



Planning & Development Services Committee Meeting **Amended** Agenda

December 6, 2018
4:00 pm

Members: *Director Reinhardt (Chair), Director McCormick (Vice Chair), Director Gay, Director Doehle, Director Sosnowski, Director Walter, Director Clovechok, Director Wilkie, Director Pratt, Director Graham, Director Qualizza, Director Miller, Director Sterzer*

Voting Rules

Unless otherwise indicated on this agenda, all Directors except the Directors representing the District of Elkford and District of Sparwood have one vote and a simple majority is required for a motion to pass.

- | | Who Votes | Count |
|--|------------------|--------------|
| 1. Call to Order | | |
| 2. Addition of Late Items | | |
| 3. Adoption of the Agenda | | |
| 4. Adoption of the Minutes | | |
| 4.1 November 8, 2018 Meeting | | |
| 5. Delegations | | |
| 5.1 Rod Chapman re: ALR Exclusion – <i>item 9.2.1</i> | | |
| 5.2 Clint & Cindy Pighin re: ALR Subdivision – <i>item 9.2.2</i> | | |
| 5.3 Rick Halhead re: Calberley Beach Community Association Specific Permission for an existing dock located on Calberley Beach, Lake Windermere area – <i>item 9.4.2</i> | | |
| 5.4 Richard Haworth re: DVP No. 21-18 – <i>item 9.3.1</i> | | |
| 6. Correspondence | | |
| 6.1 ALC Decisions | | |
| 6.1.1 Lone Pine / Chase | | |
| 6.1.2 Jaffray / Duberger (Keene) | | |
| 6.2 Mine Referral | | |
| 6.3 Miscellaneous | | |
| 6.3.1 Planning & Development Services December 2018 Board Report | | |
| 6.3.2 Roger Mitchell re: Proposed Cell Tower – Airport Road, Rural Cranbrook | | |
| 6.3.3 Ministry of Forests, Lands and Natural Resource Operations re: Randal Ck Fire Salvage | | |

7. Advisory Commissions

7.1 APC Minutes

- 7.1.1 Area A – November 20, 2018
- 7.1.2 Area B – November 21, 2018
- 7.1.3 Area C – November 15, 2018
- 7.1.4 Area E – November 13, 2018
- 7.1.5 Area F & G – November 20, 2018

8. Unfinished Business

9. New Business

9.1 Bylaw Amendments

- 9.1.1 Bylaw No. 2820 (Gold Creek / Anderson)
- 9.1.2 Bylaw No. 2881 and Bylaw No. 2882 and Bylaw No. 2883 (Wireless Communication Facility / RDEK)
- 9.1.3 Bylaw No. 2889 (Windermere East / Bruns)
- 9.1.4 Bylaw No. 2890 (Grasmere / McLeay)
- 9.1.5 Bylaw No. 2891 and Bylaw No. 2892 (Eastside Windermere Water / RDEK)

9.2 ALR Applications

- 9.2.1 Tie Lake / 777985 Alberta Ltd. (Sunshine Bay Resort) ALR Exclusion Application
- 9.2.2 Mission Road / Pighin ALR Subdivision Application
- 9.2.3 Meadowbrook / Twietmeyer ALR Non-Farm Use Application

9.3 Development Variance Permit Applications

- 9.3.1 DVP No. 21-18 North of Fernie / Foothills Silva Culture Inc.

9.3.2 DVP No. 32-18 Edgewater / Grau

9.4 Ministry of Forests, Lands, Natural Resource Operations and Rural Development Referrals

- 9.4.1 Area E – 1094444 BC Ltd. Licence of Occupation Application to legalize two hunting camps located on the St. Mary River and Dewar Creek areas, west of Kimberley

9.4.2 Area F – Calberley Beach Community Association Specific Permission for an existing dock located on Calberley Beach, Lake Windermere area

9.5 Miscellaneous Items

- 9.5.1 Request for Exemption from Providing a Professional Report – Musil

10. Late Agenda Items

11. Adjournment

Revised

Revised

**MINUTES OF THE REGIONAL DISTRICT OF EAST KOOTENAY
PLANNING & DEVELOPMENT SERVICES COMMITTEE
MEETING HELD AT THE REGIONAL DISTRICT OFFICE IN
CRANBROOK BC ON NOVEMBER 8, 2018**

PRESENT

Acting Committee Chair Rob Gay	Electoral Area C
Director Mike Sosnowski	Electoral Area A
Director Stan Doehle	Electoral Area B
Director Susan Clovechock	Electoral Area F
Director Jane Walter	Electoral Area E
Director Gerry Wilkie	Electoral Area G
Director Lee Pratt	City of Cranbrook
Director Ange Qualizza	City of Fernie
Director Don McCormick	City of Kimberley
Director Allen Miller	District of Invermere
Director Karl Sterzer	Village of Canal Flats
Director Clara Reinhardt	Village of Radium Hot Springs

ABSENT

Director Wesly Graham	City of Cranbrook
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STAFF

Shawn Tomlin	Chief Administrative Officer
Andrew McLeod	Planning & Development Services Manager
Sanford Brown	Building & Protective Services Manager
Kevin Paterson	Environmental Services Manager
Holly Ronnquist	Chief Financial Officer
Shannon Moskal	Corporate Officer
Rhiannon Chippett	Planning Assistant (Recording Secretary)

Corporate Officer Shannon Moskal called the meeting to order at 5:47pm.

Acting Chair

MOVED by Director Reinhardt
SECONDED by Director Walter

THAT Director Gay be appointed as Acting Chair of the Planning & Development Services Committee.

ADOPTION OF THE AGENDA

Agenda

MOVED by Director Sosnowski
SECONDED by Director Walter

THAT the agenda for the Planning & Development Services Committee meeting be adopted.

CARRIED

ADOPTION OF THE MINUTES

Minutes

MOVED by Director Sterzer
SECONDED by Director McCormick

THAT the Minutes of the Planning & Development Services Committee meeting held on October 4, 2018 be adopted as circulated.

CARRIED

DELEGATIONS

Warren Baker, spoke to his ALR subdivision application to subdivide land into two 2 ha lots at 5743 Robinson Road south of Fernie. Mr. Baker explained he would like to subdivide his property in order to provide his daughter with a place to build a home.

NEW BUSINESS

48130
Baker
ALR Subdivision

MOVED by Director Doehle
SECONDED by Director Sterzer

THAT the Agricultural Land Commission be advised the RDEK supports the Baker ALR subdivision application for property located at 5743 Robinson Road south of Fernie.

CARRIED

48131
Bylaw 2880
Introduced

MOVED by Director Wilkie
SECONDED by Director Sterzer

THAT Bylaw No. 2880 cited as “Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 341, 2018 (Edgewater / Ortt)” be introduced.

CARRIED

48132
B. E. Civil Projects Ltd.
Licence of Occupation

MOVED by Director Pratt
SECONDED by Director Walter

THAT the Ministry of Forests, Lands, Natural Resource Operations and Rural Development be advised the RDEK supports the B. E. Civil Projects Ltd. application for a License of Occupation for a sand and gravel quarry south of Cranbrook subject to ALC notification.

CARRIED

48133
Peters
Proposed Road Closure

MOVED by Director Wilkie
SECONDED by Director Reinhardt

THAT the Ministry of Transportation and Infrastructure be advised the RDEK supports the Peters application for proposed closure of a portion of unnamed road dedicated on Plan 16482 north of Edgewater subject to consolidation of the closure area with the adjoining private land.

CARRIED

Adjourn to Closed

MOVED by Director Sterzer
SECONDED by Director Walter

THAT the meeting adjourn to a Closed Planning & Development Services Committee meeting to consider the following matter:

APC/EAAC Area C Appointments – Section 90(1)(a) of the *Community Charter* personal information about an identifiable individual who is being considered for a position appointed by the RDEK.

CARRIED

The meeting adjourned at 6:11 pm.

CERTIFIED CORRECT

Acting Committee Chair Rob Gay

Shannon Moskal, Corporate Officer

Rhiannon Chippett

Subject: FW: RDEK Board meeting

Sent: November 26, 2018 2:33 PM

To: Shannon Moskal <smoskal@rdek.bc.ca>

Cc: Rhiannon Chippett <rchipsett@rdek.bc.ca>; Stan Doehle <stan@isosceles.ca>

Subject: Fwd: RDEK Board meeting

Hi Shannon

I am writing to request permission to appear as a delegation at the Planning & Development Services Committee Meeting on 6 December 2018, and at the Board meeting on 7 Dec 2018. I will be speaking briefly on the Agricultural Land Reserve Exclusion Application by 777985 Alberta Ltd, also known as Sunshine Bay Resort. I believe a staff report has been prepared on this topic, and I would like to be present at the meeting to answer any questions. I will not need any audiovisual equipment. We are requesting the RDEK to forward our application to the Agricultural Land Commission for consideration, ideally with a recommendation to approve.

Please let me know if you require any additional information.

Thank you
Rod Chapman

Rhiannon Chippett

Subject: FW: RDEK Planning Committee meeting December 6, 2018 - DELEGATION REQUEST

Sent: November 21, 2018 1:30 PM

To: Shannon Moskal <smoskal@rdek.bc.ca>

Cc: Rhiannon Chippett <rchipsett@rdek.bc.ca>

Subject: RDEK Planning Committee meeting December 6, 2018 - DELEGATION REQUEST

Hi Shannon,

Please add me to the agenda of the RDEK Planning Committee meeting on December 6, as a delegate to provide a presentation in regards to: Calberley Beach Community Association - Group Dock, Windermere, Crown Land, File: P151 500.

The Crown Land Tenure Application Tracking number is 100260315.

1. The topic on which the delegation wishes to speak; **Crown Land Tenure Application, Tracking Number 100260315**
2. An executive summary or outline of the presentation to be made; **Review of the application, background information update, CBCA compliance with the Lake Windermere OCP Bylaw 2061, Chapter 10, Article 10.3 (18)**
3. The name of the designated speaker(s); **Rick Halhead**
4. The specific action which is being requested of the Board or Committee; **Approval of Crown Land Tenure Application Tracking Number 100260315**
5. Whether or not you will require use of audio/visual equipment. **yes, power point presentation on a memory drive**

Please confirm by reply to this email that you have received my request and will be added to the meeting agenda.

Thank you,
Rick Halhead,
Secretary,
Calberley Beach Community Association

Rhiannon Chippett

Subject: FW: Delegation Request - Foothills Silviculture DVP
Attachments: 18-10-04 Foothills Silva DVP.pptx

Rhiannon,

We are submitting this request to appear as a delegation at the December 6th Planning Committee meeting regarding DVP request for Foothills Silviculture.

As a condition of zoning for the property, there is a covenant registered on title which states:

"The Owner covenants and agrees with the RDEK that installation of signage on the Land is prohibited unless in compliance with the City of Fernie Sign Bylaw No. 1888, 2001, as amended from time to time, for all signage affixed to the Land after the registration of this Covenant."

Based on this covenant, any sign proposed for the subject property is required to meet both the RDEK Elk Valley Sign Bylaw No.1848 and the City of Fernie Sign Bylaw No. 1888. Due to inconsistencies between these bylaws, a variance is required to permit any sign.

The subject property is utilized by multiple businesses which seek to announce their location with a free-standing sign along the frontage of the property at Highway #3. The City of Fernie sign bylaw is appropriate for commercial and retail stores within the City where buildings are located close to the road and traffic is moving at slower speeds.

At the subject property, it is a distance of approximately 200m (650ft) from the highway to the front facade of the closest building. The distance from the travel lane to where a free-standing sign could be installed is approximately 40m (130 ft) due to the wide highway right-of-way at this location. The highway speed at the subject property is 100km/h. Due to these excessive distances, some of the sign bylaw provisions are not compatible with creation of a legible and meaningful sign for the subject property.

Based on the sign proposed for this location, a variance to the RDEK sign bylaw is requested to vary Part 4.01(6) of the bylaw to permit illumination of the proposed sign. Illumination is proposed utilizing lighting which will light the sign from the front. Backlighting is not proposed.

Based on the sign proposed for this location, a variance or relaxation of the Fernie sign bylaw is requested. The City of Fernie sign bylaw requires that sign structure be constructed of wood. We are proposing to construct this sign of steel.

Our powerpoint presentation is attached.

If you require anything further, please contact me at your convenience.

Thanks,
 Richard Haworth

HAWORTH | Development
 Consulting

PO Box 223, Suite 203, 926 – 7th Avenue,
 Invermere, BC V0A 1K0



Agricultural Land Commission
 201 – 4940 Canada Way
 Burnaby, British Columbia V5G 4K6
 Tel: 604 660-7000
 Fax: 604 660-7033
 www.alc.gov.bc.ca

November 9, 2018

ALC File: 55859

Clarence & Gayle Chase
 DELIVERED ELECTRONICALLY

Dear Mr. & Mrs. Chase:

Re: Reconsideration Request – ALC Resolution #122/2018

A meeting of the Executive Committee of the Agricultural Land Commission ("the Executive Committee") was held on October 24, 2018 as it relates to the request for reconsideration of Resolution #122/2018 (Application #55859). All members of the Executive Committee were in attendance, except Janice Tapp.

The Executive Committee received correspondence dated September 25, 2018 requesting reconsideration of its decision recorded as Resolution #122/2018, by which, the proposal to subdivide a ±2 ha lot from the 32 ha property was refused by the Kootenay Regional Panel ("the Panel").

The Executive Committee considered your request for reconsideration pursuant to section 33(1) of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration based on specific criteria.

- 33(1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that:
- (a) evidence not available at the time of the original decision has become available,
 - (b) all or part of the original decision was based on evidence that was in error or was false.

After reviewing the file material and the request for reconsideration, the Executive Committee determined that your submission consisting of photos of the property and further rationale for the proposal did not constitute evidence that was not available at the time of the previous decision or demonstrated that all or part of the original decision was based on evidence that was in error or was false. The Executive Committee concluded that the request for reconsideration did not meet the requirements for reconsideration pursuant to s. 33(1) of the *Agricultural Land Commission Act*.

Further correspondence with respect to this application is to be directed to Mike Bandy at ALC.Kootenay@gov.bc.ca

Sincerely,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read 'K. Grout', written in a cursive style.

Per:

Kim Grout, Chief Executive Officer

cc: Regional District East Kootenay (File: P717410)

55859m1



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

November 16, 2018

ALC File: 57366

Louis Keene Architect Inc
DELIVERED ELECTRONICALLY

Attn: Louis Keene,

Re: Application 57366 to Conduct a Non-farm Use in the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Kootenay Panel for the above noted application (Resolution #368/2018). As agent, it is your responsibility to notify the applicant accordingly.

Request for Reconsideration of a Decision

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision's release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

Please direct further correspondence with respect to this application to
ALC.Kootenay@gov.bc.ca

Yours truly,

A handwritten signature in black ink, appearing to read 'Mike Bandy', is written over a light blue horizontal line.

Mike Bandy, Land Use Planner

Enclosure: Reasons for Decision (Resolution #368/2018)

cc: Regional District of East Kootenay (File: P 718 206)



AGRICULTURAL LAND COMMISSION FILE 57366
REASONS FOR DECISION OF THE KOOTENAY PANEL

Non-Farm Use Application Submitted Under s. 20(3) of the *Agricultural Land Commission Act*

Applicant: Brock Duberger

Agent: Louis Keene Architect Inc.

Property: Parcel Identifier: 006-778-224
Legal Description: Lot 4, District Lot 316,
Kootenay District Plan 16900
Civic: 8905 Jaffray-Baynes Lake Road, Jaffray, BC
Area: 8.5 ha

Panel: Dave Zehnder, Vice Chair
Ian Knudsen



OVERVIEW

- [1] The Property is located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA). The Property is located within Zone 2 as defined in s. 4.2 of the ALCA.
- [2] Pursuant to s. 20(3) of the ALCA, the Applicant is applying to the Agricultural Land Commission (the "Commission") to construct a 90 square metre caregiver suite on the second floor of a 410 square metre proposed garage (the "Proposal"). The intent of the proposed suite is to provide housing for a full-time caregiver for the Applicant's wife. The caregiver suite would be in addition to the principal residence on the Property.
- [3] The first issue the Panel considered is whether the Proposal would impact the agricultural utility of the Property.
- [4] The second issue the Panel considered is whether there are any economic, social, cultural, or regional and community planning objectives considerations that contribute to the Panel's review of the proposal taking into account the priority given to agricultural considerations.
- [5] The Proposal was considered in the context of s. 4.3 of the ALCA, which states:

When exercising a power under this Act in relation to land located in Zone 2, the commission must consider all of the following, in descending order of priority:

- (a) The purposes of the commission set out in section 6;*
- (b) Economic, cultural and social values;*
- (c) Regional and community planning objectives;*
- (d) Other prescribed considerations*

The purposes of the Commission set out in s. 6 of the ALCA are:

- (a) To preserve agricultural land;*



- (b) *To encourage farming on agricultural land in collaboration with other communities of interest; and,*
- (c) *To encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.*

EVIDENTIARY RECORD

- [6] The Proposal along with related documentation from the Applicant, Agent, local government, and Commission is collectively referred to as the "Application". All documentation in the Application was disclosed to the Agent in advance of this decision.
- [7] The Panel conducted a walk-around site visit on August 7, 2018 in accordance with the *ALC Policy Regarding Site Visits in Applications* (the "Site Visit"). A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications*. The site visit report was certified as accurately reflecting the observations and discussions of the Site Visit by the Applicant on August 16, 2018 (the "Site Visit Report").

EVIDENCE AND FINDINGS

Issue 1: Whether the Proposal would impact the agricultural utility of the Property.

- [8] To assess agricultural capability on the Property, the Panel referred to agricultural capability ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings applicable to the Property are Class 2, Class 4, Class 5 and Class 6. More specifically, the eastern 20% of the Property is rated as (2X); the center 40% of the Property is rated as (5:5TP – 3:6T – 2:4T); and the western 40% of the Property where the garage is proposed is rated as 6T.

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

Class 6 - land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

The limiting subclasses associated with this parcel of land are P (stoniness), T (topographic limitations), and X (a combination of soil factors).

- [9] Based on the agricultural capability ratings, the Panel finds that the Property has mixed prime and secondary agricultural capability.
- [10] In evaluating the Proposal, the Panel must consider the potential long term impacts of the Proposal to the agricultural use of the Property beyond the current ownership. While the additional residence may be utilized for a caretaker suite by the Applicants, the Panel finds that the Proposal has the potential to become an additional residential use by future owners of the Property. Additional residences on agricultural land substantially increase the cost for potential farmers to purchase the Property in the future therefore significantly reducing the potential for the Property to be farmed. The Panel finds that the Proposal will impact the future agricultural utility of the Property.
- [11] The Application states that the proposed garage and suite would be located at the southernmost point of level land on the Property, and near to the existing residence, in order to preserve agricultural land. The Panel appreciates that the Applicant desires to minimize the impact on agricultural land by constructing the caretaker suite above the garage and locating the garage near the existing residence. However, the Panel notes that there are options available to the Applicant within BC Regulation 171/2002 (*Agricultural Land Reserve*

Use, Subdivision and Procedure Regulation) (the "Regulation") that could accommodate the need for an additional suite within the existing dwelling.

[12] The Panel would like to refer the Applicant's attention to Section 3(1)(b. 1) of The Regulation, which states:

3 (1) The following non-farm uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by a law of the applicable treaty first nation government:

...(b.1) for a parcel located in Zone 2,

(i) one secondary suite in a single family dwelling,

(ii) either

(A) one manufactured home, up to 9 m in width, for use by a member of the owner's immediate family, or

(B) accommodation that is constructed above an existing building on the farm and that has only a single level

The Panel finds that the residential uses accommodated in the Regulation may be sufficient to allow for a caretaker suite within the existing dwelling.

Issue 2: Whether there are any economic, social, cultural, or regional and community planning objectives considerations that contribute to the Panel's review of the proposal taking into account the priority given to agricultural considerations.

[13] The Application did not include any evidence or rationale related to economic, cultural and social values.

[14] The Application did not include any evidence or rationale related to regional or community planning objectives.



Weighing the Factors in Priority

- [15] The Panel did not find economic, social, cultural considerations, or regional and community planning objectives to contribute to the review of the Proposal and based the decision on agricultural considerations.

DECISION

- [16] For the reasons given above, the Panel refuses the Proposal to construct a 90 square metre caregiver suite on the second floor of a proposed garage.

- [17] These are the unanimous reasons of the Panel.

- [18] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the ALCA.

- [19] Resolution #368/2018
Released on November 16, 2018

A handwritten signature in black ink, which appears to read "Zehnder", is positioned above the printed name of the Panel Chair.

David Zehnder, Panel Chair
On behalf of the Kootenay Panel



Planning & Development Services December 2018 Board Report

P 006 001

STATISTICS

	2018	2017
INQUIRIES	351	268
BUILDING CHECKS	26	52

	----- ELECTORAL AREAS ----- -----						YEAR	
	A	B	C	E	F	G	2018	2017
Agricultural Land Reserve	1	1	1	1			4	4
Bylaw Amendments (Zoning / Land Use / OCP)		1			3		4	4
DP			3	5			8	1
DVP / Bd. of Variance	1	1	1			1	4	7
Subdivision		1	3		2		6	3
MFLNRO Referrals		1		1			2	0
Other Agency Referrals (MoTI / Liquor Control etc.)			3				3	1
Other Permits & Agreements (Housing Agreements / Temp. Use / Floodplain Exemptions / Campground)							0	1
TOTALS 2018	2	5	11	7	5	1	31	
TOTALS 2017	3	3	5	4	5	1		21

Moyie OCP

An Open House for the draft Moyie OCP and Electoral Area C Zoning bylaw will be held at 7pm, January 22nd in the Moyie Community Hall.

Lake Windermere OCP

Review of the draft plan by the Advisory Group and other stakeholders will begin in December and will be ongoing until an open house presentation later this winter or spring.

Waldo Cove Regional Park

Staff presented an update on the park creation progress at the Friends of Lake Koocanusa Society AGM on November 19th. RDEK's tenure application is currently being adjudicated by the province, but due to the 2018 wildfire season and recent staff reductions the review process may take longer than expected. A draft License of Occupation is being drafted by the Ministry of Transportation and Infrastructure in order to permit park operations to take place on the park access road.

Kootenay and Boundary Agricultural Adaptation Strategies

Staff participated in an advisory committee meeting November 22nd in Creston in anticipation of upcoming workshops for the agricultural industry, including a December 4th workshop in Creston, December 5th in Winlaw and December 6th in Greenwood. The workshops will be an opportunity for local agricultural producers to learn about the latest regional climate change projections, discuss how climate change will affect agricultural production, and brainstorm actions to improve agricultural resiliency. A second set of workshops will take place near the end of January and will include a workshop in Cranbrook. Upon completion of the Kootenay and Boundary Agricultural Adaptation Strategies plan, up to \$300,000 in seed funding will be available to support collaborative local agricultural adaptation projects in the Kootenay Boundary region.



Information Report

Date November 30, 2018
Author Krista Gilbert, Planning Technician
Subject Wireless Communication Facilities

BACKGROUND

The RDEK has received a letter from Roger Mitchell in regards to the proposed placement of a cell tower by Freedom Mobile along Airport Access Road.

INFORMATION

The RDEK does not require public consultation as the property is currently zoned RR-60, Rural Resource. This zone allows wireless communication facilities, which includes cell sites, radio towers, television broadcasting, transmitters, receivers and accessory unoccupied equipment shelters.

Industry Canada's default public consultation process means that when the proponent has a final site selected, an information package will be provided to the RDEK for a formal response.

November 7th 2018

Dear RDEK Board,

Background and preamble:

I am writing to you on behalf of the 56+ residences in the Clearview /Sommerfeldt//Mission Wycliffe road area concerning a proposed cell tower placement on Airport Road, promoted by Cypress land services (the Proponent) on behalf of Freedom Mobile, a subsidiary of Shaw cable.

The stated aim of the 35m (115ft) tower to be installed on private land on Airport road is to provide cell service to residents in our area (already serviced by TELUS and Rogers) and services to the Cranbrook Airport.

The Cranbrook airport has already denied Freedom Mobility a tower placement upon Airport property.

Cell Tower placement issues:

Currently CRTC licenses various bandwidths in their annual sales and want competition for the big 3 (Bell,Rogers,Telus) We are told that certain band widths transmit further and those companies with bandwidths with lower spread capabilities need more towers closely spaced (Freedom mobility's claim). It is currently a "wild west" of competing tower placement and is only going to get worse as "smart cities" of the future struggle over tower placement locations for the up and coming 5 G technology. The issues of Cell tower placement are and will be just as critical a subject as any current major infrastructure issue currently overseen by Municipalities and Regional districts.

Definitions:

1) Proponent...the individual company seeking permission from Spectrum Canada for permission to build and position a cell tower in a given location. (Cypress land services in our case)

2) Notifiable resident: according to the Communications and Broadcasting regulations (CPC--2-0-03) only residents within three cell tower heights, are considered notifiable by the "Proponent".

Notifiable Resident's concerns must be passed onto Spectrum Canada with the "Proponents" application for cell tower placement.

3) **Spectrum Canada:** the Canadian government agency under the aegis of "Innovation, Science and Economic Development Canada (ISED)"

Spectrum Canada is responsible for vetting all data presented by the "Proponent" and any concerns submitted by "Notifiable residents". Spectrum Canada has the final say and issues permission for cell towers placement and use of a specific band widths.

Issue for the RDEK to consider

1) Cell tower placement requests are going to increase as coverage demands and competition among players increases and often excludes sharing of infrastructure.(although the players are supposed to share locations when possible, under the ISED legislation)

2)Rural residents of the RDEK are essentially non "notifiable" as we are usually three towers away and as such have no official voice with Spectrum Canada. We are disenfranchised when compared to city dwellers, yet we bear the burden of disruption of our mountain views and intrusion of unwanted tower lights disrupting already threatened night skies.

3) Currently feedback that I have received from the RDEK is that the RDEK has no say or influence over cell tower placement on private land. I would argue after reading my "Primer on Regional districts of BC" as well as the "Local Government Act" subsections appended below with reference particularly to Part 5 and Part 8. that in fact the RDEK does have the authority to intervene or at least provide a formal opinion to Spectrum Canada on the behalf of concerned residents. (see section 4.2 of the Radio communications act appended below under references)

4) Cell tower placement within the RDEK is not going to go away as an issue and we urge you to consider incorporating a strategy of notification for the "Non Notifiable " residents such as ourselves, who fall outside of section 4.2 of the CPC -2-0-03 appended below and vet

our concerns and then pass them onto the "proponent" and Spectrum Canada. We would urge you to set up a formal process for reviewing all applications under your bylaws which you may have to write.

5) As you can see with an appended email from Michael Amyotte of Spectrum Canada he anticipates feedback from the RDEK on Cell tower placement and concerns by residents.

6) as non "Notifiable " residents we have no guarantee that the "Proponent" will include our concerns in their application to Spectrum Canada

Current suggestions to the Board:

1) An RDEK board letter to Spectrum Canada and Mr. Amyotte outlining that there are many residents in the housing subdivisions adjacent to the proposed Airport road tower who will have their sight-lines and "right to enjoyment" of their properties disrupted by a tower placement. Given the proximity to the Airport this is particularly the case should Nav Canada demand a night light and/or beacon/strobe and/or a pole of orange colouration.

2) Said cell tower will not be offering the 56+ homes in the immediate area an enhancement of current services. (It would be a totally different issue if Fiber-optic was being offered I suspect. Fiber would offer a direct enhancement of current services presently offered as a mish-mash of Broad band/ cell /or satellite)

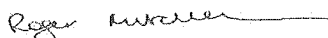
3) We urge the Board to consider setting up guidelines for vetting of all tower applications including a working consultation with affected residents. Especially given Spectrum Canada expects this. (Mr. Amyotte's of Spectrum Canada -email appended) and section 4.2 appended below. Cell towers are the new infrastructure of this era and never imagined as an issue when Regional districts were initially established but we believe the Local Government Act allows the Regional districts flexibility to evolve in the necessary directions.

Roger Mitchell MD CCFP Diploma Anaesthesia

Personal information has been withheld in accordance with Section 22(1) of the Freedom of Information and Protection of Privacy Act.

Respectfully submitted by,

Roger Mitchell



Clearview/Sommerfeldt/Mission-Wycliffe residents, Cell tower working group

References:

1) CPC-2-0-03 — Radio communication and Broadcasting Antenna Systems

<https://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/sf08777.html>

4.2 Industry Canada's Default Public Consultation Process

Proponents must follow Industry Canada's Default Public Consultation Process where the local land-use authority does not have an established and documented public consultation process applicable to antenna siting. Industry Canada's default process has three steps whereby the proponent:

1. provides written notification to the public, the land-use authority and Industry Canada of the proposed antenna system installation or modification (i.e. *public notification*);
2. engages the public and the land-use authority in order to address relevant questions, comments and concerns regarding the proposal (i.e. *responding to the public*); and
3. provides an opportunity to the public and the land-use authority to formally respond in writing to the proponent regarding measures taken to address reasonable and relevant concerns (i.e. *public reply comment*).

9698 Clearview Road, Cranbrook, B.C. [REDACTED]
Phone: [REDACTED] email: [REDACTED]

Roger Mitchell MD CCFP Diploma Anaesthesia

Personal information has been withheld in accordance with Section 22(1) of the Freedom of Information and Protection of Privacy Act.

2)

On Mon, Oct 1, 2018, 1:15 PM Amyotte, Micheal (IC) <micheal.amyotte@canada.ca> wrote:

Dear Mr Mitchell,

Thank you for your email. At this stage of the antenna consultation process Innovation, Science, and Economic Development is not directly involved. I would encourage you to send all your comments and concerns to the Local Land Use Authority (RDEK) and the proponent (Freedom Mobile).

We rely on the local land Use Authority to determine antenna tower locations based on local concerns of its citizens.

I can answer any questions regarding the process itself.

The contacts for this proposal are:

RDEK
Tracy Van de Wiel
tvandewiel@rdek.bc.ca

and

Freedom Mobile
c/o Tawny Verigin of Cypress Land Services
1-855-301-1520
publicconsultation@cypresslandservices.com

Regards,

Micheal Amyotte

Manager, Spectrum Operations, Spectrum Management Operations Branch
Innovation, Science and Economic Development Canada / Government of Canada
Micheal.Amyotte@canada.ca / Tel: 250-215-2890 / TTY: 1-866-694-8389

LOCAL GOVERNMENT ACT

[RSBC 2015] CHAPTER 1

Deposited with Clerk of the Legislative Assembly on December 16, 2015

Part 5 — Regional Districts: Purposes, Principles and Interpretation

Purposes of regional districts

185 Recognizing that regional districts are an independent, responsible and accountable order of government within their jurisdiction, the purposes of a regional district include

- (a) providing good government for its community,**
- (b) providing the services and other things that the board considers are necessary or desirable for all or part of its community,**
- (c) providing for stewardship of the public assets of its community, and**
- (d) fostering the current and future economic, social and environmental well-being of its community.**

Part 8 — Regional Districts: General Powers and Responsibilities

Division 1 — General Powers

Corporate powers

263 (1) Subject to the specific limitations and conditions established under this or another Act, the corporate powers of a board include the following:

(a) to make agreements respecting

- (i) the regional district's services, including agreements respecting the undertaking, provision and operation of those services, other than the exercise of the board's regulatory authority,
- (ii) operation and enforcement in relation to the board's exercise of its regulatory authority, and
- (iii) the management of property or an interest in property held by the regional district;

(b) to make agreements with a public authority respecting

(i) activities, works or services within the powers of a party to the agreement, other than the exercise of regulatory authority, including agreements respecting the undertaking, provision and operation of activities, works and services,

- (ii) operation and enforcement in relation to the exercise of regulatory authority within the powers of a party to the agreement, and
- (iii) the management of property or an interest in property held by a party to the agreement;

(c) to provide assistance for the purpose of benefiting the community or any aspect of the community;

(d) to acquire, hold, manage and dispose of land, improvements, personal property or other property, and any interest or right in or with respect to that property;

Roger Mitchell MD CCFP Diploma Anaesthesia

Personal information has been withheld in accordance with Section 22(1) of the *Freedom of Information and Protection of Privacy Act*.

(e)to delegate its powers, duties and functions, in accordance with Division 7 [*Delegation of Board Authority*] of Part 6 [*Regional Districts: Governance and Procedures*];

(f)to engage in commercial, industrial and business undertakings and incorporate a corporation or acquire shares in a corporation for that purpose;

(g)to establish commissions to



6.3.3

RECEIVED

NOV 26 2018

Regional District of
East Kootenay

File: 18046-40/FTKL 20181122 Block and Road Referral Kootenay Lake TSA

November 22, 2018

RDEK
19 24th Ave S.
Cranbrook, BC
V1C 3H8

Dear Andrew McLeod:

RE: Randal Ck Fire Salvage

BC Timber Sales, Kootenay Business Area, has timber harvesting and road construction plans in Hawkins Creek, east of Yahk. The objective of the proposed harvesting is to SALVAGE demised timber within the fire perimeter of Wildfire known as "N7 2436" located between West Freeman Creek and South Hawkins Creek in the Hawkins Creek drainage.

This proposal is available for your review at the following locations:

- Kootenay Lake Forestry Centre, 1907 Ridgewood Rd, Nelson B.C. Viewing by appointment during regular business hours, Monday to Friday, 8:30 AM – 4:30 PM. To arrange an appointment please contact either Sean Slimmon (Planning Forester) or Della Peterson (Woodlands Supervisor) at 250 825-1100.
- Maps showing the general location of the proposed development can be viewed on the web at <https://www.for.gov.bc.ca/ftp/TKO/external/!publish/FSP/Operating-Plans/N7-2436-FireSalvageReferral/> These files are best viewed by right clicking and choosing "save target as ..."

The shape/size of the proposed harvesting and roads are our best estimate at this time and may change as BCTS gathers more information.

I would appreciate any feedback you can provide which would improve the decision making process, and hopefully, we can address concerns you may have prior to harvesting these areas. Please provide written questions or comments to me no later than January 8th, 2019.

Yours truly,

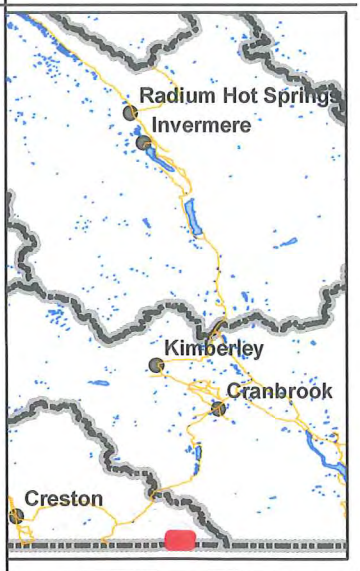
Sean Slimmon, RPF
Planning Forester
Email: sean.slimmon@gov.bc.ca

N72436 Randal Fire Salvage

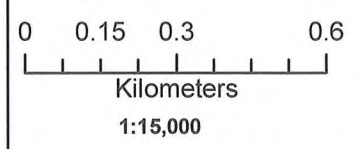


- Proposed Roads and Blocks**
- Fire Perimeter
 - Proposed Road
- Proposed Salvage Blocks**
- Priority 1
 - Priority 2
 - Reserve Areas

- Roads**
- Recreation Trail
 - Old Growth Management Area
 - Private land
 - Recreation Area
 - Parks and Protected Areas
 - Domestic Watershed
 - Point Of Diversion

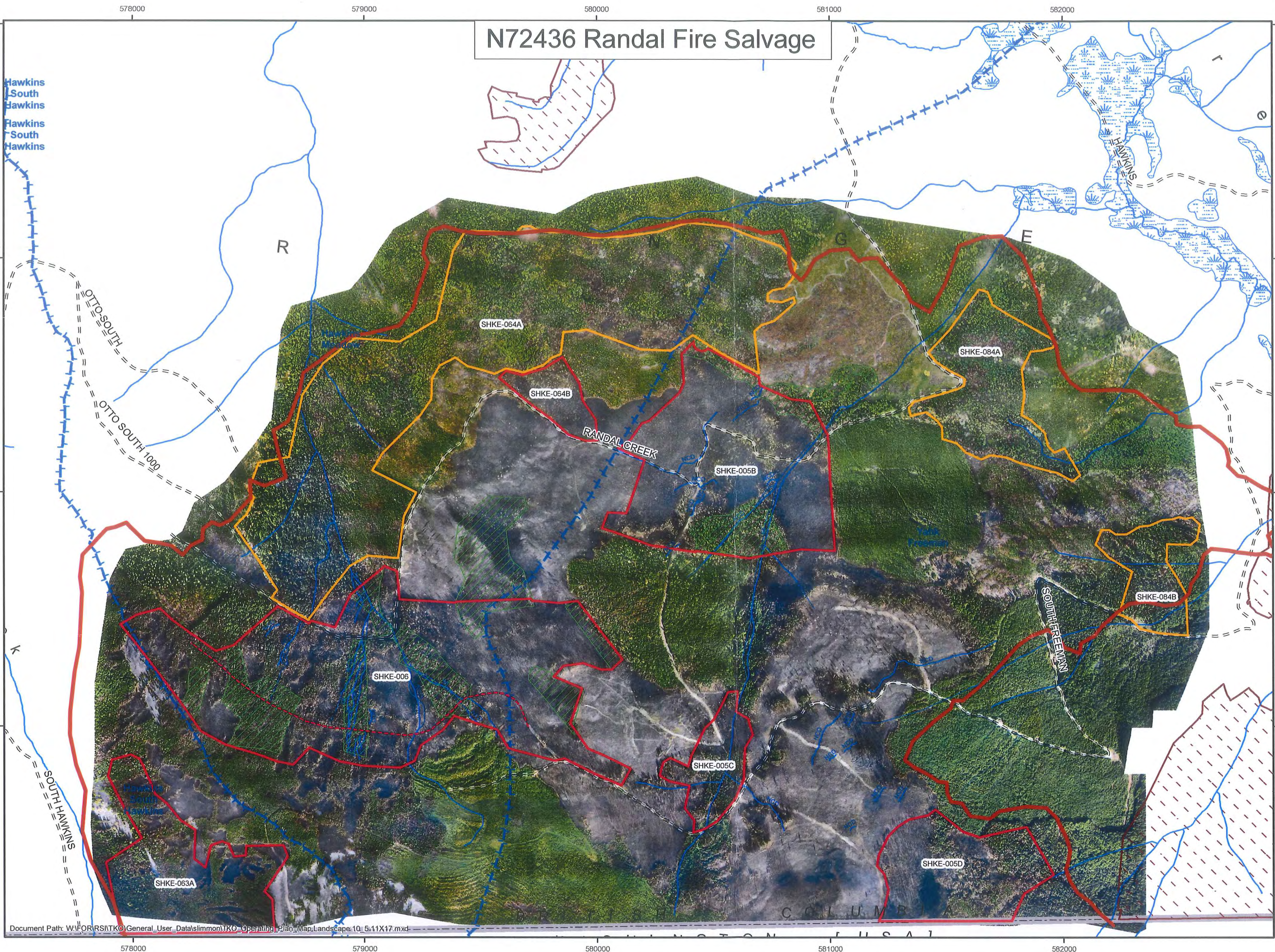


Important: Proposed blocks and roads are preliminary planning shapes only; final block boundaries and road locations, shape, size and reserve timber will be determined following field work and assessments.



Projection: UTM Zone 11, NAD83
Digital Mapping Base: TRIM - 1:20,000

Date of Print File Creation: **November 21, 2018**



DRAFT

Area A APC Meeting Minutes-Nov. 20, 18

Present:

Dale Garrett, Dan Savage, Karen Alexander, David Beranek

1.1 Oct. 16, 2018 APC Meeting Minutes

Motion: Dale Garrett-accept minutes as presented

2nd: Karen Alexander

Motion approved.

1.2 Oct. 16, 2018 Planning Commission Meeting Minutes

Reviewed: no issues or concerns

2.1 Planning and Development Services Report

Reviewed: no issues or concerns

3.1 Development Variance Permit Application-Foothills Silva Culture Inc

Committee recommended to table the application to the next meeting.

Question #1 – Why was the application returned to the table for a second review?

Question #2-Require clarity of the application language. Unclear as to whether the application is a bylaw variance or is the committee being asked to vary the actual bylaw? Uncertainty associated with the precedent of a variance to the current sign by-law.

Electoral Area Advisory Commission Area A-Nov. 20, 2018

4.1 BC Conservation Foundation-WildSafeBC Elk Valley-2019

Motion: David Beranek-to approve a donation of \$1000.00 to WildSafeBC as per the application presented.

2nd: Dan Savage

Motion approved.

4.2 Fernie Alpine Ski Team:

Motion: Dale Garrett-to approve a donation of \$1000.00 to the Fernie Alpine Ski Team as per the application presented.

Motion approved-three in favour, one against

4.3 Wildsight Elk Valley- Fernie Food Strategy Development and Implementation

Motion: Karen Alexander-to approve \$1000.00 to the application as presented with the conditions that applicant receive the additional funding and that a copy of the completed document be forwarded to the RDEK for review.

2nd: Dan Savage

Motion approved.

Motion to adjourn: Dan Savage

2nd: David Beranek

Motion approved.

**APC Meeting Area B
Baynes Lake Fire Hall
November 21, 2018**

Call to order: 7:00 pm

Chair: Shayne Webster

Attendance: Wendy Salanski, Lily Durham, Dave Gonnely, Director Doehle, Cory Wentzell, Andy McDonald, John Todd, Kent Holmes

Regrets: Marjorie Reay, Noreen Thielen, Steve Minuk, Mary Charlton

Guests: Rod Chapman

MINUTES

- 1.1 APC Meeting- September 19, 2018
APC Minutes from September 19, 2018 reviewed for errors and omissions. Discussed.
Motion: to accept the minutes as presented.
Moved: Kent Holmes Seconded: Wendy Salanski Carried
- 1.2 Planning Committee Meeting- September 6, 2018
Reviewed and discussed.
- 1.2 Planning Committee Meeting- October 4, 2018
Reviewed and discussed.

REPORTS

- 2.1 Planning & Development Services Report- October 2018
Reviewed and discussed.
- 2.2 Planning & Development Services Report- November 2018

ALR EXCLUSION APPLICATION

- 3.1 P 151 216- 777985 Alberta Ltd/Tie Lake
Rod spoke on his application.
Review and discussion -
Motion: To accept application as presented.
Moved: John Todd Seconded: Dave Gonnely Carried

REZONING APPLICATION

- 4.1 P 718 213- McLeay/Grasmere
Motion: To accept application as presented.
Moved: Dave Gonnely Seconded: Kent Holmes Carried.

INFORMATION ITEMS

- 5.1 ALC Letter- 77985 Alberta Ltd./Tie Lake
Reviewed and discussion

MEETING ADJOURNED: 7:37 pm

ROUND TABLE

MINUTES of the Electoral Area C Advisory Planning Commission meeting held on Thursday, **November 15, 2018** in the Conference Room at the RDEK office.

PRESENT

Lee-Ann Crane, Chair (acting Secretary)

Wayne Stone

Jim Westwood

ABSENT

Bob Bjorn, Vice Chair

Chris Caron

Roger Mitchell

Rob Gay, Electoral Area C Director

Ilene Lowing, Secretary

Herb Janzen

Richard Wake

The meeting was called to order at 7:02 pm.

DELEGATIONS

Clint and Cindy Pighin presented information on their request to subdivide a 2-hectare portion of land which is separated from their main farm by Mission Road. The property is located 7646 Mission Road immediately adjacent to the KOA Journey Campground. It was noted that the property had historically been used to separate bulls from the rest of the herd; however, with the new campground immediately adjacent the Pighins have concerns over the safety of both people and pets should the bulls start to fight and break through the fence. The bulls will be penned on the main farm property. The Pighins have no other use for the property proposed for subdivision.

MINUTES

Moved by Commissioner Wayne Stone Seconded by Commissioner Lee-Ann Crane

That the minutes of the October 11, 2018 APC C meeting be adopted.

ALR APPLICATION

Moved by Commissioner Wayne Stone Seconded by Commissioner Jim Westwood

That the **Pighin ALR Subdivision application** for a 2-hectare portion of land which is separated from their main farm by Mission Road, be **supported**.

INFORMATION ITEMS

The Commission reviewed the mine referrals for Fiorentino/Moyie River, Laflamme/Perry Creek, and Varty/Perry Creek.

The meeting adjourned at 7:35 pm.

DRAFT

MINUTES

Advisory Planning Commission Area E

Meeting Date: Tuesday, November 13, 2018, 7:00 pm

Location: Judy McPhee's residence, 6304 Poplar Rd. Wasa

Present: Judy McPhee, Barry Garland, Jane Walter, Jim Westwood, Doug Barrclough, , Len Hunt, Cheryl Greenwood, Bob Eccleston, Susanne Ashmore, Gord Olsen

Absent: Virginia West, Bev Rauch

Chair: Jim Westwood

1. Minutes

Bob Eccleston moved that the minutes of August 14, 2018 be adopted as read.
Judy McPhee seconded the motion.

Carried

2. Reports

Planning and Development Services Reports September, October and November 2018 members referred to their packages

Jane Walters gave us her report. Jane spoke on St. Mary's Lake and new people on council. She also mentioned dinner at Franks for areas C and E on November 27, 2018.

3. ALR Subdivision Application

3.1 P718-417 Twietmeyer/Meadowbrook

Bob Eccleston moved that we support the application for ALR Subdivision.
Judy McPhee seconded the motion.

Carried

4. NRO Referral

P151400 – 1094444 BC Ltd. (Brad Parks) Dewar Creek and St. Mary's River area.

After reviewing all the background information from the British Columbia Ministry of Environment, Gord Olsen made the motion we do not support the application if not used for **Only** a Guided Hunting Territory.

Barry Garland seconded the motion

Carried

5. Information Item

ALC Decision Stienwand/TaTa Creek.

Meeting adjourned at 8:00 pm

Next Meeting December 11, 2018 , 7:00 pm at Judy McPhee's residence.

**Advisory Planning Commission Areas F & G
November 20, 2018
Shuswap Band Mini Mall**

DRAFT

PRESENT:

AREA G

Norm Funnell
Stephanie Stevens
Rick Tegart
Hermann Mauthner
Director Gerry Wilkie

AREA F

Norbert Schab
MaryAnne Csokonay
Paul Deguise
Diana Cote
Lindsay McPherson
Karl Conway
Director Susan Clovechok

Nancy Wilfley – Secretary
Meeting called to order – 7:00

Congratulations to Gerry and Susan for their successful election to the RDEK Board of Directors.

Delegate: Brian Halhead – Calberley Beach Community Association - NRO Referral.
7:02 Brian presents application and answers questions from Commission. Brian explains the dock is exciting and has never had proper zoning. Dock plan is from an original RDEK design. The dock is shared by 28 community members. Dock is stationary and does not move. Original dock was built in 1953 and replaced in 2013. Discussion on retaining wall on beach and who built it and who approved it-Applicant states no permit was applied for and no Archaeology study completed for the retaining wall. Access to dock is public. Discussion on signage for Public access- applicant states: if asked, they would put up signage. 7:18 Brian adjourned.

MINUTES

1.1 Approval of the October 16, 2018 Minutes.

MOVED by N. Funnell

SECONDED by H. Mauthner

THAT the Minutes of the Electoral Area Advisory Commission Area F and G meeting held on October 16, 2018 be approved.

CARRIED

REPORTS

2.1 Planning & Development Services Report – November 2018 - Received

BYLAW AMENDMENT APPLICATION

3.1 P718 548 – Bruns (Xplornet – Batchelder)/Windermere

MOVED by P. Deguise

SECONDED by S. Stevens

THAT the APC Electoral Areas F & G supports the ByLaw Amendment application from Bruns/Xplornet-Batchelder/Windermere.

CARRIED

3.2 P718547&P718615 – RDEK /Edgewater, Windermere& Fairmont Firehalls

MOVED by N. Funnell

SECONDED by H. Mauthner

THAT the APC Electoral Areas F & G supports the ByLaw Amendment application from RDEK/Edgewater, Windermere & Fairmont Firehalls.

CARRIED

3.3 P718550 – RDEK/Windermere Water Treatment Plant

MOVED by K. Conway

SECONDED by S. Stevens

THAT the APC Electoral Areas F & G supports the ByLaw Amendment application from RDEK/Windermere Water Treatment Plant.

CARRIED

DVP Application

4.1 P718618 – Bennett&Grau/Edgewater

MOVED by S. Stevens

SECONDED by N. Funnell

THAT the APC Electoral Areas F & G supports the DVP application from Bennett&Grau.

CARRIED

NRO REFERRALS

5.1 P1515000 – Calberley Beach Community Association (Halhead)/Windermere

MOVED by M. Csokonay

SECONDED by S. Stevens

THAT the APC Commission Area F & G supports the NRO referral application from Calberley Beach Community Association.

Defeated 5 Opposed 4 Approved

*Chairperson did not vote.

INFORMATION ITEMS

6.1 ALC Decision

6.1.1 Elkhorn Ranch/Windermere

Meeting adjourned 7:49

Next Meeting Tuesday, December 18th, 2018



Staff Report ...

Bylaw Amendment Application

Date: November 22, 2018
File: P 717 349
Bylaw No. 2820

Applicant: Ron and Trina Anderson
Location: 4330 34th Ave in the Gold Creek area south of Cranbrook
Legal: Lot 9, DL 9451, Kootenay District, Plan 1084

Proposal: To amend the text of the zoning bylaw to permit an existing secondary suite within the upstairs of a detached garage / workshop.

If the proposed amending bylaw is approved, it will permit the existing secondary suite within the upstairs of the detached garage/workshop building to remain and the suite could be renovated or replaced as required in future.

Development Agreement: None

Options:

1. THAT Bylaw No. 2820 cited as "Regional District of East Kootenay – Cranbrook Rural Zoning Bylaw No. 1402, 2001 – Amendment Bylaw No. 47, 2017 (Gold Creek / Anderson)" be introduced.
2. THAT Bylaw No. 2820 cited as "Regional District of East Kootenay – Cranbrook Rural Zoning Bylaw No. 1402, 2001 – Amendment Bylaw No. 47, 2017 (Gold Creek / Anderson)" not proceed.

Recommendation: **Option #1**
Detached secondary suites are generally supported in the Rockyview OCP and we have received confirmation that the sewage system can support the house and the secondary suite.

Property Information:

OCP Designation: MH, Medium Holdings

OCP Objectives & Policies:

- Secondary suites in detached garages are generally supported in the plan area. As resources allow, the RDEK will consider a bylaw amendment to permit the use in the Cranbrook Rural Zoning Bylaw.

Zone Designation: RR-2, Rural Residential (Small Holding Zone (minimum parcel size: 2 ha)

Property Information - cont'd:

Parcel Size: 2 ha (5 ac)

Density:

Existing: One single family dwelling with a secondary suite

Proposed: no change

Potential: No change

ALR Status: Within

Interface Fire Hazard Rating: Ranges from low to high; within the Cranbrook rural fire protection area

BC Assessment: Residential with single family dwelling

Water and Sewer Services: onsite, no change

Professional Studies: None.

**Additional
Information:**

- The applicants state that shortly after they purchased the property, they became aware that the suite did not conform with existing regulations.
- In August the Board of Directors requested confirmation from a ROWP that the onsite sewage system could support both the proposed dwelling and secondary suite. This information has now been provided. The applicants submitted a report to the RDEK on October 26, 2018 dated October 11, 2018 that recommends system upgrades and confirms the upgrades have been completed. The system can now support the house and suite.
- Registering a Notice on Title may be recommended by the Building Department to alert future buyers that the 'as built' structure did not have a building permit.

Consultation:

APC Area C: No comments to date

RDEK Building Department: The structure was originally permitted as a garage, with no suite, no upper deck, and no carport. The last inspection on the structure was after construction of the lower level walls. All additional work is now covered, (including all structural framing above the garage/lower level walls, plumbing, insulation and vapor barrier), making building inspection impossible. An occupancy inspection was never completed because the structure was not proposed as a dwelling.

Any building inspections at this completed stage would require exposing wall framing, floor system, roof system, plumbing systems, and insulation and vapor barriers, as well as renewal of the expired building permit. All relevant documentation including truss certificates, floor and roof layouts would also be required. Since undertaking these steps is impractical, the Building Department recommends a Notice on Title and the current bylaw amendment process instead of proceeding with any building permit processes. A Notice on Title will notify any future potential buyers that the structure did not have a building permit and that it is a "buyer beware" situation.

**Consultation –
cont'd:**

Referral Agencies:

- **Interior Health Authority:** It should be ensured that the existing sewerage system and water service are safe and adequate. (See attached letter).
- **Transportation & Infrastructure:** Interests unaffected
- **Environmental Protection:** No response
- **Water Stewardship:** No response
- **Environmental Stewardship:** Reviewed without comment
- **Energy & Mines:** No response
- **Ktunaxa Nation Council:** No response
- **School District No. 5:** Interests unaffected
- **City of Cranbrook:** No response
- **Telus:** No response

**Documents
Attached:**

- Bylaw
- Location Map
- Land Use Map
- Photos
- Letter from IHA

**RDEK
Contact:**

Krista Gilbert, Planning Technician
Phone: 250-489-0314
Email: kgilbert@rdek.bc.ca

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2820

A bylaw to amend Bylaw No. 1402 cited as "Regional District of East Kootenay – Cranbrook Rural Zoning Bylaw No. 1402, 2001."

WHEREAS the Board of the Regional District of East Kootenay has received an application to amend Bylaw No. 1402;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Regional District of East Kootenay – Cranbrook Rural Zoning and Floodplain Management Bylaw No. 1402, 2001 – Amendment Bylaw No. 47, 2017 (Gold Creek / Anderson)."
2. Part 4 – General Regulations is amended by adding the following:

PROPERTY SPECIFIC REGULATIONS

- 4.27 (1) Despite the use and density regulations contained elsewhere in this Bylaw:
- (a) One *secondary suite* located above the first storey of a detached accessory building is permitted on Lot 9, District Lot 9451, Kootenay District, Plan 1084.

READ A FIRST TIME the day of , 2018.

READ A SECOND TIME the day of , 2018.

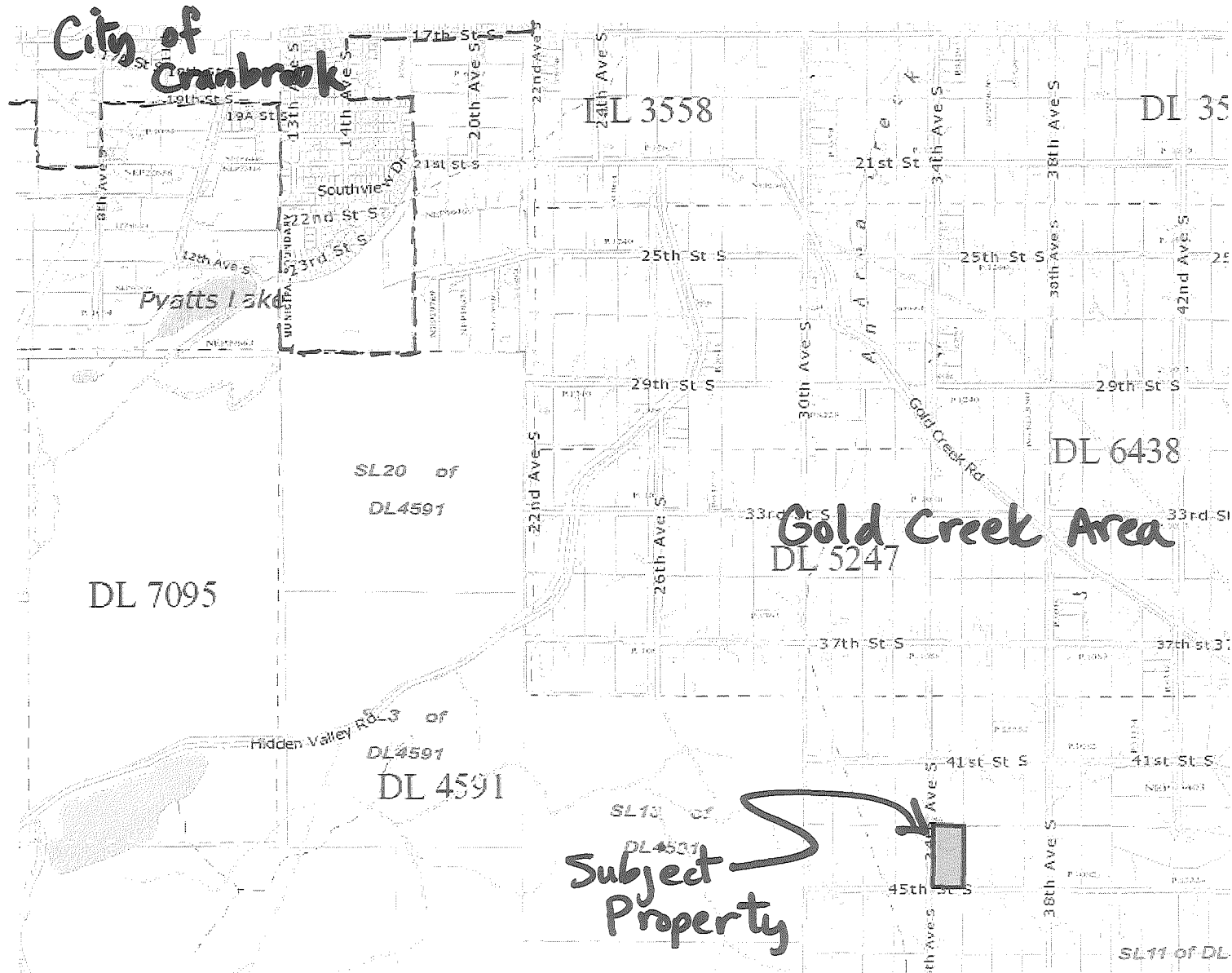
READ A THIRD TIME the day of , 2018.

ADOPTED the day of , 2018.

CHAIR

CORPORATE OFFICER

Location Map



Land Use Map

5 acres Residential (SFD)	5 ac Residential (SFD)	4.8 ac Residential (SFD)	4.9 ac Residential (SFD)	4.9 ac Residential (SFD)
5 ac Residential (SFD)	5 ac Residential & Farm (Poultry)	Subject Property 5 acres Residential (SFD)	5 ac Residential & Farm (SFD)	5 ac Residential (SFD)
5 ac Residential (Manufactured Home)	5 ac Residential (SFD)	5 acres Residential (SFD)	5 acres Residential (SFD)	5 acres Residential (SFD)

34th Ave S

45th St S

34th Ave S

Proposal



Bylaw Name: Gold Creek / Anderson
Bylaw No: 2820
File No.: P717 349
Contact: Tracy Van de Wiel, Planning

**BYLAW REFERRAL
RESPONSE SUMMARY**

[] Interests unaffected by bylaw

Concerns/Comments:

Thank you for the opportunity to respond to this bylaw referral. The bylaw referral is to allow for a suite in a separate building. This growth is in the fringe rural area of the City of Cranbrook.

Interior Health would like to add a health perspective to the proposed development. We endorse a built environment which links neighbourhood features that provide easy access to amenities, work, recreation, and daily activities thus improve population health.

Healthy Built Environment encourages development within the boundaries of the existing municipality where there is infrastructure and amenities. Growth in communities which support active living and healthy eating have been found to contribute to reductions in disease incidents, improved quality of life and avoidance of health care costs.

Interior Health supports safe and accessible transportation systems that incorporate a diversity of transportation mode and place priority on active or multi model transport (e.g., cycling, walking, car sharing and transit) over the use of private vehicles. Transportation networks enable us to travel from place to place as we go about our daily lives.

Rural development on onsite sewerage and onsite water requires:

- 1) An assessment of sewerage system (SDS) for continued usage to be carried out by an Authorized Person. (Compliance and performance inspection see pg. 12 in attached document) The assessment will provide confirmation of adequate performance, condition, size and location for the continued use of the existing onsite sewerage system. The SDS assessment is to determine location and to ensure that there is no health hazard /risk.
- 2) A safe potable water system for the tenant:

Drinking water quality should be tested to confirm it meets the Guidelines for Canadian Drinking Water Quality. Health Canada's Canadian Drinking Water Guidelines (www.hc-sc.gc.ca/ewh-semt/water-eau/drink-potab/guide/index_e.html), have established maximum acceptable concentrations (MACs) for substances in drinking water that are known (or suspected) to cause adverse health effects.

The bylaw could encourage residential growth in areas that cannot support neighbour features to improve population health.

Signed by: 

Printed Name: Clare Audet

Title: Environmental Health Officer

Agency: Interior Health Authority

Date: November 7, 2017

7.0 PRIVATE INSPECTOR (PI)

7.1. Regulatory Framework for Private Inspectors

The SSR and the SPM do not stipulate that individuals providing onsite wastewater inspection services are to be certified or registered as Authorized Persons (AP). ASTTBC considers conducting accurate inspections and providing quality reports and other information on the condition of onsite wastewater systems of paramount importance. Any ROWP that provides services as an Inspector, or provides any assessment or confirmation of the performance or functionality of an existing sewage system other than for the purposes of maintenance, shall be certified and registered with the PI endorsement.

The ROWP is to offer an inspection tailored to the needs of the client while meeting the minimum inspection standards for either inspection type. The ROWP must ensure that an appropriate level of inspection and reporting is conducted to determine and explain both the findings as well as provide adequate information to defend and document conclusions. Any ROWP PI who undertakes an inspection must have the educational qualifications, equipment, competencies and experience to do thorough inspections.

There are two types of inspection: 1) Performance inspections; and 2) Compliance inspections.

* → 7.2. Performance Inspection

A Performance Inspection is intended to assist a prospective buyer with determining the condition of the onsite sewage system, suitability for the buyer's intended use or changes to the home or property, recommended or required maintenance, repairs or improvements with reasons for them, time frame for undertaking repairs and maintenance, information on who can undertake the work and how they can be contacted or located. This inspection can also be carried out on behalf of a property owner prior or during the listing of their property for sale as an aid for prospective buyers. May also be appropriate where a property owner wishes to understand the system and its performance for their own knowledge.

A Performance Inspection is to determine or include the following:

- a) System types 1, 2 or 3
- b) Explain the expected function as well as the actual function and condition of each component
- c) General location of each component on the property
- d) Location of any utilities in the vicinity of the onsite system
- e) Review of all existing permit/Filing documents and comparison with the system as installed
- f) Review of all existing maintenance records
- g) Review written where possible current or expected usage information collected from the occupant/client against the designed abilities of the onsite system
- h) Completion of a detailed report to the client on the condition, performance, and suitability for intended use and recommended or required repairs, maintenance or improvements to the system

7.3. Compliance Inspection

A Compliance Inspection is intended to assist a property owner when making changes to the home or property subject to bylaw requirements for the change in use or additional structures being permitted. A Compliance Inspection includes all aspects of a Performance Inspection plus the following requirements:



Request for Decision

File No: P 718 547 / P 718 615

Date	November 26, 2018
Author	Michele Bates, Planner
Subject	Wireless Communications Facilities at the Edgewater, Windermere and Fairmont Hot Springs Fire Halls

REQUEST

THAT Bylaw No. 2881, Bylaw No. 2882 and Bylaw No. 2883 proceed to a public hearing.

OPTIONS

1. a) THAT Bylaw No. 2881 cited as “Regional District of East Kootenay – Steamboat - Jubilee Mountain Official Community Plan Bylaw No. 1926, 2006 – Amendment Bylaw No. 13, 2018 (Wireless Communications Facility / RDEK)” be introduced;

and further, that the Board is satisfied that the OCP consultation identified in the staff report is appropriate.
- b) THAT Bylaw No. 2882 cited as “Regional District of East Kootenay – Lake Windermere Official Community Plan Bylaw No. 2061, 2008 – Amendment Bylaw No. 23, 2018 (Wireless Communications Facility / RDEK)” be introduced;

and further, that the Board is satisfied that the OCP consultation identified in the staff report is appropriate.
- c) THAT Bylaw No. 2883 cited as “Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 342, 2018 (Wireless Communications Facilities / RDEK)” be introduced.
2. a) THAT Bylaw No. 2881 cited as “Regional District of East Kootenay – Steamboat - Jubilee Mountain Official Community Plan Bylaw No. 1926, 2006 – Amendment Bylaw No. 13, 2018 (Wireless Communications Facility / RDEK)” not proceed.
- b) THAT Bylaw No. 2882 cited as “Regional District of East Kootenay - Lake Windermere Official Community Plan Bylaw No. 2061, 2008 - Amendment Bylaw No. 23, 2018 (Wireless Communications Facility / RDEK)” not proceed.
- c) THAT Bylaw No. 2883 cited as “Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 342, 2018 (Wireless Communications Facilities / RDEK)” not proceed.

RECOMMENDATION

Option 1

The proposal addresses the servicing needs of the plan areas and supports opportunities for the integration of infrastructure required for technological innovations to facilitate information sharing.

BACKGROUND

Official Community Plan and zoning bylaw amendments are required to permit the installation of the proposed Columbia Basin Broadband Corporation wireless communication towers.

Bylaw 2881 and Bylaw 2882 will amend the current OCP designations at the Windermere Fire Hall and Edgewater Fire Hall to INST, Institutional.

Bylaw 2883 will amend the zoning of the Windermere Fire Hall from C-2, Service Commercial to P-1, Public Institutional and add wireless communications facilities as a permitted use at the three fire hall locations.

ANALYSIS

If constructed the towers would be between 100 and 120 feet in height.

An archaeological preliminary field reconnaissance will be conducted at each of the project sites prior to construction.

SPECIFIC CONSIDERATIONS

Regional Sustainability Strategy

The RDEK will pursue the following objectives and actions to achieve the vision for the Economy:

5.3.5 Broadband

To maintain economic growth and diversification opportunities, the RDEK will support the enhancement and completion of the provision of broadband infrastructure in the region through the direct supply of service, encouraging private and public sector investment, and advocating for legislative and regulatory change to facilitate the provision of broadband service.

Bylaws

Steamboat – Jubilee Mountain Official Community Plan - Section 12.2 (1) and (6)

- To address servicing and infrastructure needs of the plan area.
- To promote the need for cooperation and co-location for the siting of wireless communication facilities.

Lake Windermere Official Community Plan – Section 17.2 (4)

- To support opportunities for the integration of infrastructure required for technological innovations to facilitate information sharing and access.

Public Consultation & Referrals

Advisory Planning Commission Areas F & G supported the application.

On October 26th, referrals for Bylaws 2881, 2882 and 2883 were sent to the following agencies with responses where noted:

- Interior Health Authority – no health impacts associated with this application were identified

- Ministry of Transportation & Infrastructure – No response
- MFLNRO – Environmental Protection – No response
- MFLNRO – Water Stewardship – No response
- MFLNRO – Environmental Stewardship – Interests Unaffected
- Ktunaxa Nation Council – No response
- Akisqnuk First Nation – No response
- Shuswap Indian Band – Requested a preliminary field reconnaissance at the installation sites
- Telus – No response

Attachments:
Bylaws

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2881

A bylaw to amend Bylaw No. 1926 cited as "Regional District of East Kootenay – Steamboat - Jubilee Mountain Official Community Plan Bylaw No. 1926, 2006."

WHEREAS the Board of the Regional District of East Kootenay has received an application to amend Bylaw No. 1926;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Regional District of East Kootenay – Steamboat - Jubilee Mountain Official Community Plan Bylaw No. 1926, 2006 – Amendment Bylaw No. 13, 2018 (Wireless Communications Facility / RDEK)."
2. The designation of Parcel A (see XK35582) of Block 10, District Lot 353, Kootenay District Plan 1185 outlined on the attached Schedule A, which is incorporated in and forms part of this Bylaw, is amended from OSRT, Open Space, Recreation and Trails to INST, Institutional.

READ A FIRST TIME the day of 2018.

READ A SECOND TIME the day of 2018.

READ A THIRD TIME the day of 2018.

ADOPTED the day of 2018.

CHAIR

CORPORATE OFFICER

SCHEDULE A



**OSRT
to
INST**

This is Schedule A referred to in Bylaw 2881 cited as
"Regional District of East Kootenay – Steamboat – Jubilee
Mountain Official Community Plan Bylaw No. 1926, 2006 -
Amendment Bylaw No. 13, 2018 (Wireless Communications
Facility / RDEK)."

Chair

Corporate Officer

Date

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2882

A bylaw to amend Bylaw No. 2061 cited as "Regional District of East Kootenay – Lake Windermere Official Community Plan Bylaw No. 2061, 2008."

WHEREAS the Board of the Regional District of East Kootenay wishes to amend Bylaw No. 2061;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Regional District of East Kootenay – Lake Windermere Official Community Plan Bylaw No. 2061, 2008 -- Amendment Bylaw No. 23, 2018 (Wireless Communications Facility / RDEK)."
2. The designation of Lot B, District Lot 8, Kootenay District Plan 14325 outlined on the attached Schedule A, which is incorporated in and forms part of this Bylaw, is amended from C, General Commercial to INST, Institutional.

READ A FIRST TIME the day of ' 2018.

READ A SECOND TIME the day of 2018.

READ A THIRD TIME the day of 2018.

ADOPTED the day of 2018.

CHAIR

CORPORATE OFFICER

[illegible]

Date _____

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2883

A bylaw to amend Bylaw No. 900 cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992."

WHEREAS the Board of the Regional District of East Kootenay wishes to amend Bylaw 900;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 342, 2018 (Wireless Communications Facilities / RDEK)."
2. Part 4 General Regulations is amended by adding the following:

PROPERTY SPECIFIC REGULATIONS

- 4.28 (1) Despite the use and density regulations contained elsewhere in this Bylaw:
 - (a) On Parcel A (see XK35582) of Block 10, District Lot 353, Kootenay District Plan 1185 a wireless communication facility is permitted.
 - (b) On Parcel A (see KV27088) District Lot 47, Kootenay District Plan 13377 a wireless communication facility is permitted.
 - (c) On Lot B, District Lot 8, Kootenay District Plan 14325 a wireless communications facility is permitted.
3. The designation of Lot B, District Lot 8, Kootenay District Plan 14325 outlined on the attached Schedule A, which is incorporated in and forms part of this Bylaw, is amended from C-2, Service Commercial to P-1, Public Institutional.

READ A FIRST TIME the day of 2018.

READ A SECOND TIME the day of 2018.

READ A THIRD TIME the day of 2018.

APPROVED by the Ministry of Transportation and Infrastructure the day of 2018.

Print Name: _____

Signature: _____

ADOPTED the day of 2018.

CHAIR

CORPORATE OFFICER

C-2
to
P-1

Date _____



Bylaw Amendment Application

Date: November 27, 2018
 File: P 718 548
 Bylaw No. 2889

Applicants: Walter Bruns
Agent: Sherilyn Batchelder on behalf of Xplornet
Location: 1490 Windermere Loop Road in the Windermere area east of Highway 93/95
Legal: Lot B, DL 4596, Kootenay District, Plan NEP23639 (PID: 023-665-815)

Proposal: To amend the text of the zoning bylaw to permit a wireless communication facility on the subject property.

Note: There are two existing towers on the property which were permitted historically by Transport Canada, a federal authority. The current A-2 zone in the Upper Columbia Valley Zoning Bylaw does not list wireless communication facility as a permitted use.

Development Agreement: None

Options:

1. THAT Bylaw No. 2889 cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw 900, 1992 – Amendment Bylaw No. 343, 2018 (Windermere East / Bruns)" be introduced.
2. THAT Bylaw No. 2889 cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw 900, 1992 – Amendment Bylaw No. 343, 2018 (Windermere East / Bruns) not proceed.

Recommendation: **Option #1**
 Sharing of towers and grouping of towers is encouraged to preserve rural character and protect viewsapes.

Property Information: **OCP Designation:** RR, Rural Resource which supports agricultural, rural residential and rural resource land uses with parcel sizes 8.0 ha and larger. The RR designation also recognizes the use of these lands for public utility use, resource extraction, green space and recreation.

OCP Policies:

- The cooperation and coordination of utility and telecommunication companies in utilizing existing corridors and sites for multiple uses is encouraged and supported.

Current Zoning:

A-2, Rural Residential (Country) Zone, minimum parcel size: 8 ha
 This zone does not permit wireless communication facility use.

**Property
Information –
cont'd:**

The RDEK recognizes that the placement of wireless communication facilities is under the jurisdiction of Industry Canada; however, their placement should be in accordance with RDEK bylaws.

Parcel Size: 9.8 ha (24.2 ac)

Density: N/A

ALR Status: Not within the ALR

Interface Fire Hazard Rating: Low to high, within the Windermere fire service area

BC Assessment: Residential & utilities

Water and Sewer Services: N/A

**Professional
Studies:**

Geotechnical Covenant XL435 designates the proposed tower location as Class III geotechnical hazard land. The covenant prohibits vegetation removal, soil disturbance and / or construction or placement of buildings or structures. The covenant was required by the Ministry of Transportation and Infrastructure, and both the Ministry and the RDEK must be satisfied with the geotechnical investigation and certification prior to a new tower being permitted. The applicant has been working with a geotechnical engineer to ensure the proposed tower design and installation is safe for the proposed site.

**Additional
Information:**

The proposed amending bylaw was prepared to follow another proposed amendment to permit wireless communication facilities on three firehall properties owned by the RDEK.

Consultation:

APC Area F&G: Support

Referral Agencies:

- **Interior Health Authority:** Interests unaffected
- **Transportation & Infrastructure:** Interests unaffected
- **Environment:** Reviewed without comment
- **Energy & Mines:** No response
- **Ktunaxa Nation Council:** No response.
- **Akisqnuq First Nation:** No response.
- **Shuswap Indian Band:** No response.
- **School District No. 6:** Interests unaffected
- **Telus:** No response

**Documents
Attached:**

- Bylaw
- Location Map
- Land Use Map
- Proposal and Photos

RDEK
Contact:

Tracy Van de Wiel, Planning Technician
Phone: 250-489-0306
Email: tvandewiel@rdek.bc.ca

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2889

A bylaw to amend Bylaw No. 900 cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw 900, 1992."

WHEREAS the Board of the Regional District of East Kootenay wishes to amend Bylaw No. 900;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw 900, 1992 – Amendment Bylaw No. 343, 2018 (Windermere East / Bruns)."
2. Part 4.28 **PROPERTY SPECIFIC REGULATIONS** Section (1) is amended by adding the following:

- (d) On Lot B, District Lot 4596, Kootenay District, Plan NEP23639 a wireless communications facility is permitted.

READ A FIRST TIME the day of , 2018.

READ A SECOND TIME the day of , 2018.

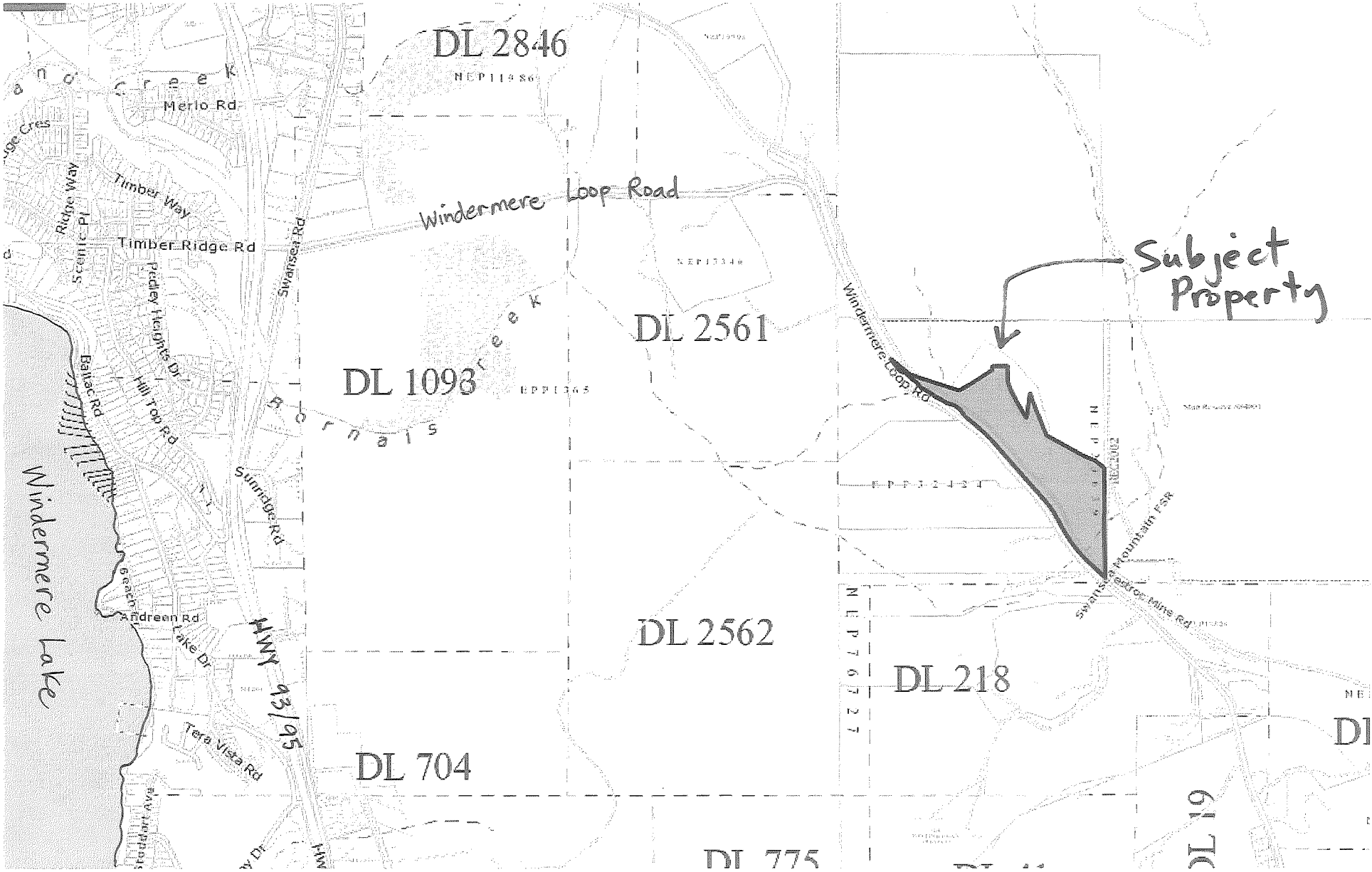
READ A THIRD TIME the day of , 2018.

ADOPTED the day of , 2018.

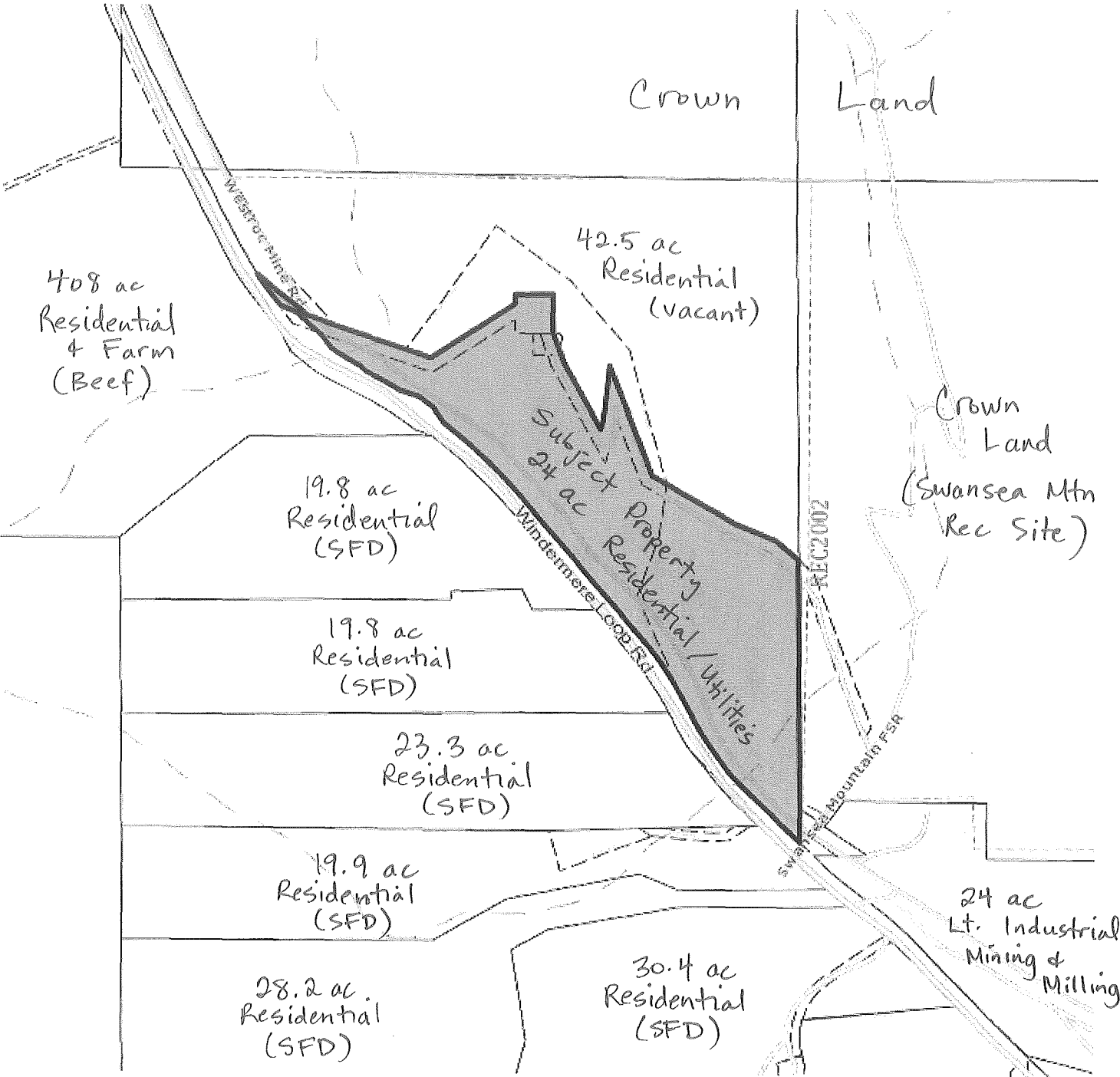
CHAIR

CORPORATE OFFICER

Location Map



Land Use Map



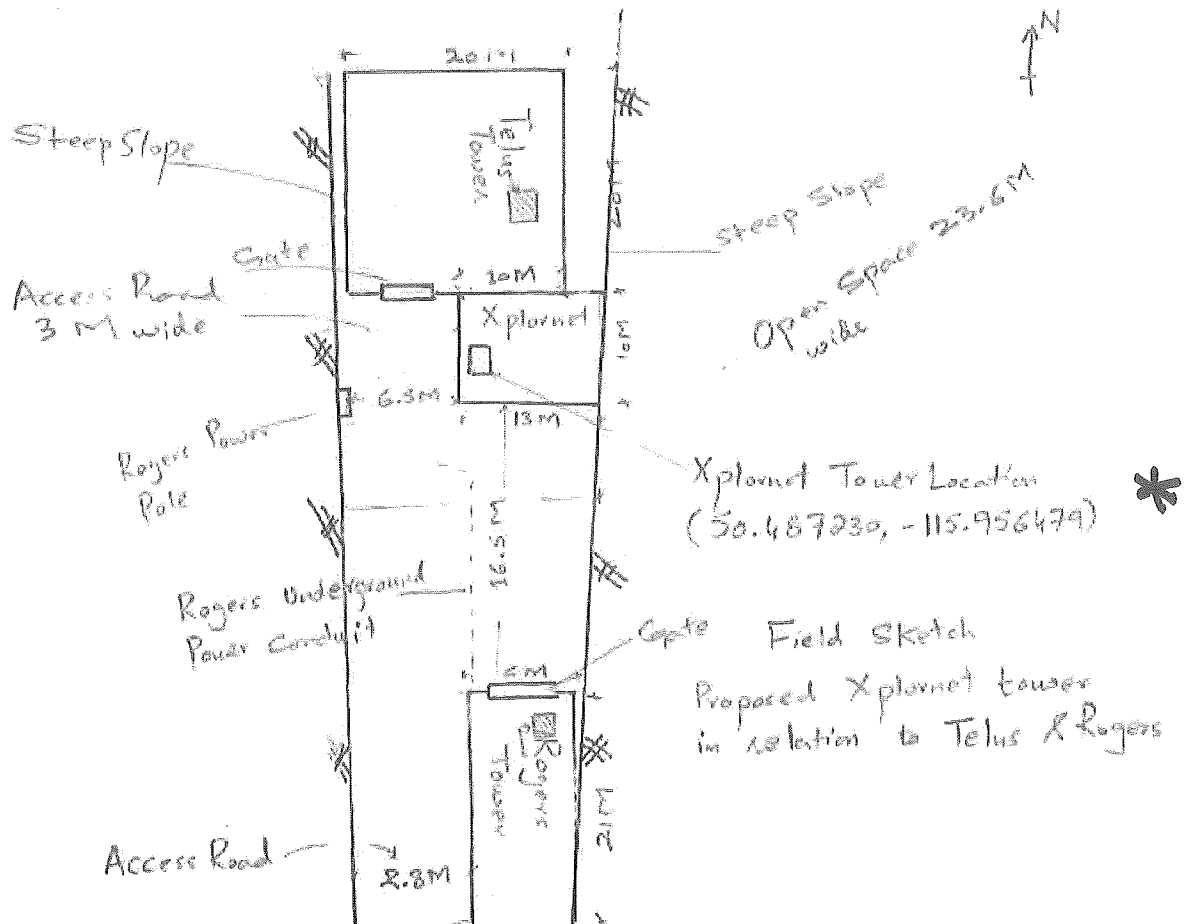


- 25 YEARS -

Proposal

Site Plan

The proposal is located on A-2 zoned lands. The tower site will be approximately 10m. x 13m. and all equipment necessary to operate this facility will reside within an equipment cabinet with the approximate dimensions of 2m. x 1m. x 1m. The dimensions of the 30m. tower are $\pm 1.93\text{m}$. ($\pm 6.33\text{ft.}$) per side of each triangle. Access to the tower will be via an existing approach off Swansee Mountain Road. Xplornet attests that the installation will respect good engineering practices, including structural integrity.



WWW.SCOTTLAND.CA

SUITE 900, BOW VALLEY SQUARE I, 202 6TH AVE. SW, CALGARY, ALBERTA, CANADA T2P 2R9

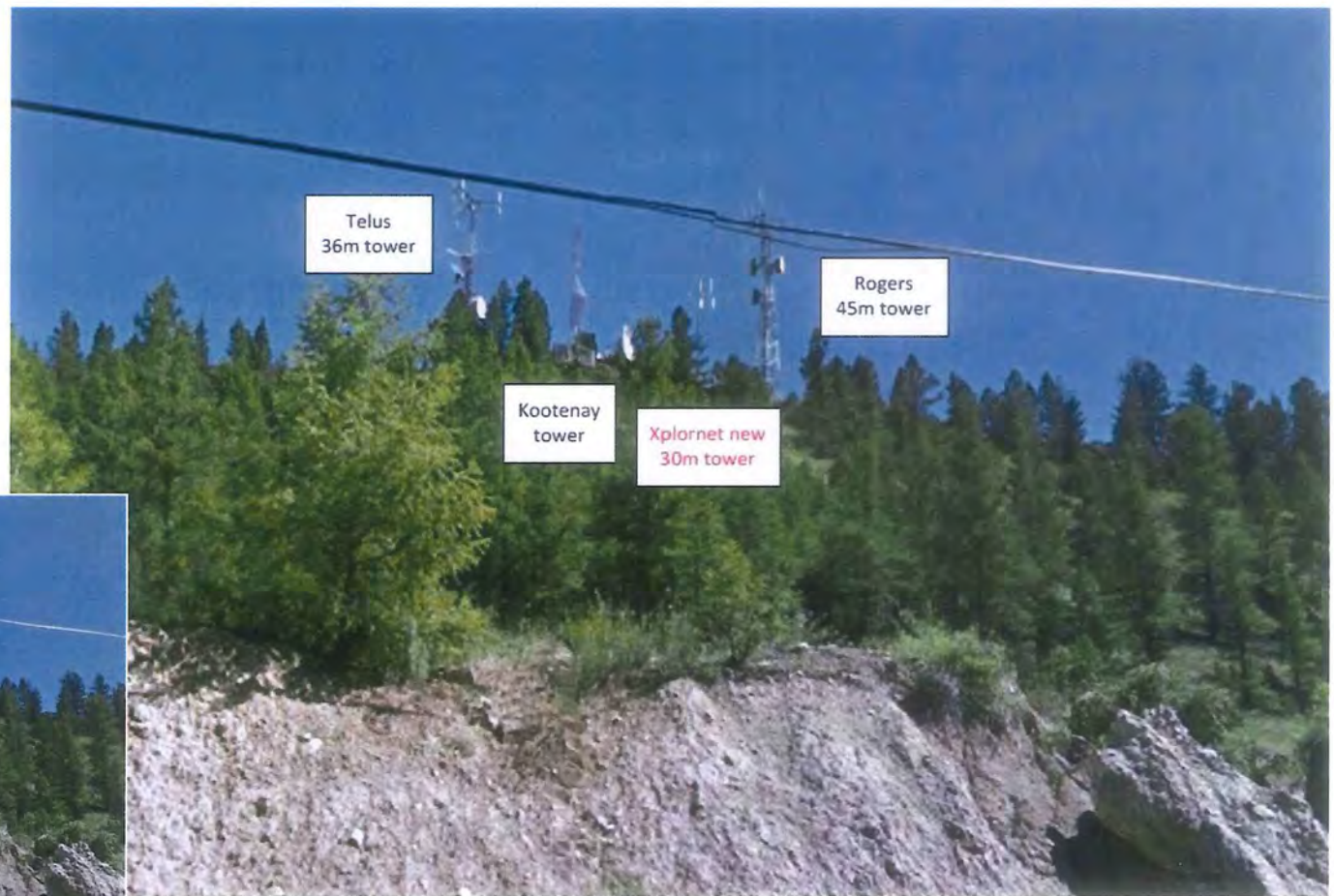
TELEPHONE: (403) 261-1000 FAX: (403) 263-5263 E-MAIL: CALGARY@SCOTTLAND.CA

OFFICES IN CALGARY, EDMONTON, GRANDE PRAIRIE, LLOYDMINSTER, REGINA, AND FORT ST. JOHN

WINDERMERE BC1987, 30M SELF SUPPORT

Tower Coordinates: (50.487230°, -115.956479°)

VIEW FROM 220M SOUTH-WEST



After



Before



WINDERMERE BC1987, 30M SELF SUPPORT

Tower Coordinates: (50.487230°, -115.956479°)

VIEW FROM 75M NORTH



Before



After



Staff Report ...

Bylaw Amendment Application

Date: November 26, 2018
File: P 718 213
Bylaw No. 2890

- Applicant:** David and Susan McLeay
Location: Grasmere-Dorr Road in Grasmere West
Legal: Lot 5, District Lot 489, Kootenay District, Plan EPP1381 (PID: 027-782-077)
- Proposal:** To amend the zoning designation of the property from RR-2, Rural Residential (Small Holding) Zone to RR-1, Rural Residential (Estate) Zone to accommodate subdivision.
- Options:**
1. THAT Bylaw No. 2890 cited as "Regional District of East Kootenay – South Country Zoning and Floodplain Management Bylaw No. 2320, 2011 - Amendment Bylaw No. 15, 2018 (Grasmere / McLeay)" be introduced.
 2. THAT Bylaw No. 2890 cited as "Regional District of East Kootenay – South Country Zoning and Floodplain Management Bylaw No. 2320, 2011 - Amendment Bylaw No. 15, 2018 (Grasmere / McLeay)" not proceed.
- Recommendation:** **Option # 1**
 OCP policies support subdivision of parcels of this size in this location and the proposal is consistent with surrounding parcel sizes.

Property Information:

OCP Designation: SH, Small Holdings

OCP Policies:

- Applications to create parcels less than 0.4 ha in size are not supported within the plan area and are directed to communities outside the plan area.

OCP Policies Specific to the Grasmere Subarea:

- Applications for subdivision to create residential parcels with a minimum size of 0.4 ha or greater within the Grasmere General Store Node will generally be supported. Applications will also be reviewed in relation to the capability to provide onsite sewage disposal in accordance with provincial requirements, and the potential impact of the proposal on groundwater aquifer depletion.

Current Zoning:

RR-2, Rural Residential (Small Holding) Zone (minimum parcel size: 2 ha)

Proposed Zoning:

RR-1, Rural Residential (Estate) Zone (minimum parcel size: 1 ha)

**Property
Information -
cont'd:**

Parcel Size: 2.7 ha (6.6 ac)

Density:

Existing: The maximum number of lots that may be possible under the current RR-2 designation is one.

Proposed: Two lots

Potential: The maximum number of lots that may be possible with the proposed zoning is two.

ALR Status: Not within the ALR

Interface Fire Hazard Rating: Moderate to high, not within a fire protection area

BC Assessment: Residential, vacant

Water and Sewer Services: Onsite proposed

**Professional
Studies:**

None

**Additional
Information:**

None

Consultation:

Advisory Commissions:
APC Area B: Support

Referral Agencies:

- **Interior Health Authority:** Not supported. (See attached letter)
- **Transportation & Infrastructure:** Interests unaffected
- **Environment:** No comment
- **Ktunaxa Nation Council:** No response
- **School District No. 5:** Interests unaffected
- **Telus:** No response

**Documents
Attached:**

- Bylaw
- Location Map
- Land Use Map
- Proposed Subdivision Plan
- IHA Letter

**RDEK
Contact:**

Krista Gilbert, Planning Technician
Phone: 250-489-0314
Email: kgilbert@rdek.bc.ca

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2890

A bylaw to amend Bylaw No. 2320 cited as "Regional District of East Kootenay – South Country Zoning and Floodplain Management Bylaw No. 2320, 2011."

WHEREAS the Board of the Regional District of East Kootenay has received an application to amend Bylaw No. 2320;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Regional District of East Kootenay – South Country Zoning and Floodplain Management Bylaw No 2320, 2011 – Amendment Bylaw No. 15, 2018 (Grasmere / McLeay)."
2. The designation of Lot 5 District Lot 489 Kootenay District Plan EPP1381, outlined on the attached Schedule A, which is incorporated in and forms part of this Bylaw, is amended from RR-2, Rural Residential (Small Holding) Zone to RR-1, Rural Residential (Estate) Zone.

READ A FIRST TIME the day of , 2018.

READ A SECOND TIME the day of , 2018.

READ A THIRD TIME the day of , 2018.

APPROVED by the Ministry of Transportation and Infrastructure the day of , 2018.

Signature: _____

Print Name: _____

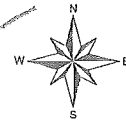
ADOPTED the day of , 2018.

CHAIR

CORPORATE OFFICER

SCHEDULE A

DD 57688-1



SL 9

P. X-12

DL 489

P. 4654

Exp. Plan
19291-I

SL 40

Sketch Plan
22016-A

Plan 9798-I

RR-2
to
RR-1

SL 8

P. X-12

Hwy 93

Ref. P. 109473-1

Grasmere-Don RR

P. 4345

P. 7964

Grasmere Old
School Rd

Exp. Plan

P. 5469

P. X-12

P. X-12

SL 31

SL 31

This is Schedule A referred to in Bylaw No. 2890 cited as
"Regional District of East Kootenay - South Country Zoning
and Floodplain Management Bylaw No. 2320, 2011 -
Amendment Bylaw No. 15, 2018 (Grasmere / McLeay)."

Chair

Corporate Officer

Date

96446 CLSR BC

LOT 24-3-3

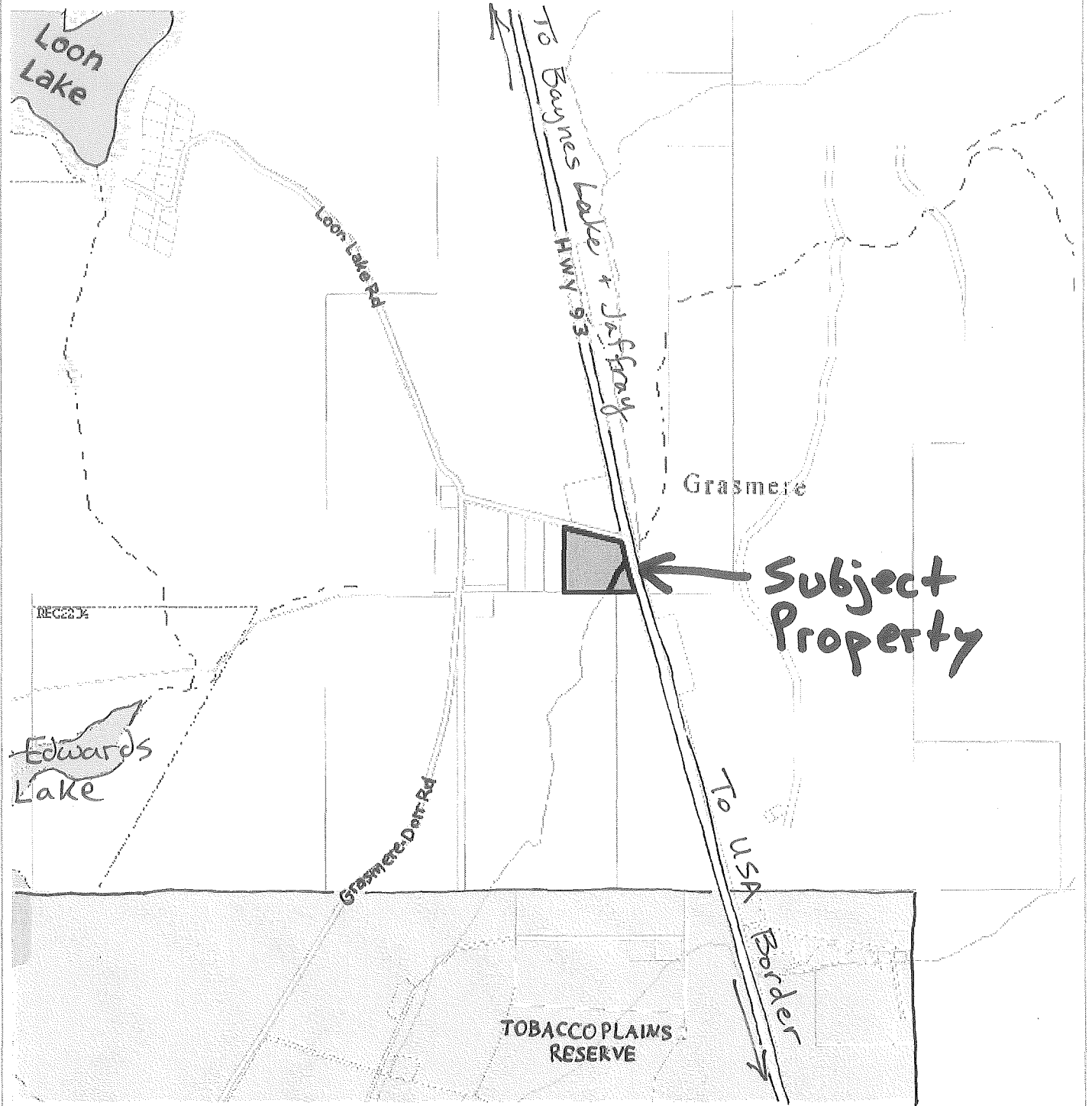
her Rd

LOT 21-2-1
3258R RSBC BC

Upper
Gravelle Rd

LOT 21-2-2

Location Map



Notes:

575 0 288 575 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 10-16-2018 11:55 AM

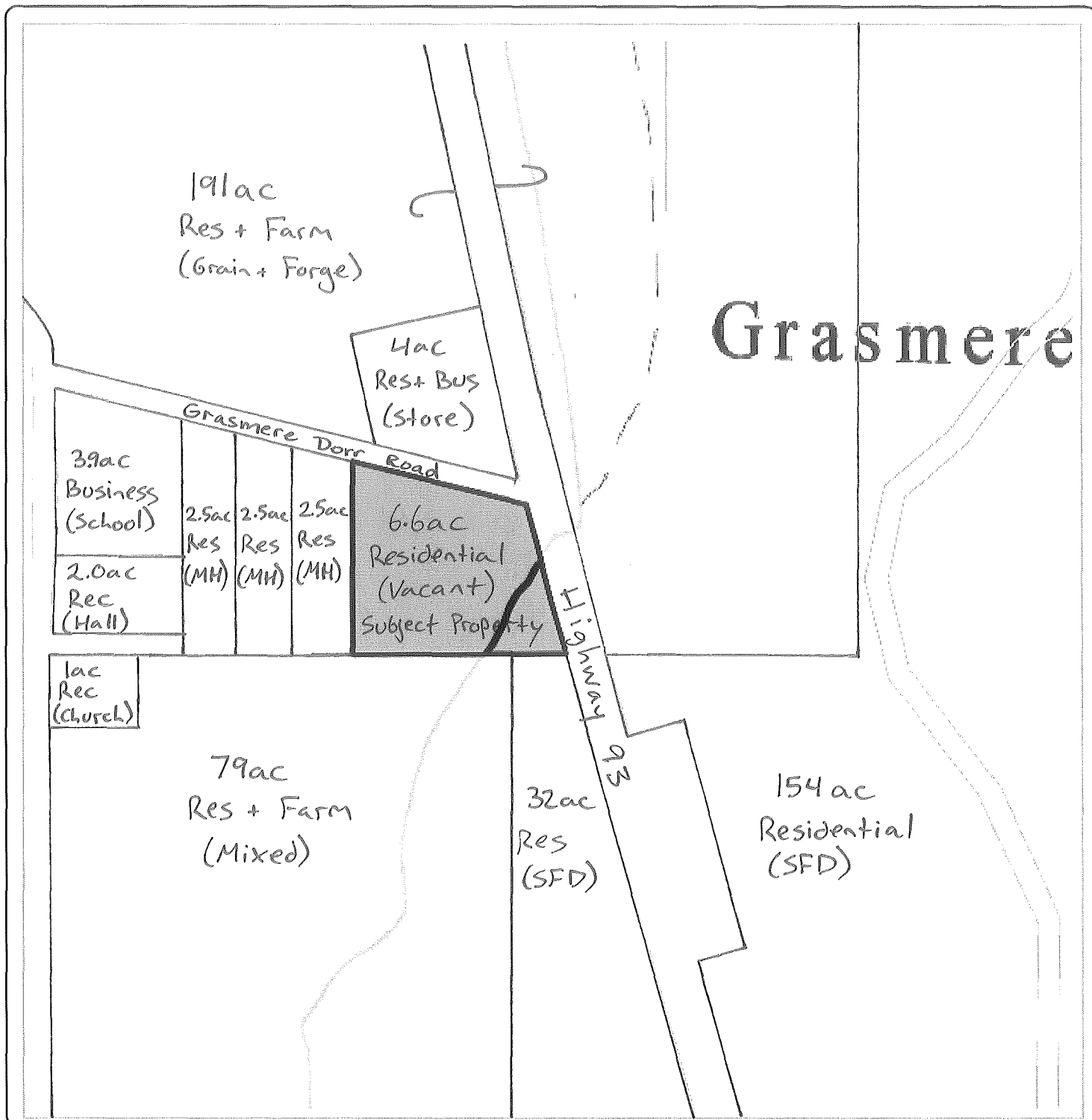
Scale = 1:23,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Land Use Map



Notes:

188 0 94 188 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 10-16-2018 12:01 PM

Scale = 1:7,500



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.



**BYLAW REFERRAL
RESPONSE SUMMARY**

[] Interests unaffected by bylaw

Concerns/Comments:

Interior Health thanks you for the opportunity to provide a health perspective to the proposed amendment which will allow for a smaller parcel size and additional housing in this rural setting.

We encourage land use amendments which promote healthy and active lifestyles and would therefore improve physical and social wellbeing within the community area.

Growth should adhere to planning principles which promote wellbeing in a community by encouraging housing plans, climate action plans, transportation design plans while acknowledging the environmental and economic constraints.

Interior Health endorses the concept of creating development where the easy choice is the healthy choice which helps to improve population health. Development in this area will encourage the use of private vehicles due to safety and distance to commute. The reliance on private vehicles can reduce a residents' ability to have an active lifestyle, physical activity and opportunities to access amenities. Physical activity and access to amenities has been shown to reduce disease incident, improve quality of life therefore reducing health care cost.

Interior Health supports land development in areas where access to amenities, work, recreation, and daily activities encourage healthy lifestyles therefore improving the health and wellbeing of the population.

Thank you for the opportunity to review and comment.

Signed by:



Printed Name: Clare Audet

Title: Environmental Health Officer – Healthy Community Development

Agency: Interior Health Authority

Date: November 15, 2018



Request for Decision

File No: P 718 550

Date November 26, 2018
Author Michele Bates, Planner
Subject East Side Lake Windermere Water Treatment Plant

REQUEST

THAT Bylaw No. 2891 and Bylaw No. 2892 proceed to a public hearing.

OPTIONS

1. a) THAT Bylaw No. 2891 cited as “Regional District of East Kootenay – Lake Windermere Official Community Plan Bylaw No. 2061, 2008 – Amendment Bylaw No. 24, 2018 (East Side Windermere Water / RDEK)” be introduced;

and further, that the Board is satisfied that the OCP consultation identified in the staff report is appropriate.
- b) THAT Bylaw No. 2892 cited as “Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 344, 2018 (East Side Windermere Water / RDEK)” be introduced.
2. a) THAT Bylaw No. 2891 cited as “Regional District of East Kootenay – Lake Windermere Official Community Plan Bylaw No. 2061, 2008 – Amendment Bylaw No. 24, 2018 (East Side Windermere Water / RDEK)” not proceed.
- b) THAT Bylaw No. 2892 cited as “Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 344, 2018 (East Side Windermere Water / RDEK)” not proceed.

RECOMMENDATION

Option 1

BACKGROUND/ANALYSIS

Public utility is permitted in all zones. The RDEK has leased the water treatment plant and adjacent lands. The rezoning is necessary as the 99 year lease is equivalent to a subdivision and must meet minimum parcel size requirements.

In May 2018, the East Side Lake Windermere Water System Service was established.

SPECIFIC CONSIDERATIONS

Bylaws

Lake Windermere Official Community Plan – Section 17.3 (3)

- Requests for the Regional District to take over the operation and maintenance of existing or proposed community water or sewer systems will only be considered in relation to the requirements of the Regional District Subdivision Servicing Bylaw and the necessary service area establishment approvals.

Public Consultation & Referrals

Advisory Planning Commission Areas F & G supported the application.

On October 26th, referrals for Bylaws 2891 and 2892 were sent to the following agencies with responses where noted:

- Interior Health Authority – See attached
- Ministry of Transportation & Infrastructure – No response
- MFLNRO – Environmental Protection – No response
- MFLNRO – Water Stewardship – No response
- MFLNRO – Environmental Stewardship – Interests Unaffected
- Agricultural Land Commission – No response
- Ktunaxa Nation Council – No response
- Akisqnuq First Nation – No response
- Shuswap Indian Band – No response
- School District No. 6 – No response

Attachments: Bylaws



Date:	October 22, 2018
Bylaw Name:	East Side Windermere Water
Bylaw No:	2891 & 2892
File No.:	P 718 550
Contact:	Michele Bates, Planner

**BYLAW REFERRAL
RESPONSE SUMMARY**

[] Interests unaffected by bylaw

Concerns/Comments:

Interior Health thanks you for the opportunity to comment on the amendment to the OCP and Zoning designations to permit a 100 year lease for the East Side Lake Windermere Water Treatment Plant.

The proposal is for a Water Treatment Plant which has been reviewed and approved to meet the provincial drinking water treatment objectives. In addition, this plant has the capability to service several water systems within the area that presently do not meet the drinking water treatment objectives.

Interior Health is fully supportive of this application.

The amendment to the Official Community Plan and the Zoning designation will support sound healthy policy initiatives for this area which will contribute to the health and wellbeing of the community.

Thank you for the opportunity to review and comment.

Signed by:

Printed Name: Clare Audet

Title: Environmental Health Officer - Healthy Community Development

Agency: Interior Health Authority

Date: November 13, 2018

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2891

A bylaw to amend Bylaw No. 2061 cited as "Regional District of East Kootenay – Lake Windermere Official Community Plan Bylaw 2061, 2008."

WHEREAS the Board of the Regional District of East Kootenay wishes to amend Bylaw No. 2061;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Regional District of East Kootenay – Lake Windermere Official Community Plan Bylaw 2061, 2008 – Amendment Bylaw No. 24, 2018 (East Side Windermere Water / RDEK)."
2. The designation of Part of Lot A, District Lots 1093 and 2846, Kootenay District, Plan EPP82690 outlined on the attached Schedule A, which is incorporated in and forms part of this Bylaw, is amended from RR, Rural Resource to INST, Institutional.

READ A FIRST TIME the day of 2018.

READ A SECOND TIME the day of 2018.

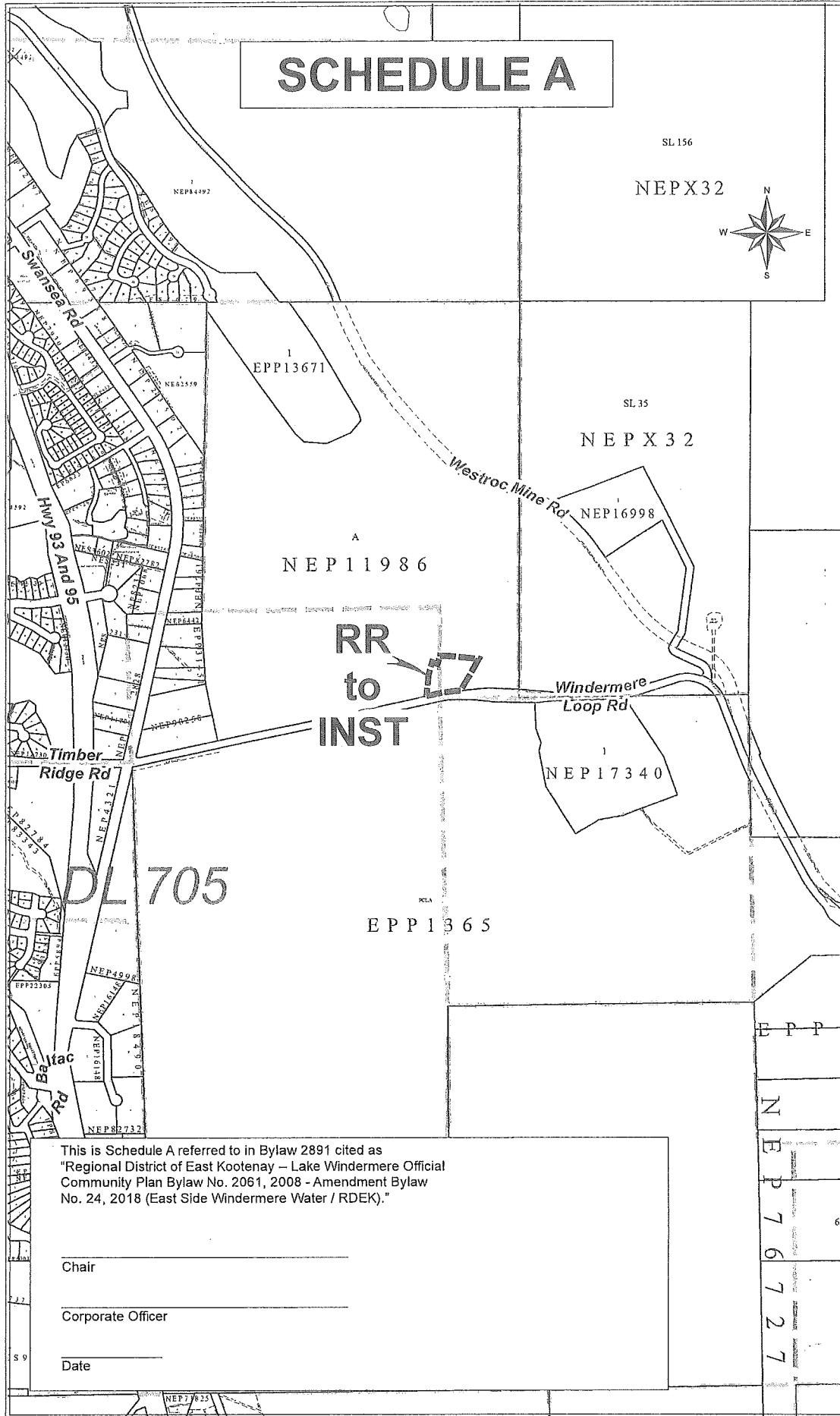
READ A THIRD TIME the day of 2018.

ADOPTED the day of 2018.

CHAIR

CORPORATE OFFICER

SCHEDULE A



This is Schedule A referred to in Bylaw 2891 cited as
 "Regional District of East Kootenay – Lake Windermere Official
 Community Plan Bylaw No. 2061, 2008 - Amendment Bylaw
 No. 24, 2018 (East Side Windermere Water / RDEK)."

Chair

Corporate Officer

Date

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REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2892

A bylaw to amend Bylaw No. 900 cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992."

WHEREAS the Board of the Regional District of East Kootenay wishes to amend Bylaw 900;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Regional District of East Kootenay – Upper Columbia Valley Zoning Bylaw No. 900, 1992 – Amendment Bylaw No. 344, 2018 (East Side Windermere Water / RDEK)."
2. The designation of Part of Lot A, District Lots 1093 and 2846, Kootenay District, Plan EPP82690 outlined on the attached Schedule A, which is incorporated in and forms part of this Bylaw, is amended from A-2, Rural Residential (Country) Zone to P-1, Public Institutional Zone.

READ A FIRST TIME the day of 2018.

READ A SECOND TIME the day of 2018.

READ A THIRD TIME the day of 2018.

APPROVED by the Ministry of Transportation and Infrastructure the day of 2018.

Print Name: _____

Signature: _____

ADOPTED the day of 2018.

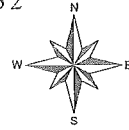
CHAIR

CORPORATE OFFICER

SCHEDULE A

SL 156

NEPX32



EPP13671

SL 35

NEPX32

NEP16998

A
NEP11986

A-2
to
P-1

Windermere
Loop Rd

NEP17340

DL 705

EPP1365

This is Schedule A referred to in Bylaw 2892 cited as
"Regional District of East Kootenay - Upper Columbia Valley
Zoning Bylaw No. 900, 1992 - Amendment Bylaw
No. 344, 2018 (East Side Windermere Water / RDEK)."

Chair

Corporate Officer

Date

E P P
N
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P.C.



Staff Report ...

ALR Exclusion Application

Date: November 22, 2018
File: P 718 216

Applicants: 777985 Alberta Ltd.
Agent: Rodney Chapman
Location: 6374 Tie Lake Shore Road North, Tie Lake
Legal: Lot A, District Lot 4590, KD, Plan NEP77520

Proposal: To exclude a portion of their property from the ALR.

The subject portion of property was purchased from the Crown in 2005 for the purpose of constructing a sewage treatment plant. The ALC was not consulted by the Crown at that time, and neither an exclusion nor non-farm use application was submitted.

- Options:**
1. THAT the Agricultural Land Commission be advised the RDEK supports the 777985 Alberta Ltd. ALR exclusion application for property at 6374 Tie Lake Shore Road North in Tie Lake.
 2. THAT the 777985 Alberta Ltd. ALR exclusion application for property at 6374 Tie Lake Shore Road North in Tie Lake be refused.

Recommendation: **Option # 1**
The historical approvals should not have been granted without consultation with the ALC however, the environmental benefits to both the community and the lake outweigh the impact caused by the loss of this land for agricultural use. The proposed exclusion area is small and will have only negligible impact to the total inventory of land in the ALR.

Property Information: **Land Use Designation:** Multiple – C-3, Recreation Commercial and Unzoned. The proposed exclusion area is Unzoned.

Land Use Policies:

- When evaluating applications for development, the Regional District Board will consider the impact of the proposed development on the agriculture in the surrounding area, and, where appropriate, in the community at large. The Board will not support applications that will have a negative impact on nearby agriculture.
- The Board will not support applications for development on lands outside the plan area that would have a detrimental effect on agriculture inside the plan area.

Parcel Size: 1.4 ha (3.5 ac)
Proposed Exclusion: 0.33 ha (0.83 ac)

Interface Fire Hazard Rating: High, within the Jaffray Lake fire protection area.

**Property
Information – cont'd:**

BC Assessment: Residential (seasonal resort)

Water / Sewer Services: Onsite

**Agricultural
Capability Ratings:**

The property is 50% Class 4 with limiting subclasses of steep topography and stoniness, 40% Class 3 with a combination of soil factors and 10% Class 6 with a limiting subclass of topography. The 40% Class 3 soil capability may be improved to Class 2 with the same limiting factors.

Agrologist Report:

Not required

**Additional
Information:**

- The application states that the area for exclusion is currently used as a sewage treatment field and since 2017, for boat shelters and storage.
- The RDEK issued building permits for the boat storage structures. The Ministry of Forests, Lands, Natural Resource Operations and Rural Development agreed to sell this portion of land to the campground. The ALC was not consulted at any stage.

Consultation:

APC Area B: Support

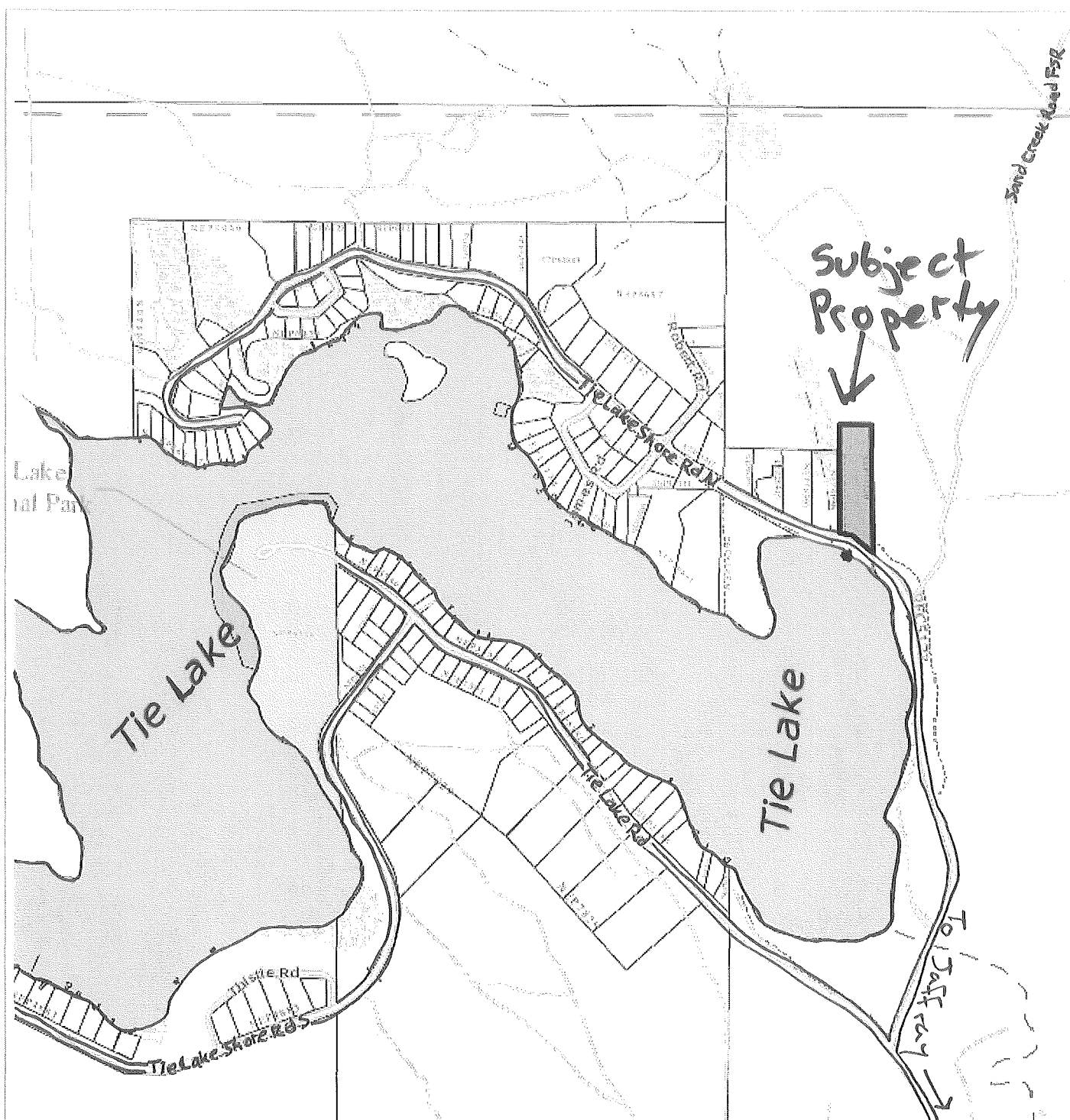
**Documents
Attached:**

- Location Map
- ALR Boundary Map
- Land Use Map
- Agricultural Capability Map and Legend
- Proposed Exclusion
- ALC letter to MOTI & FLNRORD

**RDEK
Contact:**

Krista Gilbert, Planning Technician
Phone: 250-489-0314
Email: kgilbert@rdek.bc.ca

Location Map



Notes:

431 0 216 431 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 10-24-2018 8:43 AM

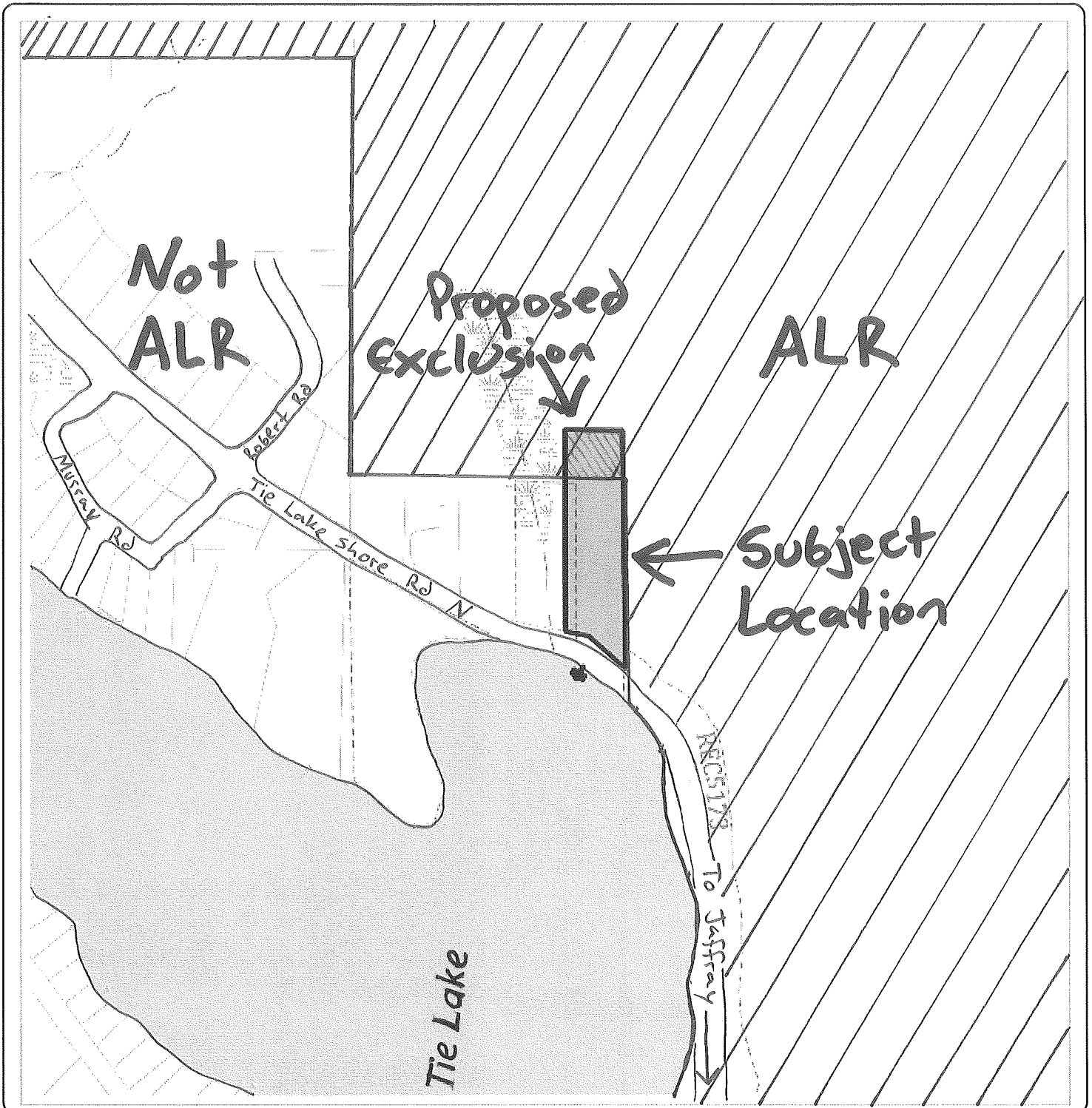
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THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

ALR Boundary Map



Notes:



226 0 113 226 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 10-22-2018 10:55 AM

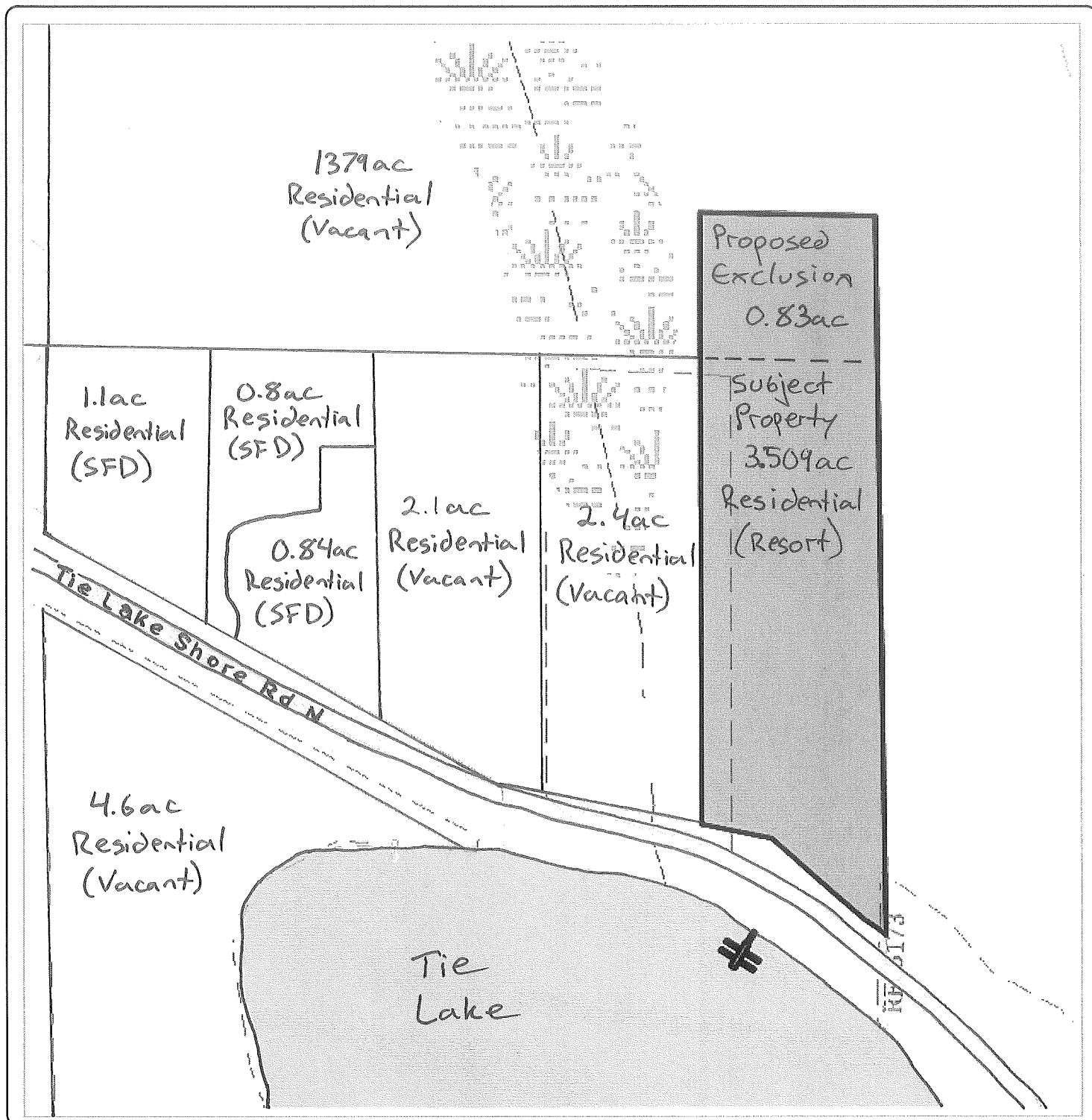
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THIS MAP IS NOT TO BE USED FOR NAVIGATION

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Land Use Map



Notes:

75 0 38 75 Meters

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RDEK GeoViewer - 10-22-2018 11:32 AM

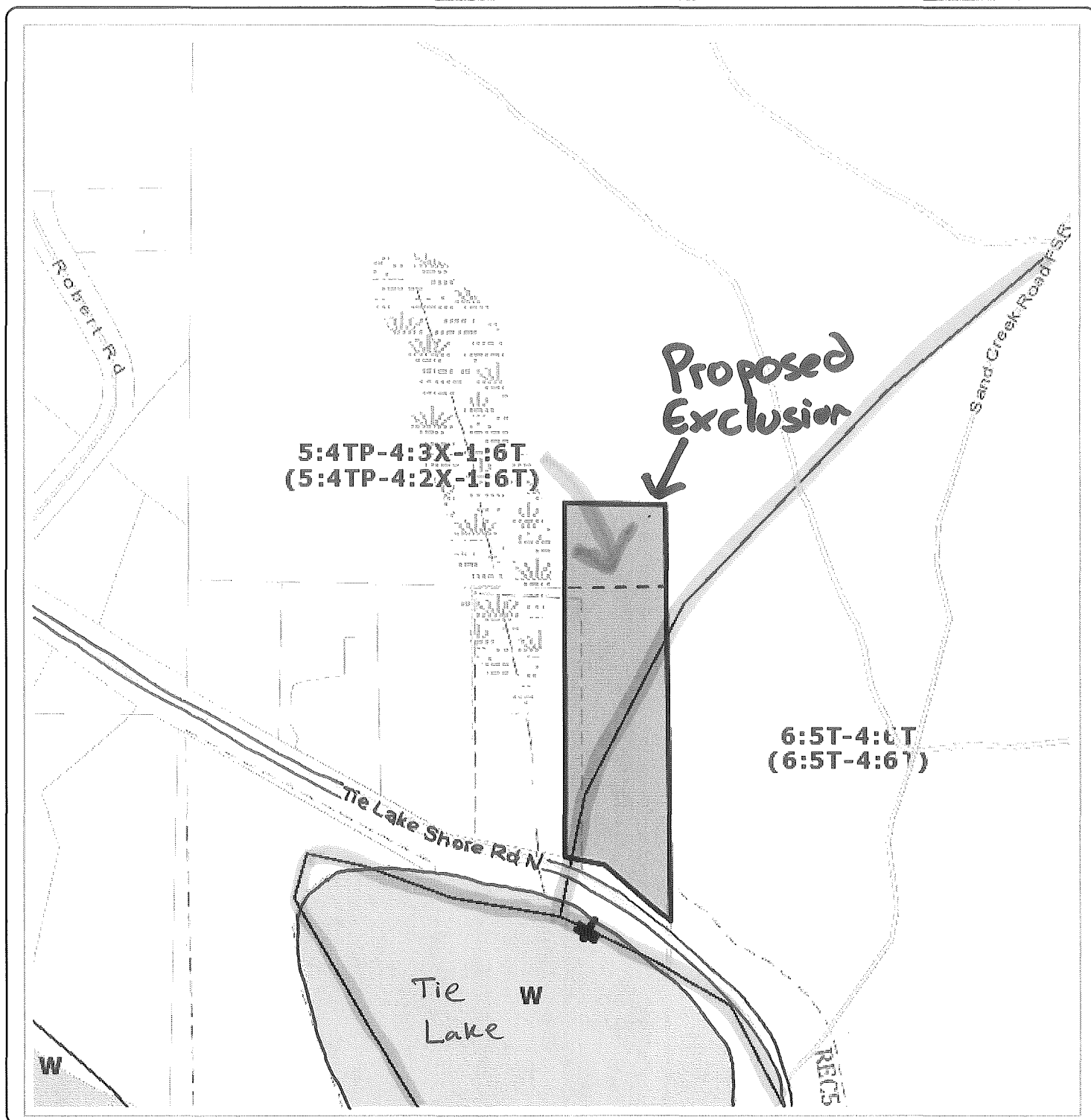
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THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Agricultural Capability Map



Notes:

130 0 65 130 Meters

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RDEK GeoViewer - 10-22-2018 11:25 AM

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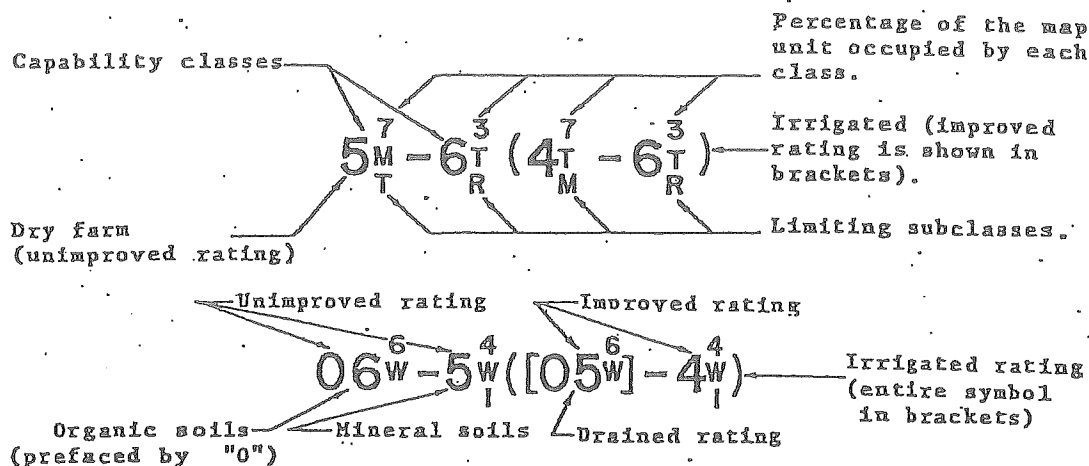
THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

KEY FOR INTERPRETATION OF AGRICULTURE CAPABILITY MANUSCRIPT MAPS (B.C.)

There are 7 capability classes for agriculture with 1 representing the highest class and 7 representing the lowest. In some areas of the province, two ratings are shown: one for dry farming and a second for irrigated or drained (improved) conditions. The irrigated ratings are shown enclosed in round brackets while the drained ratings appear in square brackets. In all cases improved ratings have precedence over dry farm ratings.

Example Classifications



The agriculture capability classes are determined on the relative range of crops the land can produce.

a) Capability Classes

- Class 1 - widest range of crops
- Class 2
- Class 3 } reduced range of crops caused by a number of limiting
- Class 4 } factors (subclasses)
- Class 5 - only permanent pasture or forage
- Class 6 - natural grazing
- Class 7 - no productivity

b) Limiting Subclasses

- C - adverse climate
- D - undesirable soil structure
- E - erosion
- F - low fertility
- I - inundation (flooding)
- M - moisture deficiency (droughtiness)
- N - salts
- P - stoniness
- R - bedrock near the surface
- T - topography (slope)
- W - excess water
- X - combination of soil factors
- S - cumulative and minor adverse characteristics

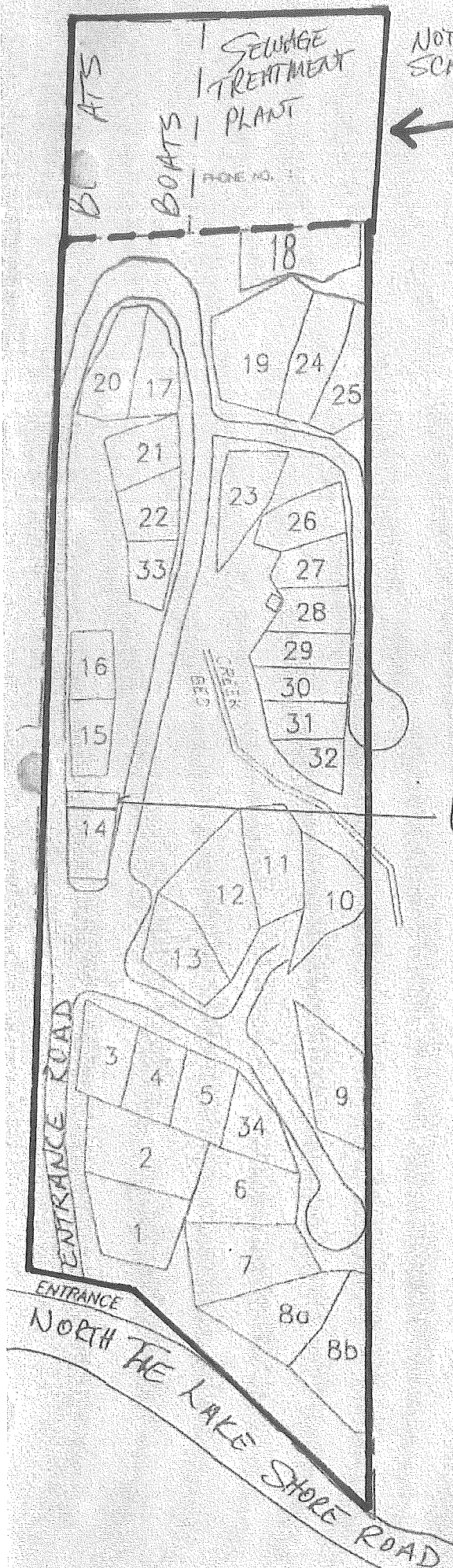
Tree fruit and grape growing areas:- these crops are tolerant of soil conditions that limit field crops. Steep and stonier soils in suited climates have been upgraded to accommodate the expanded range of crops. e.g. A class 5T soil dry farmed becomes a 3T irrigated in an area climatically suited to tree fruits.

Note: A more detailed 16 page manual entitled Soil Capability Classification for Agriculture is available from the Lands Directorate, Lands Forests and Wildlife Service, Department of the Environment, Ottawa, Ontario, K1A 0H3.

NOT TO
SCALE

← Proposed Exclusion

AUG. 27, 2001 3:32PM P. 1



TIE LAKE RESORT

Ref. P
18398

North Tie Lake Road
Tie Lake
Town of Jaffray
Region District of East Kootenay
British Columbia, Canada

1:20



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000 | Fax: 604 660-7033
www.alc.gov.bc.ca

October 15, 2018

Reply to the attention of Gordon Bednard

ALC Issue # 51094
Regional District of East Kootenay ref # P718 208
MoTI file # 02-011-16984
Land and Water BC file # 4404067

Ministry of Transportation and Highways
Rocky Mountain District
129 - 10th Avenue South
Cranbrook, BC, V1C 2N1
Attn: Approving Officer

FLNRO c/o FrontCounter BC Cranbrook
1902 Theatre Road
Cranbrook, BC, V1C 7G1

Re: Subdivision of Crown Land near Tie Lake (within the Agricultural Land Reserve) and consolidation with adjacent private land (outside the ALR)

Original Properties:

- 1) Lot 5, Plan 18689 DL 4590
- 2) Pt Block H, DL 4590 Kootenay District Plan X28

Present Property:

Lot A, DL 4590, Kootenay District Plan NEP77520 (PID 026-200-112)

It has recently come to the attention of the Agricultural Land Commission (the "ALC") that in 2004/5 a portion of Crown land within the ALR was subdivided, sold and consolidated with an adjacent private property which was not within the ALR. This subdivision/consolidation appears to have been approved by both LWBC (now FLNRO) and signed off under the Land Title Act by the MoTI Approving Officer, contrary to the ALC Act and Regulations. No subdivision application was made to, or approved by, the ALC.

In addition, it appears that the area in question has been use for non-farm activities (septic field for non-ALR residences and boat storage) which is neither a farm or permitted land use under the ALR Regulations. Again, no application has been received for non-farm use.

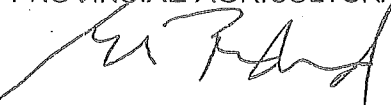
The ALC would appreciate MoTI and FLNRO looking into this matter as soon as possible. The ALC has been asked by the RDEK for feedback on a Bylaw referral for the area in question, and is unable to respond without knowing how the present situation developed and what procedures will be put in place to ensure this situation does not arise in the future.

By way of a copy of this letter, the present property owner is advised that boat storage and septic field uses are not permitted in the ALR under the Act or Regulations and may be the subject of future compliance action by the ALC unless an appropriate application to the ALC is approved.

If you have any questions about the above, please contact the undersigned at 604-660-7011 or by e-mail at Gordon.Bednard@gov.bc.ca

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION



Gordon Bednard, Regional Planner

Enclosures: MoTI PLA 02-011-16984
LWBC (FLNRO) referral 4404067
Plan NEP77520

CC: RDEK attn: Tracy Van de Wiel, EKRD
777985 BC Ltd, c/o Rod Chapman, PO Box 295, Kimberley BC V1A 2M2

51094m1

Approved under the Land Title Act
this _____ day of _____ 200____

Approving Officer,
Ministry of Transportation

MoT File No. _____

This plan lies within the Regional
District of East Kootenay


8. The property is adjacent to Crown Land which is used for cattle grazing. It is the owner's responsibility to fence his/her property to prevent cattle that are grazing on Crown Land from entering his/her private land as per section 3 of the Trespass Act. As per Ministry of Forests letter dated March 12th, 2004. As indicated, if applicant is not concerned about grazing cattle, a letter to the Ministry of Transportation is required indicating that any objection to grazing cattle in the future will be the responsibility of the owner to fence his/her lands.
9. Pursuant the Heritage Conservation Act, Archaeological sites are protected. Should you have concerns or if any archaeological artifacts are unearthed during site preparation, applicant to notify the Ministry of Small Business, Tourism and Culture, at 356-1054.

The approval granted is only for the general layout of the subdivision and is valid for one year from this letter. However, if at any time there is a change in legislation, regulations or bylaws this preliminary layout approval is automatically cancelled.

Submission of Final Plans (Mylar and 5 prints) to be accompanied by a current Tax Certificate (FIN 55), together with a plan examination fee of \$ 50.00 plus \$ 100.00 per lot created by the plan and made payable in the form of a cheque to the Minister of Finance and Corporate Relations.

If you have any questions please do not hesitate to call Rod Hopper at (250) 426-1509.
(Name of Technician)

Yours truly,


Rod Hopper
Sr. District Development Technician
Ministry of Transportation

Cc: Regional District of East Kootenay Fax 489-3498
Interior Health Authority Fax 420-2295
Land and Water BC Inc. (Kamloops)
Ministry of Forests (Cranbrook)

Local District Address
Rocky Mountain District
129 - 10 th Ave, South
Cranbrook, BC.
V1C 2N1


**BRITISH
COLUMBIA**
**Ministry of
Transportation**
**PROPOSED SUBDIVISION
PRELIMINARY LAYOUT APPROVAL**

Armstrong and Nelson

 34 - 11th Ave. S.

Cranbrook, BC.

V1C 2P1

Your File

Our File 02-011-16984

Date (yyyy/mm/dd) 2004-06-21

Proposed Subdivision of

Lot 5, Plan 18698, DL 4590 KD and adjacent Crown land - Part of Block H, DL 4590 KD Plan X-28

 Your proposal for a 1 lot subdivision has received preliminary layout approval, subject to the following condition(s):

1. Written confirmation from the Regional District of East Kootenay stating that all their bylaw requirements and other conditions have been satisfied.
2. Written confirmation from the Ministry of Land and Water B.C. that the applicant has successfully acquired the Crown Grant Offer for the purpose of consolidation with Lot 5 DL 4590 KD Plan 18398. Also confirming that all concerns indicated in their letter of October 1st, 2003 have also been resolved.
3. Written confirmation from Interior Health Authority that their concerns as mentioned in letter of June 11, 2004 have been satisfied.
4. The applicant is advised that the site lies within a Rural Urban Interface Area and may be subject to a wildfire hazard. The website WWW.partnersinprotection.ab.ca and in particular, the free downloadable interactive manual "FireSmart: Protecting Your Community" provides information relating to wildfire. The property owners/developers must assume an ongoing role to protect their housing development. It would be therefore prudent for them to contact the Ministry of Forests to determine way to minimize the threat of wildfire. Developers may wish to consider including preventative measures in a building scheme.
5. Applicant to supply copy of Archaeological Assessment, as per item # 5 of the Crown Grant Offer, to the Ministry of Transportation for review to determine if there are any archaeological concerns that may require a Sec 219 LTA restrictive covenant.
6. Pursuant to Section 219 of the Land Title Act, applicant to enter into a restrictive covenant with the Ministry of Transportation and Regional District of East Kootenay to establish the condition of no building nor development nor removal of earth or vegetation within the Marsh areas of the property as identified on an explanatory or reference plan (as required by the registrar). Restrictive covenant to have priority over all other financial charges. Appropriate notation on final plan

Local District Address
Rocky Mountain District
129 - 10 th Ave. South
Cranbrook, BC.
V1C 2N1

SUMMARY SHEET - LAND & WATER BC REFERRAL 4404067

APPLICATION TYPE: Crown Grant

APPLICANT/OWNER: 777985 Alberta Ltd.

LEGAL: Unsurveyed Crown Land vicinity of Tie Lake

LOCATION / MAP ON REVERSE: Tie Lake

PARCEL SIZE: 0.378 hectares (0.934 acres)

PROPOSAL: Acquire property to provide area for upgraded septic system & buffer strip for existing RV Park on Lot 5, Plan 18398

APC B COMMENTS:

- Defer recommendation until it is determined whether there has been an encroachment prior to this application being made.
- APC does not support acquisition of land based on encroachment
- APC supports application provided an encroachment has not taken place; the determination as to whether encroachment has occurred prior to the application being made, by RDEK staff.

AREA DIRECTOR'S COMMENTS: Not received to date.

STAFF COMMENTS:

- The north site is unzoned; the east buffer strip site is zoned RR-60.
- Land is in the ALR; Agricultural Land Commission approval is required.
- Previous referral in October 2002 for acquisition of the north site was not supported by the RDEK; concerns for overcrowding & concerns for contamination of the nearby marsh & eventually the lake.
- RV Park property is zoned C-3 which permits the use.
- Although the RV Park was constructed before the Bylaw was adopted the RV Park development is fairly consistent with current Bylaw regulations.
- Public Health Inspector supports septic system upgrade, recommended crown land acquisition & is prepared to issue a sewage disposal permit.
- No additional RV sites are being added.
- Applicant has met with RDEK staff & is attempting to address concerns.
- RDEK Staff have recommended that the 3 metre buffer strip on the east side of Lot 5 be provided.

STAFF RECOMMENDATION: That the application be supported.

CONTACT: Marie James, Planning Technician
Phone: 250 489-0311 (1-888-478-7335 toll free)
Email: mjames@rdek.bc.ca



**Land and Water
British Columbia Inc.**
A corporation of the government of British Columbia

RECEIVED

MAY 27 2003

REGIONAL DISTRICT
OF EAST KOOTENAY

Kootenay Office
205 Industrial Road G
Cranbrook BC V1C 7G5
PH: (250) 489-8510
FAX: (250) 489-8550

Referral Request

APPLICANT'S NAME 777885 Alberta Ltd.		LWBC CONTACT: Jo-Ann Donald, CSC	CONTACT PHONE NO. 250-489-8543
APPLICATION ACCEPTANCE DATE May 26, 2003	REF MAP No. 82G.044	LWBC FILE NO. 4404067	DATE SENT May 26, 2003

REGIONAL DISTRICT OF EAST
KOOTENAY
19-24TH AVENUE SOUTH
CRANBROOK BC V1C 3H8

You are invited to comment on the following application, details are provided. Referral responses must be received by the LWBC contact person by June 26, 2003. If no response is received by the deadline LWBC will move ahead with the adjudication process.

LOCATION OF CROWN LAND Tie Lake		PARCEL SIZE 0.378 Ha +/-
LEGAL DESCRIPTION Unsurveyed Crown land in the vicinity of Tie Lake, Kootenay District		
INTENDED LAND USE Direct Sale		
PROPOSED TENURE TYPE Crown Grant	PROPOSED TERM Perpetuity	PURPOSE Septic Field
ADDITIONAL INFORMATION RELATED TO THE FOLLOWING IS AVAILABLE ON REQUEST The applicant has re-applied to include additional land needed for septic field and a 3m buffer to meet set back requirements for the Regional District of East Kootenay.		
RESPONSE COMMENTS: <i>See letter 01 July 03</i>		
1. Does this application impact your agency's legislated responsibilities? Yes/No. If yes, how will the proposal impact your legislated responsibility and please identify the relevant legislation (section).		
2(a). If the proposal impacts your responsibilities, what mitigative measures will be required to address these impacts?		
2 (b) If the proposal proceeds, will the proponent require approval or a permit from your agency?		
3. Will on-going compliance monitoring be required by your agency as a result of your legislated responsibilities? Yes/No. If yes, explain what will be required.		
4. Will this application affect public use of this area? Explain.		
For Municipal/Regional Government Use Only: Is the application area zoned for the proposed purpose? If no, what is the current zoning? What is the estimated time required for a decision on an application to re-zone the area should the applicant wish to pursue this option?		

Signed By (if non-electronic version of form used):	Title:
Please Print:	Phone Number:

FD-302 (Rev. 11-27-70) FBI LOS PG 58



Staff Report ... **ALR Subdivision Application**

Date: November 30, 2018
File: P 718 334

Applicant: Clint & Cindy Pighin and Ernest & Toni Pighin
Location: 7646 Mission Road in the Mission area near Cranbrook
Legal: District Lot 1, KD, Except (1) Part in Exp. Plan 20074I, (2) Sketch Plan 20655A, (3) Plan DD 19877 AFB Vol 19 Fol 1793 No. 1516K, and, (4) RW Plan 8353 (PID: 014-010-186)

Proposal: ALR subdivision application to request permission to subdivide a 2 ha portion of land which is separated from the main farm by Mission Road.

- Options:**
1. THAT the Agricultural Land Commission be advised the RDEK supports the Pighin ALR subdivision application for a property located at 7646 Mission Road in the Mission area.
 2. THAT the Pighin ALR subdivision application for a property located at 7646 Mission Road in the Mission area be refused.
 3. THAT the Pighin ALR subdivision application be supported subject to consolidation of the proposed remainder lot with the other four parcels which make up the entire farm operation.

Recommendation: **Option # 2**
 The proposed subdivision will remove a portion of land currently used as part of the farm operation and subdivision is not the only solution to the landowners concerns. Improved fencing and screening would address the issue. Even if the owners agree to improve their farm by consolidating the 5 farm land parcels, the proposed lot is still entirely within a special policy area for flood hazard and at least 2/3 of this area floods regularly. Habitable areas are discouraged here.

If subdivision is supported Option 3 will provide a net benefit to agriculture.

Property Information: **OCP Designation:** RR, Rural Resource which supports agricultural, rural residential and rural resource land uses with parcel sizes 8.0 ha and larger. The RR designation also recognizes the use of these lands for public utility use, resource extraction, green space and recreation.
OCP Policies:

- Land in the ALR is generally designated and supported for agricultural use.
- The consolidation or boundary adjustment of legal parcels that support more efficient agricultural operations is supported.

Property Information
- cont'd:

- Applications for subdivision in the ALR will not generally be supported except under the following conditions:
 - a) the parcel to be created is a home site for a retiring farmer and the parcel being created is equal to or less than 2.0 ha and the proposal is in compliance with the Agricultural Land Commission Homesite Severance Policy;
 - b) subdivision for a relative as per the provisions in the zoning bylaw and the *Local Government Act* and where the proposed parcel is kept as small as possible and is located in an areas which has the least impact on agriculture; or
 - c) to improve agricultural capacity.
- Applications for subdivision, non-farm use or exclusion should identify opportunities to improve the agricultural capacity and provide a net benefit to agriculture for the lands that remain within the ALR.
- Private or Crown land that has been historically, or is currently utilized for agriculture or leased for agricultural uses, is encouraged to be maintained for these purposes.
- Buffers between properties utilized for agricultural purposes and non-agricultural properties are encouraged. Measures such as fencing and screening should be utilized to ensure that farm operations are adequately protected and buffered.

Zoning Designation: RR-60, Rural Resource Zone, minimum parcel size: 60 ha. The zoning bylaw conditionally permits a reduction of parcel area requirements if a lot is divided by an existing highway.

Parcel Size: 31.5 ha (77.8 ac)

Interface Fire Hazard Rating: Moderate to High, within the Cranbrook rural fire protection area.

Flood Hazard Rating: The St. Mary River forms the northerly property boundary therefore floodplain management provisions will apply to development. Also, the entire proposed new residential lot is designated as being within a special policy area for flood hazard and has a rating of "G" which means habitable areas are discouraged subject to the completion of a detailed hazard assessment by a suitably qualified professional.

If the proposed subdivision is approved, confirmation from a Qualified Professional specializing in flood hazard assessments will be required prior to a building permit issuance for any habitable buildings or structures on the proposed lot. The assessment will need to confirm that the proposed new lot can be safely developed for residential use.

BC Assessment: Residential & Farm (Mixed)

Water / Sewer Services: Onsite proposed

**Agricultural
Capability Ratings:**

The soils generally range from Classes 5 to 6 with limitations including moisture deficiency and stoniness. The land is considered generally improvable to Classes 3 and 4 with the same limiting subclasses. About 2/3 of the proposed new residential lot is considered having excess water (floodplain) and 1/3 of it is Class 6 with a limiting subclass of stoniness.

Agrologist Report:

An exemption from the requirement to provide a professional report was granted in June 2018.

**Additional
Information:**

- The owner's rationale for subdivision is not based on the agricultural capability or soil capability but instead, on their safety and liability concerns related to continuing their historical farm use of this piece of property alongside a new large-scale campground development adjoining to it.
- Historically, the owners have kept their bulls on the subject 2 ha portion of land because it is naturally separate, and bulls must be kept away from the other livestock. The application states that bulls are dangerous and unpredictable, and that, with the new large-scale campground being developed next door, it is no longer safe to keep their bulls there. They state that continuing to do so may put the public or the livestock at risk because it would be difficult to contain the bulls with any feasible fence if the bulls become provoked by children, pets etc.
- The owners also state that this land can't be used to grow crops because it is within the floodplain of the St. Mary River. They believe the best use is to subdivide it because it is no longer useful to their farm.

Previous applications:

In 2009, an ALR subdivision application to subdivide 2 ha from a different part of the ranch for one of the owners was supported by both the RDEK and the ALC. This subdivision was never completed by the owners because during the subdivision approval stage with the Ministry of Transportation and Infrastructure, the owners say they were asked to dedicate public access to the St. Mary River through their pasture land and they were not willing to grant this.

Consultation:

APC Area C: Support

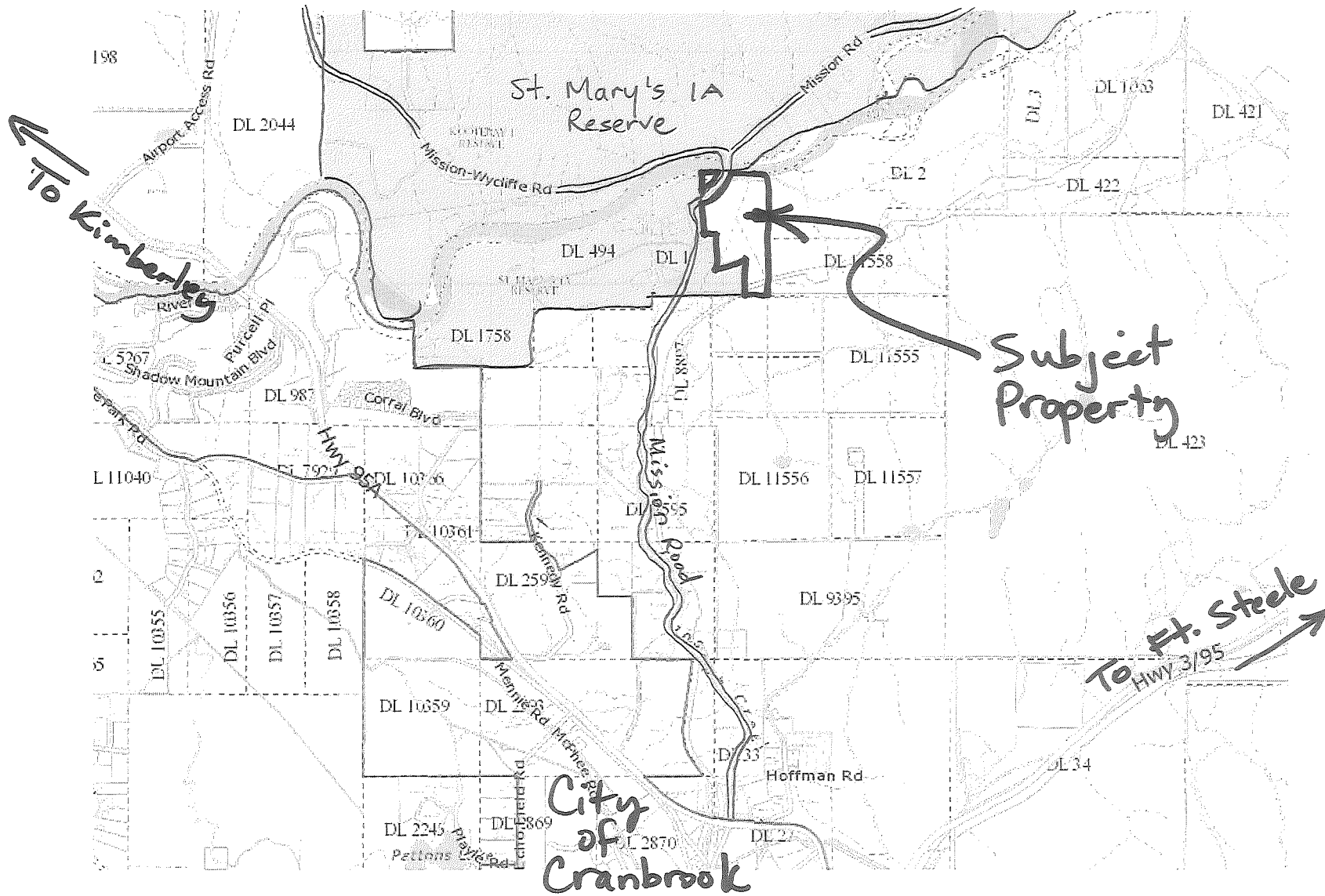
**Documents
Attached:**

- Location Map
- Land Use Map
- ALR Boundaries
- Agricultural Capability and Legend
- Map showing Pighin Ranch
- Aerial Photo
- Proposed Subdivision Plan from Owners
- Photos

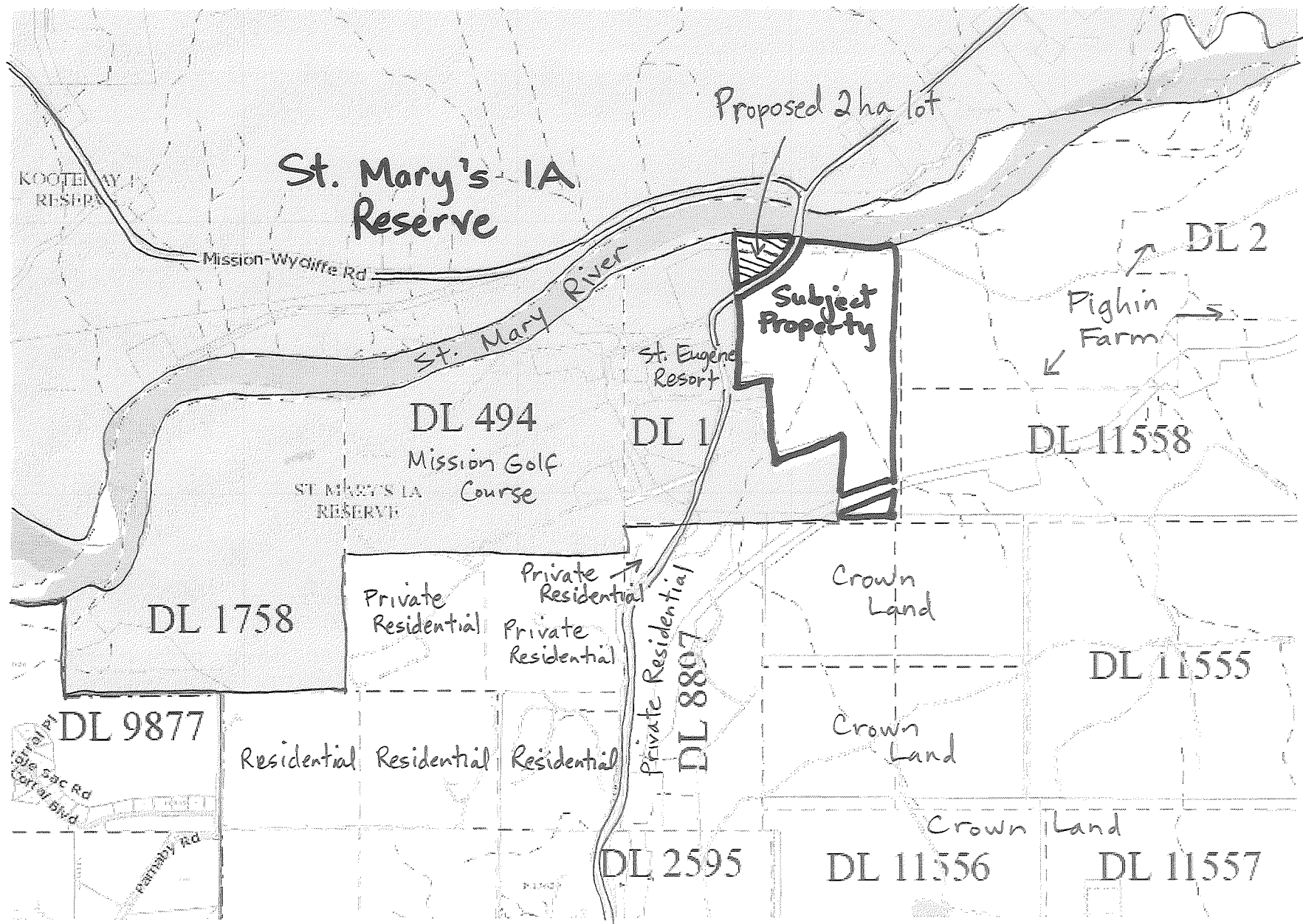
**RDEK
Contact:**

Krista Gilbert, Planning Technician
Phone: 250-489-0314
Email: kgilbert@rdek.bc.ca

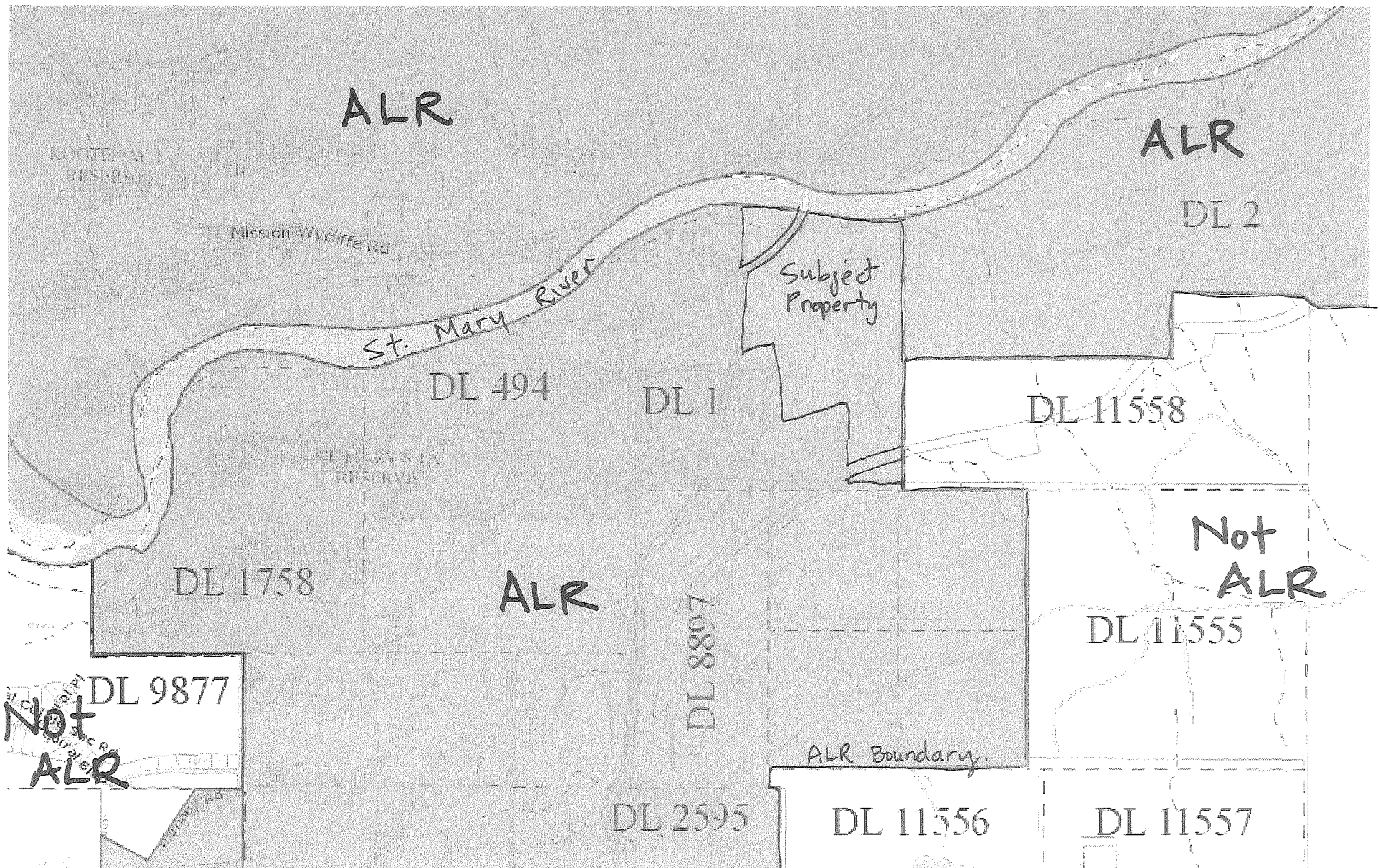
Location Map



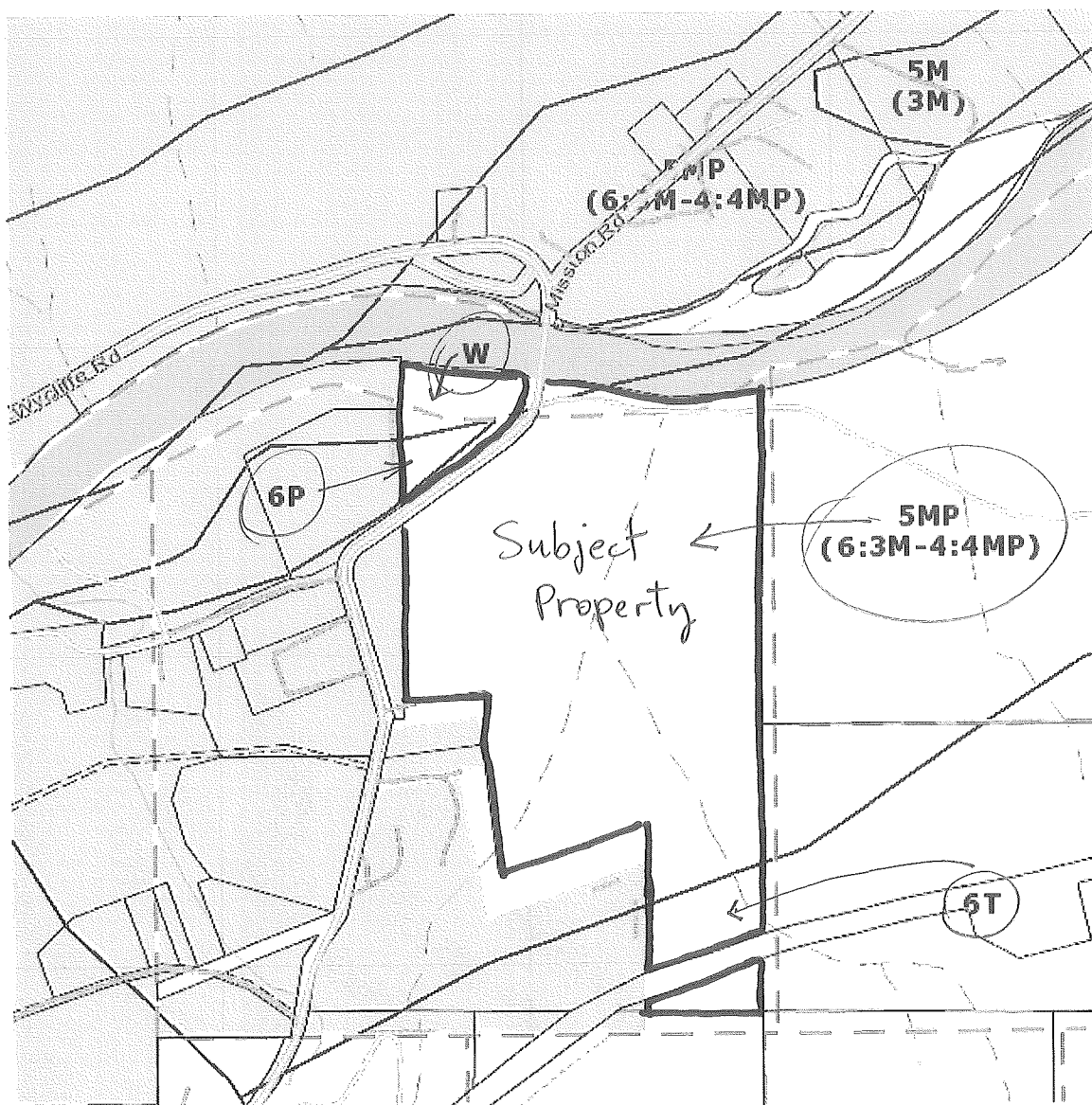
Land Use Map



ALR Boundary Map



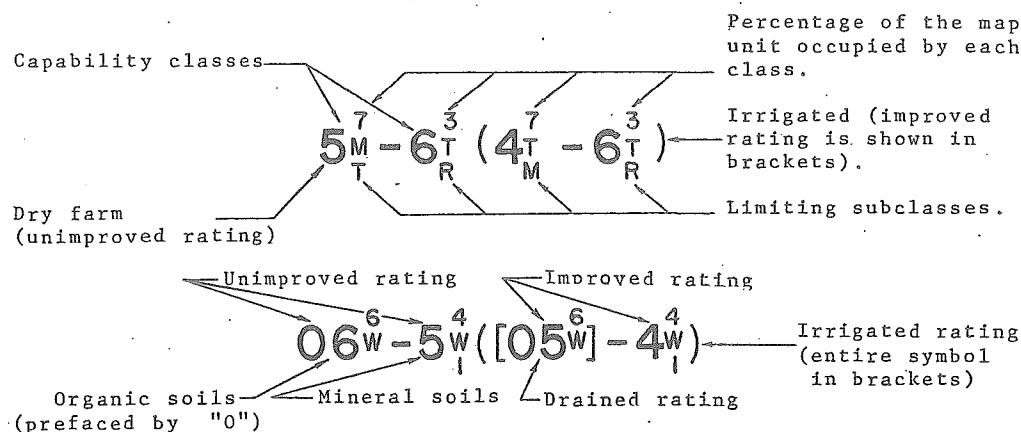
Canada Land Inventory - Agricultural Capability Map



KEY FOR INTERPRETATION OF AGRICULTURE CAPABILITY MANUSCRIPT MAPS (B.C.)

There are 7 capability classes for agriculture with 1 representing the highest class and 7 representing the lowest. In some areas of the province, two ratings are shown: one for dry farming and a second for irrigated or drained (improved) conditions. The irrigated ratings are shown enclosed in round brackets while the drained ratings appear in square brackets. In all cases improved ratings have precedence over dry farm ratings.

Example Classifications



The agriculture capability classes are determined on the relative range of crops the land can produce.

a) Capability Classes

- Class 1 - widest range of crops
- Class 2
- Class 3 } reduced range of crops caused by a number of limiting
- Class 4 } factors (subclasses)
- Class 5 - only permanent pasture or forage
- Class 6 - natural grazing
- Class 7 - no productivity

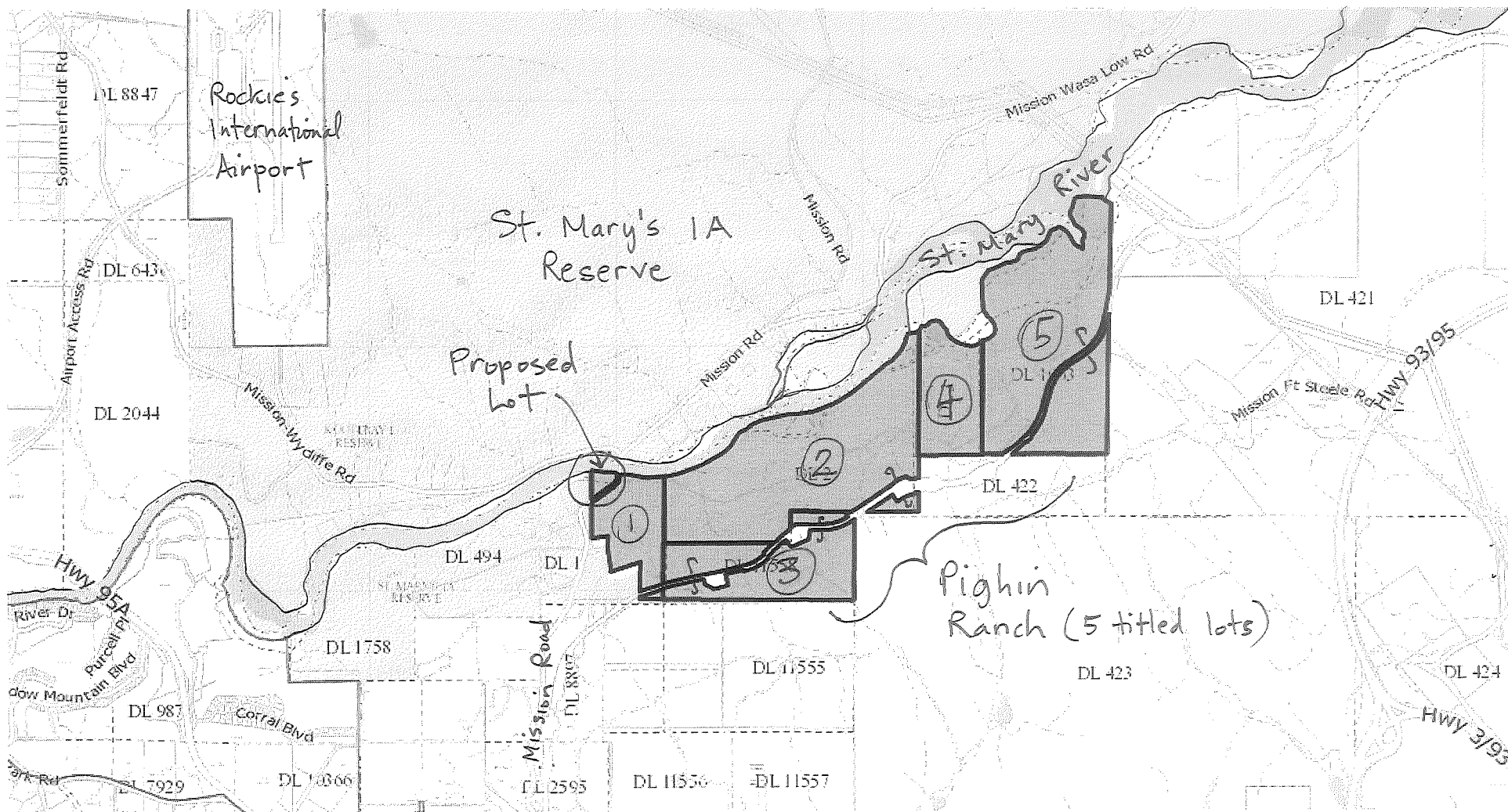
b) Limiting Subclasses

- C - adverse climate
- D - undesirable soil structure
- E - erosion
- F - low fertility
- I - inundation (flooding)
- M - moisture deficiency (droughtiness)
- N - salts
- P - stoniness
- R - bedrock near the surface
- T - topography (slope)
- W - excess water
- X - combination of soil factors
- S - cumulative and minor adverse characteristics

Tree fruit and grape growing areas: these crops are tolerant of soil conditions that limit field crops. Steep and stonier soils in suited climates have been upgraded to accommodate the expanded range of crops. e.g. A class 5T soil dry farmed becomes a 3T irrigated in an area climatically suited to tree fruits.

Note: A more detailed 16 page manual entitled Soil Capability Classification for Agriculture is available from the Lands Directorate, Lands Forests and Wildlife Service, Department of the Environment, Ottawa, Ontario, K1A 0H3.

Map - Pighin Ranch



Campground
development

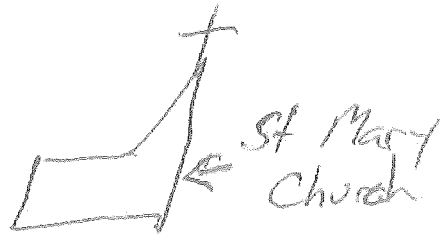
Proposed new lot

Aerial Photo



Proposed
Farm
Remainder

Proposal



Lot 1

Remainder of Lot 1
29 Hectares

↓
North

Casino Entrance

Mission Rd

Proposed
Subdivision
(2 Hectares)

Campground

Campground
Entrance

Bridge

St Mary River

Campground

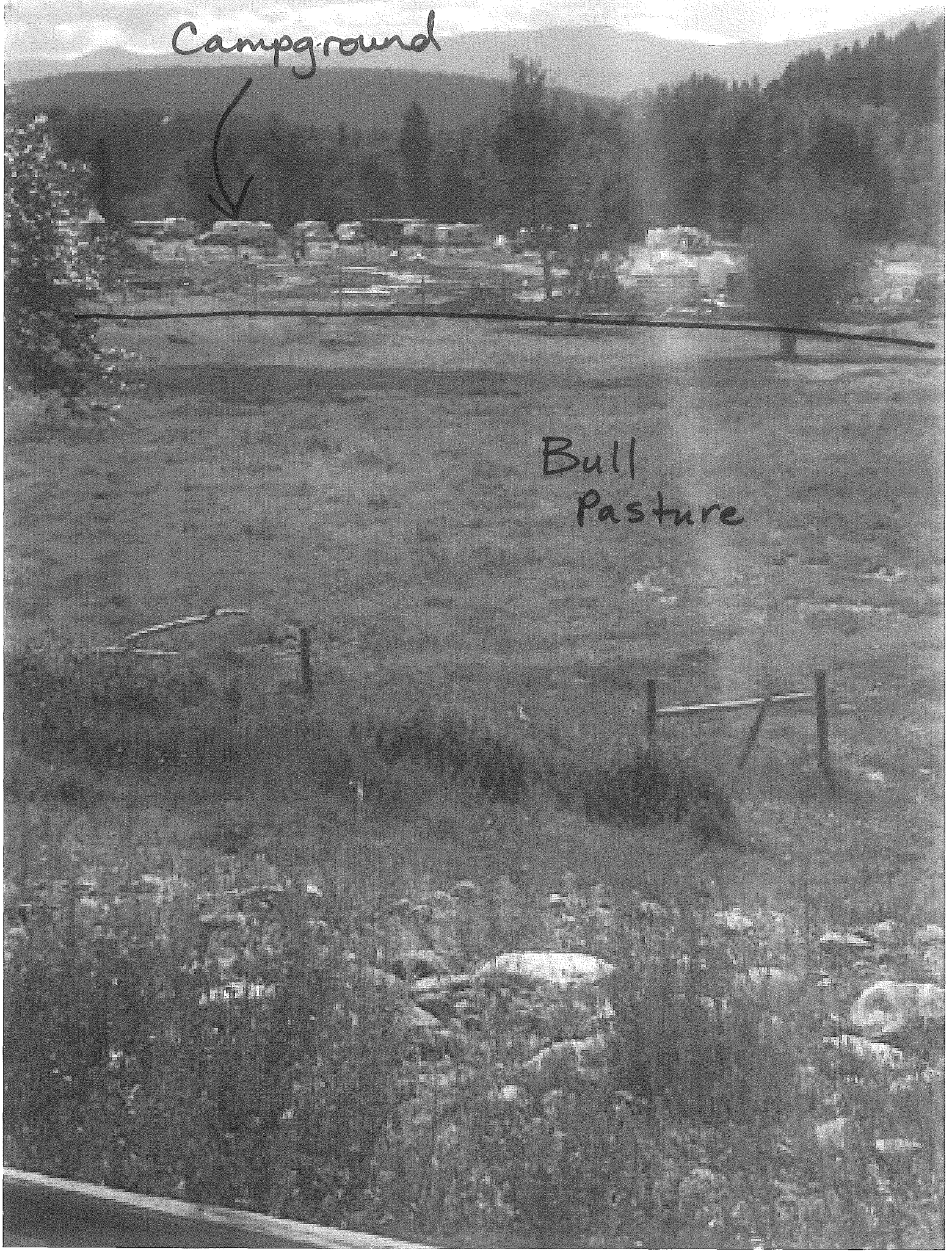
fence line / property line

Bull
pasture

Campground



Bull
Pasture







Staff Report ...

ALR Non-Farm Use Application

Date: November 22, 2018
File: P 718 417

Applicant: Paul & Dianne Twietmeyer
Location: 8082 Banman Crescent, Meadowbrook
Legal: Lot 1, DL 9939, District Lot 8316

Proposal: Non-Farm Use application to permit retention of an existing manufactured home on the property in addition to a new Single Family Dwelling that has been built on the property. The occupants of the manufactured home are identified as caretakers for the property.

Options:

1. THAT the Agricultural Land Commission be advised the RDEK supports the Twietmeyer ALR Non-Farm Use application for their property on Banman Crescent in Meadowbrook.
2. THAT the Twietmeyer ALR Non-Farm Use application for their property on Banman Crescent in Meadowbrook be refused.

Recommendation: **Option #2**
The proposed second residence is not permitted by the zoning bylaw and it does not improve the agricultural capacity or provide a net benefit to agriculture.

Property Information: **OCP Designation:** LH, Large Holdings which supports rural residential development and rural resource land uses with minimum parcel sizes in the range of 2.0 hectares to 8.0 hectares.

OCP Objectives and Policies:

- Land in the ALR is generally designated and supported for agricultural use.
- Preservation and continued use of agricultural land for present and future food production is encouraged.
- ALR applications for non-farm use, subdivision or exclusion should identify opportunities to improve the agricultural capacity and provide a net benefit to agriculture for the lands that remain within the ALR.
- ALR applications for non-farm use, subdivision, or exclusion that meet one or more of the following criteria are exempt from the requirement to submit a report by a qualified professional identified in 6.3(2)(g) as part of their application to the Regional District:
 - a) the application is for subdivision for a relative as per the provisions in the zoning bylaw and the *Local Government*

**Property
Information -
cont'd:**

Act and the parcel proposed is equal to or less than 2.0 ha in size; or

- b) the application is for a reconsideration or alteration of a prior approval by the ALC; or
- c) the original parcel size is equal to or less than 4.0 ha in size; or
- d) the land was identified in the ALR boundary review as suitable for exclusion as designated on **Schedule C** (Note: This exemption applies to the subject property).

The exemption is a condition of the Regional District review process only and does not exempt the applicant from any conditions imposed by the ALC as a condition of their consideration of the application or approval. All applications reviewed by the Commission are on an individual basis in regard to the ALC's mandate and may or may not be approved.

Zoning Designation & Minimum Parcel Size: RR-4, Rural Residential (Hobby Farm) Zone; minimum parcel area requirement 4.0 ha. A rezoning application will be required to request permission for the second dwelling if the ALR Non-Farm Use application is approved.

Parcel Area: approximately 4.4 ha

Density: One single family dwelling permitted per parcel.

Interface Fire Hazard Rating: Low to High; not within a Fire Protection area

Flood Hazard Rating: N/A

BC Assessment: 2 acres or more, manufactured home

Water / Sewer Services: Onsite groundwater well and sewage disposal system

**Agricultural
Capability Ratings:**

- Class 4 soils with limiting subclasses of stoniness and cumulative and minor adverse characteristics; considered improvable to Class 3 and Class 5 with limiting subclasses of cumulative and minor adverse characteristics and topography considered improvable to Class 4 with limiting subclasses of topography and stoniness.

Agrologist Report:

- Not required. The property is within the Kimberley Rural OCP designated area as supported for exclusion from the ALR.

**Additional
Information:**

- During the recent ALC boundary review process the property was identified as potential for exclusion from the ALR, however the owners chose to remain within the ALR.
- The applicant identifies that the existing manufactured home houses caretakers who look after the property during frequent long absences of the owners. The current tenants have occupied the manufactured home for the past three years.

Additional

Information - cont'd:

The tenants look after the existing orchard, but no other agricultural use is currently being undertaken or is proposed at this time.

- The applicant identifies that future uses may include international home sharing, cultural or musical events. All future uses must be in accordance with the Agricultural Land Commission Act and Regulation or a subsequent Non-Farm Use approval will be required.
- The new single-family dwelling and existing manufactured home has been accommodated on the property due to section 1.05 of the zoning bylaw which allows for occupancy of an existing dwelling unit during construction. Prior to issuance of an occupancy permit by the RDEK the second dwelling unit must be removed or decommissioned.

Consultation

APC Area E: Supported

Documents

Attached:

- Location Map
- Land Use Map
- ALR Boundary Map
- Agricultural Capability of Soils Map
- Proposal Information




RDEK

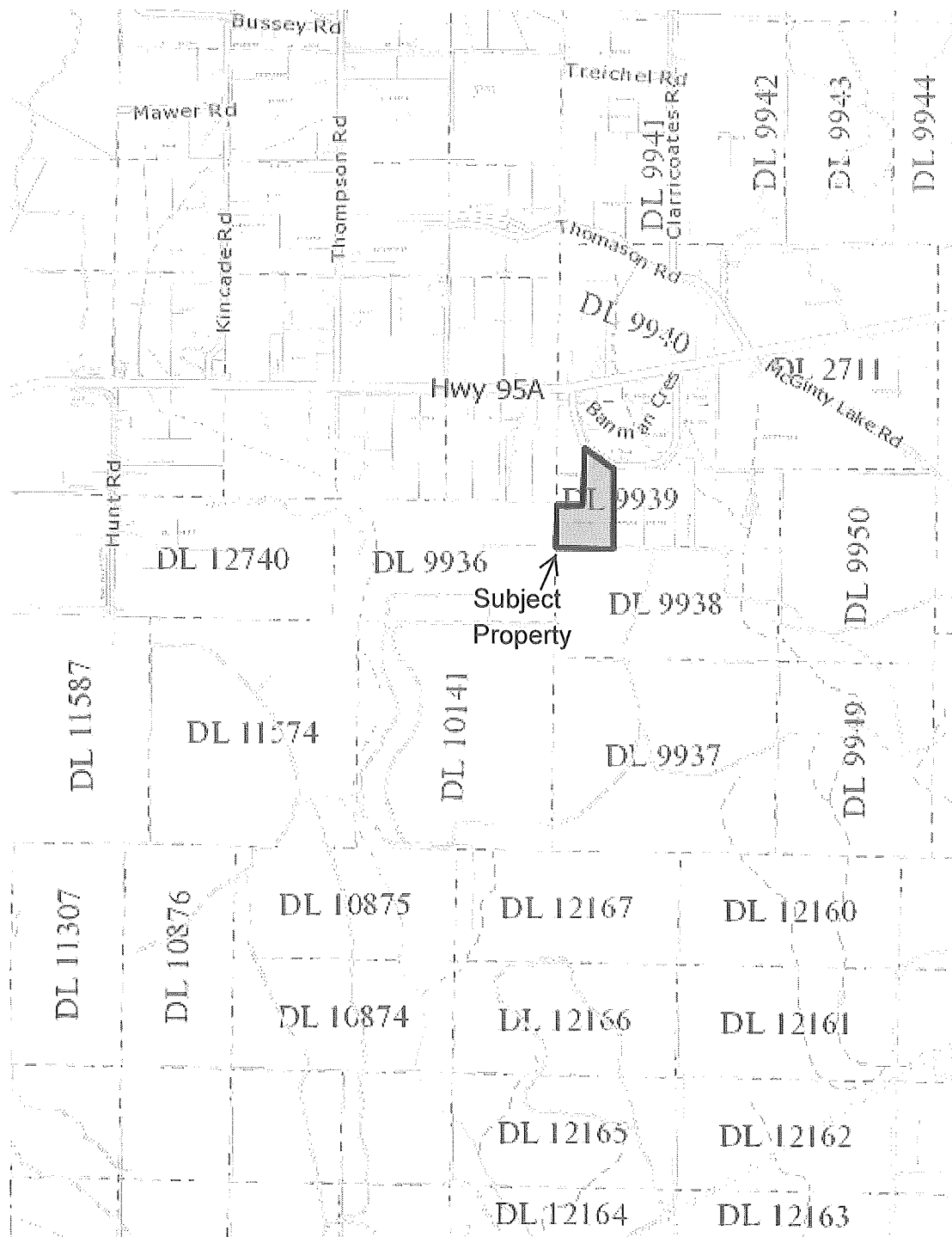
Contact:

Karen MacLeod, Planner
Phone: 250-489-0313
Email: kmacleod@rdek.bc.ca

LOCATION MAP

Legend

-  Lot Line
-  Right of Way
-  District Lot



Notes:

867 0 434 867 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 11-1-2018 12:53 PM

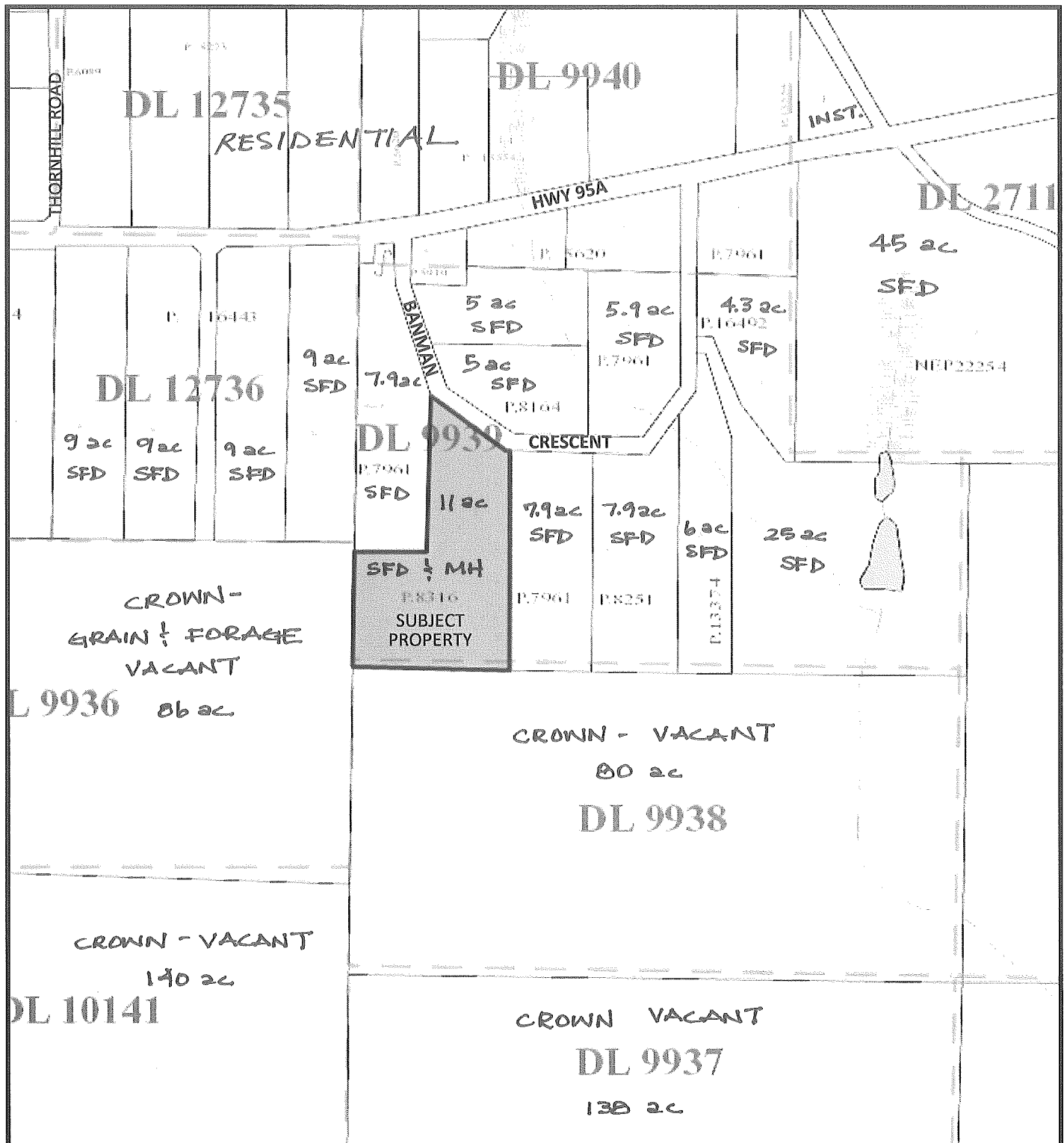
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THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

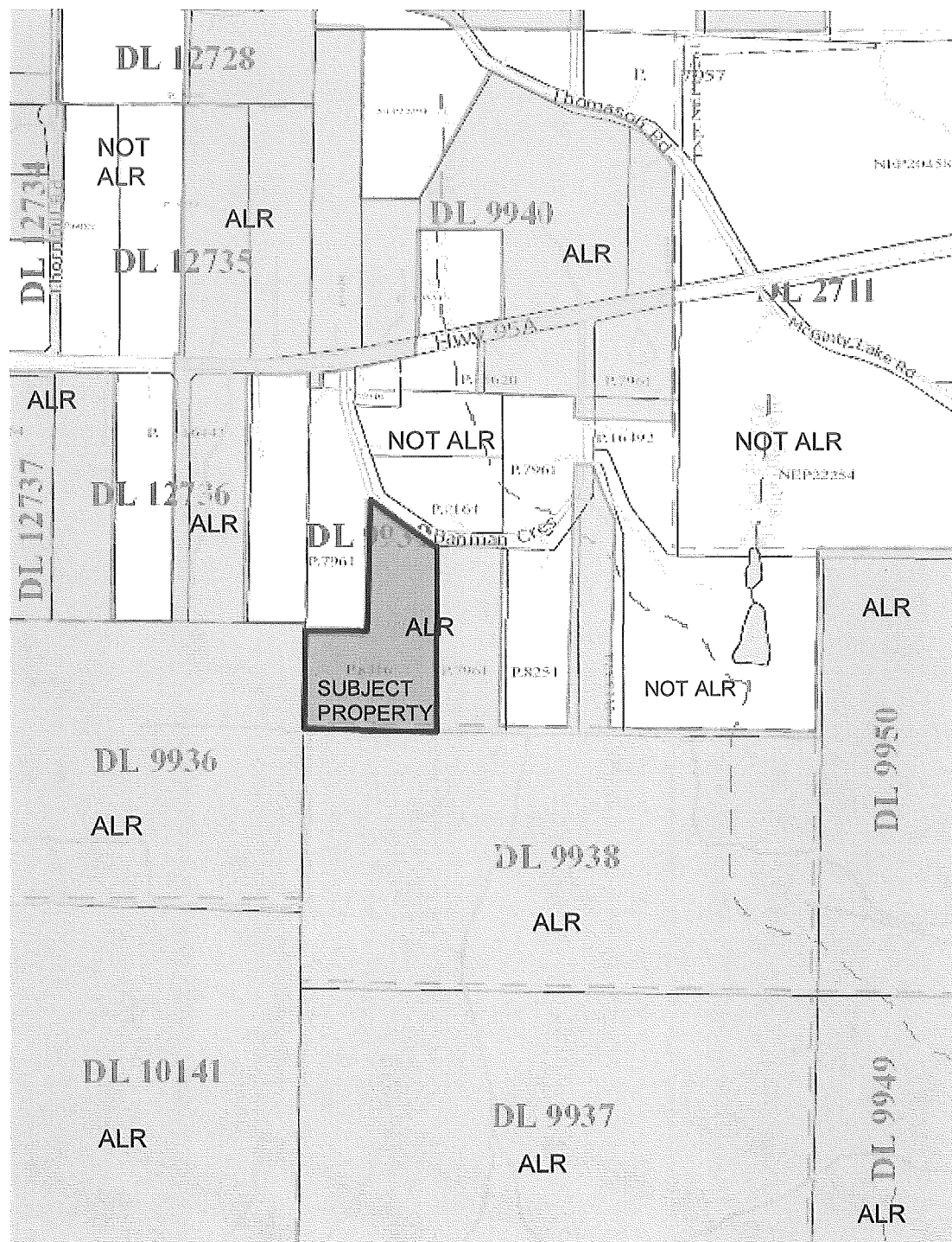
LAND USE MAP



ALR BOUNDARY MAP

Legend

- Lot Line
- - - Right of Way
- District Lot



Notes:

378 0 189 378 Meters

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RDEK GeoViewer - 11-1-2018 12:09 PM

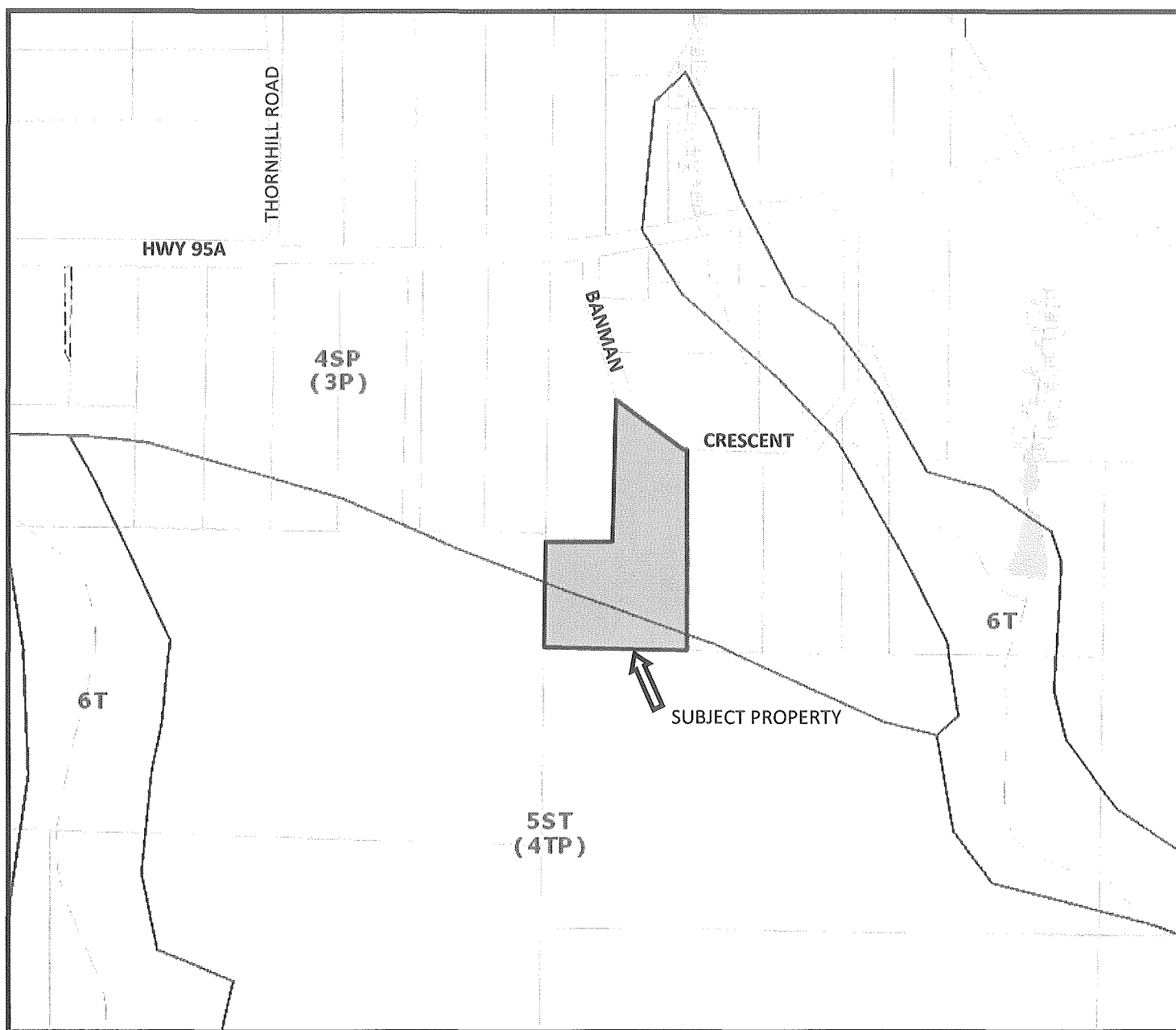
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THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

AGRICULTURAL CAPABILITY OF SOILS



BC Land Inventory Capability Classes:

There are 7 classes for agriculture with 1 representing the highest class and 7 representing the lowest:

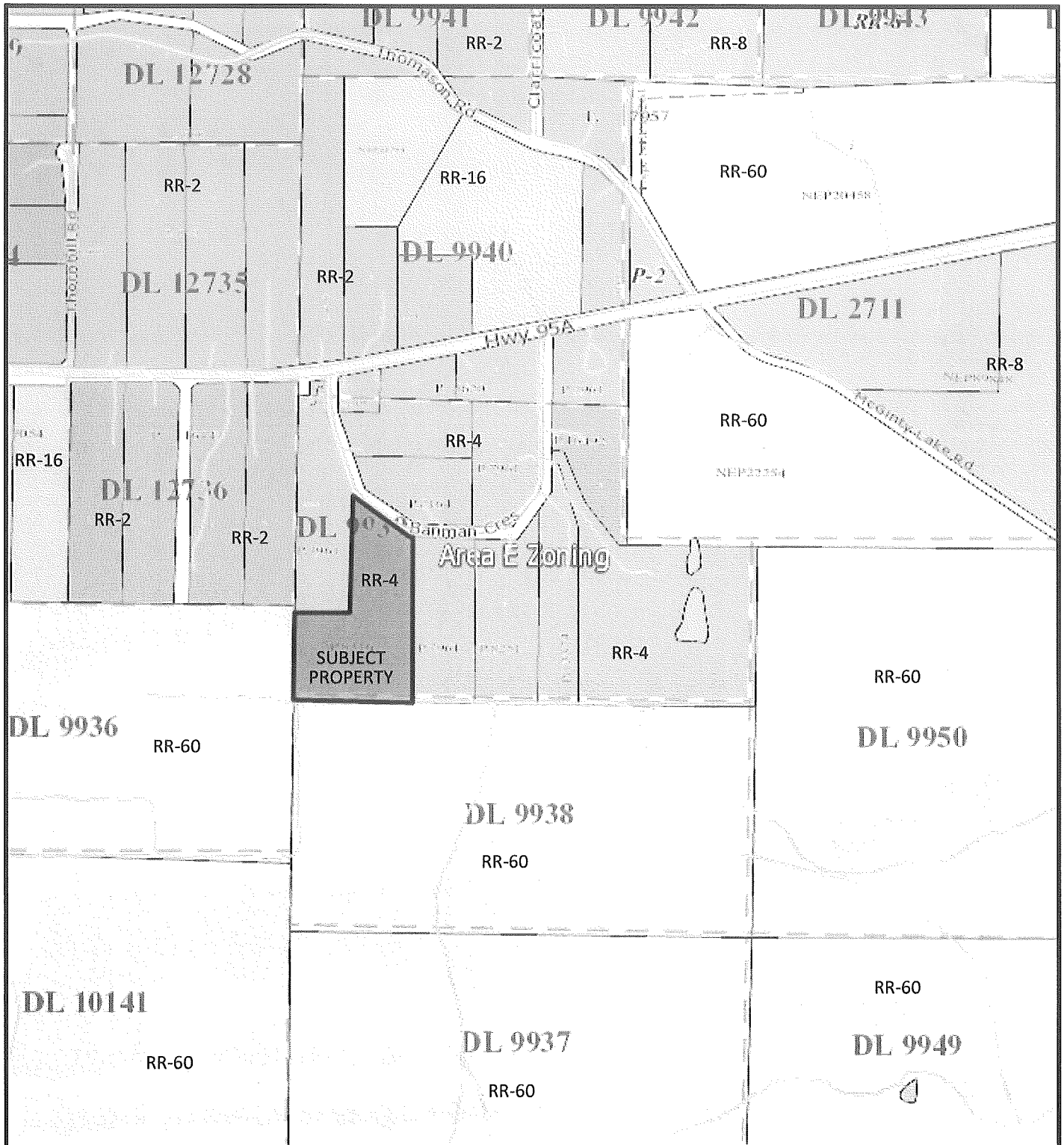
- 1—widest range of crops
- 2 } reduced range of crops caused
- 3 } by a number of limiting factors
- 4 } (subclasses)
- 5—only permanent pasture or forage
- 6—natural grazing
- 7—no productivity

Brackets indicate the improved rating,

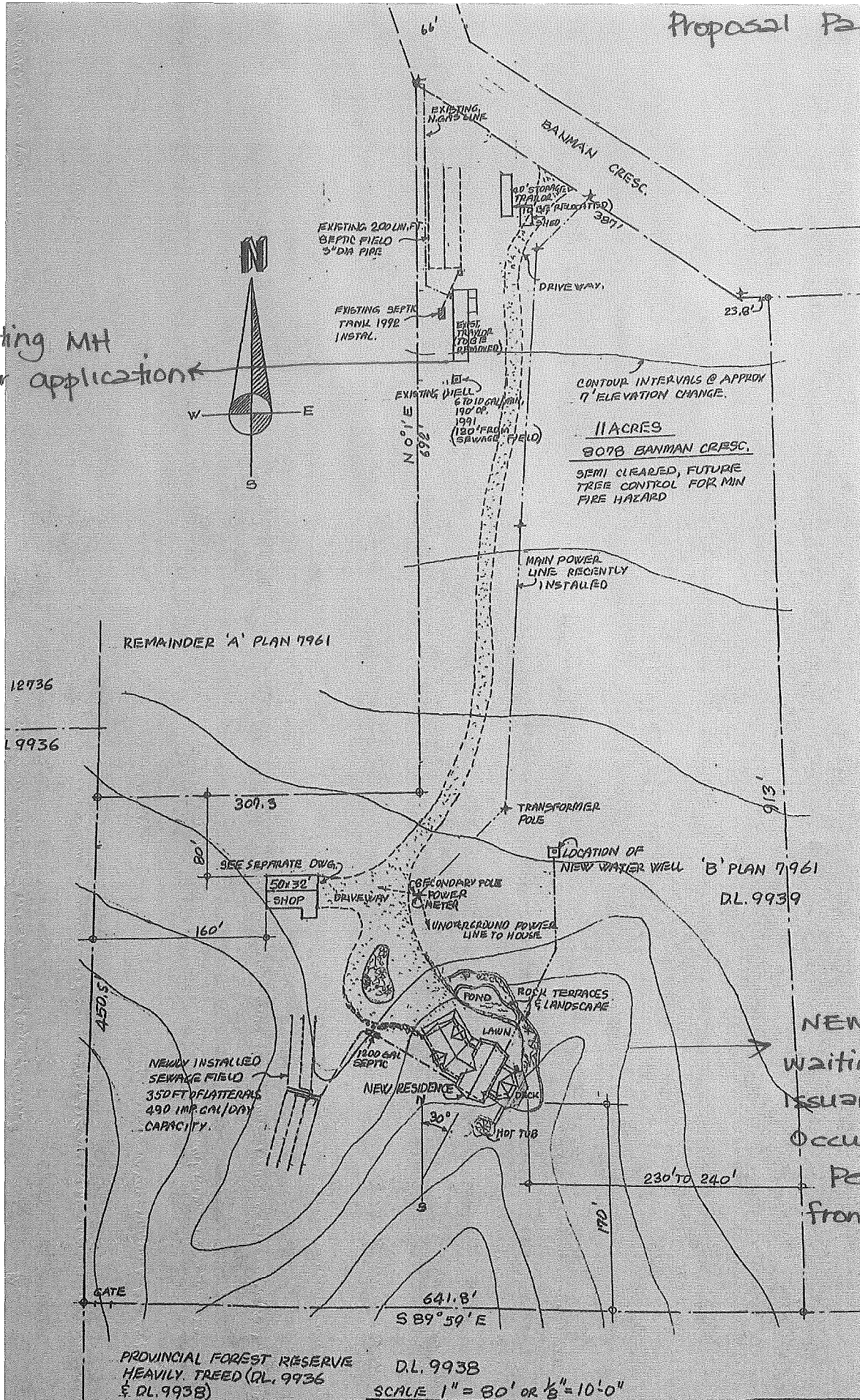
Limiting Subclasses:

- C—adverse climate
- D—undesirable soil structure
- E—erosion
- F—low fertility
- I—inundation (flooding)
- M—moisture deficiency
- N—salts
- P—stoniness
- R—bedrock near the surface
- T—topography (slope)
- W—excess water
- X—combination of soil factors
- S—cumulative and minor adverse characteristics

ZONING DESIGNATION MAP



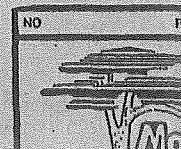
Existing MH
under application



NEW SFD
waiting for
issuance of
Occupancy
Permit
from RDEK

SITE PLAN

8078 BANMAN CRESCENT.



July 30, 2018

This letter was sent to Regional District of East Kootenay explaining our request for a bylaw amendment to allow us to keep the existing manufactured home on the property. They in turn advised that we first had to contact the ALC for permission to proceed.

REDEK Planning & Development Services

Att.

Tracy Van De Wiel

Or

Jean Terpsma

Re: Building permit BP117159- file update
Lot 1 Plan NEP8316 District Lot 9939 Kootenay District
Manufactured Home Reg # 1291
8078 Banman Cresc., Meadowbrook Area

Dear Tracy or Jean

Further to the letter of July 16, 2018 from Building Inspector Steve Tersmette regarding conditions for final inspection, I respectfully request a review of our particular situation regarding a second residence [the original house trailer] remaining on the property.

The residence in question is being rented by a family of 4 and has all it's own amenities [separate power, sewage, water well and gas hookups]. Jody and Cindy Richie and their two children presently reside in the 3 bedroom house trailer for a reduced rent in return for taking care of the whole property, mainly lawns and snow blowing, looking after the small orchard (apples, pear, plumb, and cherry trees) and keeping an eye on our new residence at the back of the 11 acres. Being as my wife and I are often away for several months at a time it is very important to have Jody and Cindy look after the place.

On the advice of Steve, we are requesting an E Zoning Bylaw Amendment to allow the original manufactured home to remain on the property. We do not wish to subdivide the property if it's not necessary. As you can see it is crucial to us that the Richie family be allowed to remain for the safety and general upkeep of our acreage and buildings. We also appreciate how difficult it is to find a place with affordable rent for a young family and I very much want to continue to provide this home for them.

I will be back in Kimberley in middle September and would be happy to come to your office to discuss the matter further if you require. Also my cel no. is 306 577 8166.

July 30, 2018

Thank you for your attention

Respectfully

Paul and Dianne Twietmeyer

Photos of Mobile





Development Variance Permit Application

Date: November 27, 2018

File: P 718 116

DVP No. 21-18

Applicant: Foothills Silva Culture Inc.
Agent: Richard Haworth
Location: 6393 Highway 3 northeast of Fernie
Legal: Lot 9, District Lot 6393, Kootenay District, Plan 1411, Except parts included in Plans 5826, 7444, 7617 and 8737

Proposal: The application is to vary the Elk Valley Sign Bylaw to permit a new 26.5 m² metal-framed sign with lighting.

Options:

1. THAT Development Variance Permit No. 21-18 be granted.
2. THAT Development Variance Permit No. 21-18 be refused.

Recommendation: **Option # 1**
 The proposed sign complies with the covenant registered on title.

Property Information:

OCP Designation: I, Industrial

Zoning Designation: MG-1, Light Industrial Zone; minimum parcel area requirement 0.2 ha.

Parcel Area: 16.9 ha

Density: N/A

ALR Status: Not within the ALR

BC Assessment: Business – other (works yard)

Flood Hazard Rating: RDEK mapping shows a creek crossing the subject property therefore, floodplain management provisions apply to development. The property is not identified as being within a special policy area with regard to flood hazard.

Water / Sewer Services: Existing onsite services

Interface Fire Hazard Rating: Ranges from low to moderate; within the Fernie rural fire protection area.

Additional Information:

Covenant CA6025244 was registered in 2016 when the subject property was rezoned for light industrial use. The covenant requires that any signage must comply with the City of Fernie Sign Bylaw 1888. The City of Fernie has reviewed the sign proposal and states that it is acceptable.

Consultation:

APC Area A: Area A APC reviewed the package and had further questions. They did not provide a recommendation.

City of Fernie: The proposed sign is acceptable, including the use of metal material.

Response(s) to Notice: 50 notices were mailed on October 29, 2018 to all property owners within 100 m of the subject property. Three written submissions were received that are not in support of this application. Two state that the sign would create visual pollution, would be a distraction and is inappropriate for the type of business. One states concerns for the precedent it will set, the magnitude that it exceeds current regulations and that it contravenes MOTI requirements and the Fernie Sign Bylaw.

**Documents
Attached:**

- Permit
- Location Map
- Land Use Map
- Proposal
- Public Letters

**RDEK
Contact:**

Krista Gilbert, Planning Technician
Phone: 250-489-0314
Email: kgilbert@rdek.bc.ca



Development Variance

Permit No. 21-18

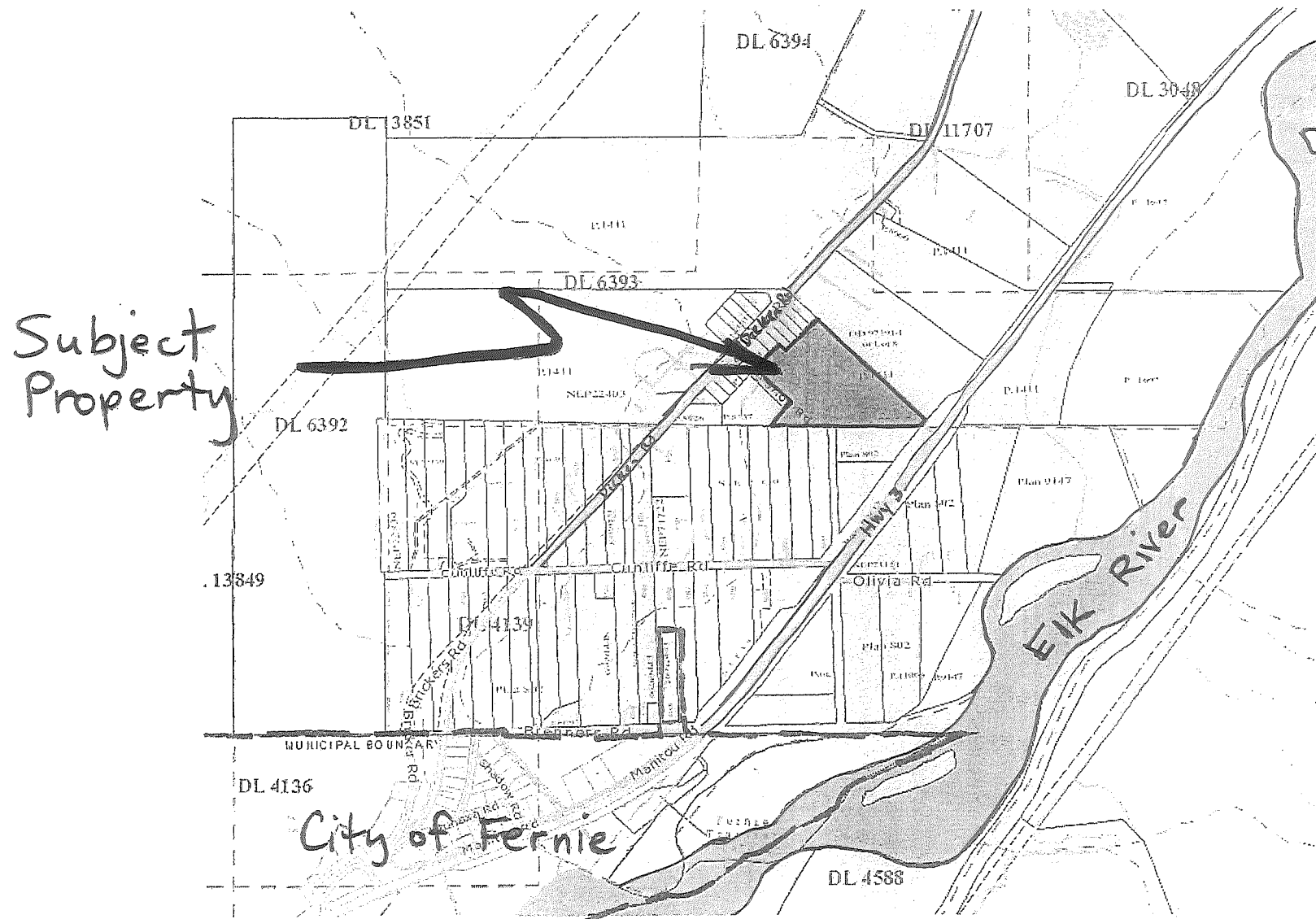
Permittee: Foothills Silva Culture Inc.

1. This Development Variance Permit is issued subject to compliance with all RDEK bylaws applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Permit applies to and only to those lands described below:
Lot 9, District Lot 6393, Kootenay District, Plan 1411, Except Parts Included in Plans 5826, 7444, 7617 and 8737
[PID: 013-163-612]
3. Regional District of East Kootenay – Elk Valley Sign Bylaw No. 1848, 2005 Section 4.01 (3) and 4.01 (6), which prohibits billboards and illuminated signs, is varied to permit a new 26.5 m² sign (approximately 5.5m high and 4.5 m wide) with lighting.
4. The lands described herein shall be developed strictly in accordance with the terms and conditions of this Permit and in substantial compliance with the development variance permit application received June 6, 2018 and amended plans received on October 15, 2018.
5. This Permit shall come into force on the date of an authorizing resolution passed by the RDEK.
6. This Permit is not a building permit.
7. If development authorized by this Permit does not commence within two years of the issue date of this Permit, the Permit shall lapse.
8. A notice pursuant to Section 503(1) of the *Local Government Act* shall be filed in the Land Title Office and the Registrar shall make a note of the filing against the title of the land affected.
9. It is understood and agreed that the RDEK has made no representations, covenants, warranties, guarantees, promises, or agreement (verbal or otherwise) with the developer other than those in this Permit.
10. This Permit shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

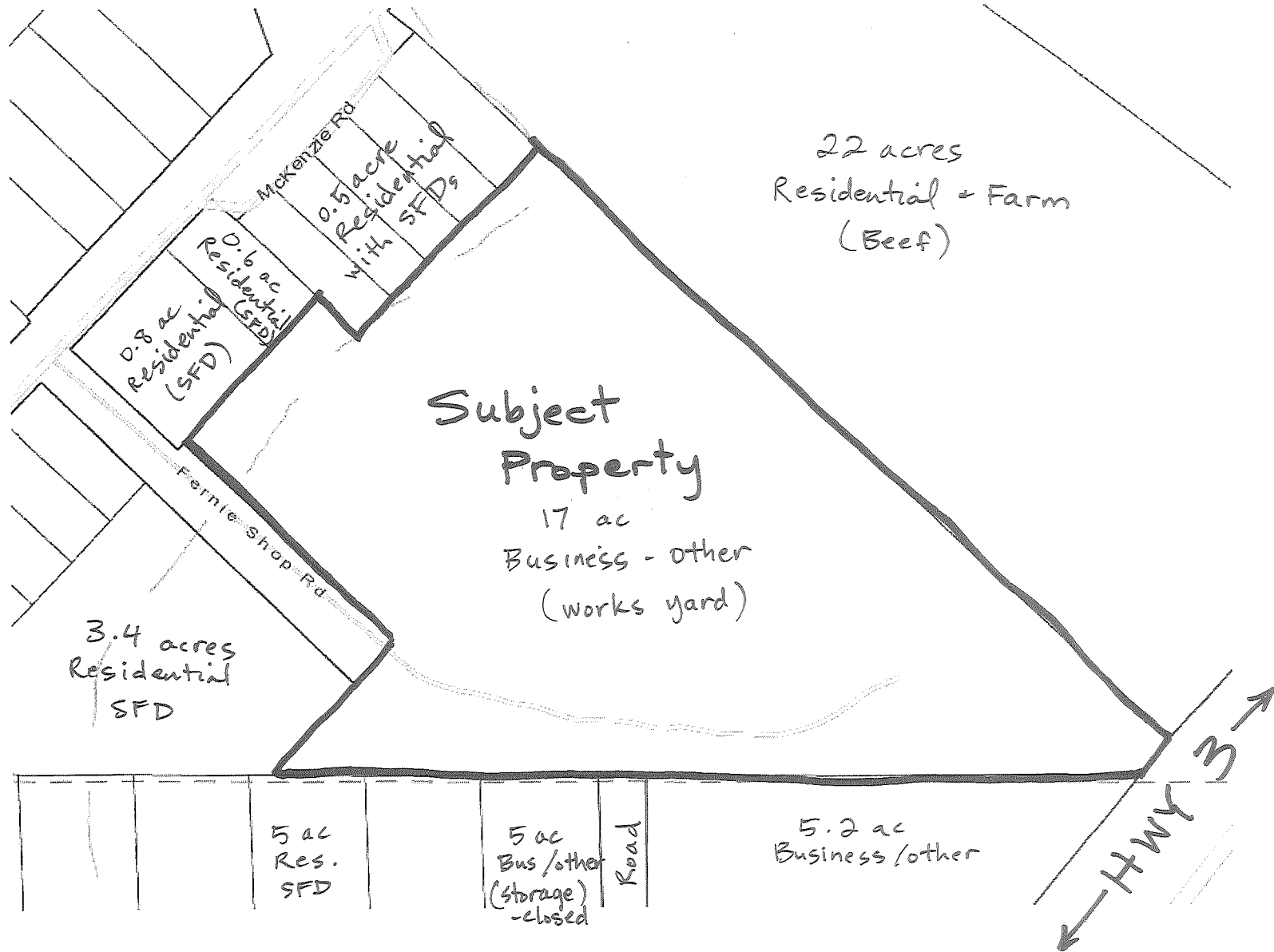
Authorizing Resolution No. _____ adopted by the Board of the Regional District of East Kootenay on the _____ day of _____, 2018.

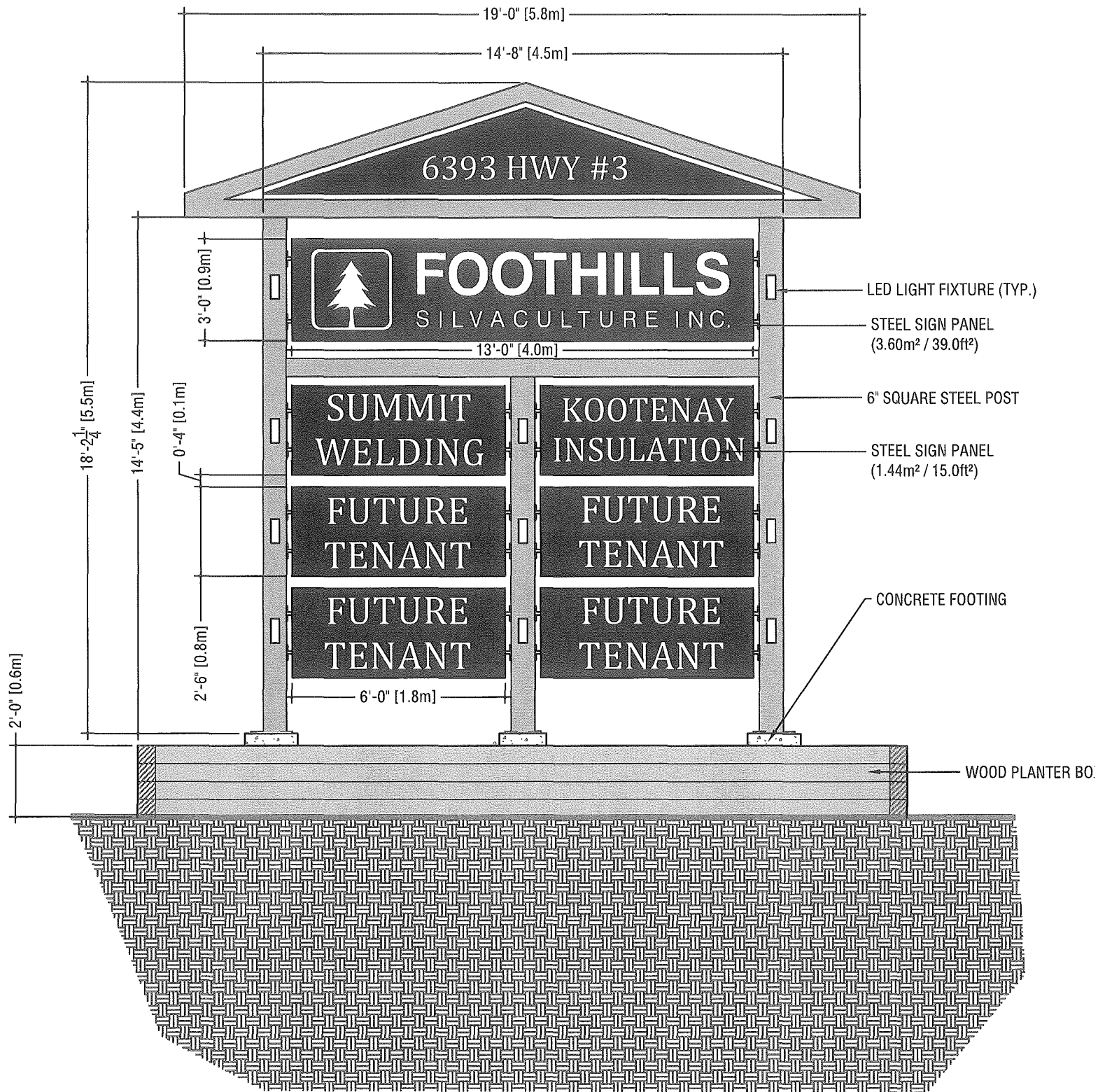
Shannon Moskal
Corporate Officer

Location Map



Land Use Map





SIGN - FRONT ELEVATION

Krista Gilbert

From: Sandra Morris-Mickelson [REDACTED]
Sent: November 5, 2018 12:05 PM
To: Krista Gilbert
Subject: Development Variance Permit No. 21-18

wish to object to the application for a large lit sign on highway #3.
There are far too many large signs along the highway which visually impair the look of our valley.
It hardly seems necessary that a sign like this is necessary for this business.
I believe it would be unattractive and a disturbance.

S. Morris

Krista Gilbert

From: Gene Mickelson [REDACTED]
Sent: November 5, 2018 10:04 AM
To: Krista Gilbert
Subject: Development Variance Permit No. 21-18

I am writing to object to the subject variance application.

There is getting to be a large increase in the visual pollution along highway #3 although this location is only assumed as your map only indicates the property not the location of the sign.

The size of the at 26.3 square metres is bordering on outrageous and would appear to be totally inappropriate for the type of property involved. Also the need for night lighting for the sign is questionable. Who is looking for this type of business at night? Night lighting for a huge sign like this would certainly be a distraction.

Simply, a sign like this is visual pollution, an unnecessary distraction and inappropriate for the type of business.

G. Mickelson

November 27, 2018

Christopher & Suzanne Doig
1756 Dicken Road
Fernie, BC [REDACTED]

Regional District of East Kootenay
19 – 24 Avenue South
Cranbrook BC V1C 3H8

Attention: Board of Directors

Re: Notice of Intent Development Variance Permit No 21-18

We are writing to express our concerns for the variance permit submitted by Foothills Silva Culture Inc for both the size and illumination of their proposed commercial sign. We understand the need for commercial businesses to advertise and direct customers to their business. However, as is written in RDEK's own policies. *"The form and character of commercial and light industrial development is an important part of what makes a community attractive and liveable for visitors and residents."* It is the responsibility of RDEK's Board of Directors to uphold bylaws *"to ensure that commercial and industrial development is attractive and compatible with the surrounding area."*

The BC government, according to it's own representatives, does not enforce the rules governing signage in the Transportation Act (Section 214). Bylaw 1848 was put in place to address that problem and the issue of sign clutter on the highways in the RDEK.

In 2004 & 2005 thoughtful consideration was given to address this issue and the RDEK Bylaw 1848 was approved. If variance permit 21-18 is approved, the decision would ignore the thoughtful planning upon which Bylaw 1848 was based and past precedence in upholding this Bylaw since its original approval.

The variance permit, if approved as submitted, will set a new precedent for all future sign requests as this commercial area is developed. Lot 9, District Lot 6393 is the start of what will be a significant commercial/light industrial strip leading into the City of Fernie. RDEK must consider the impact of a variance granted to Foothills Silva Culture Inc. on subsequent businesses that will develop operations in this future commercial area, the negative impact on citizens in the surrounding area, and the negative impression to visitors and tourism in general.

The Board is being asked to approve significantly more than a minor variance in the size of a commercial sign, but rather approval for an immense billboard. The

proposed sign is 3 times the maximum size referenced in Bylaw 1848's definition of a prohibited Billboard (3.04).

The proposed billboard is at least twice the size of the Fernie 'Welcome Sign' at the entrance to the Information Centre and Chamber of Commerce. It also exceeds the maximum size of Welcome signs permitted by the Ministry of Transportation. The Policy Manual for Supplemental Signs published by the Ministry of Transportation, updated the same year the RDEK bylaw was published, outlines the restrictions for Welcome Community signs. It states the maximum size to be 24 m² and only if the sign is located at least 38 m from the edge of the nearest through traffic lane. The variance requested for this billboard exceeds this maximum size by 2.5 m².

In accordance with the current RDEK Bylaw (4.01 (6)), no illumination of commercial signs/billboards is permitted. The additional variation to request illumination particularly given the size of the billboard, would appear to be in contravention of Ministry of Transportation requirements. The Ministry of Transportation operates under the principle that highways are safest for motorists when they are relatively free of distractions. An illuminated sign of the size proposed would be a significant distraction.

Covenant CA6025244 requires that the City of Fernie's signage Bylaw is considered. Although the Staff Report prepared for the Permit Application states compliance with Fernie Bylaw 1888, we believe it contravenes 2 key aspects of Section 9.3 of the Bylaw.

1. Fernie Municipal Bylaw 1888 9.3.1(f) prohibits signs on the Highway Commercial Zone greater than 4 m² and to a maximum height of 5.5 meters. The proposed billboard is 6 times greater than that which would be permitted within Fernie's corporate limits, despite being immediately adjacent to its limits. It also exceeds the height limit which according to the Bylaw definition of Height must be taken from grade level – not from the top of a pedestal created to meet the landscaping requirements of the Bylaw, 9.3.1(i). In the proposal, the billboard would sit approximately .7 meters above grade making the overall height to be in excess of 6 meters
2. Section 9.3.1 (d) and 7.7(d) both state mast mounted free-standing signs are not permitted. It defines a Mast Mounted Sign as "*a free-standing sign attached or mounted on one or more metals posts or masts*". The design submitted with the application indicates square steel posts will be used in its construction. Furthermore, Section 9.3.1 (c) indicates the free-standing sign "*must be constructed out of high quality timbers, logs, masonry material or other similar type products*".

Therefore, this proposed billboard would be significantly larger than any other business sign close to the entrance of Fernie, significantly larger than Fernie's own

'Welcome sign' just down the highway, significantly larger than business signs permitted within Fernie, substantially larger than what both the RDEK and City of Fernie Bylaws have contemplated, and a worrisome precedent for future business expansion within the proposed commercial district adjacent to highway 3 north-east of Fernie.

We would strongly request the RDEK Board of Directors adhere to its established policies. If there is a need for reconsideration of these long-standing policies which have well served the East Kootenay region, then the policy as a whole should be revisited rather than granting individual variance requests. This is particularly relevant and timely given the long term business development in the commercial area adjacent to this business.

There is much to be excited about the ongoing development of Fernie, however, approval of this variance permit will not substantially and broadly help the area's commercial development and may have other substantive short and long term consequences.

We would be more than happy to discuss any of our concerns. At your convenience, please contact us at [REDACTED]

Yours sincerely,

Christopher and Suzanne Doig



Development Variance Permit Application

Date: December 3, 2018

File: P 718 618

DVP No. 32-18

Applicant: Robert Bennett & Marion Grau

Location: 5919 Edgewater South Approach Road in Edgewater

Legal: Lot 3, District Lot 348, Kootenay District, Plan EPP48577

Proposal: Application to waive the Subdivision Servicing Bylaw No. 1954, 2008, Section 10.01 (1), which requires proof of potable water from either an individual groundwater source or connection to a community water system, is waived to permit servicing the lot using a water cistern.

Options:

1. THAT Development Variance Permit No. 32-18 be granted.
2. THAT Development Variance Permit No. 32-18 be refused.

Recommendation: **Option #2**
The property should be connected to the nearby existing community water system and this opportunity has not been fully explored yet. Further, no information has been supplied by the applicant to indicate that a cistern is a viable long term solution for the provision of potable water to the property.

Property Information: **OCP Designation:** RR, Rural Resource which includes rural residential and rural resource land uses with parcel sizes 8.0 hectares and larger. The RR designation also recognizes the use of these lands for agriculture, resource extraction, open space and working landscape.

OCP Policies:

- Existing, vacant parcels within the Edgewater water system service area shall be given water service priority. Applications for extensions to the water system that will increase the demand for additional capacity will be review on an individual basis.
- The extension of existing water systems to service surrounding areas in compliance with the Drinking Water Protection Act is encouraged, rather than the creation of new small water systems. Water systems not in compliance with the Drinking Water Protection Act must meet the requirements of the act before expansion occurs.

Zone Designation: A-2, Rural Residential (Country) Zone; minimum parcel area requirement 8 ha.

Parcel Area: 8.17 ha (20.2 ac)

Density: One single family dwelling is permitted per lot. A secondary suite is a permitted accessory use.

ALR Status: Within the ALR

BC Assessment: Managed Forest (vacant)

**Property
Information –
cont'd:**

Flood Hazard Rating: The property is located near the Columbia River and Wetlands. Floodplain management provisions apply to development. The property is not identified as being within a special policy area with regard to flood hazard.

Water / Sewer Services: The owners have been working with the RDEK Engineering Department on a plan to extend the Edgewater community water system to meet the subdivision servicing bylaw requirements for proof of potable water. Details for this extension have not been finalized.

The applicants are hoping that a cistern can be the backup plan in case the extension to the water system proves too expensive.

Interface Fire Hazard Rating: Moderate; within the **Edgewater** Fire Protection Area

**Additional
Information:**

Connection to the Edgewater community water system is preferred as the best solution to providing potable water to the lot by both the owners and the RDEK Engineering Department.

Consultation:

APC Area F&G: Support

Response(s) to Notice: 11 notices were mailed on November 2, 2018 to all property owners within 100 m of the subject property. No notices were returned and no responses have been received.

**Documents
Attached:**

- Permit
- Location Map
- Land Use Map
- Sketch from Owners

**RDEK
Contact:**

Tracy Van de Wiel, Planning Technician
Phone: 250-489-0306
Email: tvandewiel@rdek.bc.ca



Development Variance

Permit No. 32-18

Permittee: Robert Bennett & Marion Grau

1. This Development Variance Permit is issued subject to compliance with all RDEK bylaws applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Permit applies to and only to those lands described below:

Lot 3, District Lot 348, Kootenay District, Plan EPP48577
[PID: 029-792-134]
3. Regional District of East Kootenay – Subdivision Servicing Bylaw No. 1954, 2008, Section 10.01 (1), which requires proof of potable water from either an individual groundwater source or connection to a community water system, is waived to permit servicing the lot using a water cistern.
4. The lands described herein shall be developed strictly in accordance with the terms and conditions of this Permit and in substantial compliance with the development variance permit application received on September 21, 2018.
5. This Permit shall come into force on the date of an authorizing resolution passed by the RDEK.
6. This Permit is not a building permit.
7. If development authorized by this Permit does not commence within two years of the issue date of this Permit, the Permit shall lapse.
8. A notice pursuant to Section 503(1) of the *Local Government Act* shall be filed in the Land Title Office and the Registrar shall make a note of the filing against the title of the land affected.
9. It is understood and agreed that the RDEK has made no representations, covenants, warranties, guarantees, promises, or agreement (verbal or otherwise) with the developer other than those in this Permit.
10. This Permit shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

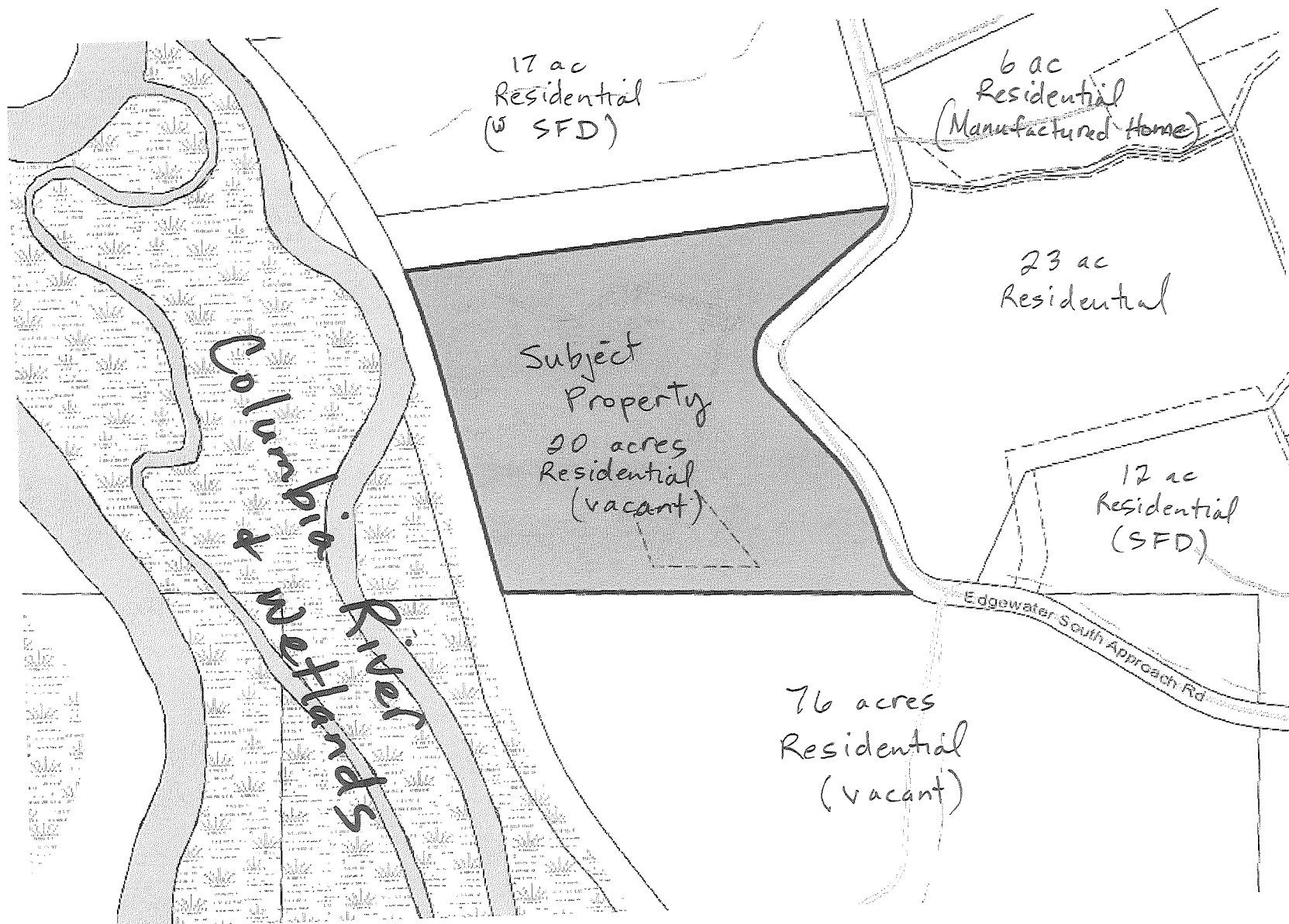
Authorizing Resolution No. adopted by the Board of the Regional District of East
Kootenay on the day of , 2018.

Shannon Moskal
Corporate Officer

Location Map

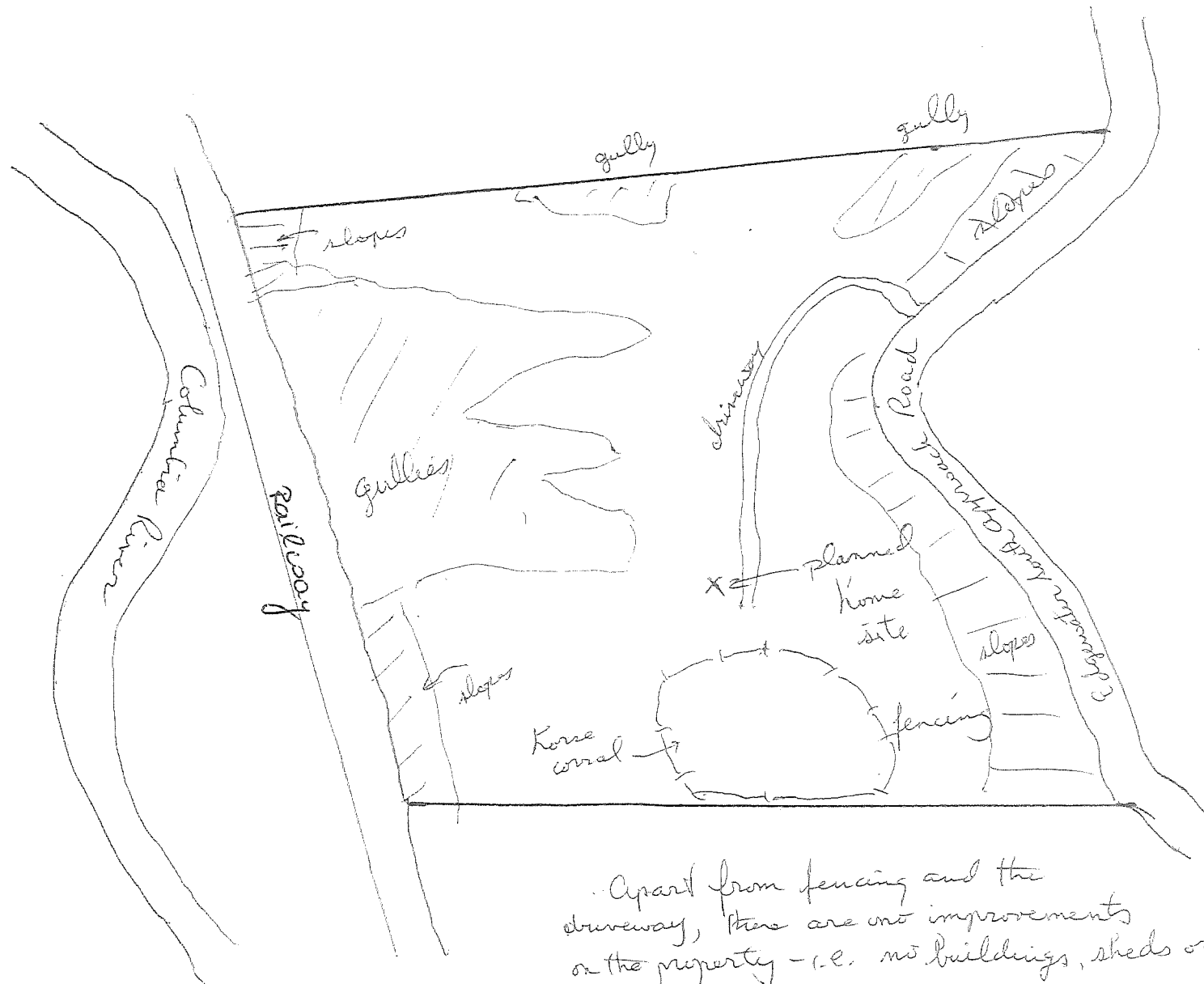


Land Use Map



Sketch of Lot 3 Plan EPP48577 348
5919 Edgewater South Approach Road

Sketch
from owners



Apart from fencing and the driveway, there are no improvements on the property - i.e. no buildings, sheds or wells.



Staff Report ...

Natural Resource Operations Referral

Date: November 26, 2018

File: P 151 400

NRO #104942401

- Applicant:** 1094444 BC Ltd. (Brad Park)
- Location:** Dewar Creek area, approx. 38 kms northwest of Kimberley and St. Mary River area, approx. 23 kms west of Kimberley
- Legal:** Unsurveyed Crown land
- Proposal:** License of Occupation to legalize two existing hunting camps which are used as part of a guide hunting territory and to permit overnight rental of the cabins to the general public in July and August. Both hunting camps consists of bunkhouse cabins, pit toilets, generator shed and horse corral. The Dewar Creek camp also has staff cabins, a tack shed, hay barn and a shower house.
- Options:**
1. THAT the Ministry of Forests, Lands, Natural Resource Operations and Rural Development be advised the RDEK supports the 1094444 BC Ltd. application for a Licence of Occupation to legalize two existing hunting camps located in the St. Mary River and Dewar Creek areas west of Kimberley.
 2. THAT the Ministry of Forests, Lands, Natural Resource Operations and Rural Development be advised the RDEK does not support the 1094444 BC Ltd. application for a Licence of Occupation to legalize two existing hunting camps located in the St. Mary River and Dewar Creek areas west of Kimberley.
- Recommendation:** **Option # 1**
This proposal is in a very remote area. The proposal is not expected to cause additional measurable negative impacts; however, effort should be taken to avoid contamination of the area from invasive/noxious weeds and the proposed activities should consider impacts on sensitive species and the environment.

**Property
Information:****OCP Designation:**

St. Mary River Camp: RR, Rural Resource

Dewar Creek Camp: No OCP

Applicable OCP / RSS Policies:**Kimberley Rural OCP (St. Mary River Camp):**

- The RDEK encourages management of Crown land in an environmentally responsible manner that:
 - a) protects surface and groundwater sources;
 - b) manages forest ingrowth;
 - c) minimizes risk of interface fire and wildfire;
 - d) enhances wildlife habitat;

**Property
Information - cont'd:**

- e) protects viewscales and scenery;
- f) protects watershed ecological values, including waterfowl and fish and their corresponding habitat; and,
- g) maintains diverse plant communities by managing invasive plants.

Regional Sustainability Strategy Objectives (Dewar Creek Camp):

- To maintain and enhance backcountry recreation assets and wilderness opportunities to support a diversified tourism sector.

Zone Designations:

St. Mary River Camp: RR-60, Rural Resource

Dewar Creek Camp: Not zoned

Parcel Size: Total area affected (including both camps):
1.15 ha +/- (2.84 ac +/-)

Density: N/A

ALR Status: Not within

BC Assessment: N/A

Water / Sewer Services: Creek / spring water and outhouses

Interface Fire Hazard Rating:

St. Mary River Camp: High

Dewar Creek Camp: Moderate

Crown land is serviced by the BC Wildfire Service, not a fire protection area.

**Crown Land
Management Plans:**

The Cranbrook West Recreation Management Strategy identifies both camp areas as ungulate winter range where motorized uses are restricted to roads and identified travel corridors in snow bound months. Both camp areas are open for motorized uses during snow free months.

**Lake Management
Plans:**

None

**Shoreline
Management
Guidelines:**

N/A

**Additional
Information:**

- The referral states that the Dewar Creek camp has existed for more than 25 years and the St. Mary River camp was established in 2005.
- The camps are used as part of the guided hunting operation in May – June and again in September – October. They are available for overnight rental to the public for adventure tourism and in support of trail rides offered by other companies in the nearby Parks during July and August.

Consultation: **APC Area E:** Not supported unless it is only used as a guided hunting territory.

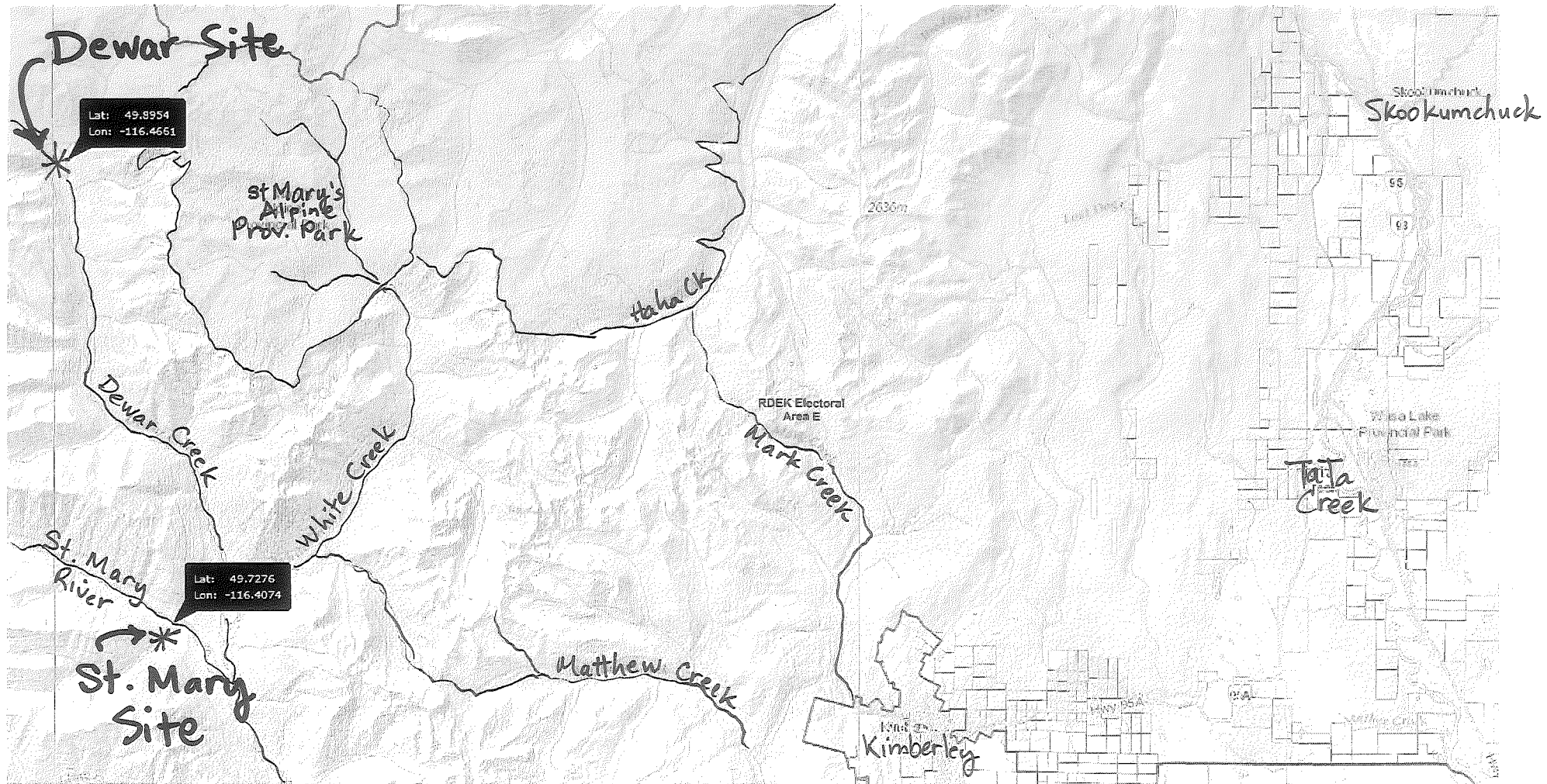
Documents Attached:

- Location Maps
- Proposal
- Site Plans from Applicant

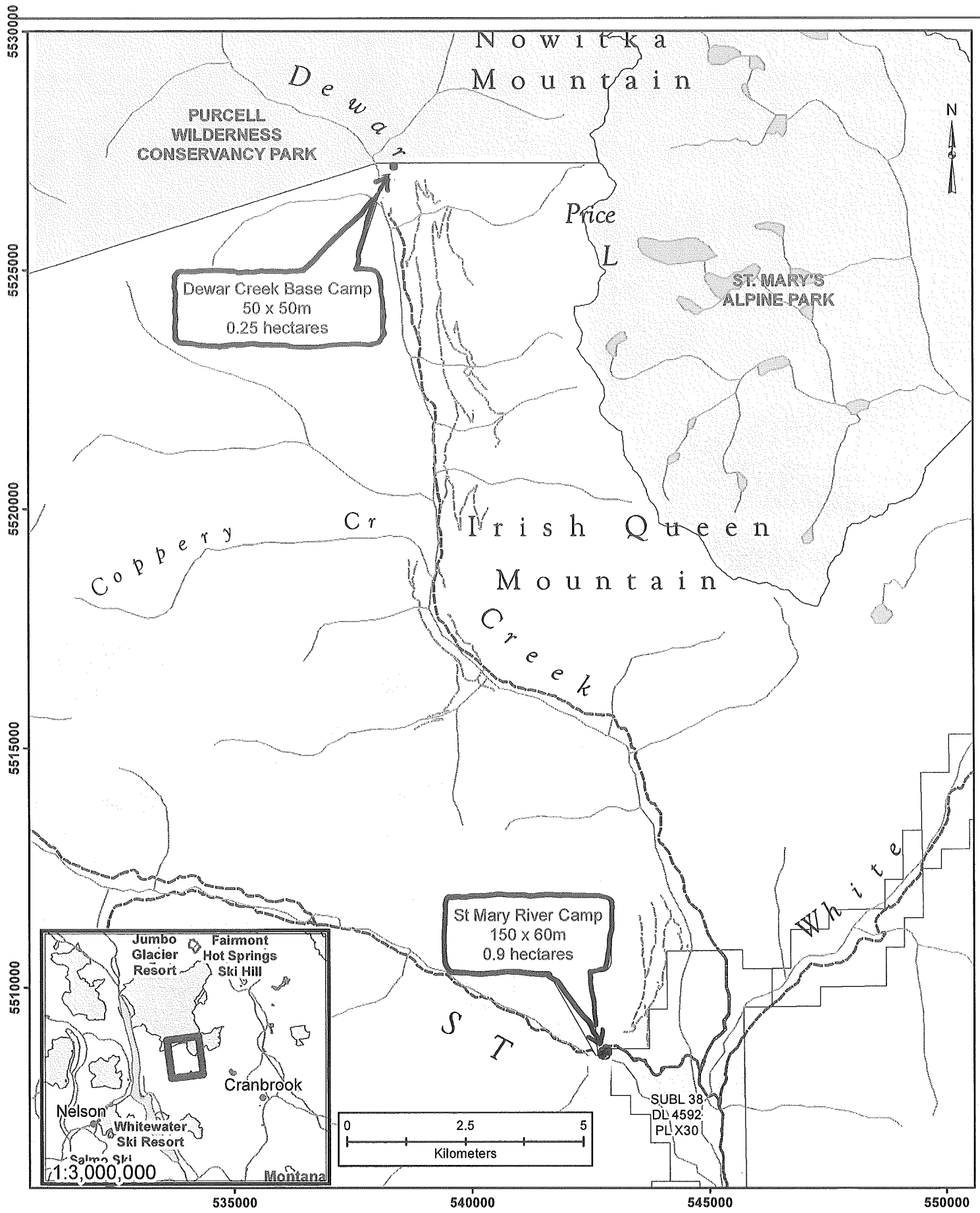
RDEK Contact: Tracy Van de Wiel, Planning Technician
Phone: 250-489-0306
Email: tvandewiel@rdek.bc.ca

Overview

Location Map



Location Map



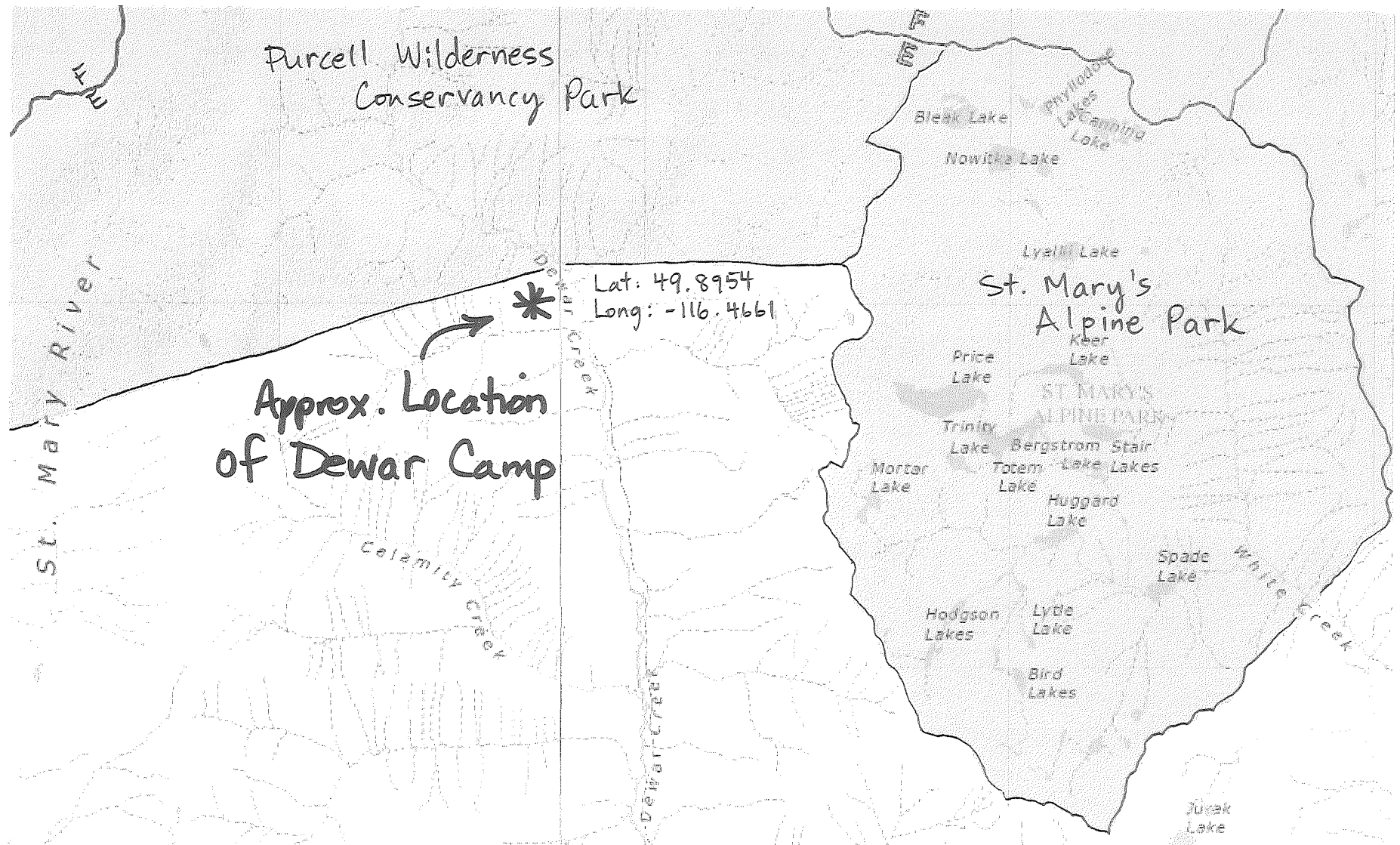
Scale 1:100,000

Camps

Private Land

Detail

Location Map – Dewar Camp



Proposal

Background

Crown Land Tenure Application (100254054)

The Upper Dewar Creek and St Mary camps and cabins are for hunt guiding in May and June and September through November under Guide Certificate 400907. The Dewar camp has been in existence for over 25 years. The St Mary camp was established around 2005.

July and August the camps are available for rental to the public for adventure tourism and in support of trail rides conducted in the BC Park's Purcell Wilderness Conservancy adjacent to the Dewar Creek camp and private land downstream of the St Mary camp. Currently no trails on Crown Land affiliated with Certificate 400907 are used for adventure tourism. Only for hunting.

Location

The Upper Dewar camp is located approximately 25 km from the junction of the Dewar and West Fork St Mary roads almost to the road end where the Dewar road meets the Purcell Wilderness Conservancy.

Latitude - 49.895387°

Longitude - -116.466137°

The St Mary camp is located at approximately 3 km on the West Fork St Mary FSR.

Latitude - 49.727575°

Longitude - -116.407416°

Access is via the existing forestry roads. Traffic is limited to forestry operations (Canfor) and public recreational use and is seasonal April to November. Adjacent land use is for hunt guiding under guide outfitter certificate 400809.

Infrastructure

Dewar Creek

- Located approximately 25 km on Dewar Creek FSR.
- Log cookhouse and cook's quarters.
- Log hunter bunkhouse.
- Log guide bunkhouse.
- Tack shed and hay barn.
- Shower house.
- Horse corral – portable steel panels.
- Wired for gas generated power.
- Water supply is a gravity spring.
- Septic is one outhouse. Kitchen grey water is into an underground pit.
- All garbage is hauled out to Marysville dump.

Infrastructure

St Mary

- Located approximately 3 km on West Fork St Mary FSR.

- Two log bunkhouses
- Generator building
- Septic is two outhouses – one for each cabin.
- Rail horse corral
- Wired for gas generated power
- Water supply is gravity spring
- All garbage is hauled to Marysville dump

First Nations

No contact.

Environmental

The camp locations are in previous clear-cut areas utilizing existing logging landings and skid trails. Cabins are all above high water mark, outside of riparian zones and greater than 100 m from any stream. No pesticides or herbicides are used. Camps are located where they are not visible from roads. No archaeological sites are known to exist in either camp area. Construction of cabins is log and/or wood framed.

The only atmospheric impacts are smoke from wood heat.

There are no water or land covered by water impacts.

No disturbance to fish or wildlife habitat. The camps are located above ungulate winter range in historic clear-cut areas.

Noxious weed management – horses are fed certified weed free export hay from Creston.

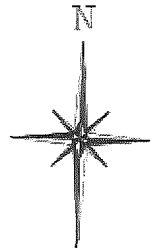
Socio-Community

Cabins for guided hunting and adventure tourism rental. No demand on fire protection or emergency services.

St. Mary Camp

All coordinates, distances and elevations are in meters. This sketch plan is not the result of a field survey. All locations, areas, and distances are approximate.

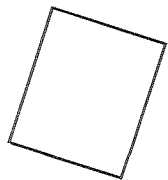
This drawing is for planning purposes only and is not to be used for the location of property lines or any other use whatsoever. The producer, signatory, distributor or any other source of this drawing accepts no liability or responsibility for any damages suffered by a third party as a result of any decisions made, or actions taken based on this drawing.



Outhouse



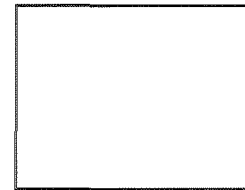
Outhouse



Bunkhouse



Generator



Bunkhouse

UNSURVEYED CROWN LAND

SITE AREA: 0.9 HA.

60 m

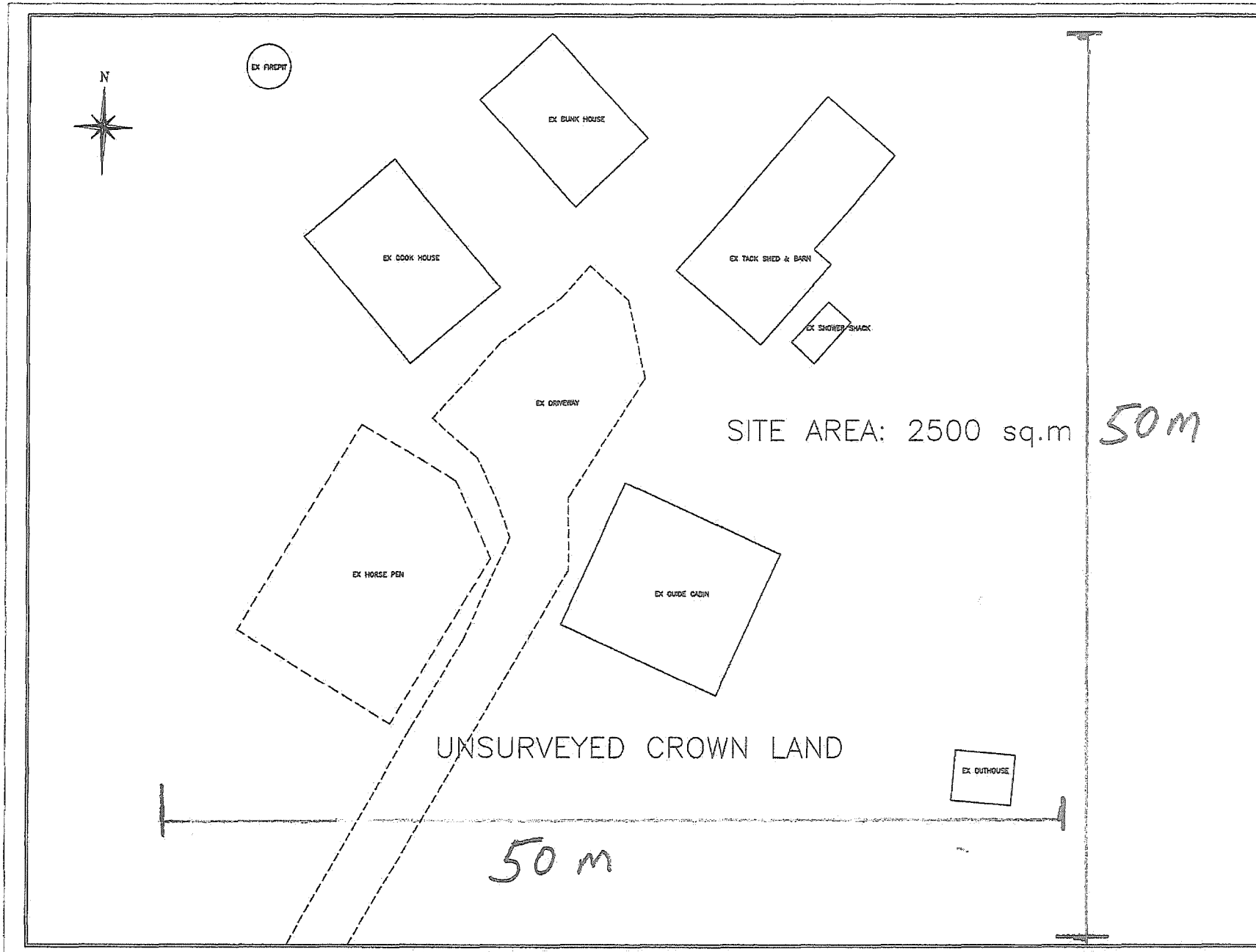
150 m

Ministry of Forests,
Lands and Natural
Resource Operations
Front Counter BC

Project Title

St Mary River
Camp

Dewar Camp



NOTES:

ALL COORDINATES, DISTANCES AND ELEVATIONS ARE IN METRES.
THIS SKETCH PLAN IS NOT THE RESULT OF A FIELD SURVEY. ALL LOCATIONS, AREAS, AND DISTANCES ARE APPROXIMATE.
DRAWING IS TO SCALE.
THIS PLAN IS FOR PLANNING PURPOSES ONLY AND IS NOT TO BE USED FOR THE LOCATION OF PROPERTY LINES OR ANY OTHER USE WHATSOEVER. THE PRODUCER, SIGNATORY, DISTRIBUTOR OR ANY OTHER SOURCE OF THIS DRAWING ACCEPTS NO LIABILITY OR RESPONSIBILITY FOR ANY DAMAGES SUFFERED BY A THIRD PARTY AS A RESULT OF ANY DECISIONS MADE, OR ACTIONS TAKEN BASED ON THIS DOCUMENT.

CONSULTANT:

ISSUE DESCRIPTION DATE

MINISTRY OF FORESTS, LANDS & NATURAL RESOURCES OPERATIONS
Front Counter BC

PROJECT TITLE:
CALAMITY CREEK GUIDE OUTFITTERS
TOP CAMP

PROJECT NAME:
TOP CAMP SKETCH PLAN

PROJECT NO.: DATE:
DRAWN: JUL 8, 2018
CHECKED: SCALE:
WATT PAK 1:75

DRAWING NO.:
S-1

REV NO.:
0

Photo





Staff Report ...

Natural Resource Operations Referral

Date: **December 3, 2018**

File: P 151 500

NRO #348276

Applicant:	Calberley Beach Community Association
Agent:	Brian Halhead
Location:	Calberley Beach, in the vicinity of Stoddart Avenue and Highway Drive, Windermere Lake
Legal:	Foreshore, Ministry of Transportation and Infrastructure owned land
Proposal	Crown land application for Specific Permission for group moorage for an existing recreational dock which is managed by the Calberley Beach Community Association.
Options:	<ol style="list-style-type: none"> 1. THAT the Ministry of Forests, Lands, Natural Resource Operations and Rural Development be advised the RDEK supports the Calberley Beach Community Association application for Specific Permission for an existing dock located on Calberley Beach in the vicinity of Stoddart Avenue and Highway Drive in the Lake Windermere area. 2. THAT the Ministry of Forests, Lands, Natural Resource Operations and Rural Development be advised the RDEK does not support the Calberley Beach Community Association application for Specific Permission for an existing dock located on Calberley Beach in the vicinity of Stoddart Avenue and Highway Drive in the Lake Windermere area. 3. THAT the Ministry of Forests, Lands, Natural Resource Operations and Rural Development be advised the RDEK supports the Calberley Beach Community Association application for Specific Permission for an existing dock subject to the following: a) support from the Ministry of Transportation and Infrastructure, b) installation of adequate signage stating that the dock can be utilized by the public, and c) prohibition of overnight moorage.
Recommendation:	<p>Option #3</p> <p>If support is granted by the MoTI (the upland owner), and if public access to Lake Windermere is maintained and the dock clearly signed to indicate it can be used by the public, then this application meets the intent of the Lake Windermere Management Plan and the OCP.</p>

Property Information:	<p>OCP Designation: The private land in the vicinity is designated R-SF, Residential Low Density</p> <p>OCP Policies:</p> <ul style="list-style-type: none"> ▪ Potential applicants should refer to the Ministry of Environment's 'A Users' Guide to Working In and Around Water' and the Department
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**Property
Information – cont:**

of Fisheries and Oceans' 'Land Development Guidelines for the Protection of Aquatic Habitat' prior to seeking permits and approvals.

- Development along the foreshore should respect the public's right to access the foreshore. New structures that impede public access are not supported. Existing structures on the foreshore that impede public access to the lake are recognized. It is recognized that many long-term structures now stabilize and protect the shoreline and may be suitable for redevelopment pending the appropriate approvals; however, the reconstruction of these structures will not generally be supported.
- The retention of natural vegetation and control of invasive plant species along the foreshore is encouraged. The control of invasive species must be in accordance with the *Weed Control Act*.
- The placement of structures in areas zoned LW-3 Lake Windermere (Institutional) Zone, is not generally supported, except within Windermere Beach Regional Park for recreational purposes or to facilitate public access to the lake. The placement of all structures must be in accordance with a Licence of Occupation or Lease issued by the Province and authorized by the upland landowner.
- A rezoning application to accommodate a group moorage facility accessed from Highway Drive along Stoddard Avenue may be supported subject to the following:
 - a) Application is made by a community association;
 - b) Written confirmation of support from the Ministry of Transportation and Infrastructure;
 - c) Removal of the existing individual docks along Stoddard Avenue; and
 - d) Issuance of a Licence of Occupation or Lease by the Province.

Access to the group moorage facility for moorage or day use purposes for the entire Calberley Beach community is encouraged.

Zoning Designation: LW-3, Lake Windermere (Institutional) Zone, which permits a dock but prohibits overnight moorage.

Parcel Size: Area under application: 50 m²

Density: n/a

ALR Status: Not within

BC Assessment: n/a

Water / Sewer Services: n/a

Interface Fire Hazard Rating: Low, not serviced by a fire protection area

**Crown Land
Management Plans**

None

**Lake Management
Plans**

The Lake Windermere Management Plan supports community day use docks for pick up and drop off, swimming and fishing; however, new community docks with slips for overnight use are generally not supported. The maximum upward facing surface of a community day use dock should generally be 80 m² or less. Docks are preferred over mooring buoys for the mooring of watercraft.

**Shoreline
Management
Guidelines**

- The shoreline is designated as Grey and defined as a very low value habitat area for fish and/or wildlife however, these areas still contain valuable habitats requiring some protection, such as in-lake wetlands, or gravel/cobble substrate areas. The Guidelines state that this shoreline type accounts for 18% of the total shoreline length of Lake Windermere.
- The Shoreline Management Guideline states that the Grey zones have had more concentrated residential development which has caused disturbances to the natural fish and wildlife habitat. New development and redevelopment activities may be considered in these areas but proposals shall incorporate habitat restoration or improvement features where feasible and practical.

**Additional
Information**

The referral states that there has been a dock in the present location since 1953 and the current group dock has been managed and maintained by the Calberley Beach Community Association for many years.

The subject dock is located on Calberley Beach which is public land owned by the Ministry of Transportation and Infrastructure (MoTI). Over the years, with development of the homes along Stoddard Avenue, there has been private development of portions of this MoTI owned land and currently many private structures and landscaping features exist in the area including decks, retaining walls etc. Staff understands that the MFLNRO has recently begun enforcement action on existing smaller private docks in the area and we understand that 11 unauthorized boat lifts, 3 unauthorized docks, 2 unauthorized boathouses, and 1 unauthorized pumphouse have been removed to date.

In 2007, the MoTI commissioned a report to investigate various approaches to addressing lakeshore encroachments on Lake Windermere including the Calberley Beach area and there have been discussions between the private land owners along Stoddard Ave and the Ministry of Transportation regarding possible disposition and sale of portions of the public land to the private stakeholders. These discussions have continued intermittently over the years and most recently, they have been between the Calberley Beach Community Association and the MOTI.

It is understood from the proponent that there is interest from both the Community Association and the MoTI to negotiate towards disposition and sale of the majority of the MoTI owned land to the Community

**Additional
Information –
cont'd:**

Association if agreeable terms can be reached. The proponent expressed interest by the Community Association in purchasing the entire R/W however, we understand that the Ministry's interest is to maintain public access to the lake and that, to achieve this, the Ministry is not currently considering disposition of a 12 m wide linear portion of the land which leads directly from Highway Drive to the lake.

If, in future, the Community Association becomes the upland property owner, they would then have the riparian rights of an upland owner. Discussions between the Community Association and the Ministry are still in the early stages and possible terms for disposition and sale/purchase have not been negotiated.

Consultation

APC Area F/G: Not supported.

At the APC meeting held on November 20, 2018, the applicant stated that the dock will be open for use by the public and that, if requested, the Calberley Beach Community Association will install signage to indicate this.

Lake Windermere Management Committee: Support for the dock is recommended and signage for the public access to the lake and to the dock is strongly encouraged. Future sale of portions of this public land and right of way is not supported by the committee. (Letter attached).

**Documents
Attached**

- Location Map
- Proposal
- Photos of existing group dock
- Letter from Lake Windermere Ambassadors

**RDEK
Contact**

Tracy Van de Wiel, Planning Technician
Phone: 250-489-0306
Email: tvandewiel@rdek.bc.ca



3 December, 2018

Attn: Tracy Van de Wiel, Planning Technician
Regional District of East Kootenay
19-24th Avenue South
Cranbrook BC V1C 3H8
Email: tvandewiel@rdek.bc.ca

Re: Calberley Beach Community Association dock referral

To the RDEK Board of Directors:

The Lake Management Committee recommends the RDEK support the application from the Calberley Beach Community Association to FLNRORD regarding a Crown Land application for an existing dock located at the end of Highway Drive in the vicinity of Stoddart Ave.

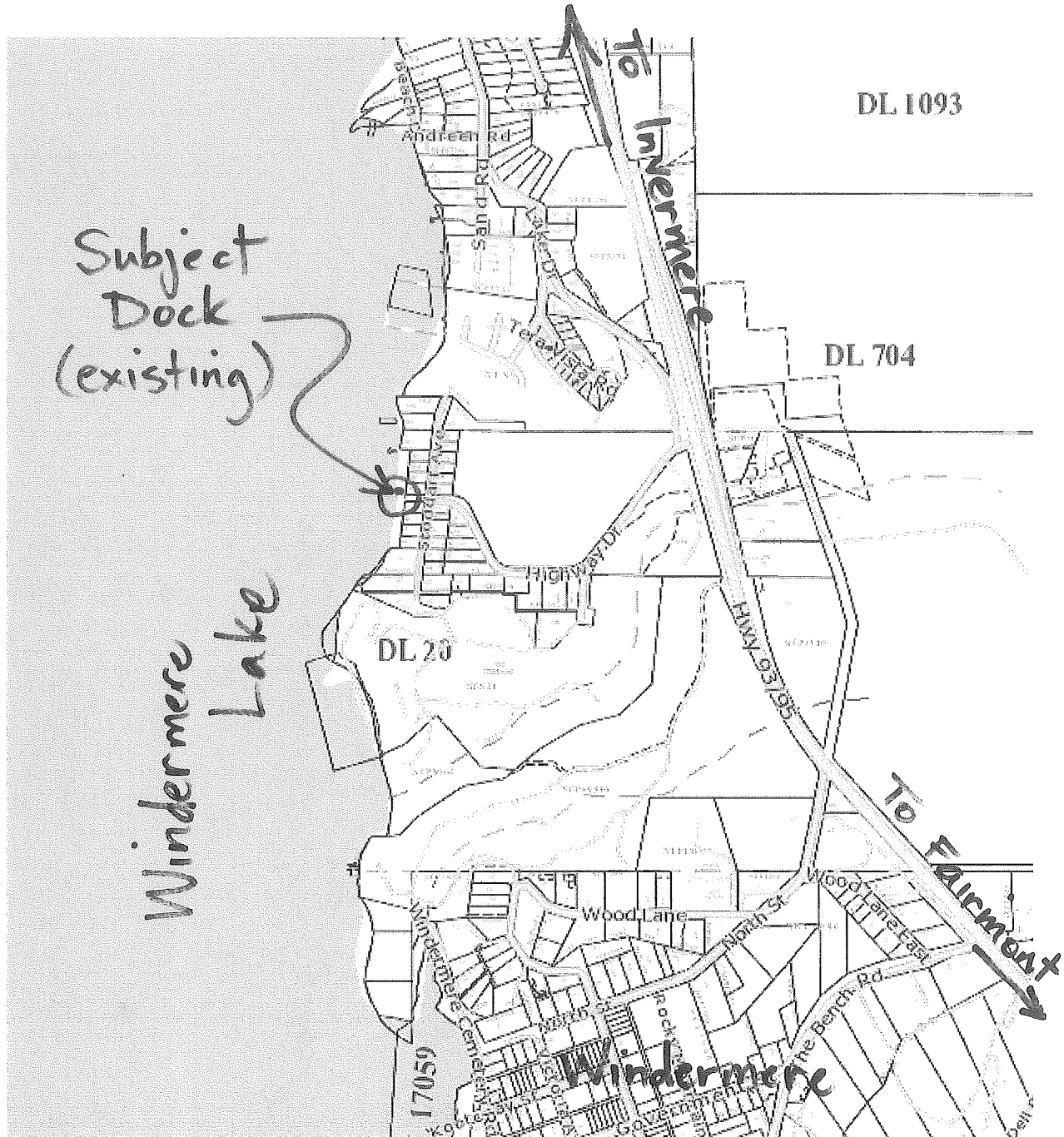
Comments:

- I. **Section 5.4 of the Lake Windermere Management Plan (Water Structures and Public Access Plan) states that private docks must be accessory to an existing principal use on the waterfront parcel, maximum one dock per waterfront parcel.**
The principal use on the waterfront parcel is a public right-of-way. The existence of this private community dock must not impede public access to or from the lake or foreshore.
- II. **Section 5.5 of the Lake Windermere Management Plan (Foreshore Management and Use Plan) states that new community day use docks for pick up / drop off, swimming, and fishing are supported. Additionally, it encourages private developments to inform the public that beach areas below the natural boundary are available for public use.**
The shallow water and dock design promote primarily non-motorized uses at this dock. There is currently no signage indicating public beach areas as available for public use. Posting of such signage at the end of the dock and the top of Highway Drive is very strongly encouraged.
- III. **Section 5.6 of the Lake Windermere Management Plan (Upland use and management) encourages MOT to enforce the removal of barriers and other encroachments, and the posting of visible on-site identification of legal public access points to the lake.**
There is currently no visible identification of legal public access to the lake and private structures appear to be present on the public right-of-way.

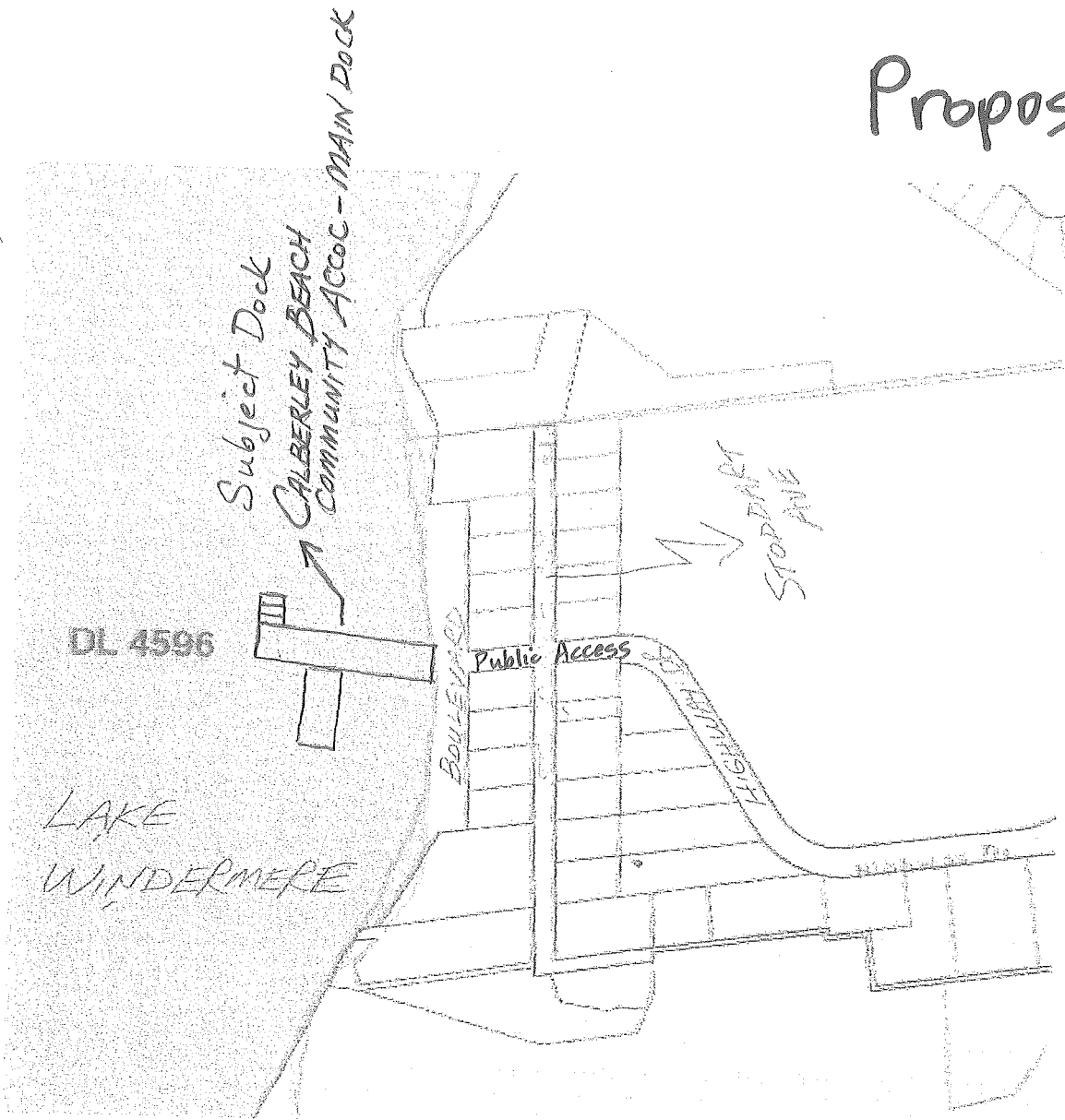
The Lake Management Committee would like to see a commitment from CBCA to ensuring continued public access via this section of foreshore. Additionally, marking of the mean high water line and boundaries of public right-of-way, so it is clear where private property begins and ends along the foreshore.

Note that future sale of portions of this public right-of-way to the community association is very strongly discouraged, as it will effectively remove public access to the lake at this location which directly contradicts the objectives and recommendations of the Lake Windermere Management Plan.

Location Map



Proposal



HWY 93

PLAN 2125 DL 20

Management Plan for Calberley Beach Community Association Private Moorage Dock

This application is for general permission for a private moorage dock. This is an existing moorage dock for which we have received permission to apply for a permit from the upland owner – MoTI.

This dock is located at the end of Highway Drive, Lake Windermere, B.C. There has been a dock in this location since 1953.

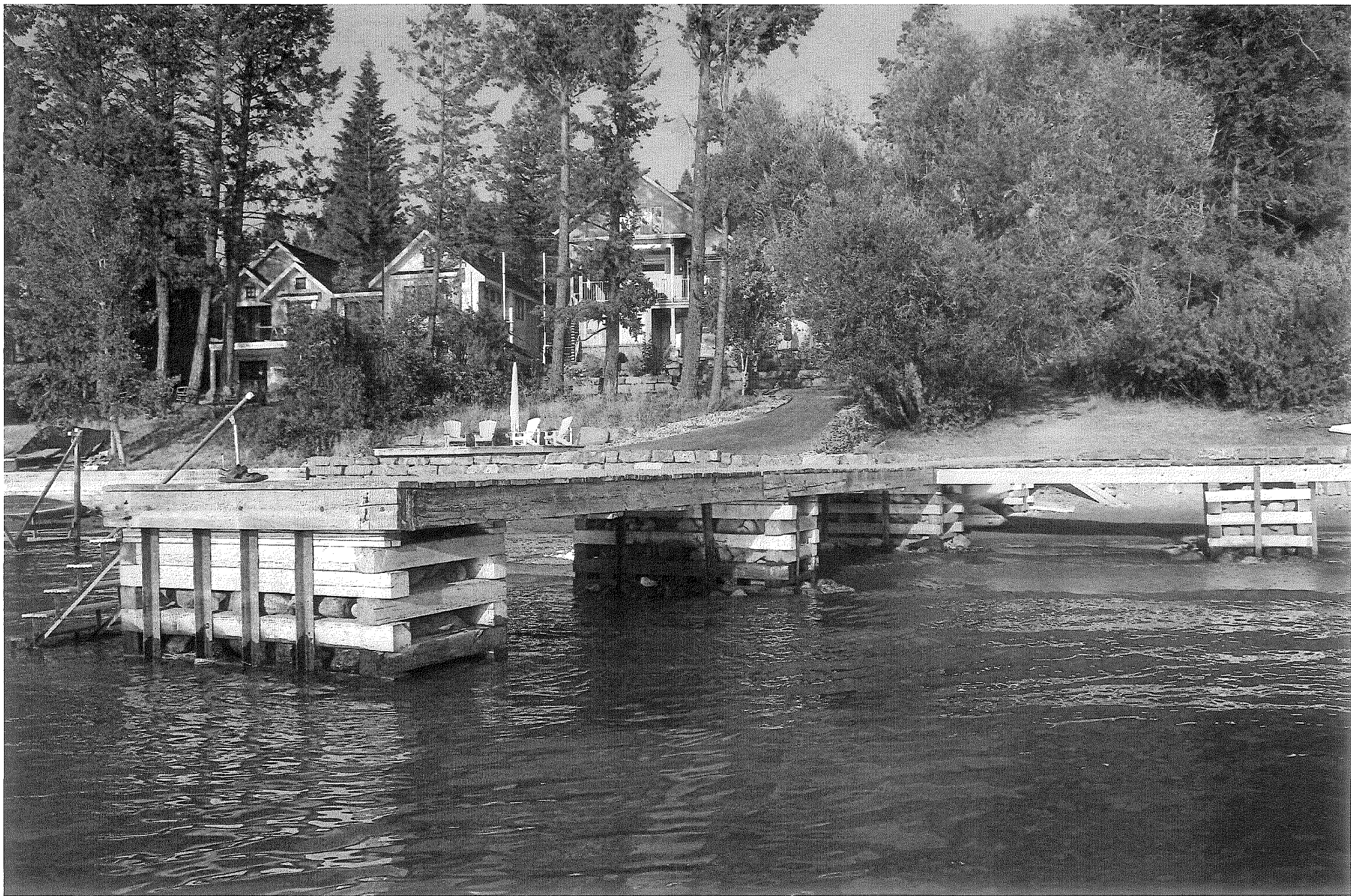
The dock has been maintained by the Calberley Beach Community Association (CBCA). The CBCA is a registered society under the Societies Act of B. C. The CBCA Society Incorporation number is S0009966.

The objects of the Society are as follows:

- (i) to promote the interests of the persons owning property in the area known as the Calberley Beach Community on the east side of Lake Windermere.
- (ii) to promote aquatic activities.
- (iii) to retain and promote the preservation of the natural forest setting within the community.
- (iv) to encourage communication between the members and to promote coordinated action for the upkeep and maintenance of the Community and its facilities.

The CBCA presently carries coverage of \$3,000,000 liability insurance which would apply to any liability pertaining to the dock.

Our intent is to continue to maintain this dock for the present and future use of our community members.







Request for Decision

P 718 132

Date	November 29, 2018
Author	Krista Gilbert, Planning Technician
Subject	Request for Exemption from Providing a Professional Report Musil Property

REQUEST

Jenna Jensen, on behalf of Kevin Musil, has requested an exemption from the requirement of providing a report from a qualified professional in support of an ALR subdivision application. The subject property is located at 5909 Highway 43 between Sparwood and Elkford.

OPTIONS

1. THAT the Musil request for exemption from providing a report from a qualified professional in support of the proposed ALR subdivision application for property located at 5909 Highway 43 between Sparwood and Elkford be approved.
2. THAT the Musil request for exemption from providing a report from a qualified professional in support of the proposed ALR subdivision application for property located at 5909 Highway 43 between Sparwood and Elkford be refused.

RECOMMENDATION

Option 1

There will be no reduction or change to the existing farm operation and previous soil samples have been conducted on the subject property.

BACKGROUND / ANALYSIS

The application is for a two-lot subdivision with parcel sizes of 27.6 ha and 19.6 ha. The purpose of the proposal is to ensure the land will remain within the family and that agriculture will continue and grow through sustainable farming. The existing parcel has a single-family dwelling and secondary dwelling for a farm hand, where the owner's daughter and son-in-law currently live.

The proposed subdivision is pursuant to section 514 of the *Local Government Act*. The policies of the OCP allow for an exemption to the report requirement when the subdivision is pursuant to section 514 of the *LGA* and the proposed parcel being created is equal to or less than 2.0 hectares. Because the proposed parcel is 19.6 hectares the applicant must supply the report or be granted an exemption.

The applicants have previously taken soil samples from every hay field on the property that were analyzed in a lab. The results show a deficiency in nitrogen and phosphates.

Recommendations were provided on what fertilizer to use to improve the agricultural capability of the soils. The property has been owned and farmed by multiple generations of the same family and therefore have extensive knowledge of the agricultural capability of the land. They have stated that they are not looking to change the scope of agriculture in any way.

SPECIFIC CONSIDERATIONS

Bylaws

Elk Valley Zoning Bylaw

Current Designations: RR-8, Rural Residential (Country) Zone which has a minimum parcel area requirement of 8.0 ha and permitted uses include, among others: single family dwelling, agricultural use, veterinary clinic, guest ranch, rifle range, gravel extraction, portable sawmill, and wildland use. Accessory uses include home occupation, secondary dwelling unit for farm hand, cabins accessory to wildland use and a secondary suite.

Official Community Plan

Elk Valley Official Community Plan Designations:

RR, Rural Resource which supports agricultural, rural residential and rural resource land uses with parcel sizes 8.0 ha and larger. The RR designation also recognizes the use of these lands for public utility use, resource extraction, green space and recreation.

OCP Section 6.3(2)(h) – Agriculture

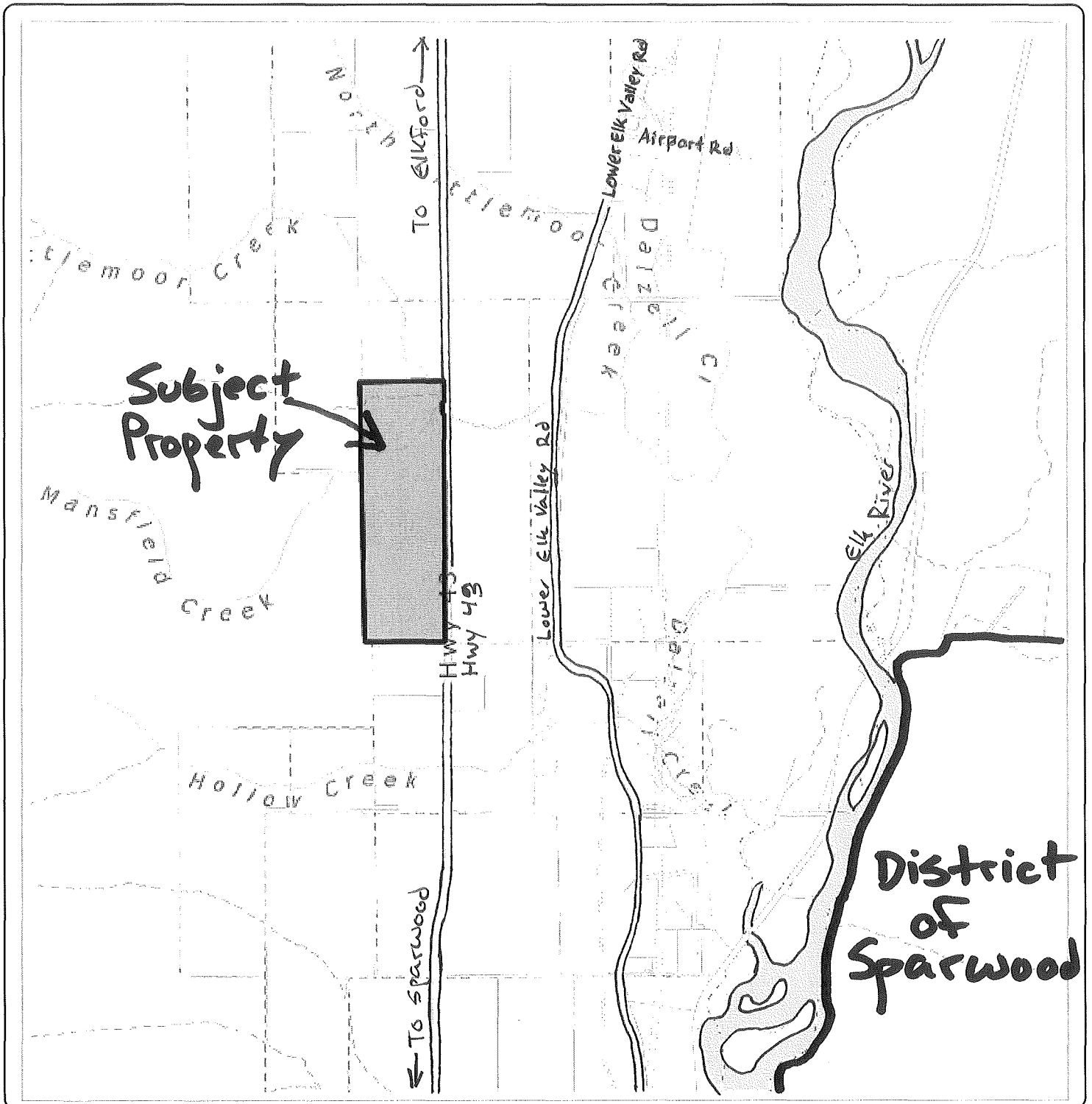
ALR applications for exclusion, non-farm use or subdivision of parcels 4.0 ha in size or larger must be accompanied by a report from a qualified professional unless an exemption from the requirement has been approved by the Regional District Board. The report must include the following: identification of the level of agricultural suitability and opportunity for both soil bound and non-soil bound agricultural uses, identification of the agricultural capability of the parcel, and identification of the impact the proposal will have on the agricultural capability of the parcel, the surrounding area and other agricultural operations.

Applications will not be processed by Regional District staff until such time as the report has been submitted or an exemption has been granted.

ATTACHMENTS

- Location Map
- Letter of Request
- Plan of Proposed Subdivision

Location Map



Notes:

975 0 488 975 Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
RDEK GeoViewer - 11-28-2018 1:35 PM

Scale = 1: 39,000



THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Krista Gilbert

From: Emerald Mountain Ranch [REDACTED]
Sent: November 28, 2018 11:23 AM
To: Krista Gilbert
Subject: Jensen - Subdivision Application - Exemption request
Attachments: Jensen - Soil Analysis.pdf

Hi Krista,

We would like to respectfully request an exemption from the Board of Directors for the requirement submitting an official agrologist report for the following reasons:

- Our application for subdivision supports the continuation of farming activities that have been occurring on the parcel since the 1940's. My grandparents cleared the parcel of trees to create the hay fields we have today and raising cattle has occurred for a vast majority of that time period. We are not looking to change the scope of agriculture in any way – only to continue it.
- In 2015 we undertook a soil sample (one test pit from every hay field – please see productive ag. Map attached in our application & attached to this email - Soil Analysis) to determine any deficiencies in the soil nutrients so we could customize our fertilizer blends to bring the soil fertility to maximum levels. This will occur regularly on a 3 - 5 year cycle.
- Fertilizer (\$2800 - \$3800/year) is spread on the fields every spring – receipts can be supplied upon request.
- Subdivision will have no impact on the historical or current agricultural operations of the whole parcel – rather allow us to carry on and improve.
- The proposed subdivision is occurs in a natural land break that does not impact pasture or hay field.
- Subdivision in no way will impact agriculture in surrounding areas.
- As a result of our participation in the agricultural wildlife program we have the crops assessed when the snow melts, just before haying begins and provide a final production report after haying which allows us to gain information on the crops. The parcel does fall within the normal range for other comparable properties in this area.

Thanks very much.

Jenna Jensen

[REDACTED]

Proposal

