



# Board Report

**Date of Report:** May 27, 2024  
**Date & Type of Meeting:** June 13, 2024 – Board Meeting  
**Author:** Zachari Giacomazzo, Planner  
**Subject:** BYLAW AMENDMENT  
**File:** Z2106J – Sonntag  
**Electoral Area/Municipality** J

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to present the public hearing minutes for proposed Amendments to RDCK Zoning Bylaw No. 1675, 2004 and Kootenay-Columbia Rivers Official Community Plan Bylaw No. 1157, 1996. The subject property is located at 4135 Broadwater Road in Electoral Area 'J'. Following the Board approval of first and second reading of the Amendment Bylaws (Resolution 206/22 and 207/22) on March 17, 2022 staff requested additional information from the applicant and held a public hearing once the information was provided.

The purpose of the Amendments requested by this application are to authorize a second dwelling that was constructed without a building permit and in contravention of the Zoning Bylaw.

Staff recommend that Amendment Bylaw No. 2801, 2022 being a bylaw to amend Kootenay-Columbia Rivers Official Community Plan Bylaw No. 1157, 1996 and Amendment Bylaw No. 2802, 2022 being a bylaw to amend RDCK Zoning Bylaw No. 1675, 2004 be given third reading and adopted.

## SECTION 2: BACKGROUND/ANALYSIS

### GENERAL INFORMATION

**Property Owner:** Daniel W. Sonntag and Faith M. Sonntag

**Property Location:** 4135 Broadwater Road, Robson

**Legal Description:** LOT 1 DISTRICT LOT 4599 KOOTENAY DISTRICT PLAN NEP79219 (PID: 026-447-185)

**Property Size:** 2.1 hectares

**Current Zoning:** Rural Residential (R3) in RDCK Zoning Bylaw No. 1675, 2004

**Current Official Community Plan Designation:** Rural Residential (RR) in Kootenay-Columbia Rivers Official Community Plan No. 1157, 1996

### SURROUNDING LAND USES

**North:** Rural Resource (R4) (Crown Land)

**East:** Rural Residential (R3)

**South:** Rural Residential (R3) and Open Space (OS)

**West:** Rural Residential (R3)

Site Context

The subject property is designated Rural Residential (RR) under Kootenay-Columbia Rivers Official Community Plan No. 1157, 1996 AND ZONED Rural Residential (R3) under the RDCK Zoning Bylaw No. 1675, 2004. The 2.1 ha size subject property is located east of Keenleyside Dam in an area surrounded by rural residential parcels. A small portion of the property adjacent to Broadwater Road is within a non-standard flood and erosion area however the dwelling being considered by the proposed amendments is outside of this hazard area. A residence (manufactured home), non-conforming dwelling unit and two accessory structures presently exist on the subject property.

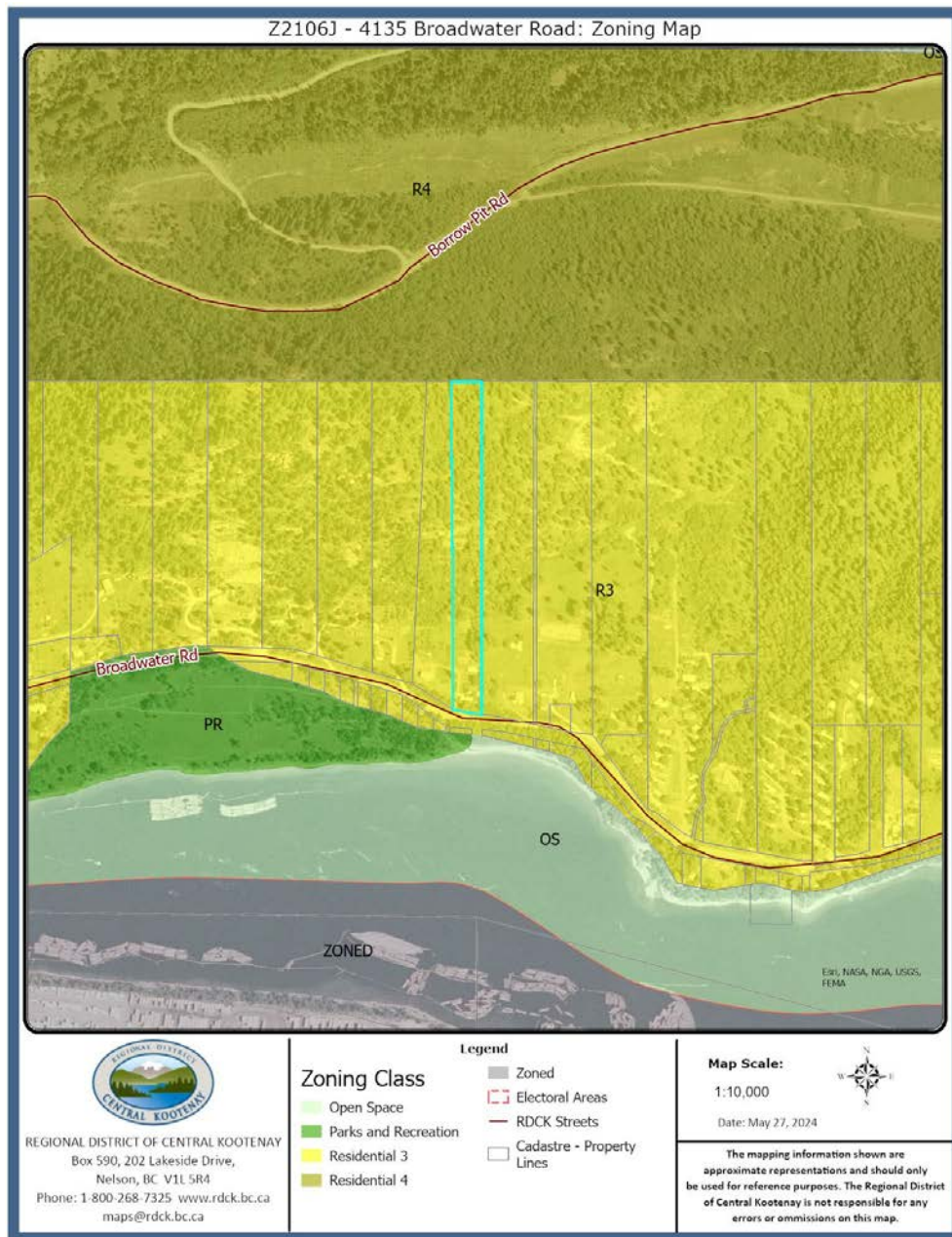
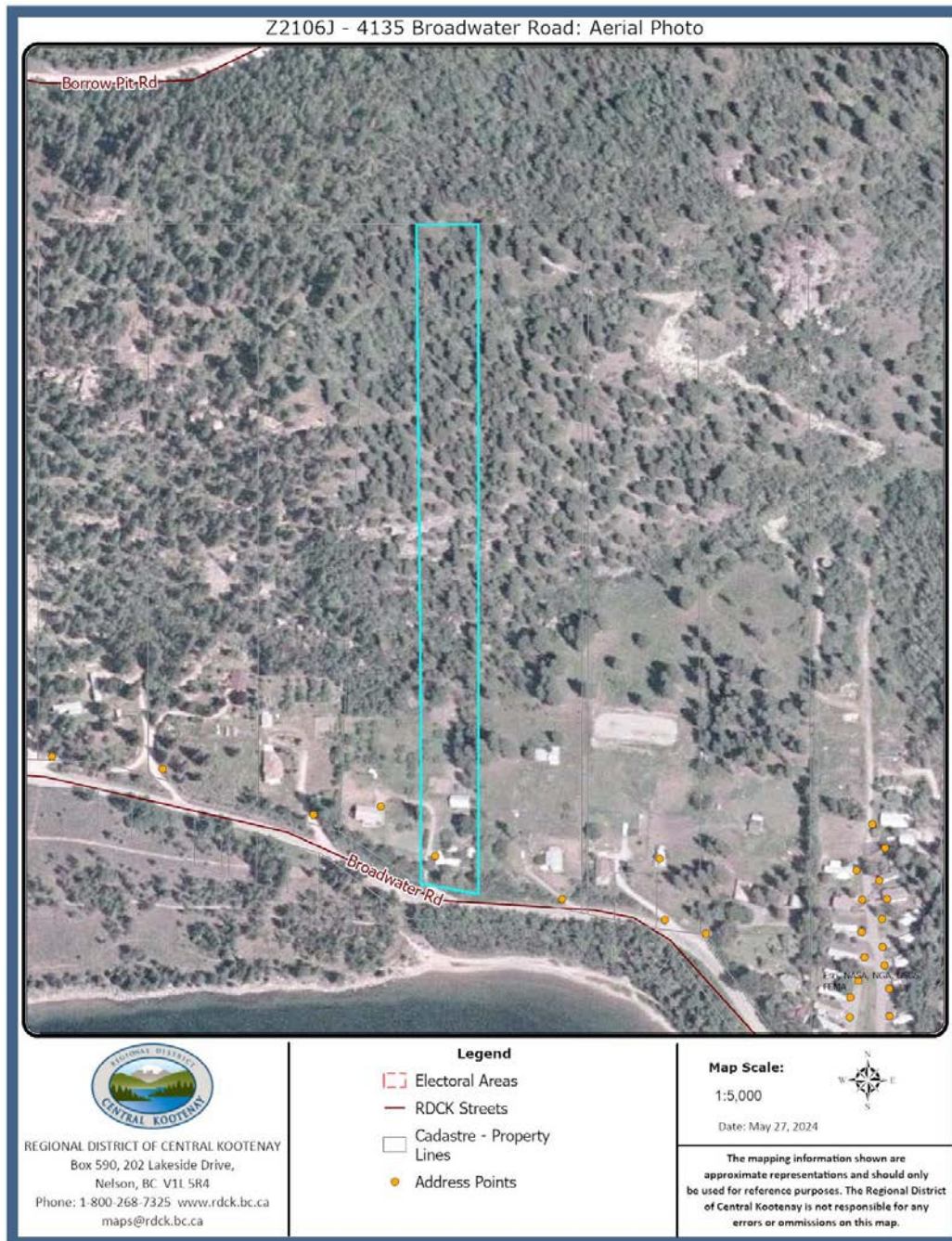


Figure 1 - Zoning Map



*Figure 2 - Air photo map*

**Development Proposal**

To amend the OCP land use designation from Rural Residential (RR) to Country Residential One (CR1) and to rezone subject property from Rural Residential (R3) to Country Residential (R2). The applicant seeks the above bylaw amendments to remedy an existing non-conforming and unauthorized dwelling unit to allow for two dwellings units to be sited on the subject property.

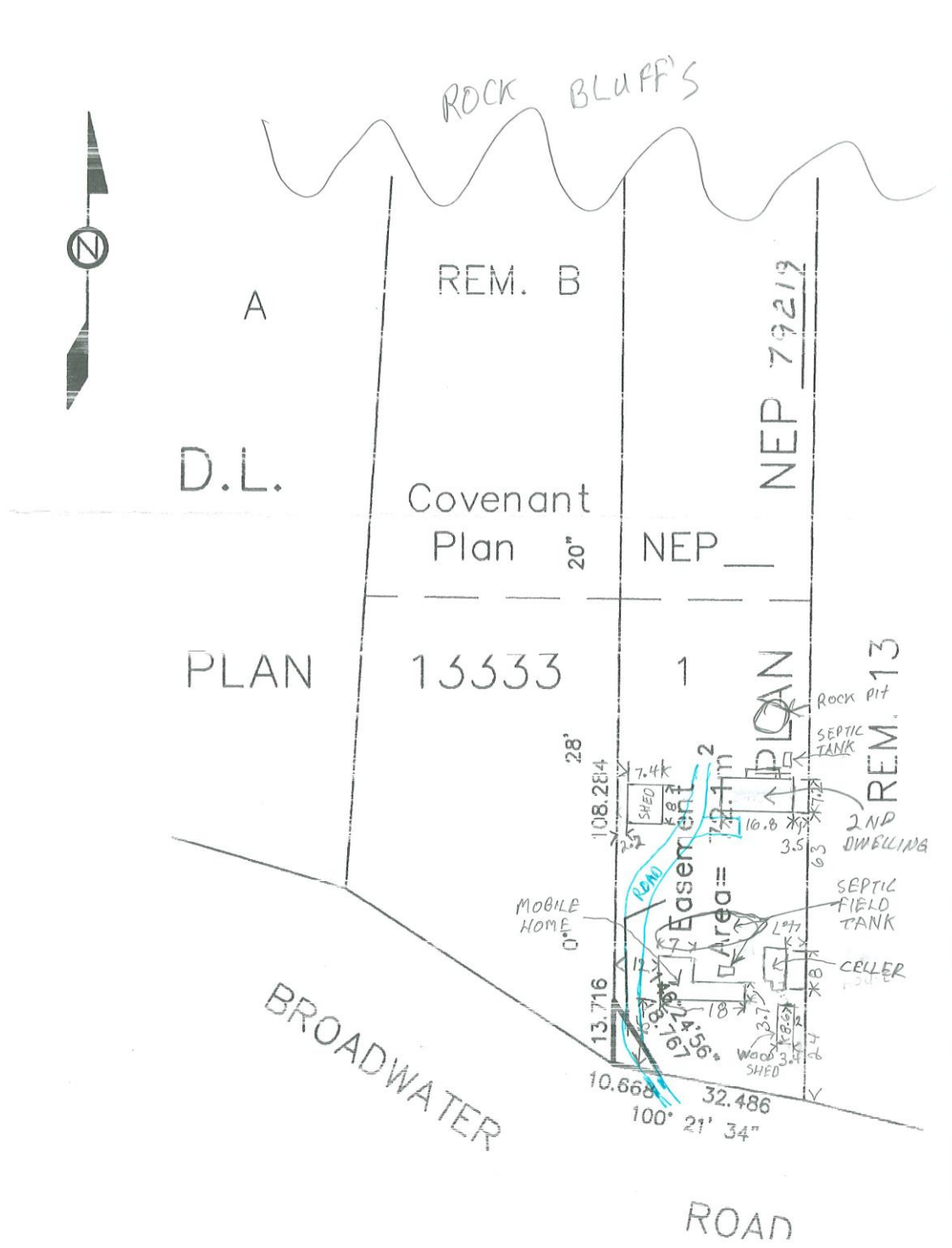


Figure 3 - Site Plan showing original dwelling (manufactured home) and the non-conforming second dwelling.

## 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 applicant has paid the required fees to advertise for and hold the public hearing.

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

If the Board resolves to complete third reading and adopt the amendment bylaws, staff will update the Bylaws and related RDCK mapping to reflect the zoning/land use changes.

### 3.3 Environmental Considerations

No additional environmental impacts are anticipated on this already developed site.

### 3.4 Social Considerations:

In accordance with Section 464 of the Local Government Act, a notice of public hearing was sent to six (6) surrounding property owners by mail and a notice of public hearing was advertised in two consecutive editions (April 18, 2024 and April 25, 2024) of the Castlegar News. Staff received one phone call from a neighbouring property owner with concerns about the on-site servicing, and this application setting a precedent for the area. No written submissions were received prior to the public hearing. No members of public attended the public hearing.

### 3.5 Economic Considerations:

No economic considerations are anticipated.

### 3.6 Communication Considerations:

The following responses were received from government agencies and First Nations:

#### **Building Department**

This additional “dwelling has been converted from a shop building to a dwelling without a building permit per [Stop Work Order] SWO00124. No objection to rezoning of the property to permit the second dwelling conditional to obtaining all subsequent required building permits for the second dwelling and detached garage”.

#### **Penticton Indian Band – Referrals Coordinator**

PIB will not be requiring a Cultural Heritage Resource Assessment in this case if we are provided written confirmation [that] no further ground disturbance will occur.

*Staff note: The applicant provided written confirmation to PIB on March 27, 2024 to confirm that there will be no ground disturbance on the property.*

#### **Interior Health Authority – Team Leader, Health Community Development**

“An internal file search produced no documentation on the existing two onsite sewage disposal systems. As such, we cannot determine if the systems meet with today’s standards as per the Sewerage System Standard Practice Manual, Version 3. We recommend as a part of bringing the property to conform with the requirements of the RDCK, that both sewerage systems are assessed and upgraded, if required, to meet with today’s standards in order to ensure that the systems are functional and will not cause a health hazard. Therefore, a compliance inspection completed by an Authorized Person under the BC Sewerage System Regulation (B.C. Reg. 326/2004)

should be conducted to assess the current state of both sewerage systems prior to approving the OCP amendment and rezoning.

Interior Health is committed to working collaboratively with the Regional District of Central Kootenay to support healthy, sustainable land use planning and policy creation. Please feel free to contact me directly if you have any further questions or comments”.

*Staff Note: The report that was submitted by the applicant and prepared by a Registered On-site Wastewater Practitioner was forwarded to IHA in order to determine if the report satisfies their previous comments. IHA staff reviewed the report and they confirmed that it is sufficient.*

**Ministry of Transportation and Infrastructure (MOTI)**

“The interests of [the] MOTI are unaffected”.

**BC Hydro**

“Please note that we have no concerns with the [proposal]”.

**FortisBC Inc.**

“There are FortisBC Inc (Electric) (“FBC(E)”) primary distribution facilities along Broadwater Road. All costs and land right requirements associated with changes to the existing servicing are the responsibility of the applicant. 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. Otherwise, FBC(E) has no concerns with this circulation”.

**Ministry of Forests, Lands, Natural Resource Operations and Rural Development (MFLNRORD)**

The Ministry’s “has determined that this project should not impact the Resource Management Division’s legislated responsibilities. It is the responsibility of the landowner to ensure that any liability associated with buildings within a non-standard flooding erosion area and Clearwater flood hazard priority are their sole obligation. Vegetation clearing should adhere to the least risk timing windows for nesting birds (i.e. construction activities should occur only during least risk period). Nesting birds and some nests are protected by the Provincial Wildlife Act Sec.34 and Federal Migratory Bird Act. Nesting periods can be identified by a qualified professional. General least risk windows for bird species are designed to avoid the nesting period. If nests are present at this site or adjacent to it and will be impacted by the works, the following work windows apply:

<b>Species</b>	<b>Least Risk Window</b>
Raptors (eagles, hawks, falcons, & owls)	Aug 15 – Jan 30
Hérons	Aug 15 – Jan 30
Other Birds	Aug 1 – March 31

**Archaeology Branch - MFLNRORD**

“Since this land use application includes no new plans for development, the property owner is not required to” undertake any “additional archaeological work or permitting for a development to proceed”.

**3.7 Staffing/Departmental Workplace Considerations:**

Not applicable.

### 3.8 Board Strategic Plan/Priorities Considerations:

The application falls under the operational role of Planning Services.

## SECTION 4: OPTIONS & PROS / CONS

### Public Hearing

A public hearing was held on May 2, 2024 at the Castlegar and District Community Complex. The applicant attended however there were no members of the public in attendance and this is noted in the DRAFT public hearing minutes attached to this report.

### Planning Discussion

As noted earlier in this report, the purpose of this proposed land use bylaw amendment is to authorize an existing non-conforming dwelling unit to remain on the subject property. If the bylaw amendment were to be approved by the Board, the next steps for the applicant would be to apply for a building permit in order to legitimize the construction that had occurred without a valid building permit.

Staff recommend that the Board complete third reading and adopt Amendment Bylaws No. 2801, 2022 and No. 2802, 2022 based on the following rationale:

- An Authorized Person (ROWP) has completed a wastewater assessment report and found both existing wastewater systems to be in working order with sufficient area for replacement fields which satisfies the condition that was included in related resolution 207/22.
- No written submissions were received prior to the Public Hearing
- No members of the public attended the Public Hearing
- The Amendment Bylaws being considered are to remedy the existing unauthorized and non-conforming residential use and building, which is currently under a stop work order.
- The provision of housing would be considered a priority under the RDCK's 'Housing Needs Assessment' and implementation action plan.

## SECTION 5: RECOMMENDATIONS

1. That *Kootenay-Columbia Rivers Official Community Plan Amendment Bylaw No. 2801, 2022* being a bylaw to amend *Kootenay-Columbia Rivers Official Community Plan Bylaw No. 1157, 1996* is hereby given THIRD READING.
2. That *Kootenay-Columbia Rivers Official Community Plan Amendment Bylaw No. 2801, 2022* being a bylaw to amend *Kootenay-Columbia Rivers Official Community Plan Bylaw No. 1157, 1996* is hereby ADOPTED; AND FURTHER that the Chair and Corporate Officer be authorized to sign the same.
3. That *Regional District of Central Kootenay Zoning Amendment Bylaw No. 2802, 2022* being a bylaw to amend the *Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004* is hereby given THIRD READING.
4. That *Regional District of Central Kootenay Zoning Amendment Bylaw No. 2802, 2022* being a bylaw to amend the *Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004* is hereby ADOPTED; AND FURTHER that the Chair and Corporate Officer be authorized to sign the same.

Respectfully submitted,  
Zachari Giacomazzo, Planner

## CONCURRENCE

Planning Manager – Nelson Wight

Approved

Manager of Development and Community Sustainability – Sangita Sudan

Approved

Chief Administrative Officer – Stuart Horn

Approved

### ATTACHMENTS:

**Attachment A – Amendment Bylaw No. 2801, 2022**

**Attachment B – Amendment Bylaw No. 2802, 2022**



REGIONAL DISTRICT OF CENTRAL KOOTENAY

Bylaw No. 2801

A Bylaw to amend Kootenay Columbia Rivers Official Community Plan Bylaw No. 1157, 1996

WHEREAS it is deemed expedient to amend Kootenay Columbia Rivers Official Community Plan Bylaw No. 1157, 1996, and amendments thereto.

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

APPLICATION

- 1 That Schedule 'B' of Kootenay Columbia Rivers Official Community Plan Bylaw No. 1157, 1996 be amended by changing the Land Use Designation of LOT 1 PLAN NEP79219 DISTRICT LOT 4599 KOOTENAY LAND DISTRICT MANUFACTURED HOME REG. # 12974 (026-447-185) from Rural Residential (RR) to Country Residential One (CR1), as shown on the attached Map.
2 This Bylaw shall come into force and effect upon its adoption.

CITATION

- 3 This Bylaw may be cited as "Kootenay Columbia Rivers Official Community Plan Amendment Bylaw No. 2801, 2022."

READ A FIRSTTIME this 17th day of March, 2022

READ A SECOND TIME this 17th day of March, 2022

WHEREAS A PUBLIC HEARING was held this 2nd day of May, 2024.

READ A THIRDTIME this [Date] day of [Month], 2022.

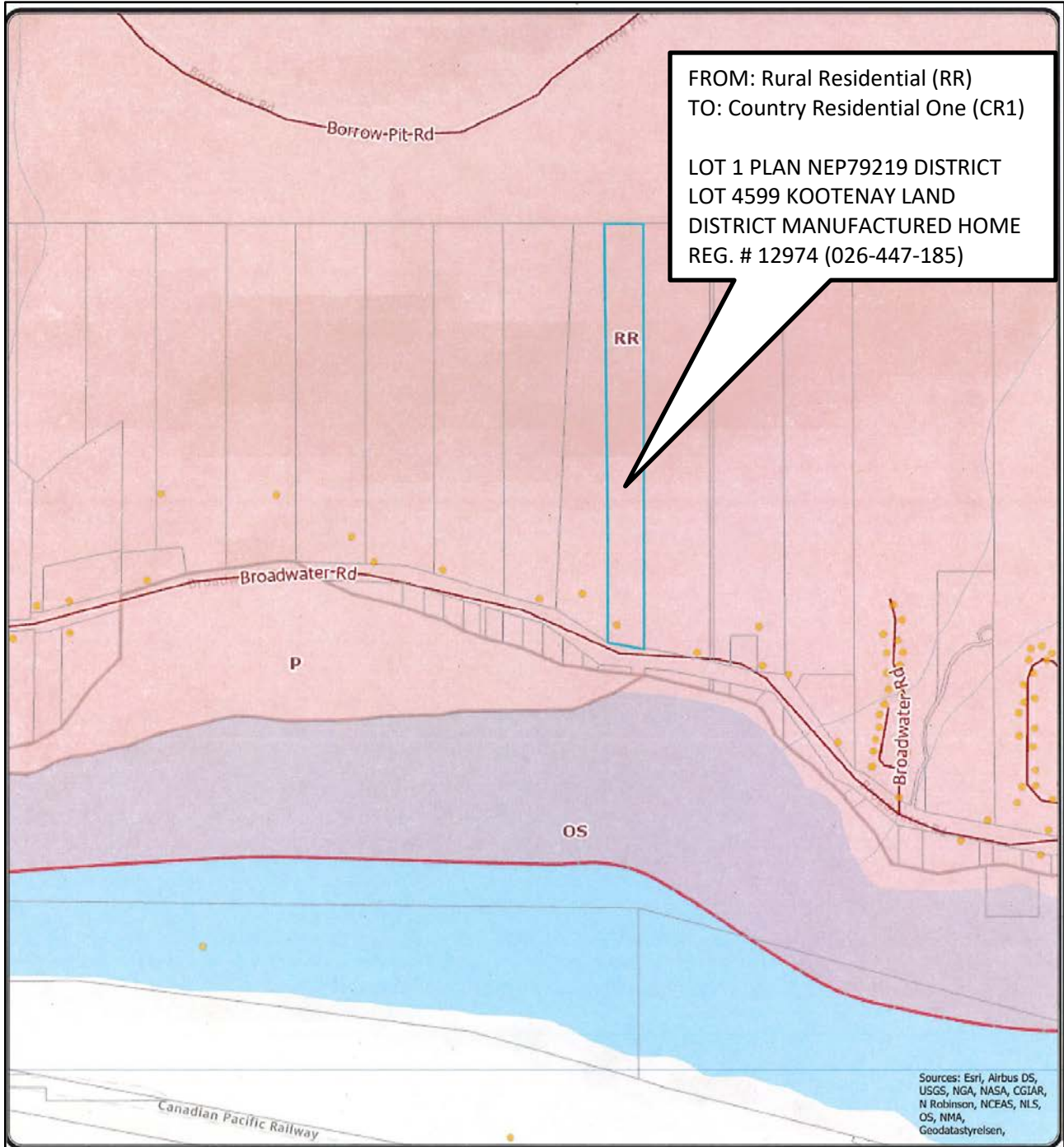
ADOPTED this [Date] day of [Month], 20XX.

---

Aimee Watson

---

Mike Morrison, Corporate Officer



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

Schedule 'B'  
 Amendment Bylaw No. 2801, 2022  
 4600-20-Z2106J-07695.170  
 Owner: Sonntag

Map Scale:

1:9,028

Date: January 31, 2022



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.

REGIONAL DISTRICT OF CENTRAL KOOTENAY

Bylaw No. 2802

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:

APPLICATION

- 1 That Schedule 'A' of Regional District of Central Kootenay Zoning Amendment Bylaw No. 1675, 2004 be amended by changing the Zoning Designation of LOT 1 PLAN NEP79219 DISTRICT LOT 4599 KOOTENAY LAND DISTRICT MANUFACTURED HOME REG. # 12974 (026-447-185) from Rural Residential (R3) to Country Residential (R2), as shown on the attached Map.
2 This Bylaw shall come into force and effect upon its adoption.

CITATION

- 3 This Bylaw may be cited as "Regional District of Central Kootenay Zoning Amendment Bylaw No. 2802, 2022."

READ A FIRST TIME this 17th day of March, 2022.

READ A SECOND TIME this 17th day of March, 2022.

WHEREAS A PUBLIC HEARING was held this 2nd day of May, 2024.

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

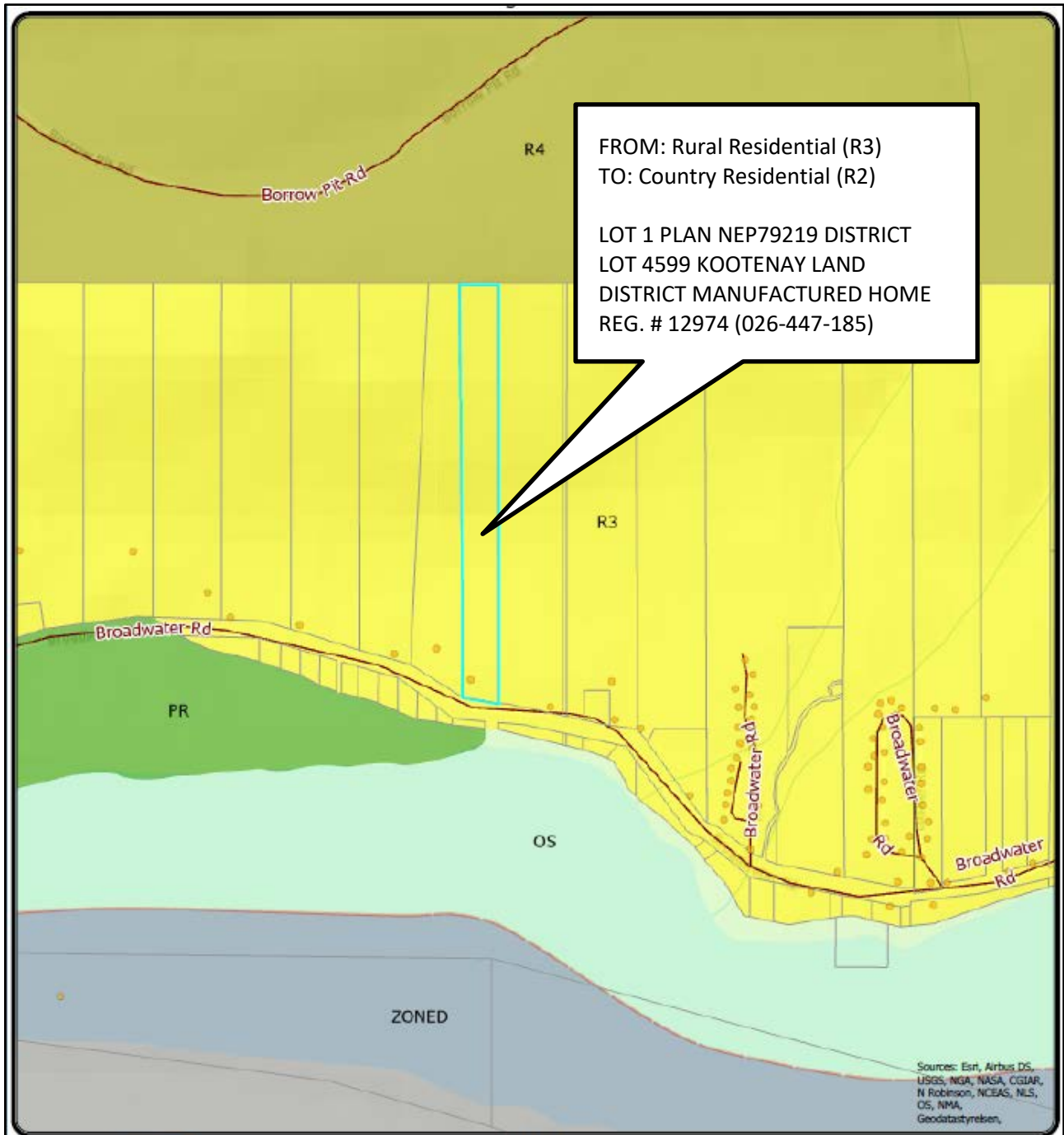
ADOPTED this [Date] day of [Month], 20XX.

---

Aimee Watson, Board Chair

---

Mike Morrison, Corporate Officer



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

Schedule 'A'  
Amendment Bylaw No. 2802, 2022  
4600-20-Z2106J-07695.170  
Owner: Sonntag

Map Scale:

1:9,028

Date: July 8, 2021



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.