flood construction level (FCL) of 536.5 m G.S.C. as defined within the RDCK Floodplain Management Bylaw 2080.

The flood construction level requirement can otherwise be achieved by constructing the building with habitable levels and mechanical / electrical and related services that could be damaged by floodwaters higher than the FCL, and as recommended in this report.

## 6.0 SHORELINE CONSIDERATIONS – KOOTENAY LAKE

### 6.1 Kootenay Lake - General

Kootenay Lake is located between the Selkirk and Purcell Mountain Ranges in the Kootenay Region. It was formed by a combination of fluvial processes and receding glaciers. The lake is over one hundred kilometres in length and 3 to 5 km in width orientated primarily in the north-south direction. Kootenay

Lake drains from the approximate middle of the lake body through the West Arm, which extends 35 km toward the City of Nelson.

## 6.2 Kootenay Lake Water Levels

Major inflows into Kootenay Lake include the Kootenay River (south end) and the Duncan River (north end). Dams are present on both rivers, the Duncan Dam on the Duncan River is operated by BC Hydro and the Libby Dam on Kootenay River is operated by the US Army Corps of Engineers. The Kootenay Lake water levels throughout the year are governed by the 1938 Joint Commission Order. The purpose of the joint commission is to administer the Boundary Water Treaty of 1909 between Canada and the United States.

All outflow from the lake is through the West Arm, and is controlled during peak runoff periods by a natural constriction at the Grohman Narrows. During lower flow periods, outflow can be controlled at the Corra-Linn Dam, just downstream of the Grohman Narrows. The seasonal change in control is due to procedures at Corra-Linn Dam during spring runoff that allow the gates to be opened such that Grohman Narrows becomes the flow restrictive zone.

While the inflows to the lake are also under some control by reservoirs at the Duncan and Libby Dams there are limited controls during the peak flood months where extreme lake elevations are most likely to occur, between April and late June. This is due to un-regulated inflows from tributaries in the Kootenay Lake watershed which are not connected to the Duncan or Libby Dam watersheds.

The Flood Construction Level of 536.5 m for Kootenay Lake was generated from 1979 floodplain maps and corresponds to a 1 in 200 year event. A 0.76 m freeboard allowance was added to the 1 in 200 year static water elevation to account for wind set-up and wave action.

## 6.3 Regional Wind Data

Wind data was available from a Ministry of Transportation and Infrastructure (MoTI) station near Coffee Creek, approximately 10.5 km north of The Subject Property, and was accessed online through the Pacific Climate Impacts Consortium (PCCIC) website. This station has a wind data record from September 1995 to present day, while there are some significant gaps in the earlier years the data record has been relatively consistent since 2005.

**Table 6.3.1: Coffee Creek Weather Station Data**

MoTI Station ID	Record Length	Average Annual Maximum Hourly Wind Speed (km/hr)	1 in 200 year Estimate Maximum Hourly Wind Speed (km/hr)
34621	1995-2023	19.2	60.5



### 6.4 Extreme Wind Event Analysis

The annual extreme data was analyzed using a Gumble Distribution to estimate the 1 in 200 year (0.5 % annual exceedance probability) hourly maximum wind speed. Wind event duration was estimated by evaluating past events in the data record.

To better understand the duration at which wind events can occur in this region, the event of record (at which the maximum wind speed in the data record occurred) was plotted over time. The event of record occurred in June 1998 with the peak corresponding to approximately the 1 in 330 year event. This event sustained a very high wind speed for approximately 12 hours, as shown in Figure 1.

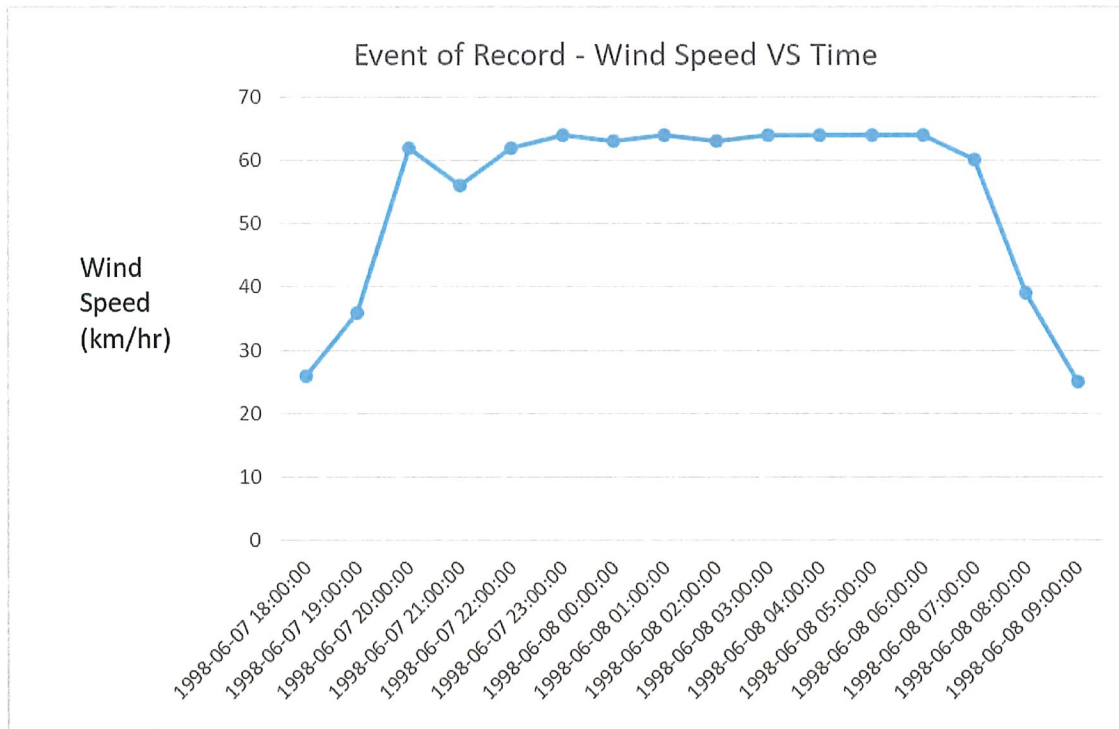
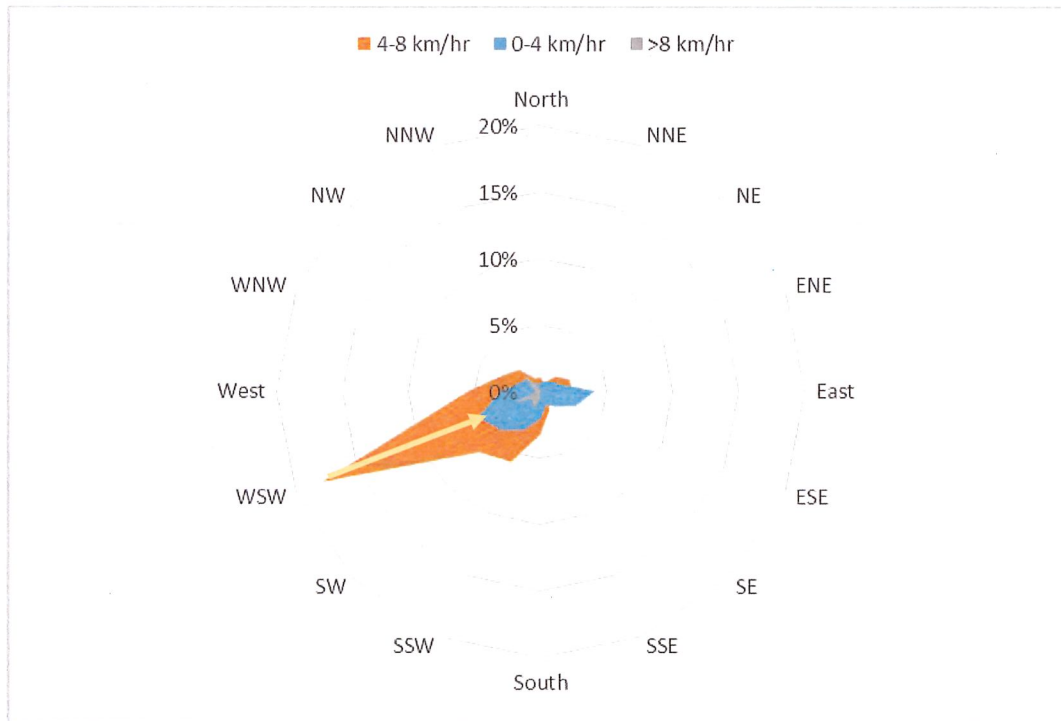


Figure 1: Event of Record - Wind Speed VS Time

### 6.5 Wind Direction and Speed

The wind direction and speed at the station were visualized using a diagram commonly known as a Wind Rose. Figure 2 presents the wind speed and direction data at the station from the year 2013.



**Figure 2: 2013 Wind Rose**

Figure 2 indicates the predominant wind direction is from the West South West (WSW) direction. This direction is at the Coffee Creek station and is not an indication of the wind direction at The Subject Property.

## 6.6 Fetch

An important factor in wave generation is the distance over water in which the wind event is acting (the fetch). If the wind is acting over a large fetch, greater wave heights can be generated versus a small fetch. The maximum fetch at the subject site is 24 kilometres and requires winds originating from the North North East (NNE) direction. While this differs from the predominant wind direction at the Coffee Creek station, the wind direction at The Subject Property may be different due to its location 10.5 km to the south. Due to this, there is a possibility that an extreme wind event could originate from the NNE direction in alignment with the valley. Additionally, extreme events do not always occur in the same wind direction as the annual normal. An example is the direction of the Wind Event of Record, which originated from the East North East (ENE) direction, differing from what is typically recorded at the station.

## 6.7 Wave Height

The SMB method (Sorenson, 2006) was employed to estimate the wave height and period for a 1 in 200 year design wave. Wave force applied to an example foundation was estimated using Morrison's Equation (Sorenson, 2006).

## 6.8 Wave Height and Frequency

Combining the information from the Extreme Value Analysis and the historical wind duration and direction data, the design wind was determined to be 60.5 km/hr, for a 12-hour duration, in the direction of maximum fetch at the subject site (24 km NNE). Applying the SMB method (Sorenson, 2006) yields the estimated wave height and period generated by the design wind event. Analysis results are summarized below on Table 6.9.1.

Note that wave height is defined as the vertical distance between the crest and trough of a wave. Therefore, the height of the wave above the static water level is equal to half of the wave height, (0.87 metres).

## 6.9 Wave Forces on Foundations

The Morrison Equation (Sorenson, 2006) was used to estimate the lateral wave force on a fully inundated cylindrical structure 0.3 metres in diameter. Different force values would be applicable to piers or foundations of different shapes or dimensions.

**Table 6.9.1: Design Wave Height, Frequency, and Force**

Maximum Fetch (km)	Maximum Wave Height Generated (m)	Wave Crest Height Above Static Water Level (m)	Wave Period (s)	Example Pier (Cylinder) Width (m)	Example Pier (Cylinder) Submerged Height (m)	Maximum Force Applied on Each Pier per Wave (Unfactored) (kN)
24	1.73	0.87	5.4	0.3	2.0	1.1

## 6.10 Wave Height Impacts on Freeboard Allowance

The FCL for Kootenay Lake at elevation 536.5 metres is based on the 1 in 200-year water level with a 0.76 m freeboard allowance for wind set-up and wave action. Given the estimated wave height of 0.87 metres presented in Table 2, recommendations are made in this report for the FCL elevation to be revised for this site. See Section 7.1 for more information.

## 6.11 Wave Runup

Wave runup is defined the additional height that broken waves can reach as they run up shorelines prior to their energy being dissipated. In general, steep slopes or man-made walls can produce higher runup levels than gentle slopes due to the surging action of waves. Therefore, walls or other man-made structures which may increase wave runup are not recommended to be constructed. Piers, as recommended in this report, will have a negligible effect on wave runup. Additionally, the direction of the wind driven waves are anticipated to be parallel to the shoreline. Considering these factors at the subject site, minimal wave runup is expected.

## 6.12 Wind Setup

Wind setup is defined as the vertical rise of water elevation caused by wind stress on the water surface. This rise occurs on the leeward side of a body of water, such as on a leeshore, where wind is blowing directly towards the shore. The Subject Property is not located on a leeshore since wind is expected to run parallel to the shore, therefore, the change in water elevation due to wind setup is expected to be negligible.

## 6.13 Climate Change

Climate change is increasing the mean global temperatures, expected to be 2.8 degrees Celsius by the end of the century. The increase in temperature has a multitude of other climate effects that are not fully understood. In British Columbia, a rise in mean annual precipitation is expected, between 6 and 17%.

(EGBC, 2018). This may increase the frequency of occurrence of extreme static water levels in Kootenay Lake and / or, the magnitude of the 1 in 200 year lake water level.

#### 6.14 Scour and Erosion

Given the footings will be founded in bedrock, the potential for scour or erosion impacting the foundations are expected to be minimal (see 5.2). With the exception of the bedrock outcrops, erosion of the existing shoreline materials such as the landscaping rock (boulders) and the pebble beach are anticipated, however, this is not expected to impact the proposed foundation (see 5.5).

#### 6.15 Derivation of Site – Specific Flood Construction Level

In consideration of site specific factors described above, including the projected 1 in 200 year wave height, wave run-up, wind set-up, and climate change considerations, the FCL for this warrants revision to 536.86 m G.S.C. Table 6.15.1 breaks down how this site – specific FCL was derived:

**Table 6.15.1: Derivation of Flood Construction Level**

<b>200 Year Static Water Level (m) G.S.C.</b>	<b>Change in Static Water Level from the 1 in 200 year Design Wave (m)</b>	<b>Freeboard to Account for Wind Set-up, Wave Run-up, and Climate Change (m)</b>	<b>Recommended Site – Specific Flood Construction Level Elevation (m) G.S.C.</b>
535.686	0.87	0.3	536.86

## **7.0 RECOMMENDATIONS**

### **7.1 Setback Distance**

The minimum setback of the proposed development (i.e. corner of proposed building siting) is approximately 8.86 m from the natural boundary and is less than the 15 m as required by the RDCK bylaw.

In light of the minimal or negligible erosion hazard, a relaxation of the requisite setback distance warrants consideration. Recommendations presented in this report for a higher Site – Specific Flood Construction Level, Geotechnical Engineering design of building footings and foundations, and Structural Engineering design of building elements exposed to floodwaters and waves are intended to minimize the potential for damage to buildings.

### **7.2 Flood Construction Level (FCL)**

It is recommended that The Flood Construction Level for the proposed development at The Subject Property be increased to 536.86 m. This elevation is 0.36 m higher than 536.5 m as specified in the RDCK bylaw 2080, 2009.

### **7.3 Foundation Design**

It is recommended that building foundation design be undertaken by qualified Geotechnical and Structural Engineers to minimize potential for damage to building elements including footings and foundations exposed to floodwaters and to lateral loading from waves.

### **7.4 Shoreline Disturbance**

It is recommended that no additional man-made structures, rock armouring (rip rap), or disturbances are made to the shoreline. These elements can result in additional wave runup, and scour and erosion. Any construction-related disturbances to the shoreline during construction are to be restored to the satisfaction of the Geotechnical Engineer, Environmental Monitor (if applicable), and local authorities.

### **7.5 Suitability of Building Site for the Intended Purpose**

Please refer to the attached Flood Hazard and Risk Assurance Statement prepared in conformance to the Guidelines for Legislative Flood Assessments in a Changing Climate in BC, Version 2.1, August 28, 2018, prepared by EGBC, for statements regarding suitability of the proposed development on The Subject Property for the intended purpose of residential construction.

## 8.0 CLOSURE

This report is prepared for the exclusive use of Ms. Holly Pruett and their designated representatives and may not be used by other parties without the written permission of VAST Resource Solutions. The Regional District of Central Kootenay may also rely on the findings of this report for review, referral, and Approval purposes.

Findings of this assessment have been undertaken in consideration of development plans in place at the time of this writing.

If the development plans change in any way, VAST Resource should be notified immediately so that the recommendations can be confirmed or modified, as required.

The use of this flood assessment report is subject to the conditions on the attached Report Interpretation and Limitations sheet. The reader's attention is drawn specifically to those conditions, as it is considered essential that they be followed for proper use and interpretation of this report.

We hope the above meets with your requirements. Should any questions arise, please do not hesitate to contact the undersigned.

Yours truly,

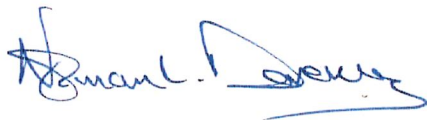
**Prepared By:**



Addison Reist, E.I.T.  
 Junior Engineer  
 VAST Resource Solutions Ltd.

Engineers and Geoscientists of British Columbia Permit to Practice Number: 1000121

**Reviewed By:**



Norman L. Deverney, P.Eng., FEC  
 Deverney Engineering Services Ltd.  
 Permit to Practice Number 1001904

**Reviewed By:**



Evan Kleindienst, P.Eng.  
 Geotechnical Engineer (Principal)  
 VAST Resource Solutions Ltd.

## REFERENCES

- Association of Professional Engineers and Geoscientists of BC. June, 2012. "Professional Practice Guidelines – Legislated Flood Assessments in a Changing Climate in BC".
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[BC Station Data - PCDS \(pacificclimate.org\)](http://BC Station Data - PCDS (pacificclimate.org))
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- Regional District of Central Kootenay, Presentation, "Floodplain Regulation", 2013, Accessed from:  
[Slide 1 \(gov.bc.ca\)](http://Slide 1 (gov.bc.ca))
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- Unified Soil Classification System.

## APPENDIX A: SITE PLAN AND LOCATION MAP





PROJECT LOCATION

MXD Path: P:\22\_0221.00\Pruect\_Geotech\Assesment\GIS\MAP\LOCATION.MXD

**ZONING**

DISTRICT: ROCK (AREA E, RURAL)

CIVIC ADDRESS: 389 PARK AVENUE, PROCTER, BC, V0G 1V0.

LEGAL DESCRIPTION: STARTA LOT 31  
PLAN N52284  
Folio: 707.02254.131  
PID: 527-785-114  
DINGISI Lot 873  
LTO L8551916.

PARCEL SIZE: 0.34 ACRES

ZONING: UNZONED

USE: SINGLE FAMILY DWELLING

SETBACKS: N/A

FIRE DEPARTMENT: HARROP PROCTER

**BUILDING CODE**

BUILDING CODE: DIVISION 8, PART 9 **LOT 30**

**BUILDING INFORMATION**

BUILDING CODE: DIVISION 8, PART 9

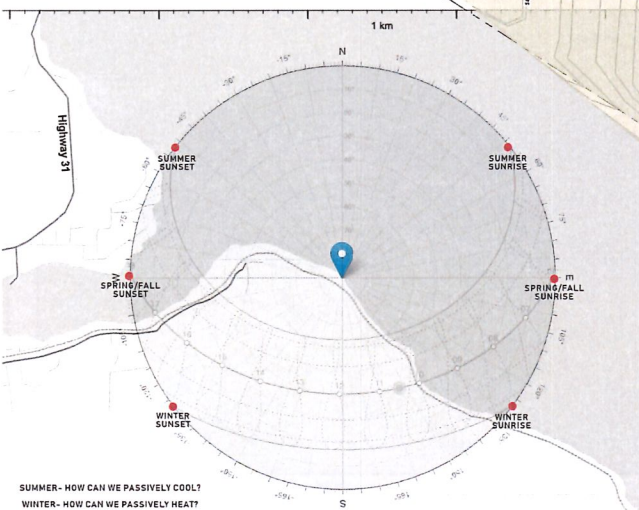
BUILDING AREA: 1536 SF (NO PARCEL COVERAGE RESTRICTION)

WATER: CITY OF PROCTER WATER

SEWER: STRATA SEPTIC

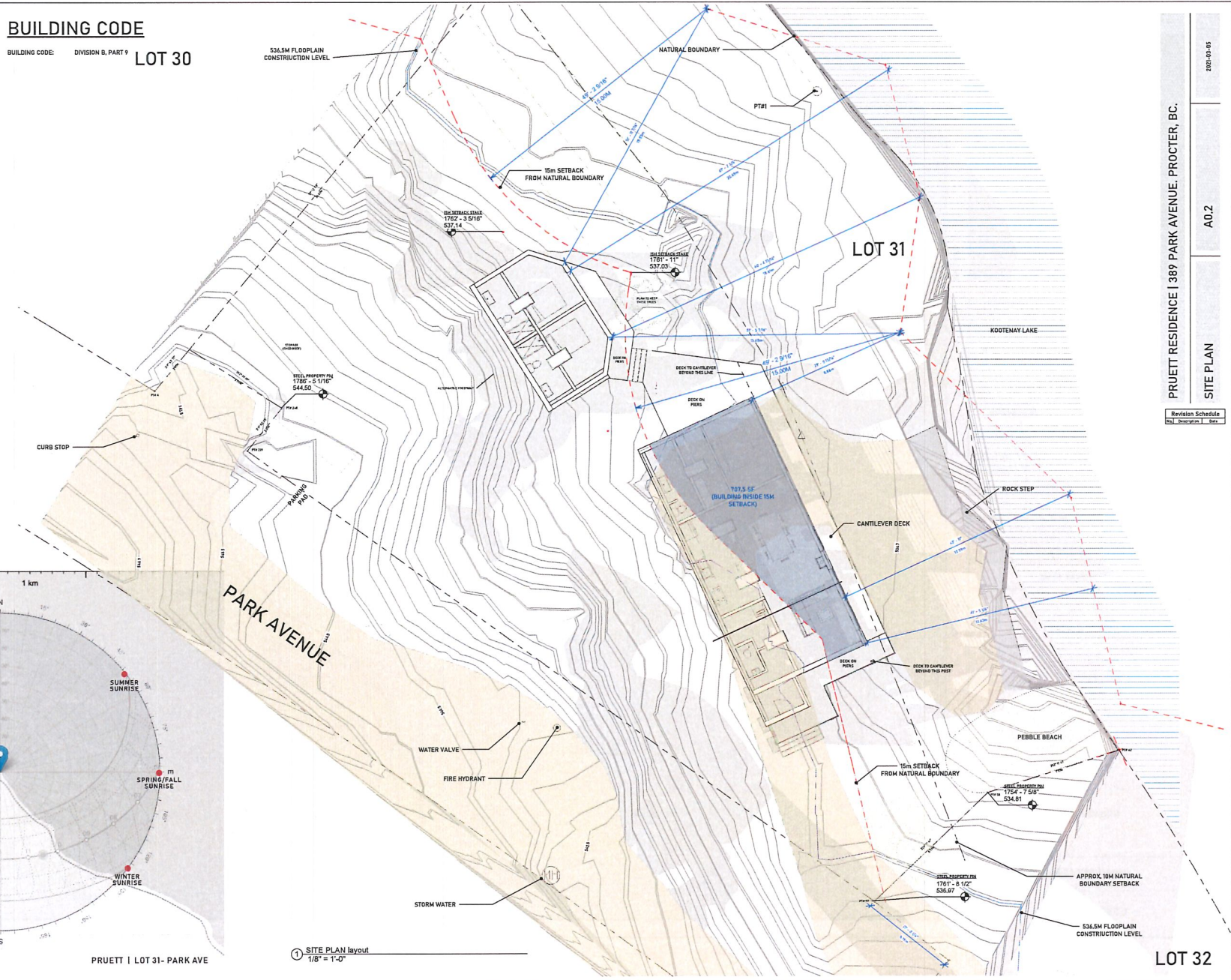
HVAC: RADIANT IN FLOOR HEAT, ERV, MINI SPLIT A/C, FIREPALCE.

**SITE CONTEXT**



PRUETT | LOT 31 - PARK AVE

1 SITE PLAN layout  
1/8" = 1'-0"



PRUETT RESIDENCE | 389 PARK AVENUE, PROCTER, BC.

A0.2

SITE PLAN

Revision Schedule  
1/1/2021 - 1/1/2021

LOT 32

## APPENDIX B: FLOOD ASSURANCE STATEMENT

## Flood Hazard and Risk Assurance Statement

Version 2.1, August 28, 2018

Note: This Statement is to be read and completed in conjunction with the current Engineers and Geoscientists BC *Professional Practice Guidelines – Legislated Flood Assessments in a Changing Climate in BC* (the guidelines) and is to be provided for the purposes of the *Land Title Act*, *Community Charter*, or *Local Government Act*. Defined terms are capitalized; see Defined Terms section of the guidelines for definitions.

To: The Approving Authority

Date: December 18, 2023

Regional District of Central Kootenay  
202 Lakeside Drive  
Nelson, BC V1L 69B Canada  
*Jurisdiction and address*

With reference to (check one):

- Land Title Act (Section 86) – Subdivision Approval  
 Local Government Act (Part 14, Division 7) – Development Permit  
 Community Charter (Section 56) – Building Permit  
 Local Government Act (Section 524) – Flood Plain Bylaw Variance  
 Local Government Act (Section 524) – Flood Plain Bylaw Exemption

For the Property:

**STRATA LOT 31, PLAN NES3286, DISTRICT LOT 873, KOOTENAY LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V. PID: 027-785-114. 389 Park Avenue, Procter BC.**

Legal description and civic address of the Property

The undersigned hereby gives assurance that he/she is a *Qualified Professional* and is a *Professional Engineer* or *Professional Geoscientist* who fulfils the education, training, and experience as outlined in the guidelines.

I have signed, sealed and dated, and hereby certified, the attached Flood assessment report on the Property in accordance with the guidelines. That report and this statement must be read in conjunction with this each other. In preparing that report I have:

Check to the left of all applicable items:

1. Consulted with representatives of the following organizations: Regional District of Central Kootenay  
 2. Collected and reviewed appropriate background information  
 3. Reviewed the proposed *development* on the Property  
 4. Investigated the presence of Covenants on the property, and reported any relevant information  
 5. Conducted field work on and, if required, beyond the Property  
 6. Reported on the results of the field work on and, if required, beyond the Property  
 7. Considered any changed conditions on and, if required, beyond the Property
8. For a Flood Hazard analysis I have:
- 8.1 Reviewed and characterized, if appropriate, Flood Hazard that may affect the Property  
 8.2 Estimated the Flood Hazard on the Property  
 8.3 Considered (if appropriate) the affects of climate change and land use change  
 8.4 Relied on a previous Flood Hazard Assessment (FHA) by others  
 8.5 Identified any potential Hazards that are not addressed by the Flood Assessment Report
9. For a Flood Risk analysis I have:
- 9.1 Estimated the *Flood Risk* on the property  
 9.2 Identified existing and anticipated future *elements at Risk* on and, if required, beyond the property  
 9.3 Estimated the consequences to those *elements at Risk*
10. In order to mitigate the estimated Flood Hazard for the property, the following approach is taken:
- 10.1 A *standard-based* approach

## Flood Hazard and Risk Assurance Statement

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- 10.2 A *Risk-based* approach
- 10.3 The approach outlined in the guidelines, appendix F: Flood Assessment Considerations for Development Approvals
- 10.4 No mitigation is required because the completed Flood assessment determined that the site is not subject to a *Flood Hazard*
11. Where the *Approving Authority* **has** adopted a specific level of Flood Hazard or Flood Risk tolerance, I have:
- 11.1 Made a finding on the level of Flood Hazard or Flood Risk tolerance on the Property
- 11.2 Compared the level of Flood Hazard or Flood Risk tolerance adopted by the *Approving Authority* with the findings of my investigation
- 11.3 Made recommendations to reduce the Flood Hazard or Flood Risk on the Property
12. Where the *Approving Authority* has **not** adopted a level of Flood Risk or Flood Risk tolerance I have:
- 12.1 Described the method of Flood Hazard analysis or Flood Risk analysis used
- 12.2 Referred to an appropriate and identified provincial or national guideline for level of Flood Risk or Flood Risk
- 12.3 Made a finding on the level of Flood Hazard or Flood Risk tolerance on the Property
- 12.4 Compared the guidelines with the findings of my Flood assessment
- 12.5 Made recommendations to reduce Flood Hazard or Flood Risk
13. Considered the potential for transfer of Flood Risk and the potential impacts to adjacent properties
14. Reported on the requirements for implementation of the mitigation recommendations, including the need for subsequent professional certifications and future inspections

Based on my comparison between:

Check one

- The findings from the investigation and the adopted level of Flood Hazard or Flood Risk tolerance (item 11.2 above)
- The appropriate and identified provincial or national guideline for level of Flood Hazard or Flood Risk tolerance (item 12.4 above)

I hereby give my assurance that, based on the conditions contained in the attached Flood Assessment Report:

Check one

- for subdivision approval, as required by the *Land Title Act* (Section 86), "that the land may be used safely for the use intended".

Check one

- with one or more recommended registered covenants.
- without any registered covenant.
- For a development permit, as required by the *Local Government Act* (Part 14, Division 7), my Flood Assessment Report will "assist the local government in determining what conditions or requirements it will impose under subsection (2) of this section [Section 491 (4)]"
- For a building permit, as required by the *Community Charter* (Section 56), "the land may be used safely for the use intended".

Check one

- With one or more recommended registered covenants.
- Without any registered covenant.
- For Flood plain bylaw variance, as required by the *Flood Hazard Area Land Use Management Guidelines* associated with the *Local Government Act* (Section 524), "the development may occur safely".

Flood Hazard and Risk Assurance Statement

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For Flood plain bylaw exemption, as required by the Local Government Act (Section 524), "the land may be used safely for the use intended".

(1) Flood Hazard Area Land Use Management Guidelines published by the BC Ministry of Forests, Lands, and Natural Resource Operations and the 2009 publication Subdivision Preliminary Layout Review – Natural Hazard Risk published by the Ministry of Transportation and Public Infrastructure. It should be noted that the 200-year return period is a standard used typically for rivers and purely fluvial processes. For small creeks subject to debris Floods and debris flows return periods are commonly applied that exceed 200 years. For life-threatening events including debris flows, the Ministry of Transportation and Public Infrastructure stipulates in their 2009 publication Subdivision Preliminary Layout Review – Natural Risk Hazard that a 10,000-year return period needs to be considered.

I certify that I am a Qualified Professional as defined below.

December 18, 2023

Date

Evan Kleindienst

Prepared by



Signature

304 Industrial Road G, Cranbrook BC V1C 7J4

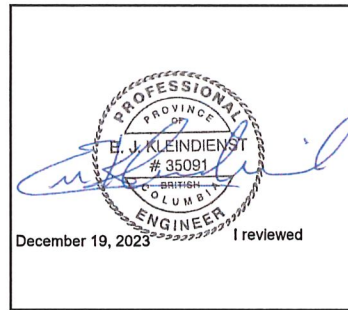
Address

250-426-5300

Telephone

Evan.kleindienst@vastresource.com

Email



(Affix PROFESSIONAL SEAL here)

I am a member of the firm VAST RESOURCE SOLUTIONS INC. and I sign this letter on behalf of the firm.

## **APPENDIX C: REPORT INTERPRETATION AND LIMITATIONS**



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## REPORT INTERPRETATION AND LIMITATIONS

### 1. Standard of Care

VAST Resource Solutions Inc (VAST) has prepared this report in a manner consistent with generally accepted engineering consulting practices in this area, subject to the time and physical constraints applicable. Professional judgment has been applied in developing any conclusions and/or recommendations in this report. No other warranty, expressed or implied, is made.

The author reserves the right to amend this report if additional information becomes available.

The work performed in this report was carried out in accordance with the terms and conditions specified in VAST's Project Work Agreement (PWA) with the client. The conclusions presented herein are based solely upon the scope of services and time and budgetary limitations approved by the client and described in the PWA. Since site conditions may change over time, the report is intended for immediate use only.

The conclusions and/or recommendations provided in this report do not relieve the client or their agents or representatives of the responsibility to comply with applicable Acts, regulations, bylaws and/or decisions of any authorities that have jurisdiction under an enactment.

### 2. Completeness of this Report

This Report represents a summary of paper, electronic and other documents, records, data and files and is not intended to stand alone without reference to the instructions given to VAST by the Client, communications between VAST and the Client, and/or to any other reports, writings, proposals or documents prepared by VAST for the Client relating to the specific site described herein.

This report is intended to be used and quoted in its entirety. Any references to this report must include the whole of the report and any appendices or supporting material. VAST cannot be responsible for use by any party of portions of this report without reference to the entire report.

### 3. Basis of this Report

This report has been prepared for the specific site, development, design objective, and purpose described to VAST by the Client or the Client's Representatives or Consultants. The applicability and reliability of any of the factual data, findings, recommendations or opinions expressed in this document pertain to a specific project as described in this report and are not applicable to any other project or site, and are valid only to the extent that there has been no material alteration to or variation from any of the descriptions provided to VAST. VAST cannot be responsible for use of this report, or portions thereof, unless we were specifically requested by the Client to review and revise the Report in light of any alterations or variations to the project description provided by the Client.

If the project does not commence within 18 months of the report date, the report may become invalid and further review may be required.

The recommendations of this report should only be used for design. The extent of exploration including number of test pits or test holes necessary to thoroughly investigate the site for conditions that may affect construction costs will generally be greater than that required for design purposes. Contractors should rely upon their own explorations and interpretation of the factual data provided for costing purposes, equipment requirements, construction techniques, or to establish project schedule.





The information provided in this report is based on limited exploration, for a specific project scope. VAST cannot accept responsibility for independent conclusions, interpretations, interpolations or decisions by the Client or others based on information contained in this Report. This restriction of liability includes decisions made to purchase or sell land.

#### **4. Use of this Report**

The contents of this report, including plans, data, drawings and all other documents including electronic and hard copies remain the copyright property of VAST. However, VAST will consider any reasonable request by the Client to approve the use of this report by other parties as "Approved Users". With regard to the duplication and distribution of this Report or its contents, VAST authorizes only the Client and Approved Users to make copies of the Report only in such quantities as are reasonably necessary for the use of this Report by those parties. The Client and "Approved Users" may not give, lend, sell or otherwise make this Report or any portion thereof available to any other party without express written permission from VAST. Any use which a third party makes of this Report - in its entirety or portions thereof - is the sole responsibility of such third parties. VAST ACCEPTS NO RESPONSIBILITY FOR DAMAGES SUFFERED BY ANY PARTY RESULTING FROM THE UNAUTHORIZED USE OF THIS REPORT.

Electronic media is susceptible to unauthorized modification or unintended alteration, and the Client should not rely on electronic versions of reports or other documents. All documents should be obtained directly from VAST.

#### **5. Interpretation of this Report**

Classification and identification of soils and rock and other geological units, including groundwater conditions have been based on exploration(s) performed in accordance with the standards set out in Paragraph 1. These tasks are judgemental in nature; despite comprehensive sampling and testing programs properly performed by experienced personnel with the appropriate equipment, some conditions may elude detection. As such, all explorations involve an inherent risk that some conditions will not be detected.

Further, all documents or records summarizing such exploration will be based on assumptions of what exists between the actual points sampled at the time of the site exploration. Actual conditions may vary significantly between the points investigated and all persons making use of such documents or records should be aware of and accept this risk.

The Client and "Approved Users" accept that subsurface conditions may change with time and this report only represents the soil conditions encountered at the time of exploration and/or review. Soil and ground water conditions may change due to construction activity on the site or on adjacent sites, and also from other causes, including climactic conditions.

The exploration and review provided in this report were for geotechnical purposes only. Environmental aspects of soil and groundwater have not been included in the exploration or review, or addressed in any other way.

The exploration and Report is based on information provided by the Client or the Client's Consultants, and conditions observed at the time of our site reconnaissance or exploration. VAST has relied in good faith upon all information provided. Accordingly, VAST cannot accept responsibility for inaccuracies, misstatements, omissions, or deficiencies in this Report resulting from misstatements, omissions, misrepresentations or fraudulent acts of persons or sources providing this information.



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## 6. Design and Construction Review

This report assumes that VAST will be retained to work and coordinate design and construction with other Design Professionals and the Contractor. Further, it is assumed that VAST will be retained to provide field reviews during construction to confirm adherence to building code guidelines and generally accepted engineering practices, and the recommendations provided in this report. Field services recommended for the project represent the minimum necessary to confirm that the work is being carried out in general conformance with VAST's recommendations and generally accepted engineering standards. It is the Client's or the Client's Contractor's responsibility to provide timely notice to VAST to carry out site reviews. The Client acknowledges that unsatisfactory or unsafe conditions may be missed by intermittent site reviews by VAST. Accordingly, it is the Client's or Client's Contractor's responsibility to inform VAST of any such conditions.

Work that is covered prior to review by VAST may have to be re-exposed at considerable cost to the Client. Review of all Geotechnical aspects of the project are required for submittal of unconditional Letters of Assurance to regulatory authorities. The site reviews are not carried out for the benefit of the Contractor(s) and therefore do not in any way effect the Contractor(s) obligations to perform under the terms of his/her Contract.

## 7. Sample Disposal

VAST will dispose of all samples 3 months after issuance of this report, or after a longer period of time at the Client's expense if requested by the Client. All contaminated samples remain the property of the Client and it will be the Client's responsibility to dispose of them properly.

## 8. Subconsultants and Contractors

Engineering studies frequently requires hiring the services of individuals and companies with special expertise and/or services which VAST does not provide. These services are arranged as a convenience to our Clients, for the Client's benefit. Accordingly, the Client agrees to hold VAST harmless and to indemnify and defend VAST from and against all claims arising through such Subconsultants or Contractors as though the Client had retained those services directly. This includes responsibility for payment of services rendered and the pursuit of damages for errors, omissions or negligence by those parties in carrying out their work. These conditions apply to specialized subconsultants and the use of drilling, excavation and laboratory testing services, and any other Subconsultant or Contractor.

## 9. Site Safety

VAST assumes responsibility for site safety solely for the activities of our employees on the jobsite. The Client or any Contractors on the site will be responsible for their own personnel. The Client or his representatives, Contractors or others retain control of the site. It is the Client's or the Client's Contractors responsibility to inform VAST of conditions pertaining to the safety and security of the site – hazardous or otherwise – of which the Client or Contractor is aware.

Exploration or construction activities could uncover previously unknown hazardous conditions, materials, or substances that may result in the necessity to undertake emergency procedures to protect workers, the public or the environment. Additional work may be required that is outside of any previously established budget(s). The Client agrees to reimburse VAST for fees and expenses resulting from such discoveries. The Client acknowledges that some discoveries require that certain regulatory bodies be informed. The Client agrees that notification to such bodies by VAST will not be a cause for either action or dispute.