



Date: July 24, 2024

# Development Variance Permit Application

**You are requested to comment on the attached DEVELOPMENT VARIANCE PERMIT for potential effect on your agency's interests. We would appreciate your response WITHIN 30 DAYS (PRIOR TO August 10, 2024). If no response is received within that time, it will be assumed that your agency's interests are unaffected.**

**LEGAL DESCRIPTION & GENERAL LOCATION:**

Civic Address Not Assigned – Highway 95 , Kingsgate, Electoral Area 'B'  
 DISTRICT LOT 10093 KOOTENAY DISTRICT EXCEPT (1) PART INCLUDED IN PLAN 1225 (2) THAT PART ASSIGNED PARCEL A ON PLAN 1215 (3) THAT PART ASSIGNED PARCEL B ON PLAN 1215 (4) PARCEL (SEE 190639I) AND (5) PART ON PLAN NEP91140 (PID: 010-873-546)

**PRESENT USE AND PURPOSE OF PERMIT REQUESTED:**

The subject property is 21.53 hectares (ha) in size, and not subject to any land use policies and zoning regulations under the *Electoral Area 'B' Comprehensive Land Use Bylaw No. 2315, 2013*. The site plan submitted shows no existing development on the lands. The subject property is partially located within a Non-standard Flooding and Erosion Area for Elmira Creek, and any future development would be subject to the Regional District's *Floodplain Management Bylaw No. 2080, 2009*. A portion of the parcel is also impacted by steep slopes. There are archaeological considerations with relation to the proposed development.

This DVP application seeks to vary Section 8.02 'Individual Groundwater Services' and Section 9.01 'On-Site Sewage Disposal' under the RDCK's *Subdivision Bylaw No. 2159, 2011*. The applicant seeks to waive the servicing requirement to provide evidence that there are sufficient quantities for ground water for proposed lots 1, 2, 4, 5 and 6. The existing well on proposed Lot 3, as stated by the applicant, *"would be confirmed to be of suitable use and meet all [bylaw] requirements."* In addition, the applicant is also requesting that the requirement to provide confirmation of sewerage assessment capabilities be waived for proposed Lot 6 only, since no new development is proposed for this lot. The applicant's rationale for the variances is to *"ease the financial burden"* of this subdivision proposal for the current land owner.

A rural subdivision application has been submitted to the Province (Ministry of Transportation and Infrastructure) to create six lots subdivision, with proposed Lot 1 having a panhandle access.

AREA OF PROPERTY AFFECTED	ALR STATUS	ZONING	OCP
21.53 ha	No	N/A	N/A

**AGENT:** McElhanney c/o Ryan Richmond

**OTHER INFORMATION: ADVISORY PLANNING COMMISSION PLEASE NOTE:**

If your Advisory Planning Commission plans to hold a meeting to discuss this Development Permit application, please note that the applicants must be provided with an opportunity to attend such meeting, in accordance with Section 461, subsection (8) of the *Local Government Act*, which reads as follows:

*"If the commission is considering an amendment to a plan or bylaw, or the issue of a permit, the applicant for the amendment or permit is entitled to attend meetings of the commission and be heard."*

**Please fill out the Response Summary on the back of this form. If your agency's interests are 'Unaffected' no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this permit.**

- MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE
- HABITAT BRANCH (Environment)
- FRONTCOUNTER BC (MFLNRORD)
- ARCHAEOLOGICAL BRANCH
- REGIONAL AGROLOGIST
- ENERGY & MINES
- MUNICIPAL AFFAIRS & HOUSING
- INTERIOR HEALTH, HBE TEAM
- KOOTENAY LAKES PARTNERSHIP (FORESHORE DEVELOPMENT PERMITS)
- SCHOOL DISTRICT NO.
- WATER SYSTEM OR IRRIGATION DISTRICT
- UTILITIES (FORTIS, BC HYDRO, NELSON HYDRO, COLUMBIA POWER)

REGIONAL DISTRICT OF CENTRAL KOOTENAY

DIRECTORS FOR:

- A  B  C  D  E  F  G  H  I  J  K

ALTERNATIVE DIRECTORS FOR:

- A  B  C  D  E  F  G  H  I  J  K

- APHC AREA B
- RDCK FIRE SERVICES
- RDCK EMERGENCY SERVICES
- RDCK BUILDING SERVICES
- RDCK UTILITY SERVICES
- RDCK RESOURCE RECOVERY
- RDCK REGIONAL PARKS

INSERT COMMENTS ON REVERSE . . .

The personal information on this form is being collected pursuant to *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015* for the purpose of determining whether the application will affect the interests of other agencies or adjacent property owners. The collection, use and disclosure of personal information are subject to the provisions of FIPPA. Any submissions made are considered a public record for the purposes of this application. Only personal contact information will be removed. If you have any questions about the collection of your personal information, contact the Regional District Privacy Officer at 250.352.6665 (toll free 1.800.268.7325), [info@rdck.bc.ca](mailto:info@rdck.bc.ca), or RDCK Privacy Officer, Box 590, 202 Lakeside Drive, Nelson, BC V1L 5R4.

## RESPONSE SUMMARY

**FILE: V2409B AGENT: MCELHANNEY C/O RYAN RICHMOND**

**Name:**

**Date:**

**Agency:**

**Title:**

RETURN TO: **STEPHANIE JOHNSON**, PLANNER  
DEVELOPMENT AND COMMUNITY SUSTAINABILITY SERVICES  
REGIONAL DISTRICT OF CENTRAL KOOTENAY  
BOX 590, 202 LAKESIDE DRIVE  
NELSON, BC V1L 5R4  
Ph. 250-352-8175  
Email: [plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca)

# RDCK Map



Earthstar Geographics, Esri  
Canada, Esri, TomTom,  
Garmin, SafeGraph,  
GeoTechnologies, Inc,  
METI/NASA, USGS, EPA,



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

## Legend

 Electoral Areas

## Map Scale:

1:144,448

Date: July 10, 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.

# RDCK Map








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



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

### Legend

-  Parks and Rec
-  Electoral Areas
-  RDCK Streets
-  Cadastre - Property Lines
-  Address Points

### Map Scale:

1:9,028

Date: July 10, 2024



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# RDCK Map



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

1000



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 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
- Electoral Areas
- RDCK Streets
- Cadastre - Property Lines
- Address Points
- 20 meter
- 100 meter
- Streams and Shorelines

### Map Scale:

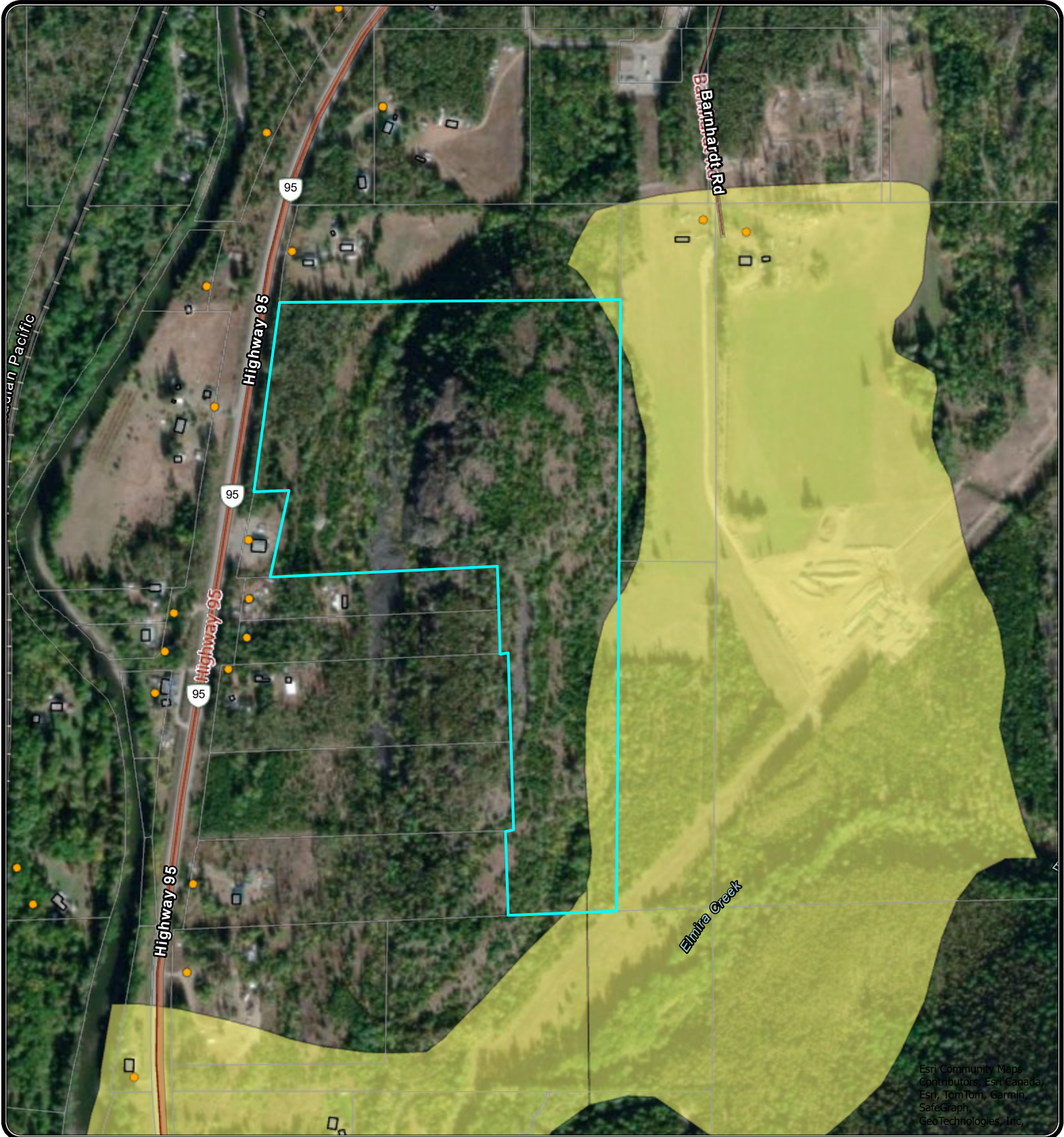
1:9,028

Date: July 10, 2024



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

### Legend

- Non Standard Flooding Erosion Area
- Building Footprints
- Electoral Areas
- RDCK Streets
- Cadastre - Property Lines
- Address Points

### Map Scale:

1:9,028

Date: July 10, 2024



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

## Legend

- Fire Service Areas
- YAHK-KINGSGATE
- Electoral Areas
- RDCK Streets
- Cadastre - Property Lines
- Address Points

## Map Scale:

1:9,028

Date: July 10, 2024

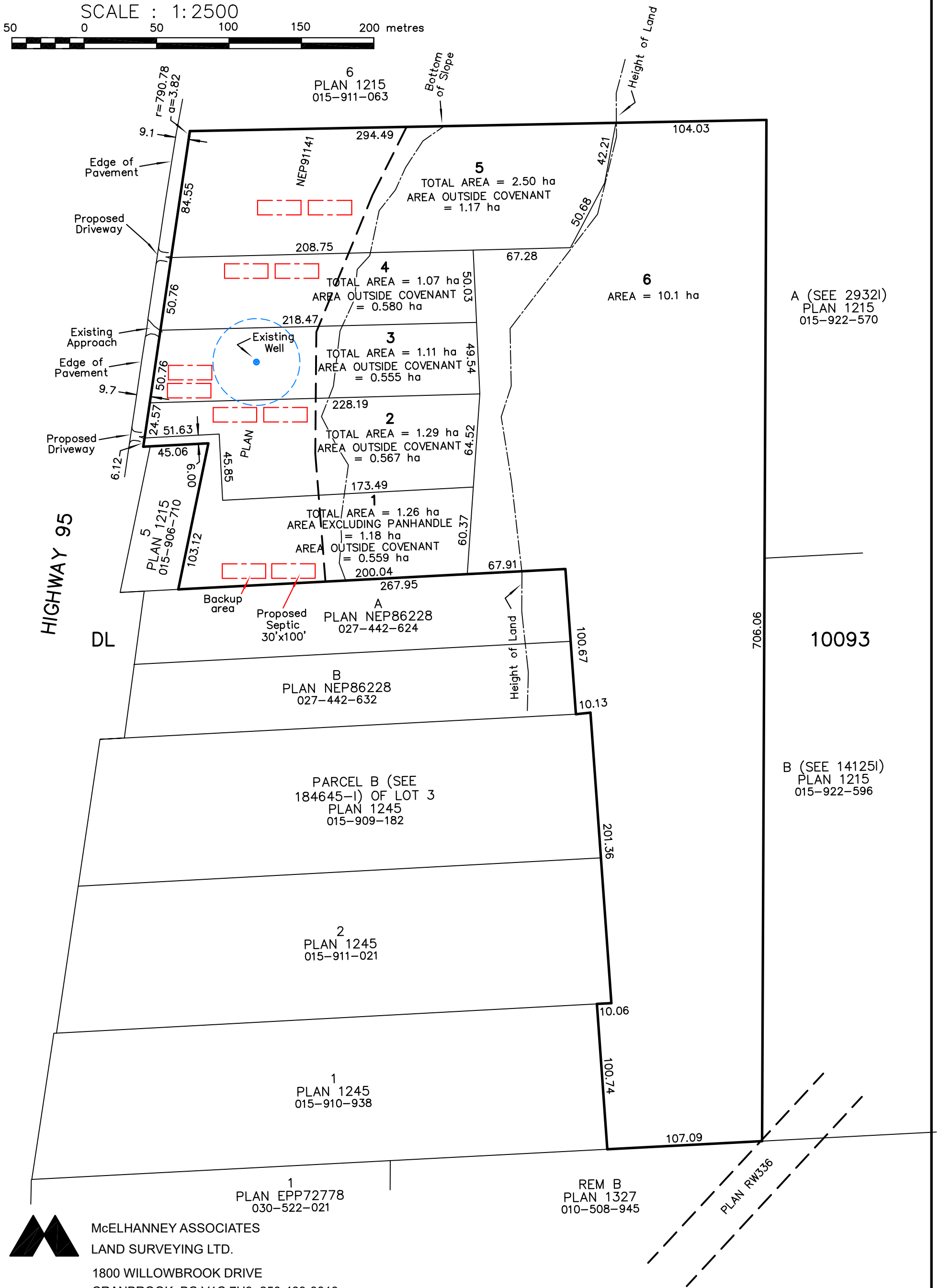
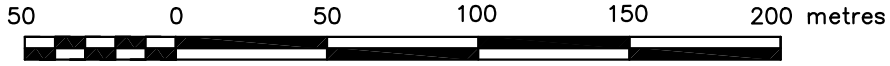


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**PLAN OF PROPOSED SUBDIVISION OF  
DISTRICT LOT 10093 KOOTENAY DISTRICT EXCEPT  
(1) PART INCLUDED IN PLAN 1215 (2) THAT PART ASSIGNED PARCEL A ON PLAN 1215  
(3) THAT PART ASSIGNED PARCEL B ON PLAN 1215 (4) PARCEL A (SEE 190639I) AND  
(5) PART ON PLAN NEP91140**

SCALE : 1:2500



**McELHANNEY ASSOCIATES**  
LAND SURVEYING LTD.  
1800 WILLOWBROOK DRIVE  
CRANBROOK, BC V1C 7H9 250-489-3013  
FILE: 2442-20899-00-V8  
DATE: January 15, 2024

LOT 6 to be accessed via easement.  
No Existing Structures or additional utility services.

May 1, 2024

Regional District of Central Kootenay  
202 Lakeside Drive  
Nelson BC V1L 6B9

Attention: Planning

## Development Variance Permit Application

The basis for this application is to request relief of proof of water to occur until after sales of the proposed new lots, to ease the financial burden for the land owner.

This would be varying Part 8.02 of Regional District of Central Kootenay Subdivision Bylaw 2159, 2011 regarding individual groundwater services. This would apply to proposed lots 1, 2, 4, 5 and 6 of the proposed subdivision. The existing well on proposed lot 3 would be confirmed to be of suitable use and meet all requirements.

It is understood a covenant would be required to limit any construction until the water servicing can be proven to an adequate level.

Additionally, we would like to vary section 9.01 regarding on site sewage disposal. This would be for proposed lot 6. This lot is to be help with neighboring parcels and not intended to be developed.

Sincerely,  
McElhanney Ltd.



Ryan Richmond, BCLS  
[richmond@mcelhanney.com](mailto:richmond@mcelhanney.com) | 778-550-2005

surface water.

### **8.02 Individual Groundwater Services**

Where individual ground water sources are proposed, the applicant must provide evidence that there are sufficient quantities of ground water for each proposed lot and the remainder, and:

- a. Must drill or excavate a well on every proposed lot and the remainder and submit a well construction report signed by a registered well driller or a professional engineer;
- b. The well construction report must verify that the well is a minimum of 15 meters (49 feet) deep. If the well is less than 15 meters deep it is recommended that the minimum sealing requirements for excavated wells as found under the *Groundwater Protection Regulation 299/2004* including the installations of well identification plates is followed;
- c. The applicant must provide a well log or pump test confirming that each well is capable of producing at least 15 litres (3 imp. gal.) per minute of water, or in cases where well capacity is less than 15 litres (3 imp. gal.) per minute that balancing storage of not less than 2, 270 litres (500 imp. gal.) of water per day is provided;
- d. The sharing of one well by two or more parcels is not permitted unless a community water system is proposed and meets the requirements of this Bylaw;
- e. If untreated groundwater is to be used as proof of adequate water supply, a covenant under Section 219 of the *Land Title Act* shall be placed on Title that advises of the potential health risks associated with consuming untreated groundwater.

### **8.03 Community Water Systems**

Where an applicant proposes to connect to an existing community water system the applicant must submit to the Regional District:

- a. A letter from the Owner/Operator of the community water system confirming that all parcels proposed can be connected to the water system and that fees have been paid for connection to the water system. Confirmation must be submitted prior to final Approval of the subdivision;
- b. Construction, extension, or addition to a community water system must not proceed until a construction permit has been issued by the Issuing Official under the *Drinking Water Protection Act*; and

- c. Confirmation of existing connection(s) to community water systems currently on boil water advisory shall be accepted as proof of water for the purposes of subdivision where the connection currently serves an existing residence as long as no new connections to the community water system are involved.

Where an applicant proposes to establish a new community water system, the applicant must submit to the Regional District:

- d. A copy of the construction permit issued pursuant to the *Drinking Water Protection Act*;
- e. Where a community water system is to be acquired by the Regional District, the design of such shall be submitted to the Regional District for approval prior to the commencement of construction as required by this Bylaw;
- f. That the water source to be used by the system is adequate to serve each parcel to be served by the system as determined by the authority having jurisdiction over the system.

## **PART 9 - SEWAGE**

### **9.01 On-Site Sewage Disposal**

Where no community wastewater system exists, or is proposed, soil and site conditions for on-site sewage disposal systems shall be subject to the following:

- a. Each lot be assessed on the basis of Type 1 (septic tank) treatment and trench disposal systems;
- b. Each lot must be self-contained, providing an initial and replacement sewage disposal area;
- c. Sewerage holding tanks will not be considered an acceptable method of waste water disposal.

### **9.02 Community Wastewater Systems**

Where an applicant proposes to connect to an existing community wastewater system the applicant must submit to the Regional District:

- a. A letter from the Owner/Operator of the community wastewater system confirming that all parcels proposed can be connected to the wastewater system and that fees have been paid for connection to the wastewater system. Confirmation must be submitted prior to final Approval of the subdivision;