



REGIONAL DISTRICT OF CENTRAL KOOTENAY

DEVELOPMENT PERMIT REPORT

DATE OF REPORT: July 18, 2016
AUTHOR: Mitchell King, Planner
SUBJECT: Rupp - Environmentally Sensitive Residential Cluster Development Permit
FILE: 4260-20-2016-DP1602K-02522.100-DP000063-Rupp

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to consider the issuance of an Environmentally Sensitive Residential Cluster Development Permit as designated under the *Electoral Area 'K' – The Arrow Lakes Official Community Plan Bylaw 2022, 2009* for property located on the corner of Highway 6 and Lower McCormack Road in Burton and legally described as Lot A Plan NEP81441 District Lot 1784 Kootenay Land District & DL 7700 (PID: 026-773-104).

SECTION 2: BACKGROUND / ANALYSIS

GENERAL INFORMATION

Property Owner(s)	Kurt Rupp & Sigrid Rupp	Agent	Peter Ward, Ward Engineering & Land Surveying
Property Address	N/A	Property Size	4.9 hectares (12.132 acres)
Legal Description	Lot A Plan NEP81441 District Lot 1784 Kootenay Land District & DL 7700 (PID: 026-773-104)		
OCP Designation	Community Residential (R1)	Zoning Designation	Suburban Residential K (R1K)

BACKGROUND/PROJECT DESCRIPTION

The subject property is located on the corner of Highway 6 and Lower McCormack Road in Burton, British Columbia, approximately 25 kilometres south west of the Village of Nakusp (see Figure 1). The property has no fixed address and is legally described as Lot A, Plan NEP81441, District Lot 1784, Kootenay Land District & DL 7700 (PID: 026-773-104). The property is approximately 4.9 hectares (12.132 acres) in site area, and is currently undeveloped and characterised by dense forest adjoining the Arrow Lakes.

Adjoining land uses to the subject property are identified below (see Figure 2):

- North – Vacant Land in the Agricultural Land Reserve
- East – Country Residential Properties; Highway 6
- South – Country Residential Properties; Highway 6; Arrow Lakes
- West – BC Hydro Properties; Arrow Lakes

The agent for the property owners, Ward Engineering and Land Surveying Ltd., has made application to the Ministry of Transportation and Infrastructure (MOTI) and been issued a Preliminary Layout Approval (PLA) for a two phased subdivision of the subject property which will ultimately result in 13 lots (the proposed subdivision plan is attached to this report as "Attachment A"). Phase 1 would involve the creation of Lots 1-3 and the construction and dedication of a road to applicable MOTI standards, while Phase 2 would involve the creation of the remaining lots (Lots 4-13) and the remainder of the aforementioned road. The proposed subdivision is connected to the RDCK-operated Burton Water System, and is proposed to be serviced with on-site wastewater disposal.

In addition to the above, the property owner has developed a Building Scheme as an attempt to control the form, landscaping and character of future development. The property owner has also commissioned an Environmental Site Assessment of Phase 1 of the proposed subdivision, undertaken by Luce Paquin from Galena Environmental Ltd, which makes recommendations to protect fish and wildlife habitat during

and after the development of Phase 1. A copy of the proposed building scheme is attached to this report as "Attachment B", whereas the environmental assessment report is attached to the draft Development Permit as "Schedule 2".

The applicant is seeking a Environmentally Sensitive Residential Cluster Development Permit to be issued in accordance with Section 19.0 of the *Electoral Area 'K' – The Arrow Lakes Official Community Plan Bylaw 2022, 2009*. This Development Permit has been triggered due to the proposed development of 13 fee simple lots that are less than 1 hectare (2.47 acres) on land designated Community Residential (R1).

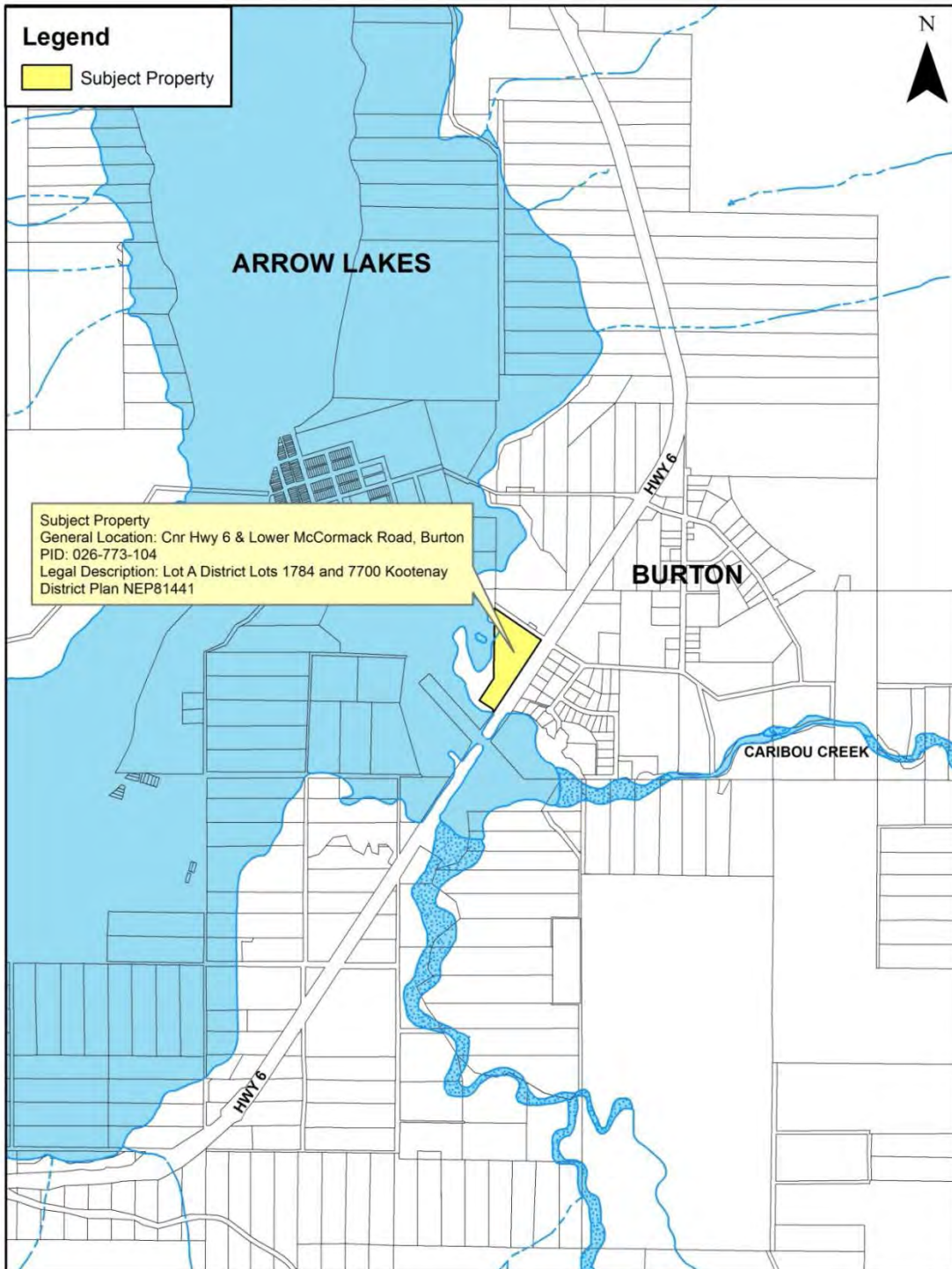


Figure 1: Context Map of Subject Property



Figure 2: Site Map and Adjoining Properties

SITE VISIT

A site visit was conducted on June 14th, 2016 by Mitchell King, Planner. It was determined that the information presented in the application was true and correct. During the site visit, the following site conditions were observed:

- The subject property has existing vegetation cover, which will require significant clearing in order to permit development (see Figure 3 and Figure 4).
- The proposed road has already been constructed to service Phase 1 of the proposed subdivision; the remainder is prepared but has not yet been constructed (see Figure 5 and figure 6).
- The proposed lots have already been connected to servicing for the Burton Water System, Telus and BC Hydro (see Figure 7).



Figure 3: View South of Property



Figure 4: View South of Foreshore



Figure 5: View of Lower McCormack Road Frontage and Developed Portion of Road



Figure 6: View South of Undeveloped Portion of Road



Figure 7: Existing Servicing Installed for all Proposed Lots

PLANNING COMMENTS

The proposed phased subdivision application received Preliminary Layout Approval (PLA) by the Ministry of Transportation and Infrastructure (MOTI) on July 18th, 2013. The applicant has made application for the Environmentally Sensitive Residential Cluster Development Permit to satisfy Condition 1 of this PLA. Planning Staff note that the requirements for proof of water and proof of sewage under the *Subdivision Bylaw No. 2159, 2011* have been met, however there are parkland dedication requirements identified as Condition 2 of the PLA which must be met prior to finalisation of the subdivision as proposed. It is anticipated that these parkland dedication requirements will be addressed through the concurrent subdivision application process.

The *Floodplain Management Bylaw No. 2080, 2009* identifies floodplain setbacks and flood construction levels for development within floodplains. The Floodplain Management Bylaw prescribes a flood construction level of 443.5m G.S.C for the subject property, whereas the property has BC Hydro Covenants registered on title (KW017597 and KW017598) which identify a safe line of 440.74m G.S.C. Compliance with the provisions of the *Floodplain Management Bylaw No. 2080, 2009* will be assessed by the RDCK Building Department during siting inspection for any future building permit applications.

The Environmental Assessment report by Galena Environmental Consultants Ltd. identifies that the likelihood of species at risk occurring on the proposed development sites on the subject property is 'highly unlikely'. Further, the report identifies that the likelihood of adverse impacts on fish habitat and the foreshore is unlikely as development will not take place in the foreshore area; this is largely due to the existence of the BC Hydro Covenant restricting development below the safe line. The Environmental Assessment concludes that should the development be implemented as proposed and follow the recommendations identified in the report then the proposal is "unlikely to result in negative environmental impacts". Accordingly, these recommendations have been incorporated into the draft Development Permit, which is attached to this report as "Attachment C".

In addition to the above, the property owner has developed a Building Scheme as an attempt to control the form, landscaping and character of future development (see "Attachment B"). This will further assist in meeting the Development Permit guidelines as they relate to the form and character of development and impervious cover.

Planning staff is satisfied that the applicant has adequately addressed the Environmentally Sensitive Residential Cluster Development Permit guidelines identified in Section 19.0 of the *Electoral Area 'K' – The Arrow Lakes Official Community Plan Bylaw 2022, 2009*. By adhering to the terms of the Development Permit, the proposed development will meet the objectives of the Environmentally Sensitive Residential Cluster Development Permit.

SECTION 3: DETAILED ANALYSIS

a. Financial Considerations – Cost and Resource Allocations:

The \$500 fee for the Development Permit application has been received.

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

This Development Permit application has been reviewed and processed in accordance with the Development Permit Procedure identified in 'Schedule E' of the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*. The General Manager of Development Services has delegated authority for the consideration of Development Permits.

c. Environmental Considerations:

An Environmental Assessment and subsequent report was prepared by Luce Paquin of Galena Environmental Consultants Ltd., which was submitted with the Development Permit application and is attached to the Development Permit as "Schedule 2". The environmental consultant concluded that the proposed development was unlikely to result in negative environmental impacts should the proposed development be implemented as proposed and the recommendations contained within the report be followed.

d. Social Considerations:

No apparent considerations.

e. Economic Considerations:

No apparent considerations.

f. Communication Considerations:

In accordance with the process identified in 'Schedule E' of the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*, the application was referred to the Director for Electoral Area 'K', various internal and Provincial referral agencies, and 17 adjoining property owners. To date, the following comments have been received:

Paul Peterson, Director, Electoral Area 'K':

I fully support this application.

Property Coordinator, BC Hydro:

B.C. Hydro has no issues with this proposal.

Utility Services Manager, Regional District of Central Kootenay:

This letter is to confirm that proposed subdivision Lots 1, 2 and 3 of LOT A PLAN NEP81441 DISTRICT LOT 784 KOOTENAY LAND DISTRICT & DL 7700, Lower McCormack Road, Burton BC has access to potable water from the Regional District Burton Water System.

The water *Capital Infrastructure Charge for creation of new Serviced Parcel by Subdivision*, identified in Schedule A of the *Regional District Utilities Rates, Fees, And Charges Bylaw No. 2471*, will **not** apply. The

subdivision process was started before the Burton Water System become a Regional District water service and subdivision water infrastructure was previously constructed and identified in BC Hydro agreements. The parcels are limited to one Single Family Dwelling for the purposes of water supply. Additional future development, if approved, might be subject to additional fees and charges, including but not limited to *Capital Infrastructure Charge for creation of Serviced Dwellings Units in a Multiple Dwelling Parcel Development after the initial Dwelling Unit - \$1,000 each.*

The BC Hydro rate holiday will apply to the parcels of land identified in the BC Hydro agreement as long as the developer still owns the parcels.

Future building construction will be subject to the following:

- 1) Each residential property will have to be made meter ready at the time of building construction.
- 2) Backflow prevention will be required for each property (non chlorinated water system), if not already provided.
- 3) Because the water connections were constructed in the past, bacteriological testing is recommended prior to occupancy.

District Development Approvals Technician, Ministry of Transportation and Infrastructure:

The Ministry of Transportation and Infrastructure has received the above noted file and has no concerns with the development permit so long as it adheres to the PLA issued July 18, 2013.

Habitat Biologist, Ministry of Forests, Lands and Natural Resources:

I reviewed the proposed Development Permit and associated reports on July 26, 2016. As long as the following points are followed there should be no undue environmental impact from the creation of the 3 foreshore lots:

1. the proposed 33.48m setback from the HWM is abided by
2. the recommendations and conclusions identified in Galena Environmental Consultant’s Site Assessment for an Environmental Sensitive Residential Cluster Development Permit in Burton Area, dated December 3, 2014, are implemented
3. tree and 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:

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

g. Staffing/Departmental Work plan Considerations:

Upon receipt of an application accompanied by the required fees and attachments, Planning Department staff follows the procedures set out in ‘Schedule E’ of the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015.*

SECTION 4: OPTIONS

The General Manager of Development Services can consider the following options for the requested Development Permit:

Option 1: To approve the proposed Development Permit.

Option2: To deny the proposed Development Permit.

SECTION 5: RECOMMENDATION(S)

That the General Manager of Development Services APPROVE the issuance of Development Permit 4260-20-2016-DP1602K-02522.100-DP000063-Rupp subject to the conditions as outlined in the attached permit.

Respectfully submitted,



Signature: _____

Name:

Mitchell King, Planner

CONCURRENCE

Initials:

Planning Manager
General Manager of Development Services

ATTACHMENT:

Attachment A – Proposed Subdivision Plan

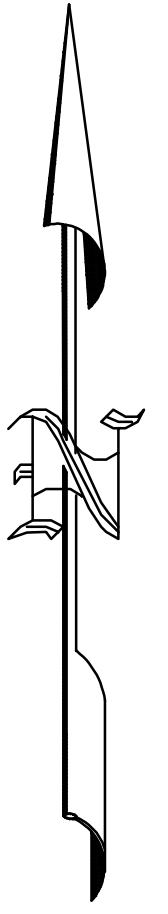
Attachment B – Proposed Building Scheme

Attachment C – Draft Development Permit 4260-20-2016-DP1602K-02522.100-DP000063-Rupp

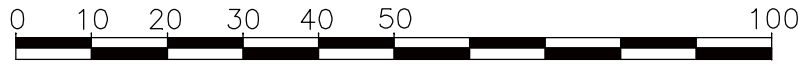
Attachment A: Proposed Subdivision Plan

PLAN OF PROPOSED SUBDIVISION OF
PART OF LOT A, DISTRICT LOTS 1784 & 7700,
KOOTENAY DISTRICT, PLAN NEP81441.

B.C.G.S. 82F.091








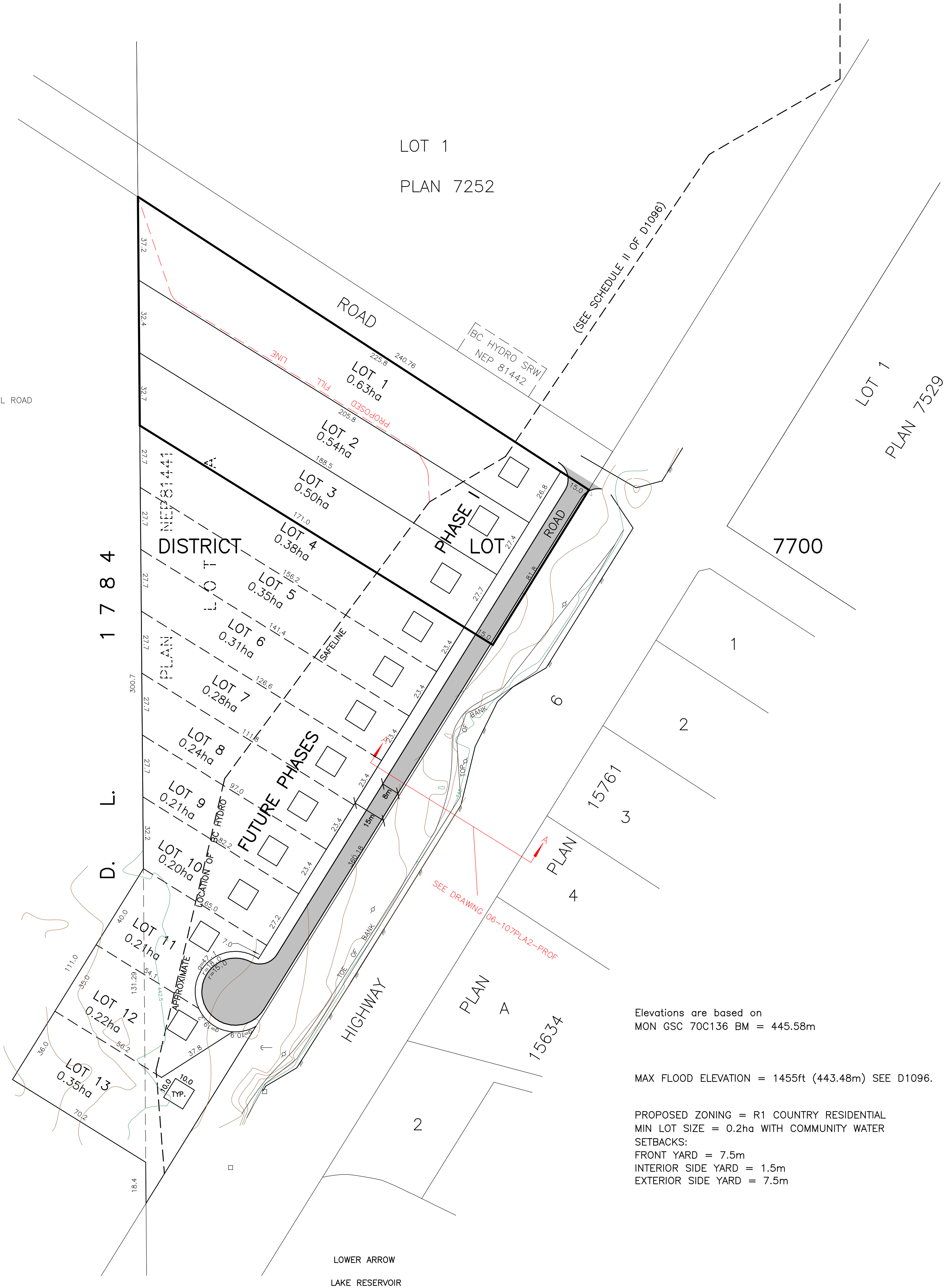
SCALE 1: 1000



Distances are in metres
Contour Interval = 0.5m

LEGEND

-  CONCRETE BLOCK
-  ANCHOR
-  POWERPOLE
-  TYPICAL HOUSE
-  PROPOSED GRAVEL ROAD



Elevations are based on
MON GSC 70C136 BM = 445.58m

MAX FLOOD ELEVATION = 1455ft (443.48m) SEE D1096.

PROPOSED ZONING = R1 COUNTRY RESIDENTIAL
MIN LOT SIZE = 0.2ha WITH COMMUNITY WATER
SETBACKS:
FRONT YARD = 7.5m
INTERIOR SIDE YARD = 1.5m
EXTERIOR SIDE YARD = 7.5m

Attachment B: Proposed Building Scheme

SCHEDULE OF RESTRICTIONS

A. Definitions

"**Accessory Building**" means a structure or building, including a garage but excluding a temporary structure covered in plastic, which is approved for construction by the Developer but not for the purpose of human habitation unless specifically stated.

"**Agricultural Facility**" means a facility for the growing, rearing, producing and/or harvesting of agricultural products, including, without limitation, the rearing of livestock; feedlots, mink farms, mushroom farms, poultry farms, pig farms and fish farms.

"**Automotive Repair, Service and Sales**" means the repair, servicing or sale of any motor vehicle, whether conducted in a building, any part of a building or upon any un-built or open portion of any Lot.

"**Bed & Breakfast (B&B)**" means a residence occupied by the owner thereof in which not more than three bedrooms are rented to paying customers on a short-term overnight basis with not more than one meal served daily before noon.

"**Building Permit**" means a permit to construct as issued by the Regional District of Central Kootenay ("RDCK") and which permit allows the permittee to proceed with construction according to the plans submitted to and approved by the RDCK.

"**Building Plans**" means those plans and specifications submitted by an Owner for approval by the Developer prior to construction of any improvements on any Lot.

"**Completion**" or "**Substantial Completion**" of a Single Family Residence means that state of completion whereby the Developer has provided its approval in writing of such completion and the RDCK has issued a Final Inspection containing either no conditions to be satisfied or, if conditions are expressed, all shall be able to be, and shall be, satisfied within three (3) months thereafter.

"**Day Care Facility**" means a facility providing childcare for a fee to children of persons other than the Owner of the Lot on which the facility is located (facility in this instance may mean all or part of a Single Family Residence) and which may also mean someone providing supervision to others according to the Community Care Facility Act of BC.

"**Developer**" means _____, its successor and assigns and any of its authorized agents.

"**Farm Animals**" means horses, cattle, sheep, goats, swine, mink, poultry, rabbits, roosters or over six chickens.

"Final Inspection" means a notice issued by the RDCK indicating:

- a) approval of construction which has been the subject of a Building Permit issued by the RDCK, or
- b) deficiencies in construction, which may or may not require correction prior to final approval of such construction.

"Front Yard" means that portion of each Lot between the residence located thereon and the Lane.

"Home Occupation" means a use accessory to a residential use where an Owner carries on an occupation, profession, hobby or craft, which does not unreasonably interfere with the residential use and enjoyment of the Owner's Lot and the other Lots

"Junkyard" means an area where old or used materials including but not limited to metals, paper, rags, rubber tires, bottles, vehicles or vehicle parts are bought, sold, exchanged, stored, collected, baled, packed, disassembled or handled.

"Kennel" means a building, structure, compound, group of pens or cages or property where more than two dogs or cats are, or are intended to be, trained, cared for, bred, treated for medical ailments, boarded or kept.

"Lane" means that area shown as Common Property roadways on Plan NES _____.

"Lot" means any one of the registered Bare Land Strata Lots as shown on Plan NES _____.

"Mobile Home" means a pre-manufactured dwelling unit (which may be manufactured under CSA Standard Z240) that is suitable for year-round occupancy and is designed to be moved along a highway to a site and which includes those types of dwellings that are commonly advertised for sale and referred to as "mobile homes".

"Modular Home" means a pre-manufactured dwelling (which may be manufactured according to the National Building Code) that is constructed at a factory and then moved, in one or more parts, onto a permanent foundation.

"Owner" means a person or entity registered as the legal owner of a Lot and their respective successors in title.

"Owners" means every Owner.

"Recreational Vehicle" (RV) means a vehicle; trailer, coach, motor-home, structure or conveyance designed to travel or to be transported on the highways and constructed or equipped to be used as a temporary living or sleeping quarter by travellers.

"Single Family Residence" or "Residence" means a building consisting of one dwelling unit, which is occupied or intended to be occupied as a residence.

"**Storage Yard**" means an outside area where construction materials and equipment, solid or liquid fuels, lumber, metal or other building materials, stone products, public service vehicles and equipment are stored, collected, baled, piled, handled, sold or distributed.

"**Strata Corporation**" means the strata corporation established pursuant to the Strata Property Act of British Columbia, or any successor legislation, upon the filing of the plans creating the Lots in the Kamloops/Nelson Land Title Office.

"**Substantial Completion**" has the same meaning as contained in the *Builders' Lien Act [SBC 1997] Chapter 45* and any amendments thereto as amended from time to time;

"**Transition House**" means a Single-Family Residence intended to be occupied by women and children in need that provides temporary accommodation, care, supervision and guidance.

"**Veterinary Clinic**" means a facility designed for the care and treatment of animals.

"**Welding Shop**" means a facility for the welding of metals and which includes, without limitation, a building or area of land used for the commercial fabrication, storage, repair or modification of any metal part or object.

"**Wood Manufacturing Facility**" means a facility for manufacturing of wood products and which includes, without limitation, a sawmill, planer mill, lumber re-manufacturing plant, log storage yard or shake-mill.

B. Single Family Residences

1. The Owner shall only permit the construction of one Single-Family Residence per Lot and each such Residence unless otherwise approved by the Developer, shall include a two-car garage, detached or otherwise.
2. The Owner will not permit the construction of:
 - a) duplexes or other multi-family dwellings,
 - b) separate residences or suites in basements, garages or other outbuildings intended to be occupied as living quarters, or
 - c) temporary residences or cabins.
3. No Owner shall permit a used dwelling, existing dwelling or Modular Home to be located or placed on any Lot.
4. No Owner shall permit a Mobile Home or Recreational Vehicle to be used as a temporary or permanent residence on any Lot provided that an owner may use a motorhome or RV as a temporary residence for one period not exceeding six (6) months while the owner is constructing a residence on the Lot.

C. Site Requirements

1. The Owner shall ensure that:
 - a) cut slopes and backfills are minimized and do not adversely affect adjacent Lots,
 - b) foundation excavations are filled back,
 - c) excess soil is removed from the site after construction,
 - d) landscaping and other site changes do not interrupt the drainage pattern of the Lot or adjacent Lots, and
 - e) upon completion of landscaping, there is a smooth finished grade or ground level transition with the adjacent Lots.

D. Size And Height

1. For the purpose of calculating dimensions of Single Family Residences, the living area square footage of a Residence shall be calculated exclusive of any garage, covered extension, patio, porch, or other Accessory Building.
2. The main floor living area of a single level residence shall be not less than 1250 square feet and for a multi-level residence the main floor living area shall be not less than 900 square feet. The Developer must approve other floor dimensions.
3. The height of all Accessory Buildings shall not exceed the height of the Residence on each such Lot.

E. Construction Guidelines

1. Construction of each Residence must be Substantially Complete prior to occupancy thereof. All exterior finishing shall be completed within six (6) months of initial occupancy.
2. All buildings must be set back at least 15 feet from the Lane, and at least 10 feet from all other property boundaries of the Lot.
3. Decks and balconies shall, as much as reasonably possible, attempt to maintain the privacy of neighbouring Lots.
4. Retaining walls will be less than 4 feet in height above the finished grade of the Lot, and must be constructed of pressure treated timber (excluding treated railway ties), concrete, rock, stone or brick.
5. Exposed concrete foundation walls should not exceed an average of 2 feet above the finished grade.

6. Within twelve (12) months of Completion, all Lots shall have a finished driveway surface of gravel (commonly referred to as "road gravel"), interlocking pavers, asphalt, exposed aggregate, concrete or a combination thereof. Pit-run gravel shall not be permitted as a finished product.
7. Overhead lines, antennae or mast poles, electrical or otherwise, are not permitted on any Lot.
8. Exterior light fixtures shall be located and directed so as to minimize undue glare or illumination of adjacent Lots, be situated widespread, and all night yard lighting with mercury vapour or other similar bulbs are not permitted.

F. Roofing Materials

1. The roofing material for all structures located on the Lots must be asphalt/fibreglass shingle, tar & gravel, concrete, tile or coloured metal.

G. Exterior Finishing

1. The exterior cladding of any Residence or Accessory Building must be finished in materials consisting of only one of:
 - a) timber framing (post and beams) in combination with stucco, hardi-plank, brick or stone, where "hardi-plank" or another approved trade-name means a manufactured exterior siding consisting of a mixture of concrete and wood pulp, "stucco" means stucco that is properly sealed to prevent discolouration, or
 - b) stucco, brick or stone, or a combination of stucco and brick or stone, or
 - c) natural coloured aluminum siding, but only in combination with stucco, stone or brick where the aluminum siding comprises a minimal (not more than 25%) component of the exterior finishing, or
 - d) logs.
2. If any aluminum siding is used in accordance with restriction G. 1 above, it shall be installed either horizontally or vertically and in no other manner.
3. No Owner shall use aluminium siding as the primary exterior finish of any structure located on a Lot.

H. Exterior Colours

1. Only the following colour schemes shall be acceptable:
 - a) natural low contrast: natural colour wood stain (solid or semi-transparent) with blending trim colour,

- b) natural high contrast: natural colour wood stain (solid or semi-transparent) with contrasting trim colour; and
- c) heritage colours: subdued pastel colours with contrasting trim colour.

I. Facias, Soffits, Gutters and Trim

- 1. All fascias and soffits shall be colour coordinated and made of aluminium.
- 2. All gutters shall be colour coordinated and made of aluminium or other approved material. A gutter constructed from a one-piece colour matching aluminium gutter may be combined with wood fascia boards.
- 3. All door trims shall be finished in timber, brick, stone or cedar.
- 4. All window boards shall be finished in timber, brick, stone or cedar.

J. Landscaping

- 1. Owners shall remove dangerous and dead trees in favour of shrubbery and ornamental trees.
- 2. No yard shall remain un-landscaped (i.e. in its natural state) for a period exceeding twelve (12) months after Substantial Completion of the Residence.
- 3. Landscape plans are to be implemented only after being approved by the Developer.

K. Fencing

- 1. No fence shall be constructed higher than 6 feet above ground.
- 2. Fencing is not permitted in the Front Yard of any Lot.
- 3. Fences shall not be constructed of any barbed wire, electric wire or plywood.
- 4. Childproof fences shall be constructed around outdoor swimming pools in accordance with applicable building codes.

L. Time For Completion

- 1. The construction of any Residence, Accessory Building, or other improvements on a Lot must commence within twelve (12) months of the date of granting approval of the Building Plans and specifications, otherwise such approval shall be deemed to have expired and be of no force or effect and the Owner will be required to resubmit such Building Plans or new Building Plans for reapproval.
- 2. Construction of the approved Residence, Accessory Building, landscaping or other improvements will proceed diligently and continuously from commencement of construction

until completion thereof, which will not be later than twelve (12) months from the date of commencement of construction, or as otherwise approved by the Developer.

3. In the event of a delay of the commencement of construction on any Lot exceeding twelve months from the date of purchase of such Lot, the Owner thereof shall be responsible to maintain the Lot free of noxious weeds, or the Developer may perform such maintenance at the Owner's expense.

M. Animals and Pets

1. No more than two dogs shall be kept on any Lot, none of which shall be Rotweillers or Pitbulls.
2. No more than two cats shall be kept on any Lot.
3. No Farm Animals shall be kept on any Lot.
4. No chickens shall be kept except with adequate shelter, proper containment to the Owner's property and clean conditions.
5. No organized or commercial breeding of any animal or domestic pets shall be allowed on any Lot.
6. No Kennel facilities shall be permitted on any Lot.

N. Vehicles

1. Not more than one RV or boat shall be stored outside a building on any Lot.
2. Owners shall habitually park or store all other ancillary vehicles including motorcycles, snowmobiles, ATV's, or other boats and RV's in approved buildings located on their respective Lots.
3. Trucks in excess of one (1) ton capacity or commercial vehicles of any kind, and in particular (but without limitation) logging trucks, dump trucks or transport trucks shall not be parked or stored on any Lot.
4. Construction equipment including bulldozers, excavators, backhoes or the like shall not be parked or stored on any of the Lots, except during the course of continuous and active construction on such Lot and only as necessary for the construction of structures of such Lot.

O. Home Occupations

1. Home occupations are permitted provided that the business activity is primarily conducted within the Residence or an Accessory Building, that such business activity does not use a floor area of such Residence or Accessory Building in excess of 200 square meters and that there is normally not more than one client of the business present at any one time.

2. The Home Occupation shall not display a sign larger than three by five feet on the Lot and no sign shall be lit between the hours of 10:00 PM and 7:00 AM.
3. Notwithstanding the permission of certain Home Occupations herein, there shall not be permitted to be operated or exist on any Lot any of the following uses:
 - a) Junkyard
 - b) Storage Yard
 - c) Agricultural Facility
 - d) Kennel
 - e) Veterinary Clinic
 - e) Automotive Repair, Service & Sales
 - f) Day Care Facility
 - g) Wood Manufacturing Facility
 - h) Transition House
 - i) Welding or Machine Shop

P. General Appearance and Maintenance

1. No Lot or improvements shall be in a state of disrepair, unsightly or untidy. Improvements thereon shall be maintained at all times in a neat and attractive condition.
2. No junk, waste or materials of any kind, intended for personal or commercial use, whatsoever shall be stored or accumulated in any exposed area of any Lot at any time.
3. Garbage receptacles, composting facilities, or firewood storage are permitted only if screened from view at all times. Nothing herein prohibits garbage containers from being placed temporarily at the roadside for scheduled pickup.
4. Garbage incinerators are not permitted on any Lot.
5. No Owner shall habitually permit the burning of yard debris or wood debris and all burning must be in accordance with fire regulations.
6. No owner will permit the burning of household garbage or construction debris.
7. No Owner shall cause swimming pool water, hot tub water or surface drainage water to enter the septic system.
8. Not more than two satellite dishes are permitted on any Lot. Any satellite dishes are limited to a maximum two-foot diameter and shall be placed discretely upon the Residence or Accessory Building.
9. All clotheslines and poles shall be located on Lots in such a position as to cause minimum sight obstruction to neighbours.
10. Billboards and signs are not permitted to be erected, posted, pasted or displayed upon or about any of the Lots or improvements located thereon with the exception of those indicating that the property is for sale, owner name & address signs, Home Occupation signs (in accordance with Part O hereof) or election campaign signs (which shall be removed within 48 hours of said election), and such election campaign signs are not to exceed a dimension of 18" x 30".

Q. Exception and Liability

1. The Developer may exempt any of the restrictions or stipulations relating to any of the Lots remaining unsold, including any restrictions or stipulations which may become binding on the Developer by virtue of this Statutory Building Scheme, provided that the Developer shall exercise this discretion reasonably and in keeping with the spirit and intent of this Statutory Building Scheme. If any Lot is exempted from some or all of the restrictions hereby created, the remaining Owners shall not be entitled to enforce those restrictions which are so exempted.
2. Any exemption by the Developer or its agent of any of the restrictions or stipulations relating to any of the Lots, including any restrictions or stipulations which may become binding on the Developer by virtue of this Statutory Building Scheme, shall be made in writing and the Owners shall be provided notice thereof.

R. Compliance

1. The terms, restrictions and benefits herein shall remain in full force and effect and shall be binding on the Owners and occupiers of the Lots. Upon the Developer ceasing to own any of the Lots, the approving function of the Developer shall cease and shall become the responsibility of the Owners.

END OF DOCUMENT

Attachment C: Draft Development Permit 4260-20-2016-DP1602K-02522.100-DP000063-Rupp



REGIONAL DISTRICT OF CENTRAL KOOTENAY DEVELOPMENT PERMIT

4260-20-2016-DP1602K-02522.100-DP000063-Rupp (DP1602K)

Date: July 18, 2016

Issued pursuant to Section 490 and 491 of the *Local Government Act*

1. This Development Permit is issued to Kurt Richard Rupp and Sigrid Anne Marie Rupp of Burton, B.C. as the registered owner (hereinafter called the "Permittee") and shall only apply to those lands within the Regional District of Central Kootenay, in the Province of British Columbia legally described as LOT A DISTRICT LOTS 1784 AND 7700 KOOTENAY DISTRICT PLAN NEP81441 (PID: 026-773-104) as shown on the attached "Schedule 1 – Location Map", forming part of this Permit, referred to hereafter as the "said lands".
2. This Development Permit is issued subject to compliance with all of the bylaws of the Regional District of Central Kootenay applicable thereto, except as specifically varied or supplemented by this Permit.
3. This Development Permit shall not have the effect of varying the use or density of land as specified in the applicable Zoning Bylaw of the Regional District of Central Kootenay, nor a Floodplain Specification under Section 524 of the Local Government Act.
4. The said lands have been designated 'Suburban Residential K (R1K)' and are located within an Environmentally Sensitive Residential Cluster Development Permit Area pursuant to the *Electoral Area 'K' – The Arrow Lakes Official Community Plan Bylaw No. 2022, 2009* as amended.
5. The Permittee has applied to the Ministry of Transportation and Infrastructure for the purposes of subdivision approval and to use land and buildings situated on the said lands for this purpose. Pursuant to this Development Permit and subject to the terms and conditions herein contained, as well as all other applicable Regional District Bylaws, the Regional District of Central Kootenay hereby authorizes the use of the said lands for the purposes of subdivision approval.
6. The Permittee is required to obtain approval in writing from the Regional District of Central Kootenay prior to the construction any new buildings, external additions to existing buildings or for any deviation from the development authorized under Section 5 of this Development Permit. Furthermore, the Permittee is hereby advised of the following requirements:
 - 6.1 The Regional District of Central Kootenay Building Department requires that the Permittee obtain a demolition permit and/or building permit prior to the removal of any existing buildings and structures, the renovation, expansion or alteration of any existing building and the construction of any new building.
 - 6.2 Unless otherwise stated all buildings and structures shall comply with the site coverage, height of building and building setback requirements of the

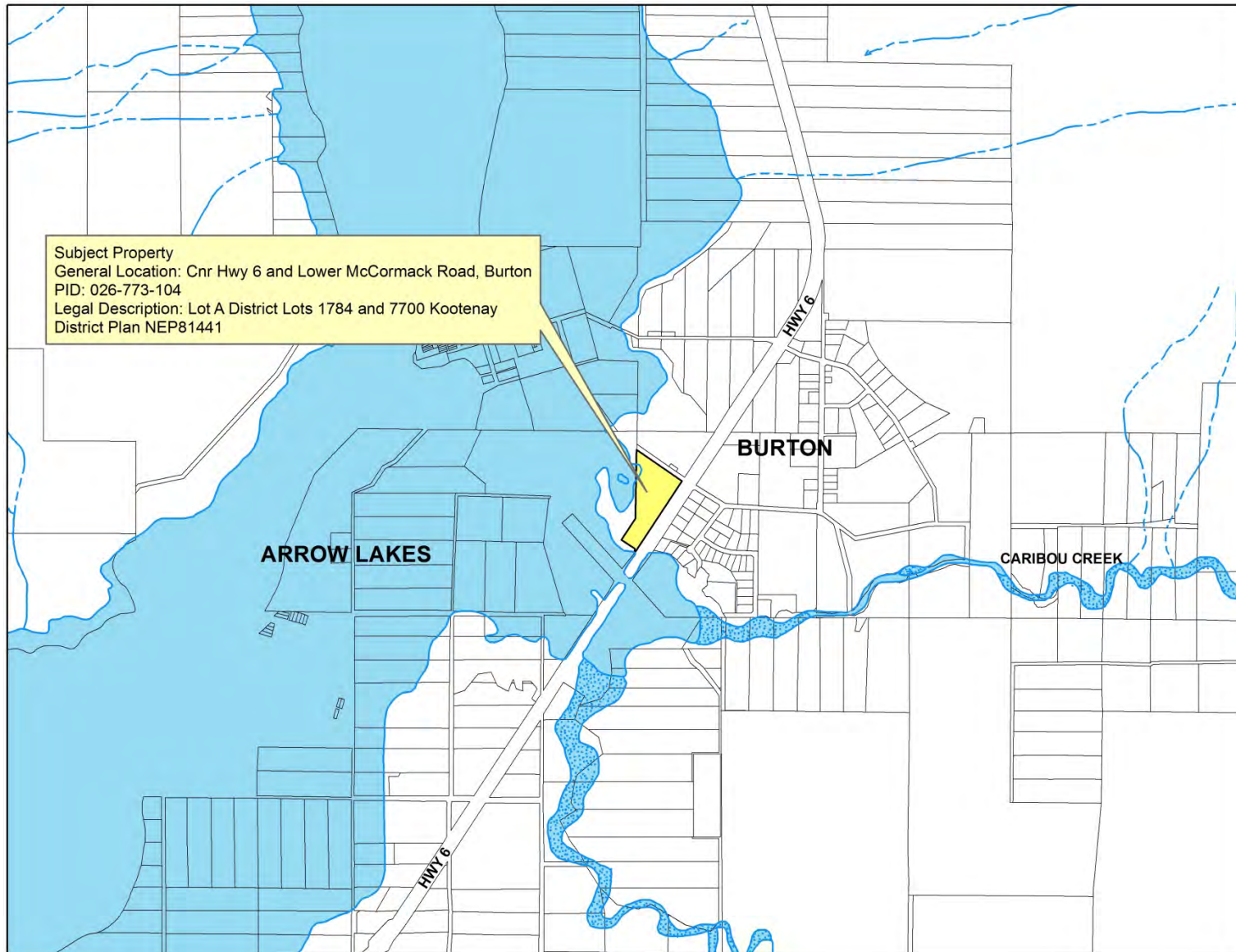
Suburban Residential K (R1K) zone of *Regional District of Central Kootenay Zoning Bylaw 1675, 2004* as amended.

- 6.3 A building permit shall be required prior to any construction involving land in this location at which time the Permittee shall be required to address sewage disposal issues to the satisfaction of the Interior Health Authority and Regional District of Central Kootenay Building Official.
- 6.4 The development of the subject property shall be conducted in accordance with the recommendations contained within Section 4 of the Environmental Assessment prepared by Galena Environmental Consultants Ltd., dated December 3, 2014 and attached to this report as "Schedule 2 – Environmental Assessment Report".
- 6.5 Should bird nests be observed on or adjacent to areas of development on the said lands the Permittee is advised that vegetation removal should occur during the least risk windows for nesting birds, which is August 15 – January 30 for raptors and herons and August 1 – March 31 for other birds.
- 6.6 The terms of this permit must be clearly communicated to all agents, contractors, sub-agents and employees involved in the development authorized under Section 5 of this Development Permit.
7. The said lands shall be developed strictly in accordance with the terms and conditions of this Development Permit and the requirements of all applicable Regional District Bylaws as well as any plans and specifications which may, from time to time, be attached to this Permit shall form a part thereof.
8. In accordance with the Local Government Act, if the development authorized by this Development Permit is not commenced within two years of the date of this Permit, this Permit shall lapse.
9. In accordance with the Local Government Act, 'Notice' shall be filed in the Land Title Office that the said lands are subject to this Development Permit.
10. The terms of this Development Permit including subsequent amendments, are binding on all persons who acquire an interest in the said lands associated with this Permit.
11. It is understood and agreed that the Regional District has made no representations, covenants, warranties, guarantees, promises, or agreement (verbal or otherwise) with the Permittee other than those in this Development Permit. It is solely the responsibility of the Permittee to ensure that the requirements of all other applicable government agencies are satisfied.
12. This Development Permit does not constitute a building permit.
13. This Development Permit shall come into force and effect 14 days after the date of issuance unless a Waiver of Appeal is received from the Permittee at which time the Development Permit shall be deemed to be issued upon receipt of the Waiver of Appeal. OR If a Notice of Appeal is received the Development Permit shall be suspended until such time as the Board of the Regional District of Central Kootenay has decided the Appeal.

Sangita Sudan, General Manager of Development Services

Date of Issuance

Schedule 1: Location Map





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SITE ASSESSMENT FOR AN ENVIRONMENTAL SENSITIVE RESIDENTIAL CLUSTER DEVELOPMENT PERMIT IN BURTON AREA



PREPARED FOR:	KURT & SIGI RUPP, 5352 HWY 6 BURTON, BC V0G1E0
PREPARED BY:	LUCE PAQUIN, GALENA ENVIRONMENTAL LTD
DATE :	December 3rd, 2014
LEGAL DESCRIPTION :	District Lots 1784 & 7700, Plan NEP81441, Lot 1, 2, & 3

1 BACKGROUND

In 1996, Kurt and Sigi Rupp undertook to subdivide their property in Burton, British Columbia into a number of residential lots. These lots border on Arrow Lake and are thus classified as environmentally sensitive areas. The Regional District of Central Kootenay (RDCK) bylaws require that applications for a Development Permit (more specifically, an Environmental Sensitive Residential Cluster Development Permit as per Section 19 of Electoral Area K – *The Arrow Lakes Official Community Plan Bylaw 2022, 2009*) on land adjacent to the high-water-mark (HWM) of a water-body include a site assessment report drafted by a Qualified Environmental Professional (QEP).

The present assessment report is based on a field visit conducted by Luce Paquin of Galena Environmental Ltd on November 21st, 2014. This report presents a description of the current state of the property where the proposed subdivision is to take place and formulates recommendations to protect fish, wildlife and their habitat as part of the proposed development activities.

PROJECT LOCATION & ACCESS

The proposed subdivision is located approximately 1km south of the community of Burton (Map 1). The land is bordered by the Arrow Lake to the west, residential lots to the north, Highway 6 to the east and Caribou Creek and Burton to the south. The proposed subdivision is accessible by Highway 6 and McCormack Road, north of Burton.



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Map 1: Overview map of proposed project 1km north of Burton (not to scale)

PROPOSED SUBDIVISION

The subdivision proposes to create 13 residential lots on District Lot 1784. The present Development Permit application applies solely to Phase 1 of this project, the subdivision of the first 3 northern lots; Lot 1 (0.63ha), Lot 2 (0.5ha) and Lot 3 (0.50ha). The Rups are hoping to complete Phase I in 2015.

2 SITE ENVIRONMENTAL ASSESSMENT

EXISTING SITE CONDITIONS

Lots 1, 2, and 3 share very similar ecological features. They are mainly flat and slope gently to the foreshore of Arrow Lake, towards the HWM (Frame 1). The top eastern portions consist of an open sand and gravel bench with hydro, water and communication infrastructures located along a newly constructed road (Frame 1, photos 1, 4, & 7). The middle section of the lots is composed of a previously disturbed second growth forest (red cedar, cottonwood, hemlock, white fir, lodgepole pine) traversed by old vehicle trails (Frame 1, photos 2, 5 & 8). Vegetation is sparse and mainly composed of shrubs and large woody debris and windfall trees adjacent to the lake foreshore. The foreshore and the riparian area have also numerous vehicle trails running along and depressions resulting from previous quarrying activities (Frame 1, photos 3, 6 & 9). The lots also show numerous signs of previous firewood harvesting activities and camp fire pits.



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PHOTO 1: East end of Lot 1 (west view)



PHOTO 2: Center of Lot 1 (west view)



PHOTO 3: West end of Lot 1 (SW view)



PHOTO 4: East end of Lot 2 (west view)



PHOTO 5: Center of Lot 2 (west view)



PHOTO 6: West end of Lot 2 (north view)



PHOTO 7: East end of Lot 3 (west view)



PHOTO 8: Center of Lot 3 (west view)



PHOTO 9: West end of Lot 3 (west view)

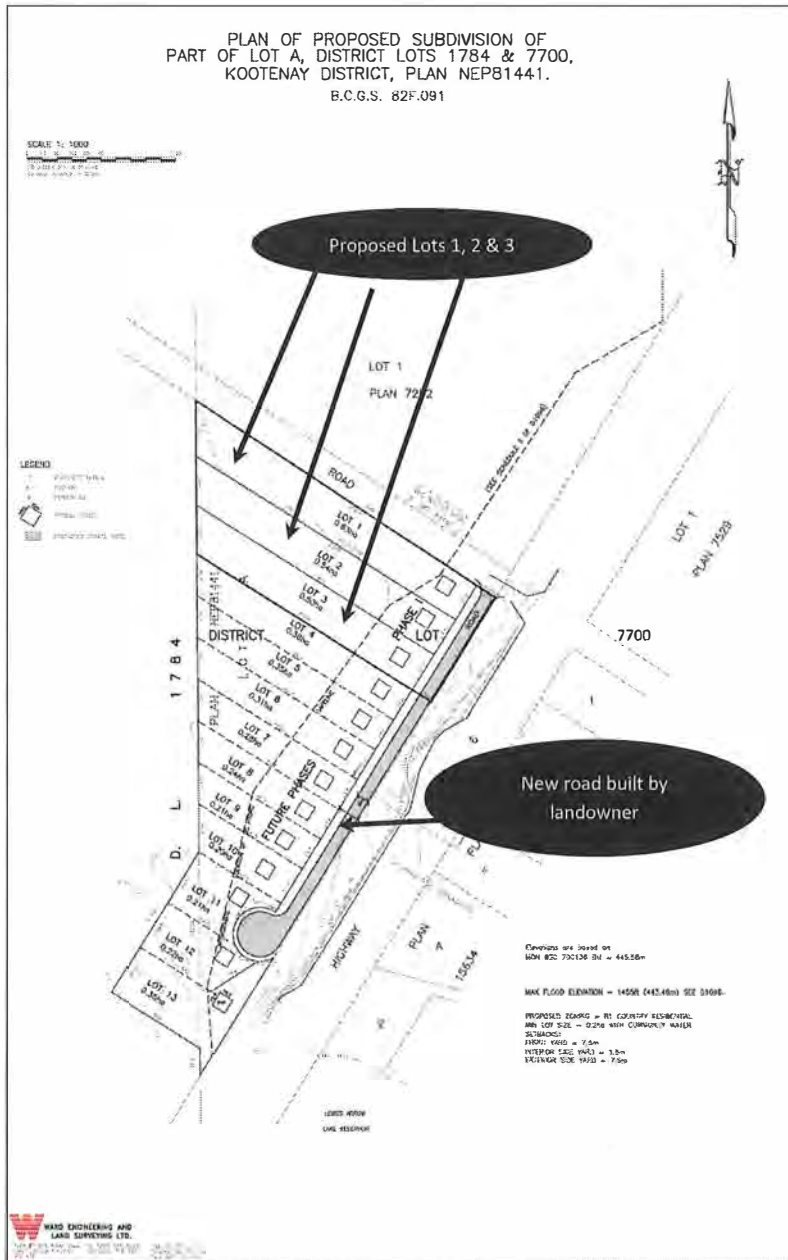
Frame 1: Photographs representing the proposed subdivision for lots 1, 2, and 3

PROPOSED ACTIVITIES

Since the western boundary of each lot is adjacent to the Arrow Lake foreshore, a Covenant will be drawn up for each lot stipulating that buildings may only be erected a minimum of 33.48m (100') from the HWM of the lake (Map 2: well within the BC Hydro Safeline). A new road was recently built, at the far east corner of the lots to provide independent access to each lot.



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Map 2: Plan of Proposed Subdivision (Ward 2014)



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3 ASSESSMENT RESULTS

WILDLIFE & WILDLIFE HABITAT

No mammals, birds, reptiles/amphibians were observed during the site visit. There are no traces of wildlife shelters/dens, raptor nests or any other natural features which may provide shelter. Because there is no productive habitat for small and large mammals, wildlife may frequent the site in a very temporary manner. Any potential bird habitat is restricted to the foreshore area where no development will take place.

FISH HABITAT & FORESHORE

There are no wetlands or watercourses on the 3 lots. And, there are no natural depressions leading to the lake as a result of run-off during freshets or high water level periods. During the site visit, the water level was low, uncovering an extensive dry foreshore at the base of an eroded riparian bench likely providing fish habitat at high water levels. Any potential fish habitat is restricted to the foreshore area where no development will take place.

SPECIES AT RISK

Based on the above observations, it is highly unlikely that any of the species at risk listed under the BC Conservation Data Center (CDC 2014) and the Federal Species At Risk Act (SARA 2014) frequent the areas where development is slated to occur.

4 CONCLUSION & RECOMMENDATIONS

The proposed subdivision and any associated future construction are unlikely to result in negative environmental impacts providing the following guidelines are respected:

- ☐ Impact on water quality will be prevented because any construction activities will be conducted on dry land at a minimum of 33m from the HWM;
- ☐ Precautions will be taken to ensure that work activities, during heavy rain periods, do not cause the transport of sediments into the lake through gullies and rills;
- ☐ If extensive rain events occur during construction activity, the landowners will prevent sediment-laden water from entering the lake by installing a sediment fence in front of the work area and digging ditches to channel water flow away from the lake;
- ☐ Construction and demolition debris should be stockpiled outside of the 33m setback and disposed of responsibly in a timely fashion;



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- ☐ Care will be taken to minimize disturbance to existing vegetation within 30m from the HWM; and
- ☐ No wash water shall be disposed of near the lake.

The construction activities planned at this site will have negligible impact on the natural environment. Implementation of the recommended mitigation measures will ensure that construction of the proposed new dwelling will have no negative effects on fish habitat presently available at the western end of the project site.

These recommendations also ensure that the proposed subdivision and development of the lots in question will be undertaken and completed in full accordance with the applicable guidelines listed in Section 19 of the RDCK Area K Arrow Lakes Official Community Plan Bylaw.

Luce Paquin BSc, MSc, RP Bio #1074