



REGIONAL DISTRICT OF CENTRAL KOOTENAY

Committee Report

Date of Report: January 8, 2018
Date & Type of Meeting: January 17, 2018 Rural Affairs Committee
Author: Kristin Aasen, Planner
Subject: LAND USE AMENDMENT – DOUKHOBOR HERITAGE RETREAT SOCIETY
File: 09\4600\20\2017\Z1705K-01885.000-DHRS-BA000013

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Board to consider an amendment to the Zoning Bylaw No. 1675 for the Doukhorbor Heritage Retreat Society at 645 Whatshan Lake Road, Needles. The proposal would enable the bulk extraction and wholesale sales of water while maintaining the resort/ agricultural uses.

SECTION 2: BACKGROUND / ANALYSIS

Owners: Doukhorbor Heritage Retreat Society #1999

Address: 645 Whatshan Lake Road, Needles

Current OCP designation: Tourist Commercial (C2)

Current Zoning: Resort Commercial (C6) and Agriculture 3 (AG3)

Electoral Area: K

Proposed OCP: same

Proposed Zoning: site specific

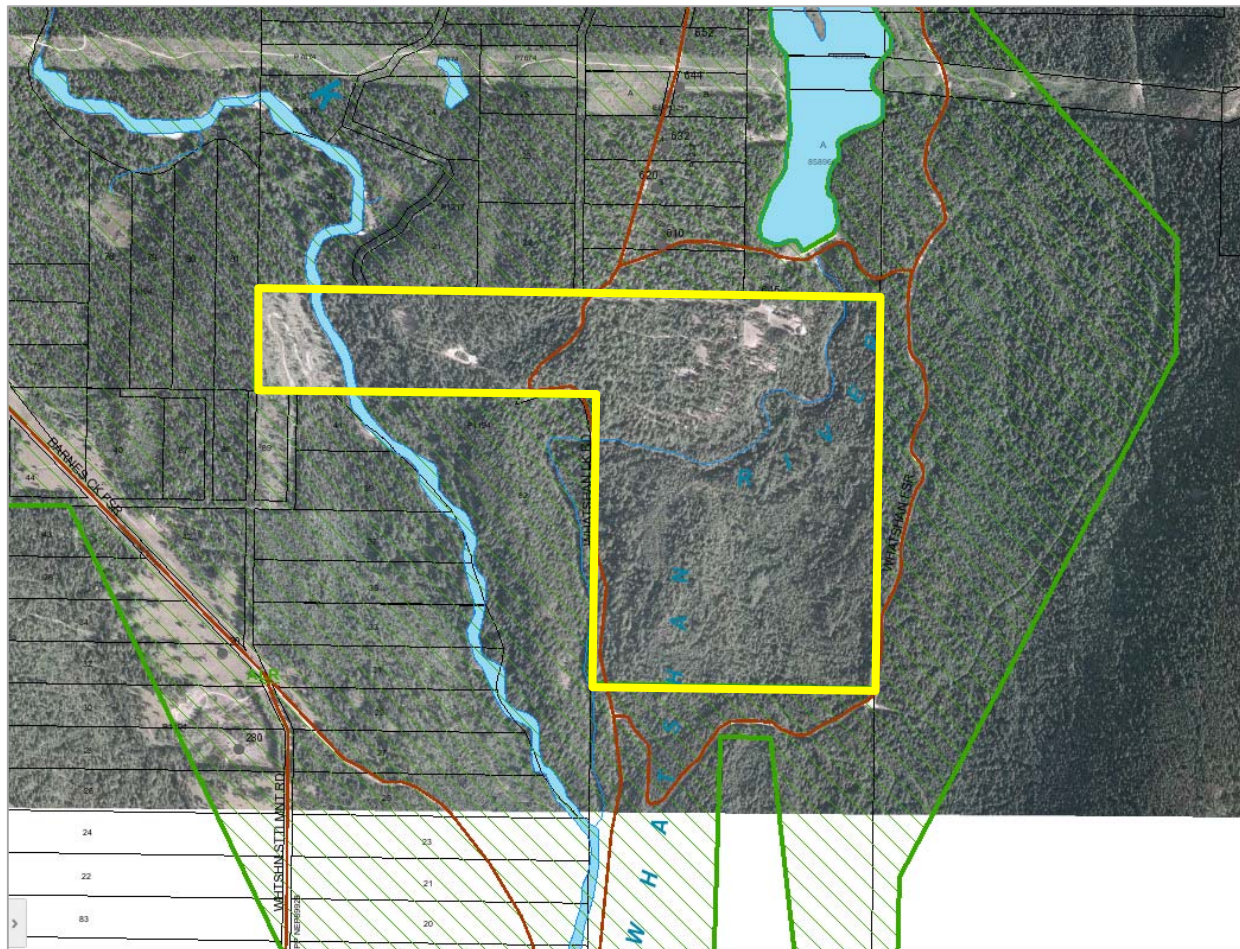


Figure 1: Orthophoto of subject property (outlined in yellow).

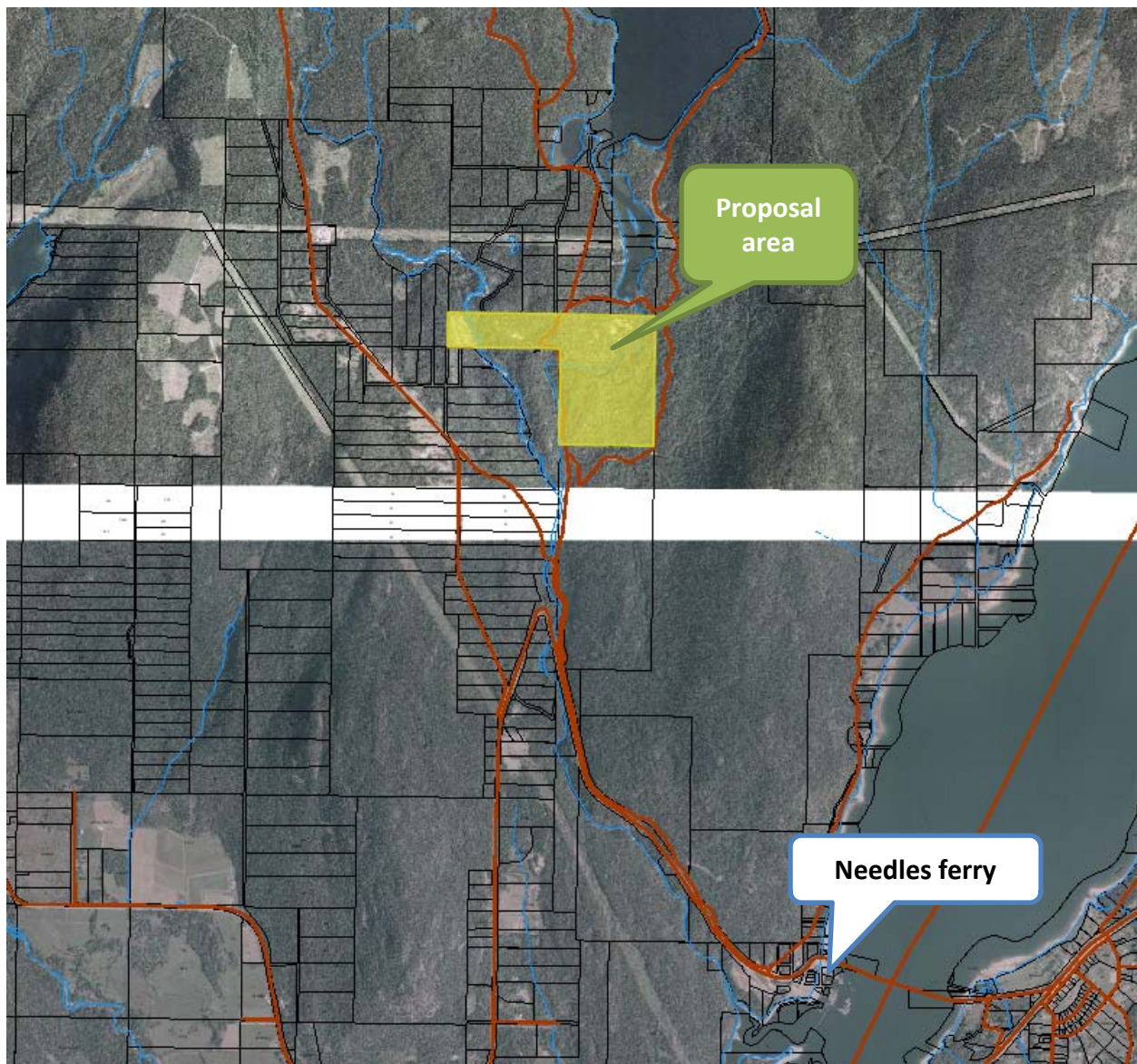
2.1 BACKGROUND/ SITE CONTEXT

This proposal would rezone a 203 acre (82 hectare) parcel to enable a commercial water extraction and bulk water sales. The ‘Whatshan Lake Retreat’ subject property is located north of the Needles Ferry crossing of Arrow Lake in the Regional District of Central Kootenay Electoral Area ‘K.’ The property serves as a retreat centre, and hosts the Whatshan Jam and ‘Kamp’ music festivals. The property is split zoned Resort Commercial (C6) and Agriculture 3 (AG3) – see Attachment A for the permitted uses.

The property is developed with cabins, campground, a lodge and associated facilities. Servicing is by on-site waste water disposal and a community water system operated by the Society. Whatshan River and Barnes Creek traverse the property; Whatshan Lake is north of the subject property.

The subject property is surrounded by the Agricultural Land Reserve to the north, south, east and west. Lands to the east, north east and south are zoned Agriculture 3 (AG3). To the north, west and south west are parcels zoned Agriculture 2 (AG2). The property is accessed via Forest Service Roads off Highway 6.

Figure 2: Context map and area orthophoto



2.2 REFERRAL COMMENTS

Agency referral:

The proposal was referred to multiple agencies for 40 days (additional 10 days to account for the holiday season). No response from RDCK Building Inspection and RDCK Community Services have been received to date. A late referral was sent to the Agricultural Land Commission and the Ministry of Agriculture – responses are forthcoming. The following responses were received:

Ministry of Forests, Land and Natural Resource Operations – Habitat Biologist, December 22, 2017

The Ministry of Forests, Lands, Natural Resource Operations & Rural Development – Habitat Division – reviewed this bylaw amendment request on December 21, 2017 and has determined that this project should not impact the Resource Management Division’s legislated responsibilities.

Ministry of Forests, Lands, Natural Resource Operations, Senior Authorizations Specialist -Water, Dec 11/17

The party will need to apply for a water license to potentially gain rights to the water; however, bulk transport of water is limited by the Water Protection Act. The client should become intimately familiar with the limitation of bulk water transport under this legislation.

The WPA defines and limits the amount of water that can be removed in bulk from B.C. The WPA limits bulk water removal to surface water licensees and groundwater users who are registered with the Comptroller of Water Rights and who had removed water in bulk prior to June 1, 1995. Under the WPA, no one is allowed to remove water from the Province unless they:

- Are registered with the Comptroller of Water Rights, or*
- Are removing water in containers of 20 litres or less, or*
- Obtained the water outside the province, or*
- Carry the water in vehicles, vessels or aircraft for the use of people and animals while in transit across British Columbia's borders.*

Ministry of Transportation and Infrastructure – District Development Technician, January 5, 2018

The subject property is served by Whatshan Lake Road, which is publicly maintained. The new zoning and business could result in increased use of the right of way, possibly requiring an industrial use permit for access. Please notify the applicant to contact the District Development Technician with the Ministry of Transportation and Infrastructure in Nelson, and provide information on the projected change in traffic that is expected from the new bulk water facility. If the number of vehicles using the access remains small at full build out of the facility, the existing use agreement could remain.

Interior Health Authority – Environmental Health Officer, Healthy Built Environment, January 5, 2018

Thank you for the opportunity to comment on the zoning amendment which will allow for this facility to carry out commercial water extraction and bulk water sales.

The existing community drinking water supply system will be the source for the water extraction and bulk water sales. Interior Health has reviewed the drinking water system information provided in the submission with the plans and approval within our files. There are portions of the water system shown on the record drawing (project file # C12001-059) that were not provided to our office for engineering review as per the Drinking Water Protection Act and Regulation.

The owner/ operator should provide an updated submission for the entire water supply system including any alteration which has occurred after the system was approved for the existing facility as a drinking water system.

The owner/operator of the drinking water system will require approval and an operating permit for the bulk water hauling. Interior Health would recommend that the owner/ operator provide our office with the necessary information on the water supply system and receive the approval prior to the zoning amendment.

Neighbourhood referral:

The proposal was referred to 42 surrounding property owners. One letter was received from concerned neighbours – see Attachment B.

2.4 CURRENT DEVELOPMENT OBJECTIVES

OFFICIAL COMMUNITY PLAN BYLAW NO. 2214

Please refer to Attachment C for the Official Community Plan policy analysis. See Section 4 – Options for a discussion of the key issues.

ZONING BYLAW NO. 1675

Permitted uses in the Agriculture 3 (AG3) and Resort Commercial (C6) zones are listed in Attachment A. The proposed bylaw would amend the existing C6 zone to enable bulk water extraction.

SECTION 3: DETAILED ANALYSIS

a. Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Financial Plan Amendment: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Debt Bylaw Required: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Public/Gov’t Approvals req’d: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

The application fee was received in accordance with the Planning Procedures and Fees Bylaw No. 2457.

b. Legislative Considerations (Applicable Policies and/or Bylaws):

This application was processed in accordance with the Planning Procedures and Fees Bylaw No. 2547, 2015.

c. Environmental Considerations:

The applicants propose to remove 550 m³ per day of groundwater.

d. Social Considerations:

One neighbour expressed concern over how the site’s current operations impact their enjoyment of their property.

e. Economic Considerations:

None anticipated.

f. Communication Considerations:

If the Board proceeds with the proposal, notification of the public hearing will be circulated to surrounding property owners/ tenants and the public by way of newspaper advertisement.

g. Staffing/Departmental Work Plan Considerations:

As required for a public hearing and bylaw adoption.

h. Board Strategic Plan/Priorities Considerations:

None.

SECTION 4: OPTIONS & PROS / CONS

The purpose of this proposal is to enable bulk water extraction and wholesale sales while maintaining the current permitted uses on the Whatshan Lake Retreat property. The Dukhobor Heritage Retreat Society is looking for additional revenue to expand their retreat programs for youth. The Official Community Plan policy analysis (Attachment D) and objectives highlighted the following issues of concern for the Board:

- 1. Aquifer** – OCP Objective 12.2 “To maintain high water quality of groundwater and surface water

sources of domestic water supply.” The Provincial aquifer database has no information on the potential productivity or vulnerability on the subject aquifer. The applicants suggest that the aquifer is confined to the subject property.

The application for groundwater extraction is still underway. Although the application was made in December 2016, an approval is not expected imminently. The Water Management Branch indicates that due to a significant backlog, the application is not anticipated to be completed by the spring. The Board may wish to specify a maximum withdrawal volume in an amending bylaw.

2. **Rural character** –Objective 8.2 “To ensure that industrial uses are located in a manner which reduces impacts on neighbouring properties and the natural environment.” The proposed bulk water extraction is not customarily considered a ‘tourist commercial’ use. However the visual impact on the land would be negligible, as the water filling station would be sited in an existing shipping container. The proposal area is setback a significant distance from neighbouring agricultural properties.
3. **Agriculture** – Objective 5.4 “To encourage the agricultural sector’s improvement and expansion 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 security.” Without comments from the Ministry of Agriculture or the Agricultural Land Commission, staff is unable to determine whether the potential bulk water extraction may impact surrounding farmlands, including water supply for irrigation purposes. Staff anticipates obtaining feedback from these agencies, and will report any comments at the public hearing and verbally at the Rural Affairs Committee meeting.

Pros:

- The proposal may generate revenue for ‘Freedom Quest’ programming – a social enterprise that benefits youth.
- Only one letter of opposition was received, despite notification circulated to 42 property owners and tenants.

Cons:

- The one letter of opposition received by a neighbouring property owner was concerned with the disruption of the existing uses on their enjoyment of their property, and would not support further commercialization of the resort/ retreat.
- The proposal lacks specificity on potential impacts of groundwater withdrawal on irrigation supply to surrounding farmlands.

Option 1: Proceed once more info is received

Staff recommendation is to proceed with the proposal, and schedule the Public Hearing once more information is received (see Attachment D for the Zoning amendment Bylaw). Staff recommends holding the public hearing once the applicant confirms that the Province approved the bulk water extraction, and potential impacts on the aquifer. This may unfortunately introduce a delay, as the groundwater application is unlikely to be approved until late spring or summer, but staff would like to provide the public with clarity on potential groundwater impacts. Pending public hearing comments and agricultural concerns, the Board may also wish to limit the volume of water withdrawal. A limit to the volume may be introduced at 3rd reading.

Option 2: Table the proposal

The Board may wish to table the proposal pending further investigation of the potential impacts on water availability and a Provincial approval for the change in well use.

Option 3: Proceed as proposed

The Board may have no concerns with the application at this time, and proceed with 1st and 2nd readings and a public hearing.

Option 3: Proceed no further

The Board may wish to consider the uncertainty of the impact of extraction on the aquifer as sufficient grounds to deny the application.

SECTION 5: RECOMMENDATIONS

1. THAT Zoning Amendment Bylaw No. 2583, 2018, being a bylaw to amend Zoning Bylaw No. 1675, 2004 is hereby GIVEN FIRST READING, SECOND READING and FORWARDED TO PUBLIC HEARING.
2. That the RDCK Board DIRECT staff to schedule the Public Hearing for application Z1705K pending approval from the Provincial Water Officer for commercial groundwater extraction and sales.
3. THAT the RDCK Board DELEGATE Electoral Area ‘K’ Director Paul Peterson the authority to chair the Public Hearing in accordance with RDCK Planning Procedures and Fees Bylaw No. 2457, 2015.

Respectfully submitted,

Signature: *Kristin Aasen*

Name: Kristin Aasen, Planner

CONCURRENCE

Initials:

Planning Manager
General Manager of Development Services
Chief Administrative Officer

Attachment A – Current Resort Commercial (C6) and Agriculture 3 (AG3) zones

Attachment B – Neighbour letter

Attachment C – OCP policy analysis

Attachment D – Draft Zoning Amendment Bylaw No. 2583s

DIVISION 36 RESORT COMMERCIAL (C6)**Permitted Uses**

3600 Land, building and structures in the Resort Commercial (C6) zone shall be used for the following purposes only:

Cluster Development

One-Family Dwelling

Two-Family Dwelling

Multi-Family Dwelling

Lodges and Seasonal Resorts

Hotels

Cabins

Campgrounds

Neighbourhood pubs

Restaurants

Lake-Front Oriented Pub and/or Restaurant

Spa, Health Club and Wellness Facilities

Personal Service Establishments

Recreation Facilities *including tennis, basketball, badminton and volley ball courts, bicycle, walking, cross country skiing, and horse riding trails, water craft facilities, playgrounds and other similar facilities but shall not include the following; a casino or similar gaming facility, off-road motorized recreation vehicle trails other than snow mobile trails, gun range, skeet shooting range or any activity that disturbs the peaceful enjoyment of the property by residents and tourists*

Accessory Uses:

Maintenance and Infrastructure Buildings and Facilities

Employee Accommodation.

Development Regulations

3601

- 17 All development in the C6 zone used for residential habitation and/or tourist accommodation, except where providing un-serviced campground sites, shall be serviced by a community water system and community sewer system installed, operated and maintained in accordance with Provincial requirements and regulations.
- 18 All development in the Resort Commercial Zone (C6) zone shall be subject to the requirements of a Development Permit.
- 19 Lot coverage meaning the area of a lot covered by buildings, structures, driveways, parking and loading areas and outdoor storage shall not exceed 50 percent of the lot area.
- 20 Unless otherwise stated in this bylaw, no building or structure except a fence may be located within:
 - a. 7.5 m (25 ft) of a front or exterior side lot line;
 - b. 1.5 m (5 ft) of any other lot line; and/or
 - c. a minimum separation distance of 6 metres (20 feet) shall be maintained between all buildings used for residential habitation or tourist accommodation.

DIVISION 27 AGRICULTURE 3 (AG3)**Permitted Uses**

2700 Subject to the *British Columbia Agricultural Land Commission Act*, Regulations and Orders, land, buildings and structures in the Agriculture 3 (AG3) zone shall be used for the following purposes only:

All activities designated as "Farm Use" as defined in the *Agricultural Land Commission Act* and Part 2 of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*

Dwellings:

One-Family

Two-Family

Horse Riding Arena and Boarding Stables

Horticulture

Keeping of Farm Animals

Kennel

Licensed Medical Marihuana Production Facilities

Sale of Site Grown Farm Products

Small Scale Food Processing Facilities by Development Permit (with the exception of lands within Electoral Areas I and J-Lower Arrow/Columbia)

Veterinary Clinic

Accessory Uses:

Accessory Buildings and Structures

Accessory Tourist Accommodation

Home Based Business

Secondary Residences subject to Section 2701(3) and 2701(4)

Portable Sawmills for processing of material harvested on site only

Development Regulations

2701

- 1 The minimum lot area shall be sixty (60) hectares in the Agricultural Land Reserve and two (2) 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 No more than one one-family dwelling or two-family dwelling may be located on a lot except where a lot is classified as a farm under the *Assessment Act*, one additional one-family dwelling to accommodate people employed on the farm may be located on the lot as long as the lot is larger than four (4) hectares.
- 4 In addition to that permitted in Section 2701(3); one manufactured home to be inhabited by a member of the immediate family of the owner of the principal dwelling may be permitted where:
 - a. the manufactured home is not sited on a permanent foundation with a basement excavation;

Kristin Aasen

From: [REDACTED]
Sent: Friday, December 22, 2017 10:13 AM
To: Kristin Aasen
Cc: [REDACTED]
Subject: Re: Bylaw amendment application Z1705k (verigin-Burke)

To the Regional District of Central Kootenay,

We are located at [REDACTED]. Our property is directly adjacent to the [REDACTED]. We have had our family property since [REDACTED]. All the rezoning's and changes that the Doukhobour Society has been allowed have negatively impacted our enjoyment and use of our land. We have experienced more vehicle and foot traffic, noise, people crossing into our property and theft and vandalism (which we have reported to the police) since they have purchased their property. Allowing the Doukhobour Society to continue commercializing by rezoning will only increase all these problems. We are against this rezoning application as we have been in the past about commercializing this area. We hope that you will take our concerns into account when considering this application.

Please keep us informed of your decision about this matter.

Sincerely,

[REDACTED]

Attachment C - Official Community Plan Policy Analysis

Policy No	Policy direction	Staff comment	Board consideration warranted?
8.0 Tourist Commercial (C2) Policies			
8.1	Land use amendments for Tourist Commercial developments may be considered by the Board throughout Electoral Area K - The Arrow Lakes.	The applicants have not proposed to amend the Official Community Plan Tourist Commercial designation.	no
8.2	Small scale tourism accommodation is intended to provide property owners with the opportunity to construct a cabin(s) or an additional dwelling(s) for tourist accommodation. These commercial uses will operate in conjunction with the principal residential use of the property. The focal point for this type of tourist accommodation will be along the Arrow Lakes.	Bulk water extraction is not customarily considered a tourist commercial use. However the principal uses and overall character of the property would remain tourist commercial on the retreat centre portion of the split zoned property. The OCP does not have a separate designation for ‘small scale tourism accommodation’ with a principal residential use.	no
12.0 Natural Environment (ER) Policies			
12.3	Supports the Provincial requirement that developers apply for and obtain appropriate permits and authorization for “Changes In and About a Stream” pursuant to Section 9 of the Water Act.	The applicants have applied for approval from the Ministry of Environment. This approval has not yet been received. The Board may wish to withhold adoption of any bylaw until the approval is granted.	yes
12.7	To protect environmentally sensitive areas, important to the biodiversity and ecological functioning of the Plan area, and areas that contribute to community ‘greenway’ corridors that link open space areas.	Ministry of Environment/ Forests, Lands and Natural Resource Operations – Habitat staff did not have any concerns with the proposal.	no
5.0 Agriculture (AG) Policies			
5.6	The Regional Board encourages the development of small scale food processing facilities on Farm Lands in Agricultural zones provided the facility operates in an environmentally sustainable fashion and obtains a Development Permit which acts to mitigate negative impacts and insure that such facilities have obtained all licenses and permits from the appropriate regulatory bodies.	This policy is specific to small scale food processing facilities on farmlands, however indicates an interest in protecting farmland from negative impacts.	potential

REGIONAL DISTRICT OF CENTRAL KOOTENAY

Bylaw No. 2583

A Bylaw to amend Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004

WHEREAS it is deemed expedient to amend the Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004, and amendments thereto.

NOW THEREFORE the Board of the Regional District of Central Kootenay, in open meeting assembled, HEREBY ENACTS as follows:

1. That Schedule 'A' of Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 be amended by changing the zoning classification District Lot 8186 Kootenay Land District Except Plan Exp PL 858961 (PID: 005-517-966) from Resort Commercial (C6) and Agriculture 3 (AG3) to C6 and AG3 'site specific' to allow bulk water extraction and wholesale sales, as shown on the attached Map.
2. This bylaw shall come into full force and shall take effect on and after the date of the adoption thereof.
3. This Bylaw may be cited as "**Regional District of Central Kootenay Zoning Amendment Bylaw No. 2583, 2018.**"

READ A FIRST TIME this _____ day of _____, 2018.
 READ A SECOND TIME this _____ day of _____, 2018.
 WHEREAS A Public Hearing was held on the _____ day of _____, 2018.
 READ A THIRD TIME this _____ day of _____, 2018.

I hereby certify that this is a true and correct copy of **Regional District of Central Kootenay Zoning Amendment Bylaw No. 2583, 2018** as read a third time by the Regional District of Central Kootenay Board, on the _____ day of _____, 2018.

Mike Morrison, Corporate Officer

ADOPTED this _____ day of _____, 2018.

Karen Hamling, Board Chair

Mike Morrison, Corporate Officer

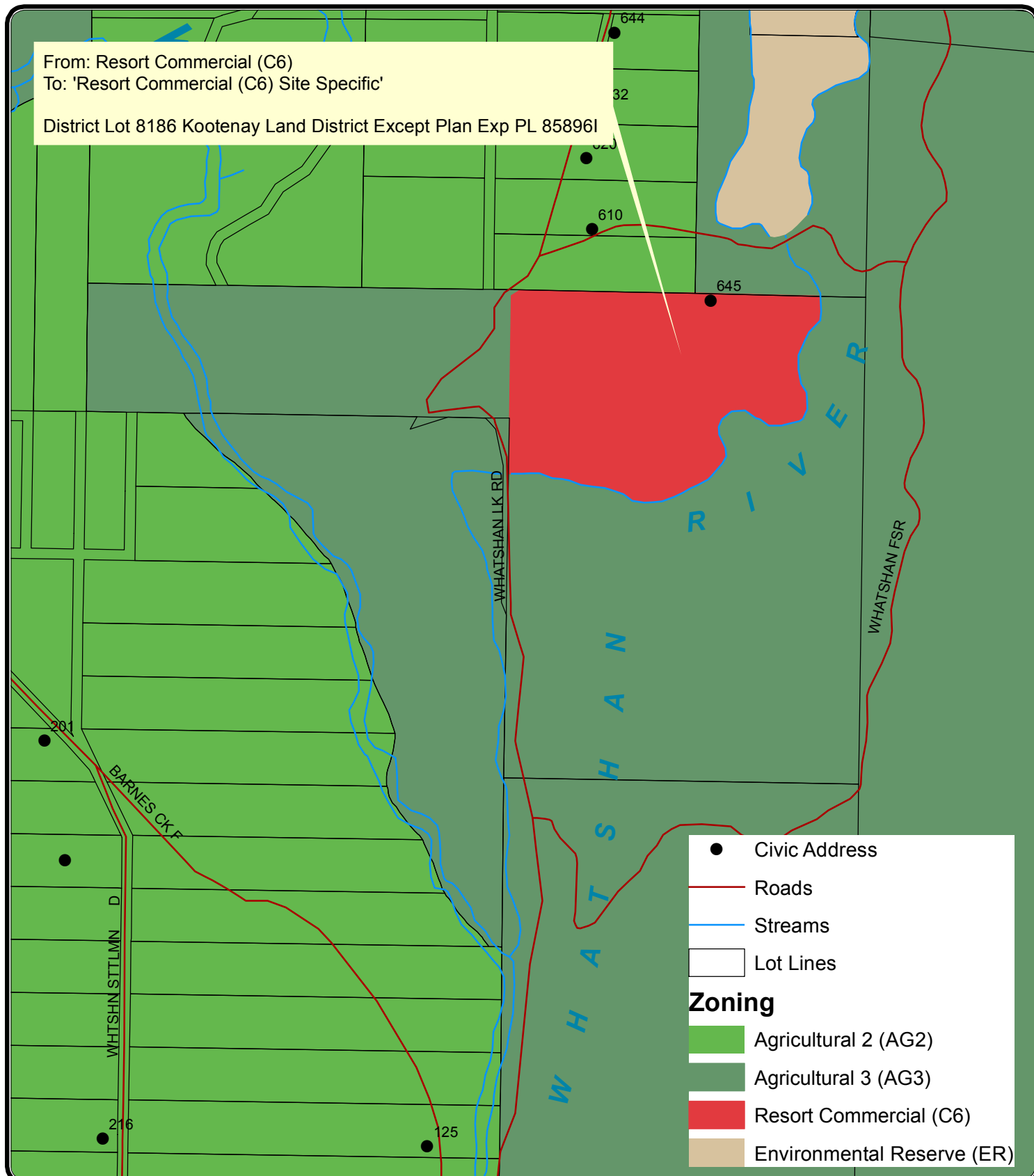
I hereby certify that this is a true and correct copy of the **Regional District of Central Kootenay Zoning Amendment Bylaw No. 2583, 2018.**

DATED at Nelson, B.C. this _____ day of _____, 2018.

Mike Morrison, Corporate Officer

From: Resort Commercial (C6)
To: 'Resort Commercial (C6) Site Specific'

District Lot 8186 Kootenay Land District Except Plan Exp PL 858961



- Civic Address
- Roads
- Streams
- Lot Lines

Zoning

- Agricultural 2 (AG2)
- Agricultural 3 (AG3)
- Resort Commercial (C6)
- Environmental Reserve (ER)

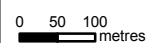


Box 590, 202 Lakeside Drive, Nelson, BC V1L 5R4
Phone: (250) 352-6665 Toll-Free 1-800-268-7325 (BC)
Fax: (250) 352-9300 Internet: www.rdck.bc.ca
The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.

Schedule 'A' of Amendment Bylaw No. 2583, 2018

4600-20-Z1505K-01885.000
Owner: Doukhobor Heritage Retreat Society

Map Scale



Map Projection: UTM Zone 11 Map Datum: NAD83
Date Plotted: Wednesday, January 03, 2018



Schedule 'A' Zoning Designation