



**ELK VALLEY  
OFFICIAL COMMUNITY PLAN  
BYLAW NO. 2532, 2014**

*This is a consolidation of the Official Community Plan Bylaw and adopted bylaw amendments. The amendments have been combined with the original Bylaw for convenience only. This consolidation is not a legal document.*

April 10, 2026

**BYLAW AMENDMENTS**

<b>Bylaw</b>	<b>Amend / Yr</b>	<b>Adopted</b>	<b>Short Citing</b>	<b>Legal / Zone</b>
2602	01/2015	Sept. 4/15	(Bryant Rd. / Burnett)	Part of Lot B, DL 3047, Plan EPP4094 <b>RR to LH</b>
2657	02/2015	Nov. 4/16	(Cunliffe Rd. / Tomlinson)	Part of Lot 11, DL 4139, KD, Plan 802 <b>LH to UE</b>
2741	05/2016	June 9/17	(Dicken Rd. / Foothills Silva Culture Inc.)	Designation of Lot 9, DL 6393, Plan 1411, Except Parts Included in Plans 5826, 7444, 7617 and 8737 <b>RR to I-I</b>
2762	06/2017	June 9/17	(Dicken Rd. / Kennedy)	Designation of Part of Lot 3, DL 3048, Plan 1411 <b>RR to LH</b>
2842	08/2018	Sept. 7/18	(Boundary Adjustments / RDEK)	Part of DL 4588 being Unsurveyed Crown land & designated <b>RR</b> Boundary of Plan Area is Amended
2849	09/2018	Sept. 7/18	(Cunliffe Road / Taylor)	Designation of Part of Lot 8, DL 4139, KD, Plan 802, Except Part Included in Plan 7617 <b>LH to UE &amp; SH</b>
2852	10/2018	Sept. 7/18	(Cunliffe Rd. / Luminary)	Designation of Part of Lot 6, DL 4139, KD, Plan 802, Except Parts included in Plan 7617 <b>UE to SH</b>
3111	13/2021	Feb. 18/22	(Lizard Creek / Gallup)	Designation of that Part of Lot 3 DL 4130 KD Plan 1339 <b>RR to LH</b>
3206	15/2023	May 12/23	(North Fernie / Johnson)	Designation of that part of Lot 10 DL 4139 KD Plan 802 Except Plan EPP21692 <b>LH to SH</b>
3213	16/2023	July 14/23	(Lizard Creek / CH Nelson Holdings Ltd – Galloway Lands)	Designation of the East half of DL 4129 KD the North half of District Lot 4126, Kootenay District; District Lot 8900, Kootenay District except (1) Parcel A (see 142795i) and (2) Parts included in Plans R368, 17500 and EPP88294; and Part of District Lot 4130, Kootenay District except (1) Reference Plan 66648i, (2) The Right of Way of the Crows Nest Southern Railway as shown on Plan B15 and (3) Parts included in Plans 1021, 1339 and EPP88294 <b>RR and RE to SH and OSRT</b>
3216	17/2023	May 12/23	(North Fernie / Fait)	Designation of that portion of Lot 3 DL 4139 KD Plan NEP71592 <b>LH to SH</b>
3225	18/2023	June 9/23	(Dicken Rd / Ayars)	Designation for part of Lot 10 DL 6393 and 11707 KD Plan 1411 <b>RR to LH</b>
3252	19/2023	Dec 8/23	(Hosmer / Vaness)	Text Amendment
3425	21/2025	Apr 10/26	(West Fernie / 1291446 BC Ltd)	Text Amendments Designation of parts of the East half of DL 4129, KD; the North half of DL 4126, KD; and DL 8900, KD except (1) Parcel A (see 142795i) and (2) Parts included in Plans R368, 17500 and EPP88294 <b>SH to OSRT and REC, and OSRT to SH</b>

# REGIONAL DISTRICT OF EAST KOOTENAY

## BYLAW NO. 2532

A bylaw to adopt an Official Community Plan for the Elk Valley region.

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WHEREAS the Board of the Regional District of East Kootenay deems it necessary to adopt an official community plan in order to ensure orderly development within a portion of Electoral Area A.

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

### 1. Title

This Bylaw may be cited as the "Regional District of East Kootenay – Elk Valley Official Community Plan Bylaw No. 2532, 2014".

### 2. Application

This bylaw is applicable to all land within the boundaries of the Elk Valley Official Community Plan as shown on **Schedule B**.

### 3. Organization

The following attached schedules are incorporated into and form part of this Bylaw:

- (a) Schedule A – Policies
- (b) Schedule B – Plan Area
- (c) Schedule C – Agricultural Land Reserve
- (d) Schedule D – Land Use Overview
- (e) Schedule D1 – Land Use Morrissey
- (f) Schedule D2 – Land Use West Fernie
- (g) Schedule D3 – Land Use Dicken Road
- (h) Schedule D4 – Land Use Hosmer
- (i) Schedule D5 – Land Use Olsen
- (j) Schedule D6 – Land Use Lower Elk Valley Road
- (k) Schedule D7 – Land Use Upper Elk Valley
- (l) Schedule D8 – Land Use Corbin
- (m) Schedule E1 – Environmentally Sensitive Areas & Ungulate Winter Range Elk Valley (South)
- (n) Schedule E2 – Environmentally Sensitive Areas & Ungulate Winter Range Elk Valley (Mid)
- (o) Schedule E3 – Environmentally Sensitive Areas & Ungulate Winter Range Elk Valley (North)
- (p) Schedule F1 – Flood Hazard Elk Valley (South)
- (q) Schedule F2 – Flood Hazard Elk Valley (North)
- (r) Schedule G1 – Avalanche Hazard Elk Valley (South)
- (s) Schedule G2 – Avalanche Hazard Elk Valley (Mid)
- (t) Schedule G3 – Avalanche Hazard Elk Valley (North)
- (u) Schedule H1 – Slope Analysis Elk Valley (South)
- (v) Schedule H2 – Slope Analysis Elk Valley (Mid)
- (w) Schedule H3 – Slope Analysis Elk Valley (North)
- (x) Schedule I – Interface Fire Hazard
- (y) Schedule J – Development Permit Area #1 – Wildfire Hazard (Lizard Creek)
- (z) Schedule K – Development Permit Area #2 – Environmentally Sensitive Areas (Lizard Creek)

### 4. Severability and Enactment

If any section, subsection, sentence, clause, phrase, map or schedule of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that is invalid shall not affect the validity of the remainder.

The Manager of Planning and Development Services, Manager of Building and Protective Services and Compliance Officer, and any person authorized to assist the aforementioned persons, are authorized to administer this Bylaw.

This Bylaw shall come into full force and effect on the final adoption thereof.

READ A FIRST TIME the 5<sup>th</sup> day of September, 2014.

READ A SECOND TIME the 5<sup>th</sup> day of September, 2014.

READ A THIRD TIME the 3<sup>rd</sup> day of October, 2014.

ADOPTED the 3<sup>rd</sup> day of October, 2014.

*"Rob Gay"*

CHAIR

*"Lee-Ann Crane"*

CORPORATE OFFICER

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## SCHEDULE A – POLICIES

### 1. INTRODUCTION

#### 1.1 Administration

The Elk Valley Official Community Plan (OCP) is a long term strategic planning document intended to:

- reflect the collective vision of the plan area communities for the future;
- guide and direct land use decision making with respect to the change or conservation of land uses; and
- help create the conditions necessary for the orderly and efficient use of the community land base.

The OCP will be used and administered by the Board of Directors and Staff of the Regional District of East Kootenay (RDEK) to evaluate all future development proposals and changes in land use within the plan area. The plan does not commit the RDEK to specific projects or courses of action, however, all decisions made by the RDEK must be consistent with the plan.

The OCP is intended to provide guidance on land use and development issues within the plan area for a five to fifteen year period. During that time, however, the OCP may be amended to respond to a change in the needs of the community. Amendments may be initiated either by a property owner or the RDEK. All proposed amendments are subject to an application process, public hearing and approval by the RDEK Board.

Once the OCP is adopted it will provide the Board with a planning framework and guideline to promote certainty in land use decision making. In approving the OCP, the RDEK Board has considered the interests of the individual landowners and residents within the plan area and balanced those interests with the needs of the community and region as a whole.

#### 1.2 Legal Framework

The OCP is adopted pursuant to the provisions of Part 26 of the *Local Government Act*, which states:

*An official community plan is a statement of the objectives and policies to guide decisions on land use planning and land use management, within the area covered by the plan, respecting the purposes of local government.*

In addition, an OCP must contain policy statements and map designations respecting the following:

- Residential development and housing needs over a period of at least five years;
- Commercial, industrial, institutional and other types of land uses;
- The location and area of sand and gravel deposits suitable for future extraction;
- Restrictions on the use of environmentally sensitive and hazardous lands;
- The approximate location and phasing of any major road and infrastructure systems;
- The location and type of present and proposed public facilities; and
- Targets, policies and actions for the reduction of greenhouse gas emissions.

Land use and development within the plan area is also subject to all relevant local, provincial and federal legislation and regulations.

#### 1.3 Plan Policies and Map Designations

The OCP contains goals, objectives and policies to provide direction for how the plan area should develop over time. The goals and objectives identify the land use issues and community vision. The policies address the issues and implement the vision. Policy statements are developed based on the consideration of balancing private and public interests. The policies within the OCP become the official position of the RDEK.

Schedules attached to the OCP reflect the community's land use values and contain the map designations. The map designations apply the goals, objectives and policies identified within the plan area to each parcel to depict the desired range and pattern of future land use.

#### **1.4 Plan Process**

Land use planning for the Elk Valley was identified as a 2013 priority project by the RDEK Board of Directors. While the Fernie Area Land Use Strategy was relatively current, in the 27 years since the Elk Valley Land Use Strategy was adopted the nature of land development and the scope of economic activity in the Elk Valley had seen considerable change. The preparation of the Elk Valley OCP was authorized by the RDEK Board in September 2013.

In October 2013, a newsletter and questionnaire were sent to area residents and property owners to initiate the Elk Valley planning process. The newsletter and questionnaire were also available online through the RDEK website. In November 2013 introductory meetings were held in Hosmer and Fernie. These meetings included a short presentation outlining the project background, stages and objectives. Meeting participants were given the opportunity to identify community assets, concerns and a preliminary vision for the area. In January 2014 visioning workshops were held where area residents helped identify a vision for future development in the Elk Valley. During these workshop sessions residents discussed objectives and policies that were potential items for inclusion in the OCP. The initial draft of the OCP was compiled over the first quarter of 2014.

The draft OCP was presented at a public open house in Hosmer in June 2014. The draft was also presented to each of the Elk Valley municipal councils and staff. Revisions were made to the draft OCP in response to feedback received from the public and the municipalities prior to entering the bylaw process.

#### **1.5 Relationship to Zoning Bylaw**

The land use designations contained within the OCP were assigned based on the goals, objectives and policies outlined within the OCP and in consideration of the current land uses. However, the land use designations may not match a parcel's zoning within the Elk Valley Zoning Bylaw. This is because the OCP is a long range strategic planning document that identifies the preferred future land use, while the zoning bylaw usually recognizes the current land use. Development of the parcel may continue in accordance with the zoning of the property, however, any amendment to the zoning must be in conformity with the land use designation in the OCP.

#### **1.6 Plan Area**

The plan area is located in southeastern British Columbia. The headwaters of the Elk River form the northern boundary of the plan area and the southern boundary encompasses the headwaters of the Flathead River. The boundary of the plan area is shown on **Schedule B**. Ten Subareas have been identified within Elk Valley Plan area. These areas include:

(1) **Morrissey**

Located at the southern end of the planning area, Morrissey encompasses a number of agricultural and rural parcels along the Elk River.

(2) **Cokato Road**

Located south of the Fernie municipal boundary and east of the Elk River, the Cokato Road area encompasses a number of rural residential and agricultural properties. The traditional agricultural character of this area has begun to see some change in recent years due to limited subdivision combined with the construction of larger homes.

(3) **City of Fernie Fringe Urban Expansion Area**

The Urban Expansion Area includes three separate parcels identified as: Railway North at the north end of Fernie on the east side of the Elk River; Highway 3 / Mt Fernie Park Road located on the west side of Highway 3 at the entrance to Mount Fernie Park; and the Vanlerberg Road area South of the City of Fernie.

(4) **Fernie Alpine Resort Fringe Area**

This Fringe Area abuts the Fernie Alpine Resort OCP area and includes a number of large parcels with the potential for future resort development.

(5) **Lizard Creek**

Located on both the east and west side of Highway 3 south of the Anderson Road area, the Lizard Creek area includes large rural parcels and some agricultural land.

(6) **Anderson Road**

Located west of Highway 3 and south of West Fernie, the Anderson Road area is composed of large lot rural residential properties.

(7) **West Fernie**

West Fernie is located on the west shore of the Elk River, adjacent to the City of Fernie. The area includes many residential parcels on septic systems, the size of which are appropriate to a municipality with a community sewer system. In addition, the area includes a number of highway commercial services.

(8) **Dicken Road**

The Dicken Road area is located on the north boundary of the City of Fernie. The area is comprised of acreages, agricultural operations and mobile homes. This area also includes the Brenners Road Ghost rider expansion node, parcels which abut the Ghost rider Industrial Area located within the City of Fernie. Presently the Brenners Road Ghost rider expansion node area is composed of rural residential properties and one commercial property.

(9) **Hosmer**

Hosmer is small community located midway between Fernie and Sparwood made up primarily of residential properties and a mobile home park. A few commercial properties are located within and on the periphery of the community.

(10) **Sparwood to Elkford**

The area between Sparwood and Elkford is primarily made up of large rural acreages, many of which are agricultural. In addition, a number of smaller rural properties and two mobile home parks are located near the northern municipal boundary of Sparwood.

## 2. AREA HISTORY AND BACKGROUND

### 2.1 Plan Area

The plan area, outlined on **Schedule B**, is located in the Elk Valley in the southeastern corner of British Columbia. It encompasses the northern two thirds of Electoral Area A excluding the City of Fernie, the District of Sparwood, the District of Elkford and land covered by both the Fernie Alpine Resort and Island Lake Official Community Plans (OCPs).

The Elk Valley is an area rich in forestry, wildlife, and coal resources. Coal and forestry have long been the primary components of the area's economic base. The population associated with these activities is concentrated in three municipalities, two unincorporated communities and low density rural residential and agricultural areas.

Geographically, this area is within the Rocky Mountain region. The topography consists of steep slopes and an irregular valley bottom. The high valley walls are subject to avalanche activity and the lower valley walls in some areas are covered with morainal deposits which can become unstable in certain conditions. Much of the valley bottom is within the Elk River floodplain.

### 2.2 History

The Elk Valley area was originally populated, on a seasonal basis, by the Ktunaxa First Nation. Michael Phillips, during his investigation of the Crowsnest Pass, was the first European explorer to discover the Fernie area. This discovery, along with sightings of coal outcroppings, opened up the area to development from the rest of the continent.

The City of Fernie gets its name from William Fernie who was one of the pivotal figures in opening the coal mines in the area. The Crow's Nest Coal and Mineral Company opened the first mines along Coal Creek in 1897 and the town of Fernie came into being in 1898 when the railroad came through the valley. The early development of Fernie was twice impeded by catastrophic fires and the need for fire resistant building materials played a major role in creating the look of modern day Fernie. Fernie continued to exist, unlike others which either disappeared altogether or like Hosmer, still retain recognizable viability though much reduced in size.

Human settlement activity increased significantly with the building and completion of the Crows Nest Pass Railway in the final years of the 19th century. The construction of the railroad was vital for distributing coal and enabling settlers to arrive in a timely manner. Development of the vast coal fields began at this time, followed by exploitation of the Elk Valley's timber resources in response to the demand for railroad ties and building materials on the Prairies. Subsequent increases in construction and railway expansions led to logging becoming the second largest industry in the area.

Economic activity fluctuated in the first six decades of the 20th century, with coal mining in the Upper Elk Valley virtually ceasing by World War I and production in the lower Elk Valley enjoying good periods but gradually decreasing as the demand for coal fell off; by 1958, only the Michel Colliery was still in production.

The resurgence of the coal industry began in the mid-1960's both in the Upper and Lower Elk Valley. Expansion of coal production in the Crows Nest Pass area was initiated by Kaiser Resources, and the community of Sparwood was created as a new townsite for residents of Natal and Michel who were relocated under an Urban Renewal Scheme completed in 1966. Sparwood continued in its role as dormitory and service centre for mines operating in the Crows Nest Pass and adjacent areas. In the late 1960's, a new mine was begun on the Fording River and the new community of Elkford incorporated in 1971 to serve as the townsite for the mine workers.

Increases in coal prices during the early 1980s resulted in the expansion of the existing B.C. Coal and Fording coal mines and the development of two new mines, Greenhills (B.C. Coal) and Line Creek (Shell Resources). Coal production slowed in the mid 1980s as economic conditions deteriorated and further planned mining expansions did not occur at that time. The start of the 21<sup>st</sup> century was marked by further increases in the prices of coal and renewed interest in new and expanded coal mining operations.

At the same time there has been growth in the Elk Valley tourism sector and interest in recreational property development. The combination of these two forces has led to an increase in economic activity and demand for land development in the Elk valley, particularly around Fernie and the adjacent recreational amenities.

### **2.3 Recent Development**

Today the Elk Valley continues to rely on resource extraction industries but tourism is a growing industry. There has been a ski industry in Fernie since 1963, when Fernie Snow Valley opened. In 1998, the resort was sold to the company that is now known as Resorts of the Canadian Rockies (RCR). The renamed Fernie Alpine Resort continues to attract visitors for both winter and summer recreation opportunities. Island Lake Lodge also attracts visitors both for winter cat-skiing opportunities and hiking and a relaxing restaurant atmosphere in the summer. OCPs have been developed for both Fernie Alpine Resort and Island Lake Lodge and support increased residential development within their boundaries. Recently a proposal has been made to build a second ski hill and associated residential development in the Fernie area.

The City of Fernie continues to grow, capitalizing on its natural surroundings and recreation opportunities. Recent commercial development in the Fernie area has included tourism oriented activities including a campground along the Elk River. Second home ownership has increased in the Fernie area in response to the demand from those involved in the Alberta oil and gas economy for accommodations in the amenity rich Elk Valley. A large parcel located south of Anderson Road has been annexed into the Fernie municipality and is intended to encompass several hundred residential properties.

### **2.4 Rural Area Plans and Studies**

The following planning documents are relevant to the Elk Valley rural area. The land use strategies and regional growth strategy have guided development in the Elk Valley rural area and much of this OCP reflects goals, objectives and policies from these documents. The long range vision for development in the Elk Valley resorts is relevant to this OCP as they provide opportunities to coordinate policies on a range of topics such as trails, protected area and future land use designations for adjacent parcels.

#### **Area A Agricultural Land Reserve Boundary Review (2014)**

The Agricultural Land Commission (ALC) initiated a boundary review of the Agricultural Land Reserve (ALR) within Area A in late 2012. The purpose of the review was to refine the ALR boundaries so that they encompass land that is both capable and suitable for agricultural use. As part of its review the ALC, with assistance from the Ministry of Agriculture's Regional Agrologist and staff at the RDEK, compiled extensive land use and ownership data and land quality mapping information for the review area. The ALC concluded the Elk Valley Review and released its decision on February 18, 2014. The ALC excluded approximately 1,430 ha from the ALR and included approximately 680 ha into the ALR. Having completed the boundary review, the ALC views that the ALR boundary is firm; the priority on the remaining ALR land base is to support new and existing agriculture producers. The ALC has indicated that other ALR land use activity applications (such as subdivision, commercial and light industrial activities) will to be reviewed carefully.

#### **Fernie Alpine Resort Official Community Plan (2012)**

The Fernie Alpine Resort OCP covers approximately 2,155 ha of Crown and private land comprising the ski area, base facilities, and commercial and residential development areas complementing the resort. The OCP outlines the various components of growth for the resort and sets out the Development Permit Areas. The original OCP was completed in 2000.

A major amendment to the Fernie Alpine Resort OCP was adopted in 2012 following an extensive consultation process with residents of the plan area and Resorts of the Canadian Rockies (RCR). The OCP was updated to reflect the current resort development vision and to address property owners concerns related to future development at the resort.

At build out the resort will have approximately 4,600 bed units, at present the resort has developed just over 3,000 bed units. RCR has also acquired additional land that is outside of the current OCP area.

#### **Island Lake Official Community Plan (2010)**

A new OCP was developed for the Island Lake Lodge property in order to facilitate the development of a recreational community and limited scope ski hill. The planning process was a joint project by the RDEK and a consultant representing the land owner. The resulting OCP supported residential development and incorporated a range of recreation and environmental values.

#### **Elk Valley Agricultural Land Reserve Review Project (2009)**

In 2008, the RDEK, in collaboration with the Agricultural Land Commission (ALC), embarked on a pilot project to review the Agricultural Land Reserve (ALR) boundaries and regulations within the Elk Valley. The objectives of the project were to identify potential ALR boundary adjustments to reflect existing land characteristics and to review land use policies and regulations to support agriculture and ALC decision-making within the project area. The report recommended a number of adjustments to the ALR boundary in the Elk Valley as well as amendments to ALC regulations and policies respecting subdivision and non-farm use. A number of parcels identified for exclusion through this RDEK review project were excluded from the ALR following a block exclusion application.

#### **Fernie Area Land Use Strategy (2006)**

The Fernie Area Land Use Strategy was undertaken to provide updated policies for the rural area surrounding Fernie. The strategy included policies for a number of areas including Cokato, West Fernie and Dicken Road. Many of these policies are still relevant today and have been integrated in this plan as appropriate.

#### **Regional Growth Strategy (2004)**

The Regional Growth Strategy (RGS) is a policy document that establishes a principle based approach for evaluating land use changes within the RDEK. Each subregion of the RDEK, including the Elk Valley, has additional policies specifically crafted to reflect subregional land use planning objectives. The RGS was written by the RDEK with input from municipal councils and staff, the Electoral Area Directors, the Advisory Planning Commissions, and public feedback gathered through a series of open house events held throughout the region. The RGS vision statement encourages “growth where it is socially, environmentally and economically sustainable and respects the character of each subregion.” The goals of the RGS that are relevant to this Plan are:

- Protect and enhance the natural environment;
- Protect and maintain access to natural resources;
- Preserve rural and wilderness character; and
- Promote cooperative planning.

The RGS specifically supports further “planning for the Fernie fringe area.” This statement was one of the triggers to initiate work on the Fernie Area Land Use Strategy. The RGS also supports managing non-residential and seasonal residential demands and supports development of trail linkages between the City of Fernie, Fernie Alpine Resort and Island Lake Lodge.

#### **Southern Rocky Mountain Management Plan (2003)**

The Southern Rocky Mountain Management Plan (SRMMP) is a policy document that guides decision making for the provincial government related to recreation and resource issues on Crown land. Within the Plan area the SRMMP covers the west side of the Elk River drainage.

#### **Elk Valley Zoning Bylaw No. 829 (1990)**

The Elk Valley Zoning Bylaw is the regulatory tool used by the RDEK to establish specific development provisions for individual parcels of land in the rural area. The zoning bylaw establishes permitted uses, development

density and parcel size, and other development controls such as building setbacks, building height and parking. It is important to recognize that all of the rural land within the Elk Valley is presently zoned and that private landowners are entitled to develop and use their land in accordance with the existing zoning of their property. However, if amendments are to be made to the zoning bylaw they must be consistent with the policies contained in this document.

#### **Elk Valley Land Use Strategy (1986)**

The Elk Valley Land Use Strategy is the policy document that historically guided land use change in the rural areas of Electoral Area A. Adopted in 1986, it was superseded in the Fernie fringe area by the Fernie Area Land Use Strategy. While policies in the Elk Valley Land Use Strategy were still relevant in some areas of the Elk Valley, changes in the nature of economic activity and development pressures in the area over time rendered many policies less relevant.

#### **Elk Valley Tourism and Recreation Study**

The Elk Valley Tourism and Recreation Study was carried out by a consultant under the direction of political and technical steering committees composed of representatives of the Elk Valley municipalities, the provincial government and the RDEK. The main purposes of the Study were to show how the economic base of the Elk Valley could be diversified by creating and enhancing tourism opportunities that would assist the valley in becoming a destination area and to propose a strategy for the provision of recreation services and facilities on a regional basis in relation to existing and future distribution of the region's population.

#### **Management Plan for the Fish, Wildlife and Outdoor Recreation Resources of the East Kootenay Coal Fields**

A Management Plan for the Fish, Wildlife and Outdoor Recreation Resources of the East Kootenay Coal Fields was carried out by staff members of the Ministry of Environment Assessment and Planning Branch. The purpose of this Plan was to specify the activities and requirements by which the impacts of coal development on the resource base of the Elk Valley could be avoided, mitigated or compensated.

### **2.5 Municipals Official Community Plans**

The following planning documents are relevant to municipalities within the plan area. For rural land use planning on the periphery of municipalities these OCPs provide important context and outline the vision for development within the municipal borders.

#### **Sparwood Official Community Plan**

The District of Sparwood's current OCP was adopted in 2002. The OCP recognizes Sparwood's strategic location in the Elk Valley. The community serves as a hub for coal mining and its associated services. The OCP promotes the development of a compact, recreation oriented community that recognizes the natural and agricultural values within the community.

During the drafting of this OCP the District of Sparwood was engaged in a process to update their OCP.

#### **Elkford Official Community Plan (2010)**

The District of Elkford adopted a new OCP in 2010. The OCP is an Integrated Community Sustainability Plan designed to increase the community's resilience to climate change, reduce greenhouse gas emissions, and support the long term sustainability of the community. The OCP established a District Growth Boundary located within the District's established boundaries.

**City of Fernie Official Community Plan (2003)**

The City of Fernie OCP adopted in 2003 contained strategic direction and policy statements regarding future development within municipal boundaries as well as addressing the issue of municipal boundary expansion. The OCP concluded that “sufficient land exists within the municipal boundaries to accommodate new residential development beyond the 20 year planning horizon.” The plan also indicated that the city, in conjunction with provincial and federal governments, was making investments in infrastructure upgrades that would significantly extend services to the periphery and may expand the capacity of the City of Fernie. The OCP also stated that there are several residential needs for which the City may lack sufficient land including large serviced sites for seniors or employee housing. In addition, the OCP identified the need for additional service commercial and light industrial land. The plan concluded that “the most logical location for this future (light industrial) development would be on land adjacent to the existing Ghost Rider Service Commercial area in the vicinity of Dicken Road.”

During the drafting of this OCP the City of Fernie was engaged in a process to update their OCP. The new OCP was adopted in June 2014.

### 3. GOALS OF THE OFFICIAL COMMUNITY PLAN

The following goals have been developed to reflect the values and interests identified through the planning process. The major goals in the plan area are:

1. The rural character of the plan area is maintained by directing high density and multifamily development to municipalities and existing resort areas. A variety of residential development opportunities in identified development nodes will provide a range of ownership options. Enhanced utilization of land in the rural area will be encouraged by supporting rural subdivision that does not interfere with the future development and expansion of municipalities. Potential rural sprawl will be reduced by directing growth to these development nodes.
2. Defined future expansion areas for the City of Fernie, Fernie Alpine Resort and Island Lake Lodge will provide certainty to the residents, owners and businesses located on this land.
3. Commercial development within the Elk Valley will balance support for economic diversification and development with a desire to direct commercial development to established nodes and municipalities. Commercial recreation and tourism activities within the plan area will be located in areas where they are compatible with values on adjacent lands.
4. The Elk Valley will maintain its agricultural character. Existing agricultural activities within the plan area will continue and the agricultural suitability of the area will be retained. New agricultural producers and activities will be encouraged. Land use decisions within the plan area will minimize impacts to agricultural operations.
5. Light industrial activities within the Elk Valley will be directed to the Elk Valley municipalities and appropriate locations within the plan area.
6. The plan area will contain institutional and community land uses appropriate to the needs of area residents.
7. Recreational activity will be compatible with social and environmental values within the plan area. Residents and visitors to the area will have access to a range of quality recreational opportunities. A pedestrian and bicycle friendly environment will be encouraged by supporting connectivity between communities, subdivisions and recreational amenities in order to ensure easy access to commercial and recreational facilities by residents and visitors.
8. Important and unique ecosystem features within the plan area such as riparian areas, dry grasslands and sensitive habitat will be preserved for the long-term benefit of wildlife, to maintain ecological resiliency, and to protect ecosystem services for area residents. Species-at-risk and the functional components of the ecosystems that allow them to flourish will be maintained and enhanced. Land use planning and development activities will limit the fragmentation and contraction of wildlife habitat, and preserve biodiversity.
9. A high level of public safety will be achieved through proactive risk management activities such as discouraging development in hazardous areas. Risks to life and property from flooding, avalanche, alluvial and debris flow fans and landslip will be mitigated.
10. Cultural resources and archaeological sites located within the plan area, both recorded and unrecorded, will be recognized and conserved. Development activities will comply with heritage conservation legislation.
11. Solid waste management and transportation infrastructure will be provided to area residents and visitors at a standard appropriate to the rural nature of the plan area.
12. Greenhouse gas emissions created within the plan area will be reduced in order to mitigate climate change impacts.

13. Provincial management of Crown land will respect social, environmental and economic sustainability principles.
14. Privately managed forests will support economic activity in the plan area while providing public access opportunities where appropriate.

## 4. RESIDENTIAL LAND USE

### 4.1 Background

The plan area encompasses a range of residential land uses. Rural communities in the periphery of Fernie are subject to growth pressures, servicing constraints and concerns regarding loss of rural character and agricultural focus. Rural areas that are not adjacent to developed municipal nodes retain increased rural agricultural characteristics but are also subject to some limited growth pressure. The residential land use objectives have been created to address these concerns.

In consideration of accommodating options for limited growth some areas within the Agricultural Land Reserve (ALR) have been supported for subdivision within the following policies; this is the position of the RDEK and does not reflect the position of the Agricultural Land Commission (ALC). Applicants wishing to subdivide land within the ALR for a relative should be aware that the ALC is not subject to Section 946 of the *Local Government Act*, nor does the ALC believe that encouraging small lot subdivision is supportive of agriculture and consistent with the ALC mandate to preserve agriculture and encourage farming. Policies stating support for subdivision of land for a relative within the ALR are the policy of the RDEK only.

### 4.2 Objectives

- (1) Maintain minimum parcel sizes that reflect the rural lifestyle and character of the area.
- (2) Maintain the rural and agricultural nature of the plan area by only considering new residential proposals if they are appropriately located and compatible with adjacent land uses so as not to compromise environmental and agricultural values.
- (3) Identify development nodes for future residential development, and direct development to these areas.
- (4) Encourage single family residential development on a range of rural parcel sizes.
- (5) Encourage development that ensures future infill opportunities are not precluded.

### 4.3 Policies

#### (1) General

- (a) A limited increase in the number of new lots, generally reflective of the existing rural character of the surrounding parcels, within the plan area is supported. Except as identified within for the specific locations identified in subsection 4.3(1)(c) or Sections 4.3(3)-(11).
- (b) In addition to the policies identified for specific Subareas within Sections 4.3(3)-(11), all rezoning applications within the plan area will be reviewed on an individual basis in relation to the following considerations:
  - (i) compatibility of the proposed lot size and density with existing and surrounding land uses, parcel sizes, local rural character and lifestyle;
  - (ii) the capability to provide onsite disposal in accordance with provincial requirements;
  - (iii) potential impacts of the proposal on the quality and quantity of existing groundwater resources;
  - (iv) integration of the Conservation Subdivision Design provisions outlined in subsection 4.3(1)(d);
  - (v) identification and mitigation of development impacts on environmentally sensitive areas including grasslands,

connectivity corridors, wetlands and riparian areas and old growth forests, in accordance with Section 10 of this plan concerning environmental considerations;

- (vii) susceptibility to natural and geotechnical hazards and integration of hazard mitigation strategies, in accordance with Section 11 of this plan concerning development constraints; and
  - (vii) for land located within the ALR, potential impacts or benefits of the proposed subdivision on the agricultural capability and suitability of both the parcel proposed for subdivision and on neighbouring parcels.
- (c) Rezoning applications to enable residential subdivision are generally not supported in the following locations:
- (i) along Coal Creek Road;
  - (ii) between the Dicken Road Subarea and Sparwood, but excluding the Hosmer Subarea; and
  - (iii) Corbin.
- (d) To minimize disturbance to environmentally sensitive areas (ESAs) and preserve agricultural land, future development is encouraged to consider the integration of Conservation Subdivision Design principles by:
- (i) identifying and protecting conservation areas such as riparian areas, wetlands, Class 1 ungulate winter range, wildlife corridors, wildlife habitat areas, steep slopes, woodlands, agricultural land and buffers;
  - (ii) clustering development into nodes of smaller lots in order to preserve larger contiguous ESAs and agricultural zones; and
  - (iii) utilizing compact neighbourhood design with dwelling units built in close proximity to each other to minimize the overall development footprint and required infrastructure.

Further details on Conservation Subdivision Design can be found in Randall Arendt's *Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks*. Washington, DC: Island Press, 1996; or the *Conservation Subdivision Design Handbook*. Southwestern Illinois Resource Conservation & Development, Inc., 2006.

- (e) Applications for subdivision for a relative pursuant to section 946 of the *Local Government Act* will generally be supported when all of the following conditions have been met, subject to compliance with the zoning Bylaw:
- (i) there is no negative impact on the agricultural potential of the parent parcel;
  - (ii) the subdivision for a relative is kept as small as possible and is located in an area which has the least impact on agriculture;
  - (iii) the subdivision complies with the requirements of the zoning bylaw, other than with respect to the provisions relating to minimum lot sizes; and
  - (iv) A statutory declaration has been provided that confirms the parcel is for a relative and that the parcel will not be sold or transferred for a period of 5 years unless required as part of an estate settlement or as required by a lending institution.

- (f) Applications for homesite severance subdivision for a retiring farmer in the ALR will generally be supported when the minimum parcel size is 0.4 ha and the proposal is in compliance with the ALC Homesite Severance Policy, subject to compliance with the zoning bylaw.
- (g) Applications for subdivision in the ALR which improve agricultural capability will generally be supported, subject to compliance with the zoning bylaw.
- (h) The development of a new town site associated with industrial development in the plan area is not supported.
- (i) Multi-family development, containing three or more dwelling units, is directed to resorts and municipalities located within the plan area.
- (j) Development is encouraged to recognize and integrate opportunities to retain and maximize the viewscales.
- (k) Other than temporary uses associated with recreation or resource development activities, rezoning applications to enable development in the Upper Elk Valley north of Elkford are generally not supported.

**(2) Home Occupation Policy**

Prior to the initiation of the consultation process for this plan, an amendment to the home occupation regulations was proposed in which an expanded range of home occupations would be permitted on rural residential properties. Some area residents expressed concern regarding the potential impacts from the proposed changes in regulations; the proposed amendments were not adopted by the RDEK Board. The following policy identifies when home occupations are supported within the plan area:

- (a) Home occupations in the rural area which are accessory to the residential use, operate on a scale that is appropriate for the area, conform with home occupation regulations in the zoning bylaw, and do not disrupt the residential nature of the surrounding area are supported in order to facilitate diversified economic development.

**(3) Morrissey Subarea**

Located at the southern end of the plan area, Morrissey encompasses a number of agricultural and rural parcels along the Elk River.

The following policies are intended to maintain the rural, agricultural character of the area:

- (a) Subdivision east of the Elk River is generally not supported.
- (b) Rezoning to enable subdivision of ALR land within the Morrissey Subarea is generally not supported.
- (c) Applications for rezoning to accommodate subdivision in the Morrissey Subarea west of the Elk River should include proposed minimum parcel sizes of not less than 8.0 ha.
- (d) Despite subsection 4.3(3)(c) applications for rezoning in the Morrissey Subarea west of the Elk River with proposed minimum parcel sizes less than 8.0 ha may be considered provided all of the following criteria have been met:
  - (i) the proposed subdivision will have no potential negative impacts on agricultural capability and suitability of both the parcel proposed for subdivision and on neighbouring parcels;
  - (ii) the proposed subdivision involves the creation of a maximum of two new parcels;

- (iii) the parent parcel proposed for subdivision has not been subdivided in the five years preceding the application date, except in extraordinary personal circumstances as determined by the RDEK Board;
  - (iv) there is demonstrated support for the subdivision proposal from the owners of adjacent privately owned parcels; and
  - (v) the proposed subdivision involves no new parcels less than 2.0 ha in size.
- (e) In the event of a new significant resource extraction project which creates additional demand for residential and commercial land uses in the vicinity of the Morrissey area, a comprehensive planning approach to address land use in the area is encouraged.

#### **(4) Cokato Road Subarea**

Large undeveloped parcels are located south of the Fernie Alpine Resort. In response to consultation with the land owners during the development of the Fernie Area Land Use Strategy these parcels were identified as suitable for resort expansion. Given sufficient demand for resort amenities and accommodations, these parcels may be incorporated into the Fernie Alpine Resort Official Community Plan.

The residents/owners of the Cokato area have expressed mixed opinions about development throughout the planning process. Although differing opinions exist in Cokato, there has been no desire expressed for high density development.

Several parcels in the area are divided by a topographical feature or a road. In order to provide better land use and opportunities for rural residential development, policies have been drafted which provide some limited subdivision opportunities for parcels divided by features or roads.

The following policies are intended to maintain the rural character of the Cokato Road Subarea and provide limited opportunities for subdivision:

- (a) Maintaining the agricultural nature and character of the Cokato Road Subarea is supported and encouraged.
- (b) Development is encouraged to be compatible with the rural character of the surrounding parcels.
- (c) Development is encouraged to be sensitive to the floodplain and riparian areas along the Elk River.
- (d) Subdivision which will have a negative impact on agricultural capability or suitability is generally not supported.
- (e) Subdivision of parcels located west of the railway tracks and east of the Elk River is generally not supported in order to protect the rural character and agricultural values of the area.
- (f) Applications to accommodate subdivision in the Cokato Road Subarea should include proposed minimum parcel sizes of not less than 2.0 ha.
- (g) Decreases in the preferred minimum lot size identified in subsection 4.3(4)(f) are not generally supported, however subdivision may be considered where
  - (i) a parcel has been divided by a road, to a minimum of a 70% – 30% split on either side of the road, and is within 40% of the allowable minimum parcel size and meets the minimum site area requirements, or
  - (ii) the parcel is split by a significant topographic feature.

- (h) Annexation by the City of Fernie is not supported for the Cokato Road Subarea.
- (i) Subdivision of Lot 86 (See 891951 and DF 17606) District Lot 4588 Kootenay District Plan 1299 is generally not supported in order to protect the agricultural value of this parcel.
- (j) Rezoning applications are encouraged to include a commitment to register on title a restrictive covenant or statutory building scheme directing the construction of buildings away from the centre of parcels and towards the corners of parcels to enable future subdivision of the parcel.
- (k) Farm operations, including the raising of livestock and poultry are acceptable and encouraged activities in the Cokato Road Subarea, as permitted by the zoning bylaw.

**(5) Fernie Alpine Resort Fringe Subarea**

Large undeveloped parcels are located both to the north and south of the Fernie Alpine Resort. In response to consultation with the land owners during the development of the Fernie Area Land Use Strategy these areas were identified as suitable for resort expansion. Given sufficient demand for resort amenities and accommodations, these parcels may be incorporated into the Fernie Alpine Resort Official Community Plan.

The following policies are intended to identify a path for future development consideration for these parcels:

- (a) A variety of land uses associated with resort activities such as resort recreation, commercial accommodation, residential development and other related resort land uses are supported.
- (b) Prior to any resort recreation development activities in the Fernie Alpine Resort Fringe Subarea, the parcels under consideration for development must be included in the Fernie Alpine Resort OCP.
- (c) Prior to any resort recreation development activities in the Fernie Alpine Resort Fringe Subarea, a study of anticipated traffic impacts should be completed. The study should address impacts resulting from the proposed development activity such as traffic congestion, safety issues, and increased volume on Highway 3 between the City of Fernie and Fernie Alpine Resort. In addition, the study should identify the timing of the infrastructure upgrades necessary to address the impacts. Infrastructure upgrades should be completed as recommended in the traffic impact study in conjunction with the development activity.
- (d) To minimize disturbance to environmentally sensitive areas, future OCP policies pertaining to the Fernie Alpine Resort Fringe Subarea should include consideration of the integration of Conservation Subdivision Design principles outlined in subsection 4.3(1)(d).
- (e) Future OCP policies pertaining to the Fernie Alpine Resort Fringe Subarea should address potential hazards such as flooding, alluvial and debris flow fans, avulsion, geotechnical & avalanche.
- (f) *Repealed by Bylaw No. 3213 adopted 14 July /23*
- (g) Future OCP policies pertaining to the Fernie Alpine Resort Fringe Subarea should address the protection of environmentally sensitive areas.

**(6) Lizard Creek Subarea**

During the public consultation process the Lizard Creek Subarea was identified as encompassing a range of important values. Examples include agricultural land as well as environmental assets such as wildlife habitat, connectivity corridors and riparian areas. The future vision for the area

ranged from the status quo to introducing tourist oriented commercial development along the highway. At the time this plan was drafted residents of the Lizard Creek area had not expressed a desire to be annexed by the City of Fernie.

The following policies are intended to retain the important characteristics of the Lizard Creek Subarea while providing limited opportunities for subdivision:

- (a) In order to protect agricultural capability and suitability, parcels in the Lizard Creek Subarea located east of Highway 3 are generally not supported for subdivision.
- (b) Maintaining the agricultural character, which contributes to the economy of the Lizard Creek Subarea, is supported.
- (c) Rezoning applications in the Lizard Creek Subarea will be reviewed in consideration of the potential impact of the proposal on traffic congestion and safety along Highway 3.
- (d) If existing parcels are rezoned to accommodate residential subdivision, development is strongly encouraged to occur in such a manner so as not to impede annexation by the City of Fernie, future infill development opportunities or infrastructure and servicing upgrades.

**(7) City of Fernie Urban Expansion Subarea**

The City of Fernie Urban Expansion Subarea includes a number of separate areas located adjacent to the City of Fernie municipal boundaries and designated as Urban Expansion areas on the map schedules of this OCP. These areas have all been identified as near to medium term Fernie Boundary Extension Study Areas in the City of Fernie OCP.

West Fernie, located to the southwest of the City of Fernie on the west side of the Elk River, is the most developed portion of this Subarea. The majority of the land in West Fernie is within the 200 year floodplain or contains steep slopes. These constraints mean that there is limited development potential for the undeveloped land in West Fernie. In order to increase the development potential of this land, flood protection works, upgraded water and sewer services and reconfiguration of road networks are required.

The City of Fernie supplies water to West Fernie by an agreement with the West Fernie Waterworks District. Currently the City of Fernie and the West Fernie Waterworks District have both placed a moratorium on new water connections. In West Fernie, residents have septic fields rather than community sewer servicing. Some of the parcels that are currently undeveloped are not large enough to meet the zoning bylaw's minimum parcel size requirements for parcels requiring septic fields. Septic and water constraints are also severely limiting new development within West Fernie.

The only practical way to upgrade the servicing in this area is to utilize servicing by the City of Fernie. Annexation with the City of Fernie has been discussed for many years. The West Fernie Servicing and Restructure Project led by the RDEK was in progress during the drafting of this OCP. The project will be undertaken in phases to complete infrastructure upgrades prior to annexation by the City of Fernie.

West Fernie has small lots which have often required variances to regulations contained in the zoning bylaw prior to development. In order to provide consistency and certainty to the landowners in this area until such time as West Fernie is incorporated into the City of Fernie, policies have been developed to identify a framework for decision making by the RDEK Board.

- (a) In order to protect agricultural capability and suitability, parcels within the ALR in the City of Fernie Fringe Urban Expansion Subarea are generally not supported for subdivision.

- (b) Development within the City of Fernie Fringe Urban Expansion Subarea is generally not supported without annexation or support from the City of Fernie.
- (c) Rezoning applications are encouraged to include a commitment to register on title a restrictive covenant or statutory building scheme directing the construction of buildings away from the centre of parcels and towards the corners of parcels to enable future subdivision of the parcel.
- (d) If existing parcels are rezoned to accommodate residential subdivision, development is strongly encouraged to occur in such a manner so as not to impede annexation by the City of Fernie, future infill development opportunities or infrastructure and servicing upgrades.
- (e) In the Vanlerberg Road – Zwaryck Road area identified in Figure 4.1, subdivision to a parcel size smaller than 0.4 ha is generally not supported.

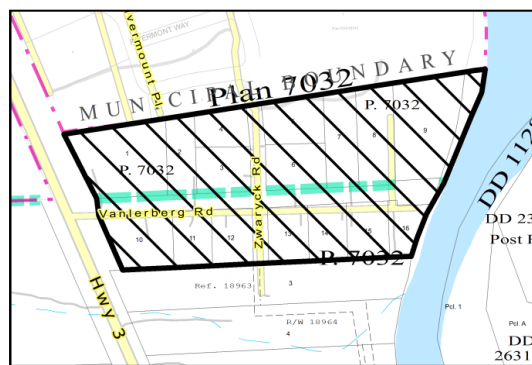


Figure 4.1 - Vanlerberg Road – Zwaryck Road Area

- (f) The following policy statements will guide development in West Fernie identified in Figure 4.2:
  - (i) additional subdivision is not generally supported until servicing constraints and access management for the West Fernie area have been addressed; and
  - (ii) further construction of onsite septic systems in West Fernie is not supported.

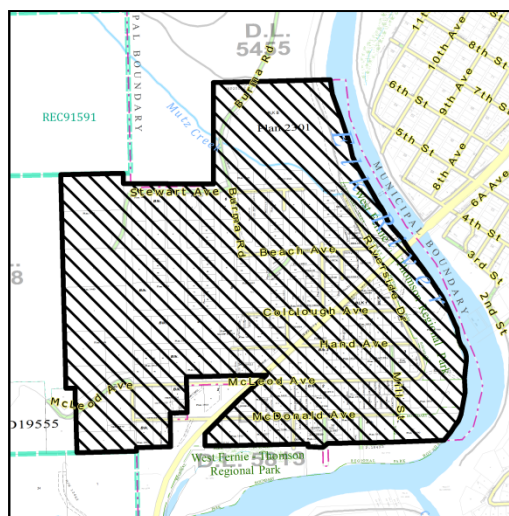


Figure 4.2 - West Fernie

- (g) In the Railway North area identified in Figure 4.3, subdivision to a parcel size smaller than 8.0 ha is generally not supported.

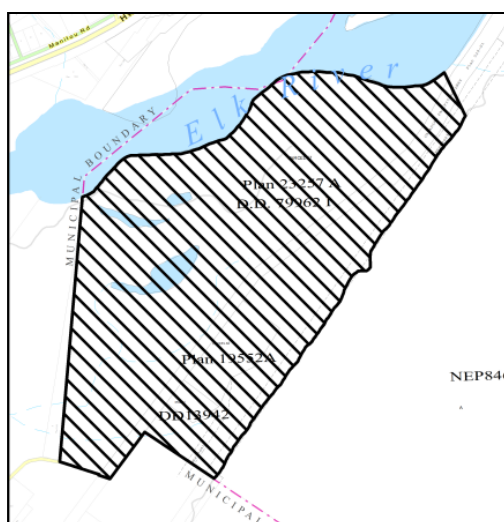


Figure 4.3 - Railway North Area

- (h) In the event that a new large scale ski resort and residential development project is proposed on the periphery of the City of Fernie, annexation of the lands designated for ski resort and residential development into the City of Fernie is strongly encouraged.

If annexation is not desirable or possible, a comprehensive planning approach to address resort and residential land use in the area is encouraged and should address traffic impacts, hazards, servicing, parks, trails, open spaces, wildlife corridors, habitat areas, environmentally sensitive areas, watershed impacts and visual impacts as they relate to the view corridors from the valley floor.

- (i) Prior to annexation of rural properties into the City of Fernie, clear support for the boundary expansion should be demonstrated by the land owners and residents of the areas proposed for annexation.

**(8) Anderson Road Subarea**

The Anderson Road Subarea consists of a number of unserviced residential acreages. At the time that public consultation was occurring for this plan, a significant residential cluster development project known as Cedar Valley was underway on a large parcel to the south of the Anderson Road Subarea. The Cedar Valley area has been annexed into the City of Fernie and given that West Fernie to the northeast is likely to be annexed into the City of Fernie in the future, the Anderson Road Subarea sits as a potential isolated rural island in this area. In 2014, all parcels in the Anderson Road Subarea in the ALR were excluded by the ALC following the ALR Boundary Review process.

During the public consultation process area residents presented different visions for the future of the area. Some indicated a desire to see Anderson Road retains its current character while other suggested that with the changes in land use in the Cedar Valley area it was appropriate for some level of subdivision to be supported in the area. In addition Anderson Road was identified as having important wildlife habitat and connectivity values. The policies in this section attempt to balance the viewpoints expressed by residents and reflect the RDEK position regarding development in the Anderson Road Subarea.

- (a) The Anderson Road Subarea is to maintain its existing rural large lot character.
- (b) Development in the rural areas is encouraged to be compatible with the rural character of the surrounding parcels.
- (c) Subdivision to a parcel size smaller than 1.0 ha is generally not supported.
- (d) The City of Fernie is encouraged to complete a boundary extension infrastructure servicing plan for the Anderson Road Subarea in anticipation of future annexation by the City. The plan should include

a conceptual road network plan and infrastructure servicing plan that identifies the location and capacity of future water and sewer servicing. In the event that a boundary extension infrastructure servicing plan is completed any subsequent subdivision in the Anderson Road Subarea should support the infrastructure servicing plan by dedicating utility and road corridors identified in the plan.

- (e) Rezoning applications in the Anderson Road Subarea will be reviewed on an individual basis in relation to the potential for the provision of buffers such as extended setbacks, fencing and screening on non-agricultural properties adjacent to parcels on which farming is taking place to avoid conflict between agriculture and non-agricultural development.
- (f) If existing parcels are rezoned to accommodate residential subdivision, development is strongly encouraged to occur in such a manner so as not to impede any of the following:
  - (i) annexation by the City of Fernie;
  - (ii) future infill development opportunities; and
  - (iii) infrastructure and servicing upgrades.
- (g) In order to preserve their agricultural value subdivision or annexation into the City of Fernie is not supported for the two parcels located between The Cedars development and Highway 3 legally described as:
  - (i) That Part of District Lot 5237 Kootenay District Shown Outlined In Red On Explanatory Plan 36221I; and
  - (ii) That Part of District Lot 5237 Kootenay District Shown Outlined In Red On Plan 31725I Except Part Included in Plan 4201.

However, if a development application for either of these parcels is received it will be reviewed on an individual basis in relation to the following:

- (i) considerations identified in subsection 4.3(8)(e); and
  - (ii) dedication of land adjacent to Highway 3 for the development of a non-motorized trail connecting the City of Fernie and the Fernie Alpine Resort as identified in subsection 9.3(9).
- (h) Rezoning applications are encouraged to include a commitment to register on title a restrictive covenant or statutory building scheme directing the construction of buildings away from the centre of parcels and towards the corners of parcels to enable future subdivision of the parcel.

**(9) Dicken Road Subarea**

The Dicken Road Subarea is located north of the Ghostrider subdivision, which is at the northern border of the City of Fernie. Currently this area consists primarily of larger parcels of land and is more agricultural in focus than some of the other rural areas surrounding the City of Fernie.

The City of Fernie has expressed interest in the parcels just to the north of Brenners Road for the expansion of the Ghostrider service commercial area. This is entrenched in the current City of Fernie OCP and has been anticipated in past OCPs as well. At the time this plan was being drafted the City of Fernie was investigating infrastructure opportunities within the Brenners Road area in anticipation of a possible annexation process. Policies for the area identified for expansion of the Ghostrider service commercial area are outlined in Subsection 4.3(7) concerning the City of

Fernie Urban Expansion Subarea and Section 5 concerning the Commercial Land Use Policies.

Prior to the initiation of the Elk Valley OCP planning process a development application on Kmiecik Road was approved which enables the creation of a 37 lot residential strata development in close proximity to an existing mobile home park.

The following policies are intended to maintain the rural nature of the Dicken Road Subarea:

- (a) Development is encouraged to be compatible with the character of the surrounding parcels in order to maintain the rural nature of the Dicken Road Subarea.
- (b) Maintaining the agricultural character, which contributes to the economy of the Dicken Road Subarea, is supported.
- (c) Subdivision of land in the ALR which will have a negative impact on agricultural capability or suitability is generally not supported.
- (d) In the Dicken Road Subarea subdivision of land, which is not located within the ALR, to a parcel size smaller than 8.0 ha is generally not supported.
- (e) Despite subsection 4.3(9)(d) applications for residential subdivision in the Dicken Road Subarea with proposed minimum parcel sizes less than 8.0 ha may be considered provided all of the following criteria have been met:
  - (i) the proposed subdivision involves the creation of a maximum of two new parcels;
  - (ii) the parent parcel proposed for subdivision has not been subdivided in the ten years preceding the application date, this criteria does not apply in extraordinary personal circumstances as determined by the RDEK Board;
  - (iii) there is demonstrated support for the subdivision proposal from the owners of most adjacent privately owned parcels; and
  - (iv) the proposed subdivision involves no new parcels less than 2.0 ha in size;
  - (v) the proposed subdivision will have not potential negative impact on agricultural capability and suitability of both the parcel proposed for subdivision and on neighbouring parcels.
- (g) Rezoning applications are encouraged to include a commitment to register on title a restrictive covenant or statutory building scheme directing the construction of buildings away from the centre of parcels and towards the corners of parcels to enable future subdivision of the parcel.

**(10) Hosmer Subarea**

During the consultation process for this plan, residents of Hosmer expressed a general preference for limiting growth and maintaining the existing character of their community. Historically, Hosmer residents have indicated that they do not recognize the need for a water system, are not willing to pay the high cost of such a system and feel that a water system represents undesirable changes in the community character. Following the ALR boundary review, the ALC has excluded parcels in the Hosmer Subarea east and west of Highway 3 from the ALR. Because significant areas within the Hosmer Subarea have been excluded from the ALR, it is expected that the ALC will not support additional ALR subdivision within the Hosmer Subarea.

- (a) For parcels located adjacent to Stephenson Road identified in Figure 4.4, subdivision to a parcel size smaller than 2.0 ha is generally not supported.

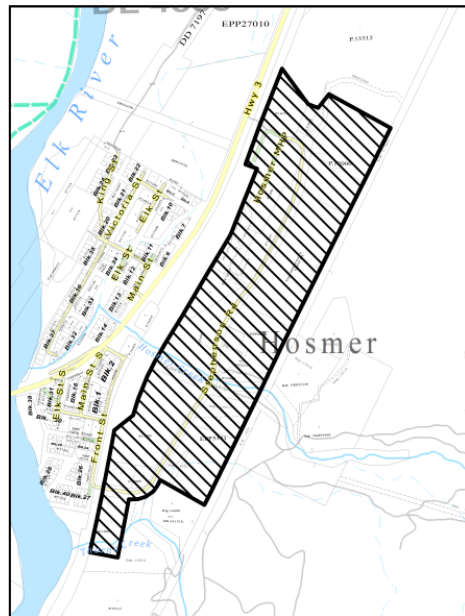


Figure 4.4 Stephenson Road Area

- (b) For parcels located within the Hosmer core area identified in Figure 4.5 subdivision to a parcel size smaller than 1670 m<sup>2</sup> is generally not supported.

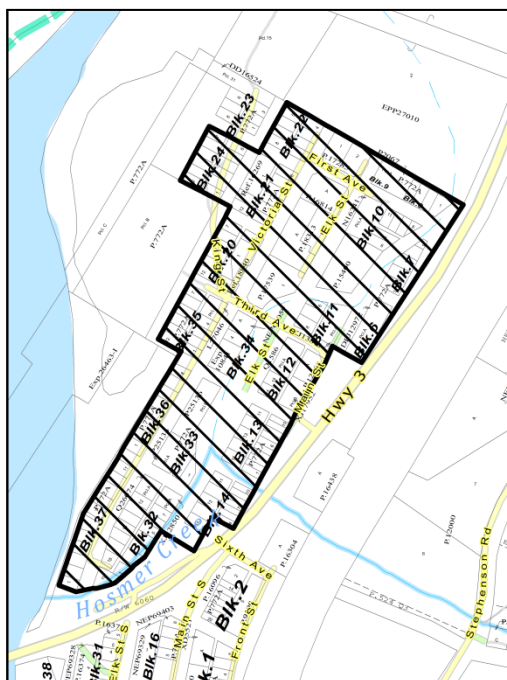


Figure 4.5 Hosmer core area

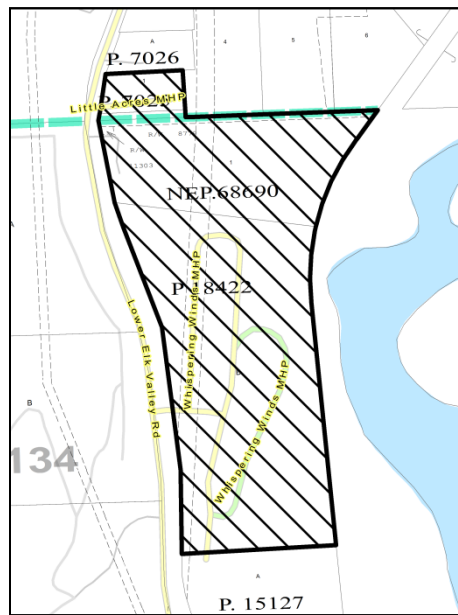
- (c) Rezoning to permit residential subdivision outside of the Stephenson Road Area (Figure 4.4) and the Hosmer core area (Figure 4.5) is generally not supported in order to protect agricultural values, environmental values and the rural character in the area surrounding Hosmer.
- (d) Subdivision of land in the ALR, or subdivision which will have a negative impact on agricultural capability or suitability, is generally not supported.

- (e) Rezoning applications in the Hosmer Subarea will be reviewed on an individual basis in relation to the following:
  - (i) for parcels located within the Hosmer core area identified in Figure 4.5, the availability of community servicing for water supply; and
  - (ii) the integration of attainable housing options.

**(11) Sparwood to Elkford Subarea**

During the consultation process participants expressed a desire to retain the existing character of the Elk Valley north of Sparwood and to preserve environmental values. Residents expressed limited interest in residential subdivision in the area.

- (a) The permitted density of new residential lot development in rural areas shall be compatible with the local rural character and lifestyle.
- (b) Subdivision which will have a negative impact on agricultural capability or suitability is not supported.
- (c) Applications for rezoning to accommodate subdivision within the Sparwood to Elkford Subarea should include proposed minimum parcel sizes of not less than 8.0 ha.
- (d) Land along the Lower Elk Valley Road identified in Figure 4.6 is supported for mobile home park development to accommodate future demand for rented home spaces.



**Figure 4.6 Lower Elk Mobile Home Park Node**

## **5. COMMERCIAL LAND USE**

### **5.1 Background**

During the public consultation process for this OCP area residents indicated a preference for a rate of commercial development that was either slower or matched the pace of development over the past decade. In addition, residents indicated strong support for directing commercial development to municipalities within the plan area. At present commercial land use in the plan area include a hotel/pub, several mobile home parks, a mobile home sales office, multiple auto body garages and a mix of home occupations.

During the drafting of this plan the City of Fernie released a draft Official Community Plan (OCP). The Fernie OCP indicated the need for expanding municipal boundaries for light industrial and service commercial development. It specifically included a policy to investigate a boundary restructure to expand the Ghost rider Service Commercial into the Brenners Road area as a means of increasing the supply of light industrial and service commercial land in the short-term. Historically the residents of Dicken Road have expressed concern regarding commercial development in the area. At the time this plan was adopted only one property along Brenners Road has been rezoned to permit commercial development.

### **5.2 Objectives**

- (1) Support a diverse range of economic activities in the plan area.
- (2) Support commercial recreation and tourism land uses within the plan area where the use is compatible with adjacent land uses.
- (3) Direct commercial development that is local in scale to existing development nodes.
- (4) Direct commercial development that is regional in scale to municipalities within the plan area.
- (5) Support the limited expansion of the Ghost rider service commercial area, as identified within this plan, while maintaining the rural nature of the Dicken Road area.

### **5.3 Policies**

#### **(1) General**

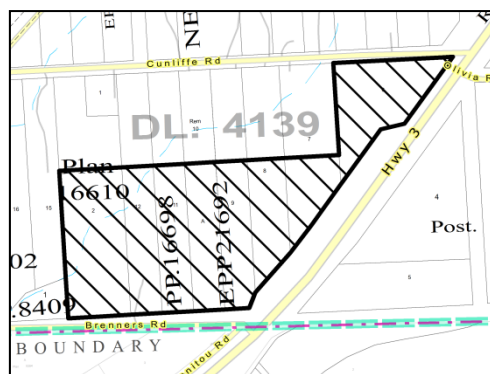
- (a) The concentration of new commercial development within Elk Valley municipalities is encouraged.
- (b) Despite subsection 5.3(1)(a) the following uses may be supported in the plan area if there will be no significant adverse impact on adjacent uses, rural character, or the environment:
  - (i) small-scale/low-intensity commercial activities primarily oriented to the local community; and
  - (ii) commercial tourism or recreation activities adjacent to a site with recognized recreation capability.
- (c) Large scale commercial development is generally not supported in the rural area and is directed to Elk Valley municipalities.
- (d) Commercial development should be compatible with the rural form, character and density of the plan area.
- (e) Ecotourism activities that provide economic diversification and have limited impacts on the environment, agriculture and heritage resources are encouraged.
- (f) New commercial developments adjacent to agricultural, residential or industrial operations are encouraged to employ adequate buffering and setbacks to minimize the potential for conflicts.

- (g) Rezoning applications to enable campground development in this plan area must comply with the RDEK Campground Bylaw. Applications will be considered in relation to the following considerations, which should be addressed as part of a comprehensive development plan submitted with the application:
  - (i) compatibility of the proposed development with surrounding land uses;
  - (ii) suitability of access to the development, proposed internal road networks and impacts on the external road network;
  - (iii) confirmation of capability to provide sewer and water servicing;
  - (iv) proposed density;
  - (v) provision and dedication of open and green space, buffers and screening;
  - (vi) provision of overnight and short-term camping opportunities;
  - (ix) provisions to support solid waste management associated with the campground development;
  - (vii) identification and mitigation of development impacts on environmentally sensitive areas including grasslands, connectivity corridors, wetlands and riparian areas and old growth forests, in accordance with Section 10 of this plan concerning environmental considerations; and
  - (viii) susceptibility to natural and geotechnical hazards and integration of hazard mitigation strategies, in accordance with Section 11 of this plan concerning development constraints.
  
- (h) The use of billboards within the Elk Valley is generally not supported. The placements of signs within the plan area must comply with the Elk Valley Sign Bylaw.

**(2) Ghost rider Expansion Area**

The City of Fernie has expressed interest in the parcels just to the north of Brenners Road for the expansion of the Ghost rider service commercial area. This is reflected in the new City of Fernie OCP and has been anticipated in past OCPs as well. During previous planning processes and in response to commercial development in the area, the residents of Dicken Road expressed concern with the designation of commercial or industrial land on or near their properties. During the development of this plan, residents expressed support for annexation of the area identified in Figure 5.1 following a subdivision process of parcels straddling the urban expansion area boundary.

The policies outlined below are intended to guide development in the Brenners Road Urban Expansion Area identified in Figure 5.1 to allow the expansion of the Ghost rider service commercial area:



**Figure 5.1 Brenners Road Urban Expansion Area**

- (a) Expansion of the Ghost rider service commercial area into the Brenners Road Urban Expansion Area is supported.
- (b) Annexation of the Brenners Road Urban Expansion Area by the City of Fernie is supported contingent upon the completion of the subdivision of parcels straddling the northern boundary of the urban expansion area identified in Figure 5.1. Annexation should occur as one comprehensive block process rather than separate annexation processes for individual or smaller groups of parcels.
- (c) Rezoning to permit a commercial or light industrial use within the Brenners Road Urban Expansion Area is generally not supported without annexation by or support from the City of Fernie.
- (d) Annexation of the Brenners Road Urban Expansion Area by the City of Fernie should occur prior to further commercial or light industrial development in the area. In the event that a rezoning application is received prior to annexation of the area, consideration should be given to the following:
  - (i) development should connect any onsite commercial or industrial development to the City of Fernie's water and sewer infrastructure;
  - (ii) development should adhere to the City of Fernie Highway Corridor design guidelines outlined in the City of Fernie OCP;
  - (iii) a traffic impact study should be completed to identify an appropriate network of service roads in the Brenners Road Urban Expansion Area. Development applications should include dedication of land for service roads and utility infrastructure as identified in the traffic impact study and the 2014 Boundary Extension Infrastructure Servicing Report completed for the City of Fernie in 2014; and
  - (iv) development should address strategies to minimize impacts from light, noise, dust, odour and traffic on surrounding land uses.

**(3) Hosmer**

Development of campgrounds on both the east and west side of Highway 3 at the south end of Hosmer is generally supported. Rezoning applications will be considered in relation to campground development considerations identified in subsection 5.3(1)(g).

## 6. AGRICULTURAL LAND USE

### 6.1 Background

In the summer of 2011, an Agricultural Land Use Inventory (ALUI) was conducted within the RDEK in order to understand which agricultural activities are occurring in the RDEK. The inventory identified slightly less than 1,400 ha of land under cultivation in the Elk Valley. Forage and pasture was the most common crop accounting for 99% of all cultivated land. The remaining 1% of land includes oats, tree plantations and greenhouses. Livestock activities were also identified in the Elk Valley; the inventory estimates the population at 572 head of beef cattle and 130 equine.

In 2013 an ALR boundary review was conducted by the ALC for the Elk Valley. The result of this process has been both the addition to and removal of land from the ALR; some of these changes have been contentious among land owners in the Elk Valley. At the start of 2014, 1300 ha of land were removed from the ALR. The land remaining in the ALR is considered by the ALC as suitable and capable for soil and non-soil based agriculture development. Further subdivision in the ALR, exclusion, and non-farm use that do not relate to strengthening and supporting agriculture, will be low priority for ALC review or endorsement.

Much of the low elevation rural land in the plan area is included within the ALR, a provincial land use designation intended to protect farming and agriculture as the primary land use. Subdivision and non-farm uses within the ALR must meet provincial regulations and be approved by the ALC. Land included in the ALR is shown on **Schedule C**. In August 2010 the RDEK and ALC entered an agreement in which the ALC delegated certain decision making powers to the RDEK regarding the subdivision and non-farm use in the ALR.

During the consultation process for the development of this plan, Elk Valley residents expressed a high level of support for continued agriculture operations within the plan area. Residents expressed mixed opinion regarding subdivision and exclusion of lands from the ALR; those that supported subdivision and exclusion generally indicated that such applications should be assessed based on the agricultural capability of the land. The need for residents to be able to supplement farming incomes with home occupations that are complementary to the rural nature of the plan area was also identified.

Applicants wishing to subdivide land within the ALR should be aware that the ALC is not subject to the subdivision for a relative provisions contained in Section 946 of the *Local Government Act*, nor does the ALC believe that encouraging small lot subdivision is supportive of agriculture and consistent with the ALC mandate to preserve agriculture and encourage farming. Policies stating support for subdivision of land within the ALR, with the exception of those applications that qualify under the ALC's Homesite Severance Policy, are the policy of the RDEK only.

### 6.2 Objectives

- (1) Support agricultural activity within the plan area.
- (2) Outline conditions under which subdivision within the ALR will generally be supported and to discourage ALR subdivision that does not meet these conditions.
- (3) Minimize conflicts between agriculture and other potentially incompatible land uses on adjacent lands.
- (4) Support local food production, local distribution of food products, and diversification of agricultural uses.
- (5) Preserve and encourage the use of agricultural land for present and future production of food and fibre.

### 6.3 Policies

#### (1) General

- (a) Land in the ALR is generally designated and supported for agricultural use.

- (b) Preservation and continued use of agricultural land for present and future food production is encouraged.
- (c) The primary commercial uses for land within the ALR should be agricultural production and the processing and marketing of on-farm produce. However, accessory uses that complement agriculture, including, but not limited to agri-tourism, farm gate sales, and market gardens will generally be supported in the ALR.
- (d) Home occupations that are complimentary to agricultural operations are encouraged and supported within the Agricultural Land Reserve.
- (e) Buffers between properties on which farming is taking place and adjacent non-agricultural properties will be established through setbacks within the zoning bylaw. Measures such as fencing and screening located on adjacent non-agricultural properties should be utilized to ensure that farm operations are adequately protected and buffered.
- (f) The location of new roads should be designed to minimize the impact on existing or potential agricultural areas.
- (g) New and continued Licenses of Occupation for grazing tenures on Crown land are generally supported provided the tenures are not associated with wildlife fencing.
- (h) The development of regulations intended to minimize the impacts of intensive agricultural operations through appropriate setbacks should be considered for inclusion in the Elk Valley Zoning Bylaw.
- (i) The development of small scale community kitchens, food processing facilities and outdoor community ovens is encouraged.
- (j) The implementation of applicable recommendations for the RDEK Agricultural Plan is supported.
- (k) The cultivation of medical marihuana by licenced commercial producers is recognized as a potential agricultural use within the Plan area. Medical marihuana production facilities licenced under and operated in conformity with the federal Marihuana for Medical Purposes Regulations are generally supported within the ALR and parcels zoned MG-1, Light Industrial zone. Uses accessory to a medical marihuana production facility which are not considered to be farm use by the ALC may require approval of a non-farm use application.

**(2) Agricultural Land Reserve Applications**

- (a) 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.
- (b) New residential development is encouraged to be directed to land within municipal boundaries, areas outside the ALR and areas with low agricultural capability.
- (c) Applications for subdivision for a relative pursuant to section 946 of the *Local Government Act* will generally be supported when all of the following conditions have been met, subject to compliance with the zoning bylaw:
  - (i) there is no negative impact on the agricultural potential of the parent parcel;

- (ii) the subdivision for a relative is kept as small as possible, having regard to health requirements, and is located in an area which has the least impact on agriculture;
  - (iii) the subdivision complies with the requirements of the zoning bylaw, other than with respect to the provisions relating to minimum lot sizes; and
  - (iv) a statutory declaration has been provided prior to the issuance of an order that confirms the parcel is for a relative and that the parcel will not be sold or transferred for a period of 5 years unless required as part of an estate settlement or as required by a lending institution.
- (d) Applications for homesite severance subdivision for a retiring farmer in the ALR will generally be supported when the minimum parcel size is 0.4 ha and the proposal is in compliance with the ALC Homesite Severance Policy, subject to compliance with the zoning bylaw.
- (e) Applications for subdivision in the ALR which improve agricultural capability will generally be supported, subject to compliance with the zoning bylaw.
- (f) The plan recognizes the historical importance of agriculture in the Elk Valley. Fragmentation or parcelization of agricultural lands in the plan area is generally not supported.
- (g) Applications for ALR subdivision in areas not identified for support in Section 4 (Residential Land Use) are generally not supported. If ALR subdivision applications are received for areas not identified in Section 4 they will be considered in relation to the following:
- (i) current agricultural capability and suitability of the parcel;
  - (ii) potential impacts of the proposed subdivision on the agricultural capability and suitability of both the parcel proposed for subdivision and on neighbouring parcels;
  - (iii) where applicable, information in the report from a qualified professional as required in section 6.3(2)(h); and,
  - (iv) the objectives and policies outlined in section 4.2 and 4.3 (Residential Land Use), and 6.2 and 6.3 (Agricultural Land Use).
- (h) 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 RDEK Board. The report must include the following:
- (i) determination of the level of capability and suitability for both soil bound and non-soil bound agricultural production on the parcel including investigation of the terrain, soil, size, configuration and context of the agricultural lands; and
  - (ii) identification of the impact the proposal will have on the agricultural suitability and capability of the parcel, and agricultural operations in the surrounding area.

Applications will not be processed by RDEK staff until such time as the report has been submitted or an exemption has been granted. Requests for exemption must be provided in writing to the RDEK prior to making an application and must provide rationale for granting the exemption.

*Note: On August 7, 2020, Resolution 49314 was passed by the RDEK Board of Directors to issue a blanket exemption for the requirement to submit a report for all ALR applications. A report from a qualified professional (e.g. Agrologist report) is currently not required unless otherwise identified by RDEK staff.*

- (i) 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)(h) as part of their application to the RDEK:
  - (i) the application is for subdivision for a relative as per the provisions in the zoning bylaw and the *Local Government Act* and the parcel proposed is equal to or less than 2.0 ha in size; or
  - (ii) the application is for a reconsideration or alteration of a prior approval by the ALC.

The exemption is a condition of the RDEK 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 ALC are on an individual basis in regard to the ALC's mandate and may or may not be approved.

- (j) Support for subdivision of lands within the ALR or non-farm use of ALR lands may be provided when it is demonstrated that the change in use will protect productive agricultural soils.

## 7. LIGHT INDUSTRIAL LAND USE

### 7.1 Background

Within the plan area, identified light industrial activities included sand and gravel extraction and a wrecking yard. During the public consultation process area residents indicated a preference for the rate of light industrial development experienced over the last decade to be maintained. Generally, participants in the consultation process indicated future light industrial development should be directed to municipalities and locations with existing light industrial operations.

During the drafting of this plan the City of Fernie released a draft Official Community Plan (OCP). The Fernie OCP indicated the need for expanding municipal boundaries for light industrial and service commercial development. It specifically includes a policy to “Investigate, with the RDEK, a boundary restructuring to expand the Ghost rider Service Commercial into the Brenners Road area as a means of increasing the supply of light industrial and service commercial land in the short-term” (Section 9-F.8). Through previous plan consultation processes and development applications the residents of Dicken Road have expressed concern with the designation of future commercial and industrial land on or near their properties.

In April 2014, the production of medical marihuana shifted from a licenced access system to a licenced commercial producer system. The federal Marihuana for Medical Purposes Regulations require that licenced commercial producers comply with applicable local government regulations. In consideration of the new federal regulations, the RDEK considered the current land use designations and zoning to determine appropriate locations within the plan area for the accommodation of medical marihuana production facilities.

### 7.2 Objectives

- (1) Support existing light industrial uses within the plan area.
- (2) Ensure that aggregate extraction activities are conducted in a manner that is compatible with adjacent land uses and the rural character of the plan area.
- (3) Concentrate light industrial land uses within Elk Valley municipalities or within existing light industrial nodes.

### 7.3 Policies

- (1) Light industrial development is generally directed to Elk Valley municipalities. However, the following uses may be supported in the plan area if there will be no significant adverse impact on adjacent uses, rural character, or the environment:
  - (a) resourced-based industries that require on-site processing at facilities located close to the source of their major resource; and
  - (b) industries which cannot find land physically suitable to accommodate their industrial activity within a municipality.
- (2) Annexation of the Brenners Road Urban Expansion Area to the north of Brenners Road and east of Highway 3 for light industrial purposes as shown in Figure 5.1, is supported, subject to the conditions in subsection 5.2(3) concerning the Ghost rider Expansion Area.
- (3) The cultivation, processing and direct marketing of medical marihuana by a licenced producer under the federal Marihuana for Medical Purposes Regulations is considered a light industrial use within the plan area. In accordance with the *Agricultural Land Commission Act* and *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* licenced producers may operate within the ALR as identified within the zoning bylaw and section 6.3(1)(k) of this plan.
- (4) The production, processing and distribution of medical marihuana by a medical marihuana production facility is anticipated to occur on an intensive agricultural scale in conjunction with required security measures, such as intrusion detection systems, 24 hour site monitoring, access restrictions

and perimeter video recording. In consideration of these characteristics, which would not generally be associated with non-federally regulated or licenced agricultural commodities, the zoning bylaws identify regulations specific to medical marihuana production facilities.

- (5) Applications to rezone to accommodate a medical marihuana production facility shall be considered on an individual basis in relation to the following criteria:
- (a) existing land use;
  - (b) surrounding land uses;
  - (c) proposed servicing for water and sewer; and
  - (d) proposed mitigation of potential impacts on adjacent properties resulting from the security measure requirements of the federal Marihuana for Medical Purposes Regulations.

## **8. INSTITUTIONAL AND COMMUNITY LAND USE**

### **8.1 Background**

A limited range of institutional and community services are available to Elk Valley residents, mostly to residents of the unincorporated communities of Hosmer and West Fernie.

### **8.2 Objectives**

- (1) Support existing community and institutional land uses.
- (2) Facilitate the identification of lands for future community and institutional land uses.

### **8.3 Policies**

- (1) Institutional land uses should be directed to the existing developed nodes such as Hosmer. Additional locations will be considered on a case-by-case basis.
- (2) The Hosmer Cemetery is recognized as an important institutional asset within the plan area. The ongoing management and of the cemetery by a community group or society is supported. Resolving any issues related to the location on private land is supported.
- (3) No school facilities are anticipated within the projected 5 to 15 year time line considered within this plan and therefore no further school sites have been identified.

## **9. OPEN SPACE, RECREATION AND TRAILS**

### **9.1 Background**

The plan area is well known for its natural beauty and outdoor recreation opportunities. Both assets are appreciated for their aesthetic qualities but also serve as economic drivers of the region through development interest and tourism opportunities. The preservation of open spaces and recreation opportunities is recognized as important to the long term future of the plan area.

Under the regional park function, the RDEK operates two parks in the area: the Elk Valley Regional Park and the West Fernie – Thompson Community Park. The Elk Valley Regional Park, located halfway between Sparwood and Elkford includes several picnic shelters, barbecue pits, sports fields, baseball diamonds, horseshoe and bocce pits and washroom facilities. The West Fernie –Thompson Community Park is an undeveloped green space which follows the banks of the Elk River through West Fernie and includes a number of walking trails.

### **9.2 Objectives**

- (1) Ensure recreational activities are compatible with the rural character of the plan area.
- (2) Provide local parks, trails and other outdoor recreation opportunities in locations and in sufficient quantity to be available and accessible, where possible, to all members of the community, including a broad spectrum of activities and lifestyle types.
- (3) Recognize and protect recreational features with tourism potential.

### **9.3 Policies**

- (1) The protection of existing green space is encouraged.
- (2) Continued operation of the Elk Valley Regional Park for group and individual recreational day use pursuits by residents of the Elk Valley is supported.
- (3) The West Fernie–Thompson Community Park is recognized as an undeveloped regional park. Public access to the existing walking trails in the park is supported.
- (4) Continuation of the Access Guardian Program, under which a backcountry Access Guardian is hired by the Conservation Officer Service to perform education, public relations, monitoring and enforcement duties within the Southern Rocky Mountain Management Plan area, is supported.
- (5) The provision of a broad spectrum of outdoor recreation opportunities, suitable for both residents and tourists, that respect the need to protect resource values, is supported.
- (6) Preservation and enhancement of existing access routes to the Elk River for recreation purposes is supported. Any access improvement to the Elk River should minimize impacts on riparian areas and consider cumulative effects on the Elk River.
- (7) Grave Lake is recognized as the only large, accessible lake in the Elk Valley where a variety of lake-oriented recreational opportunities are possible. Continued management of the land at the southwest end of Grave Lake as a public campground, currently managed by the Sparwood Fish & Wildlife Association, is supported in order to ensure public access to both land and water based recreation opportunities.
- (8) The development of intercommunity trail connections linking the rural area to municipalities for daily foot and cycle commuting is supported.
- (9) The development of a trail connecting the City of Fernie and Fernie Alpine Resort for daily foot and cycle commuting is supported and encouraged. The preferred route for this trail, identified through consultation with the Ministry of Transportation and Infrastructure and the City of Fernie, follows

Highway 3 and the Fernie Ski Hill Road. The intended route of the trail is located within the road right of way except where it crosses two parcels located to the west of Highway 3 and to the east of The Cedars development within the City of Fernie municipal boundary. The legal description of these parcels is:

- (i) That Part of District Lot 5237 Kootenay District Shown Outlined In Red On Explanatory Plan 362211; and
- (ii) That Part of District Lot 5237 Kootenay District Shown Outlined In Red On Plan 317251 Except Part Included in Plan 4201.

To facilitate development of the trail, dedication of land on these parcels to the Ministry of Transportation and Infrastructure as a right of way for the construction of the trail is supported.

- (10) The development of a trail connecting Mt Fernie Park Road and Fernie Alpine Resort that is not adjacent to the highway is supported. The trail is intended to provide an aesthetic walking and biking access route from the south end of Anderson Road to Fernie Alpine Resort. At the time of drafting of this plan, the route of this trail, which has yet to be specifically identified, would first cross a parcel on the south side of Anderson Road located within the City of Fernie boundaries. Existing development plans for this parcel incorporate the trail.

To facilitate development of the trail, rezoning applications for the following parcels should consider the integration of strategies that enable development of the trail:

- (i) The North Half of District Lot 4126 Kootenay District; and
- (ii) The East Half of District Lot 4129 Kootenay District.

- (11) Prior to the creation of additional mountain biking and hiking trails in the Fernie area, the development of a trails master plan which coordinate trail planning for municipal and rural areas, and includes input from stakeholders such as the Fernie Trails Alliance, is encouraged in order to limit the impact of trail development on wildlife, environmental values and other users.
- (12) The development of trails master plans for the Sparwood and Elkford areas which coordinate trail planning for municipal and rural areas is supported.
- (13) Adherence to trail building best practices in the development of mountain biking and hiking trails, such as maintaining reasonable trail densities, is encouraged in order to limit the impact of trail development on wildlife and environmental values. Endorsement of trail building activities by the provincial government for Crown land or the land owner for private land is considered a necessity prior to construction.
- (14) The development of recreational trails in the plan area to support local recreation and tourism activities is supported. Further recreational trail development should consider cumulative effects of trail building and other development activities in the plan area and should comply with recommendations of the SRMMP.
- (15) The establishment of a safe alternative to biking on Cokato Road is supported in order to reduce the risk to cyclists of accidents between motor vehicles and mountain bikers using Cokato Road for trail access.
- (16) Proposals for the use of alpine areas for commercial mechanized activities such as heli-skiing and heli-hiking shall be supported only if they do not conflict with established non-mechanized activities and where environmental impacts have been taken into consideration.
- (17) The development of a nordic ski area located between Mt Fernie Park Road and Fernie Alpine Resort is supported. The trail developer is encouraged to consider accommodating summer use for proposed trails in the planning and development process.

- (18) Trail users are encouraged to respect private property.
- (19) The RDEK supports local effort in establishing a site for local recreation purposes on the floodplain adjacent to the Elk River, north of the Highway 3 bridge located just south of Hosmer.
- (20) Community gardens on both public and private lands are encouraged where appropriate and feasible.
- (21) Opportunities to utilize underused areas such as parks and public open spaces to grow food are encouraged.

## 10. ENVIRONMENTAL CONSIDERATIONS

### 10.1 Background

Environmental values represent potential development constraints in the Elk Valley. Environmental values were consistently one of the most referenced concerns throughout the public consultation process for this plan. It is clear that residents of the plan area place a high level of importance on the natural environment and prioritize development that will not impact these areas in a negative way.

The wildlife resources of the plan area were described as "singularly unique" by W. D. Hornaday in 1905 and have retained that importance. The plan area is regarded as an important area in Canada in terms of species diversity and abundance. This reputation is generated by the existence of viable populations of big game species such as grizzly and black bear, mountain goat and big horn sheep; plus numerous members of the remaining big-game species (except caribou); and by good representation in the upland and migratory game bird categories, sixteen species of fur-bearers and over 200 non-game species.

The area is even more significant on a provincial and regional basis. The moose population is the highest for any area outside the northern part of the province, while the Elk and Flathead drainages are important regionally in their capability to support elk, white-tail and mule deer populations. Also contributing to provincial importance are the unique alpine grasslands in the Todhunter Creek area, which back onto other wildlife habitat in Alberta and provide very high capability winter range for big horn sheep.

### 10.2 Objectives

- (1) Ensure that development causes minimal degradation of soil, air and water systems.
- (2) Protect the ground water, surface water sources and community watersheds for domestic water and irrigation use in order to ensure sustainable water supplies.
- (3) Ensure that wildlife corridors and habitat connectivity are not impaired by future development.
- (4) Minimize the spread of invasive species.
- (5) Recognize the contribution that the natural environment and wildlife make to the economy of the plan area.

### 10.3 Policies

#### (1) Water and Air Quality

- (a) Activities which could adversely affect the quality of water taken from an underground aquifer needed for domestic purposes are generally not supported. All such activity should be in accordance with appropriate provincial legislation and/or regulations.
- (b) The Watershed Protection Zone within the Elk Valley Zoning Bylaw is encouraged to be maintained. Development within the Watershed Protection Zone should be limited to those activities that do not have a negative impact on water quality or quantity.
- (c) Areas which are designated as Watershed Protection areas on **Schedules D and D1-D8** shall be afforded the maximum possible protection by the implementing zoning bylaw. Where Crown land within such a watershed is proposed for resource extraction or use which could impair the quality or critically reduce the quantity of water obtainable from the watershed, the provincial agencies having jurisdiction are encouraged to ensure that existing and potential water users are involved in watershed management decision-making and that the proposed use is carried out in accordance with best practices for watershed management.

- (d) Development in the plan area should consider the impact of associated water usage requirements on groundwater resources.
- (e) Property owners are encouraged to maintain and upgrade onsite septic systems in order to decrease potential nutrient loading and bacterial inputs to both groundwater and surface water resources.
- (f) Resource extraction and development within watersheds should not compromise watershed integrity or the ability to utilize the water sources for domestic use.
- (g) Initiatives to protect air quality in the plan area such as the conversion of inefficient wood burning appliances to high efficiency models and the implementation of smart burning practices are supported.

**(2) Water Bodies, Wetlands and Riparian Areas**

- (a) Development is encouraged to avoid streams, wetlands and riparian areas and to provide appropriate development setbacks and buffer areas.
- (b) Approved development and associated management activities such as dredging within or adjacent to water bodies, wetlands, or riparian areas should be conducted following appropriate best management practices.

**(3) Environmentally Sensitive Areas**

- (a) Future development should minimize disturbance to the integrity of environmentally sensitive areas (ESAs). ESAs within the plan area include, but are not limited to, habitat of red and blue listed species and areas identified on **Schedules E1-E3** such as wetlands and riparian areas, grassland ecosystems, old growth forests, and wildlife habitat areas.
- (b) Prior to development within ESAs, developers are encouraged to complete an environmental inventory, assess potential environmental impacts of the proposed development, and identify appropriate mitigation strategies such as the integration of Conservation Subdivision Design provisions outlined in subsection 4.3(1)(d).
- (c) With support from area residents and as resources allow, the RDEK will consider the creation of a development permit area to guide development within ESAs.
- (d) The use of conservation covenants to preserve the natural values of environmentally sensitive areas is supported. The covenants may be held by the RDEK and/or the provincial government.
- (e) Retention of class 1 and class 2 ungulate winter range identified on **Schedules E1-E3** is encouraged and supported. Development applications should consider appropriate strategies to minimize the impact of development on ungulate winter range.

**(4) Wildlife Habitat**

- (a) Agricultural operations considering the use of wildlife fencing are encouraged to consider wildlife movement, habitat, and access to water when determining fence style and placement.
- (b) Wildlife corridors should be considered in the development of transportation networks.

**(5) Invasive Species**

- (a) Property owners and occupiers are required to control and manage invasive plants in accordance with applicable RDEK bylaws and provincial acts and regulations.
- (b) Recreation users within the plan area are encouraged to inspect their ATVs, mountain bikes, boats and vehicles for invasive plants and animals to assist in the prevention of the spread and establishment of these species.

## 11. DEVELOPMENT CONSTRAINTS

### 11.1 Floodplains, Alluvial and Debris Flow Fans, and Geotechnical Hazards

#### (1) Background

A number of watercourses in the plan area, including Coal Creek, Lizard Creek, and the Elk River represent significant flood hazards. Development is generally discouraged in flood prone areas unless flood protection works are in place. At a minimum, the RDEK prescribes minimum flood construction levels and setbacks from flood prone watercourses in the rural area. The 200-year flood level, floodplains, alluvial fans, and debris flow fans areas are shown on **Schedules F1-F2**. The 200-year flood level mapping is only available for portions of the Elk Valley.

Due to the steep mountainous terrain surrounding the Elk Valley, extensive sections of the plan area are subject to avalanche activity. This avalanche activity is generally not a problem for residential development in the valley itself. The main exception is the extreme western edge of the Elk Valley floor within and just north of the District of Sparwood. Avalanche hazards are identified on **Schedules G1-G3**.

The Elk Valley is located within the Rocky Mountains and many parcels encompass topographical features. Slopes can lead to geotechnical hazards and should be considered as part of the development approval process. Steep slope areas are identified on **Schedules H1-H3**.

Areas of the Elk Valley are subject to slope instability. Under certain moisture conditions, these slopes have the potential to fail, as has previously happened in a subdivision within the City of Fernie.

#### (2) Objectives

- (a) Ensure public safety by discouraging development in unsuitable areas such as floodplains, alluvial fans, debris flow fans, avalanche zones, and areas subject to geotechnical hazards such as slope, erosion and landslip.
- (b) Prevent or minimize the expenditure of public money in damage compensation or mitigation resulting from development of lands subject to hazardous events or situations.

#### (3) Policies

- (a) Minimum setbacks and flood construction levels for development near the ordinary high water mark of water bodies and watercourses are established within the Elk Valley Zoning Bylaw. All floodplain requirements must be met unless a site specific exemption has been granted by the RDEK.
- (b) The development of land susceptible to flooding, including land located within the 200-year flood level and active floodplain identified on **Schedules F1-F2**, is discouraged. Lands susceptible to flooding should not contain structures used for habitation. Suitable uses for land susceptible to flooding include but are not limited to parks, open space, recreation or agricultural uses.
- (c) Applications to vary the minimum usable site area requirements contained within the zoning bylaw will generally not be supported.
- (d) The development of land located within an alluvial or debris flow fan identified in **Schedules F1-F2** is strongly discouraged. Specific geotechnical studies may be required as per provincial legislation for development of land susceptible to the hazard.
- (e) Rezoning applications for any parcels containing an alluvial or debris flow fan identified in **Schedules F1-F2** must incorporate strategies that ensure the development will not be impacted by the hazards. Examples of suitable strategies include:

- (i) completion of a qualified professional engineer's report identifying potential hazards and appropriate hazard mitigation measures;
  - (ii) registration of a covenant which establishes the entire alluvial or debris flow fan identified in **Schedules F1-F2** as a "no-build" area which may be removed following the implementation of recommendation in a report by a qualified professional engineer; and
  - (iii) registration of a covenant which designates building envelopes outside of the entire alluvial or debris flow fan identified in **Schedules F1-F2**.
- (f) Upgrades to the flood protection works within the Hosmer area, Cokato area and the area between Sparwood and Elkford are supported.
  - (g) Completion of a study to update floodplain mapping within the Elk Valley is supported. Coordination of floodplain mapping between the provincial government, the RDEK and Elk Valley municipalities is encouraged.
  - (h) The development of land susceptible to avalanche hazard including but not limited to those areas identified in **Schedules G1-G3** is discouraged.
  - (i) In accordance with the Elk Valley Zoning Bylaw, development on land with slope equal to or greater than 15%, susceptible to erosion and landslip is discouraged. Land susceptible to erosion and landslip should be used for open space and passive recreation purposes. Any development on lands with slope equal to or greater than 15% is subject to the development variance permit process.
  - (j) Development activity that occurs on a slope that is equal to or greater than 15%, susceptible to surface erosion, gulying, landslides or landslip must ensure that adequate protection measures are incorporated into development designs. Specific geotechnical studies prepared by a qualified professional may be required prior to issuance of a building permit or other development approval as per provincial legislation.
  - (k) Development of lands with slopes equal to or greater than 30% is discouraged and is subject to a geotechnical assessment and the registration of a covenant identifying the hazard and remedial requirements as specified in the geotechnical assessment.
  - (l) Removal or deposition of soil within the plan area must be carefully reviewed for erosion, drainage or sedimentation concerns, in addition to potential impacts on agriculture.
  - (m) The development of comprehensive mapping for the Elk Valley to identify terrain stability hazard ratings related to soil types is encouraged. The intent of such mapping would be to provide a framework for assessing development application according to the risk associated with terrain stability, and to discourage development in hazardous areas. Upon completion of the terrain stability hazard ratings this plan should be amended to integrate a schedule depicting the hazard ratings. This schedule will then be incorporated into the RDEK development application process in order to provide guidance as to when a site specific geotechnical assessment by a qualified professional would be required.

## 11.2 Interface Fire Hazard & Public Safety

### (1) Background

Decades of forest fire suppression in the East Kootenay have contributed to an altered ecosystem characterized by forest in-growth and the

accumulation of forest fire fuels. This situation poses a significant threat to communities in the Elk Valley and is referred to as the interface fire hazard. The plan area is surrounded by forest and has significant stands of coniferous trees interspersed with developed areas, both of which increase the risk from wildfire. The fire hazard is being heightened due to the current High Mountain Pine Beetle infestation and resulting dead and dry Pine snags.

The history of Fernie is closely tied to catastrophic fire events. This threat can be reduced by using fire resistant building materials, introducing landscaping practices designed to limit the spread of fire, coordinated training between urban and wildland firefighters and by the proper location of related infrastructure such as fire hydrants and escape routes. The interface fire hazard for the plan area is shown on **Schedule I**.

Residents of the Fernie rural area are provided fire protection through an agreement with the City of Fernie fire department. The residents of Hosmer are provided fire protection by the Hosmer Fire Department operated by the RDEK. The residents of the Upper Elk Valley are provided fire protection through an agreement with the District of Sparwood.

**(2) Objectives**

- (a) Support local and regional ecosystem restoration initiatives on Crown and private land.
- (b) Mitigate the risk associated with interface fire hazard to Elk Valley residents and visitors.
- (c) Encourage the adoption and implementation of FireSmart principles and wildfire mitigation measures by property owners, occupiers and developers.
- (d) Investigate the creation of fire protection service areas as requested by residents.

**(3) Policies**

- (a) Applications for rezoning of parcels which include land rated as high for interface fire hazard on **Schedule I** will be considered with respect to the following FireSmart principles, as appropriate to the nature of the application:
  - (i) ability to integrate fire fuel modified areas including an area of a minimum of 10 metres in radius to be maintained clear of combustible material surrounding buildings and structures;
  - (ii) integration and promotion of building materials that minimize the risk of fires starting or spreading;
  - (iii) provision of a minimum of 2 vehicular access/egress routes to allow for simultaneous access for emergency equipment and evacuation of people;
  - (iv) availability of sufficient water capacity for firefighting activities;
  - (v) the implementation of phasing or staging of development to minimize the interface fire risk; and
  - (vi) availability of firefighting equipment and trained personnel as appropriate for the proposed development.
- (b) The development and dissemination of public education messages about protecting communities from wildfire is supported.
- (c) The creation of fire protection service areas, as requested by residents is supported.

- (d) Efforts by private landowners to reduce the threat of interface fire on their properties are encouraged.
- (e) With support from area residents and as resources allow, the RDEK will consider the integration of development permit requirements for development within high interface fire hazard rated areas.

## 12. ARCHAEOLOGICAL AND HERITAGE RESOURCES

### 12.1 Background

Part of the plan area's heritage includes archaeological sites—the physical evidence of how and where people lived in the past. This archaeological history extends back thousands of years through inhabitation and utilization of the land and its resources by the Ktunaxa. For most of the time people have lived in this area, no written records were made. Cultural heritage sites and oral tradition are the only evidence of this rich history extending back many thousands of years. The term “cultural heritage sites” includes, but is not limited to, archaeological/heritage sites and objects, cultural/heritage landscapes, sacred/spiritual sites and sites with cultural value. It encompasses sites and objects regardless of age.

The plan area contains recorded archaeological sites and is also likely to contain many unrecorded archaeological and cultural heritage sites. The provincial government protects both recorded and unrecorded archaeological sites through the *Heritage Conservation Act*. Archaeological sites dating before 1846 are protected under the *Heritage Conservation Act* and must not be disturbed or altered without a permit from the Archaeology Branch. This protection applies to both private and Crown land and means that the land owner must have a provincial heritage permit to alter or develop land within an archaeological site.

Knowledge of cultural heritage sites is gained through the provincial database of recorded archaeological sites and consultation with the Ktunaxa Lands & Resources Agency. An Archaeological Overview Assessment (AOA) has not been conducted for the plan area but the completion of such an overview is supported within this plan.

The heritage resources of the plan area include remnants of earlier mineral and oil exploration activities in the Elk Valley. Old mine buildings and facilities in various stage of disrepair can be found scattered between Fernie and Crowsnest Pass. Perhaps the most important mining related heritage site is the Hosmer Mine Site and associated remains, not so much because of the importance of the former mine but because the remains are in relatively good condition, accessible and representative of an important phase in the development of one of British Columbia's prime resource industries. The three volumes entitled Hosmer Heritage Restoration Project, completed in early 1985, provides the most complete historical documentation of the Hosmer Mine.

### 12.2 Objectives

- (1) Ensure that property owners are aware of their responsibilities under the *Heritage Conservation Act* when conducting land-altering activities.
- (2) Recognize and communicate the potential for discovery of cultural heritage sites and artifacts during the development process.
- (3) Avoid unauthorized damage and minimize authorized damage to protected archaeological sites on private land in accordance with the *Heritage Conservation Act*.
- (4) Recognize and support the need for an Archaeological Overview Assessment for private land located within the plan area.
- (5) Preserve and develop the heritage resources of the plan area.

### 12.3 Policies

- (1) Initiatives that protect archaeological sites and cultural resources within the plan area are supported.
- (2) Undertaking an Archaeological Overview Assessment (AOA) for the plan area is supported. The intent of the AOA is to identify areas with potential to contain archaeological sites and recognize known archaeological sites. Upon completion of the AOA the plan should be amended to integrate a schedule depicting the areas of archaeological distribution and potential. This schedule should then be incorporated into the RDEK development application process in order to alert applicants to their obligations under provincial heritage legislation.

- (3) As part of the site planning and design of future developments the developer or property owner is legally obligated to recognize and avoid the disturbance of identified cultural resource sites. The RDEK will provide development and building permit applicants with information regarding their obligation to protect recorded and unrecorded archaeological sites.
- (4) Developers are encouraged to engage professional archaeological consultants prior to proceeding with land clearing and site grading to determine if an Archaeological Impact Assessment (AIA) is required to manage and mitigate the impact of the development on any known or unrecorded archaeological sites protected under the *Heritage Conservation Act*. An AIA includes the assessment, recording and evaluation of archaeological resources located within a defined area. The archaeological assessment process is comprised of two principal components: assessment and impact management. Assessment is primarily concerned with the location and evaluation of archaeological resources, and the assessment of impacts during the initial stages of project planning. Impact management follows directly from assessment and is primarily concerned with managing unavoidable adverse impacts as well as unanticipated impacts. Impact management should be discussed with the Ktunaxa Nation Council as per the Ktunaxa Nation Archaeological Engagement Guidelines.
- (5) Upon receipt of a building permit or rezoning application, the provincial archaeological site inventory will be checked for overlaps with protected archaeological sites. Where archaeological potential mapping is available, building permit and rezoning applications will also be reviewed for overlaps with areas that have potential to contain unknown but protected archaeological sites.
- (6) Building permit and rezoning applicants will be notified if the subject property overlaps with a recorded protected archaeological site or an area of archaeological potential. Notification will include direction to engage a professional consulting archaeologist. The archaeologist will determine if an archaeological impact assessment is necessary to manage development related impacts to an archaeological site. Altering a protected archaeological site will require a provincial heritage alteration permit prior to land altering activities.
- (7) The preservation of historically significant sites and features is supported.
- (8) The Hosmer Heritage Restoration Project, undertaken by the Hosmer Heritage Society, is encouraged and supported. This project is intended to restore and develop the mine site and adjacent lands as a major heritage park and recreation area.
- (9) The designation of the Hosmer Mine Site as a provincial heritage site is supported.
- (10) Development of a coal mine interpretive centre at the Hosmer Mine Site is supported. However, any development of this site should be compatible with the existing character of Hosmer and should involve the residents of Hosmer in the design and management of the interpretive centre.

### 13. SOLID WASTE, UTILITIES AND TRANSPORTATION

#### 13.1 Background

Solid waste in the plan area is managed in accordance with the RDEK's Solid Waste Management Plan. The Solid Waste Management Plan outlines strategies for reducing the amount of waste generated, reuse of items and recycling of as much material as possible. The residual solid waste is handled at transfer stations in Fernie, Sparwood and Elkford, and is currently hauled to Alberta. During the planning process for this OCP a proposal to dispose of the solid waste at the RDEK central landfill rather than in Alberta was under consideration. The recycling program allows for recycling of cardboard, paper, tin, aluminum cans, numbered plastics, shopping bags and food-grade glass, through the yellow bin program.

The West Fernie Waterworks District is an Improvement District having the functions of water supply and garbage collection. These functions are performed by the City of Fernie under agreement with the Waterworks District. There is no curbside collection within the RDEK portion of the plan area, except West Fernie where solid waste is collected by the City of Fernie; however some service is available through private haulers. In West Fernie, the City of Fernie participates in collection of recyclables, through a cost charge to the user groups.

Sewer services in the plan area are primarily provided through onsite sewage disposal systems. Servicing is an area of great concern in the developed areas surrounding Fernie. In fact, one of the principle factors in determining whether or not an area should be annexed is the additional services that residents and/or businesses will receive. All of the fringe areas are constrained by servicing limitations.

The main transportation corridors in the plan area are Highway 3, which connects Cranbrook to the Alberta border; and Highway 43, which connects Sparwood to Elkford. A regional airport has been constructed on the Lower Elk Valley Road north of Sparwood. This facility features a paved 1,219 metre (4,000 foot) runway, non-directional beacon with paved taxiway, parking area and access road. Enough land was purchased by the RDEK to extend the runway to 1,828 metres (6,000 feet) if demand for larger aircrafts warrants such an extension.

#### 13.2 Objectives

- (1) Promote responsible solid waste management and recycling practices.
- (2) Promote responsible onsite sewer systems.
- (3) Consider and maintain road network safety and efficiency for all new development.
- (4) Promote responsible placement and encourage co-location of new wireless communication facilities.

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#### 13.3 Policies

- (1) Within the plan area the public is required to dispose of household waste in a responsible manner at the transfer stations located in Fernie, Sparwood and Elkford. Commercial construction and demolition waste must be disposed of at the Sparwood transfer station.
- (2) Residents and visitors are encouraged to follow the principles contained in the RDEK Solid Waste Management Plan to reduce the amount of solid waste produced and to reuse and recycle.
- (3) Recycling is encouraged and coordinated through the RDEK recycling program and through stewardship programs for products such as electronics, tires and batteries. The more extensive provision of recycling stewardship programs and facilities in the plan area is supported.
- (4) In order to promote and encourage responsible solid waste management practices, the RDEK should continue to provide on-going public education campaigns to increase public knowledge about how to reduce solid waste.

- (5) Residents and developers within the plan area are encouraged to practice responsible solid waste management and support ongoing recycling initiatives.
- (6) Property owners and occupiers are encouraged to ensure that maintenance programs for onsite sewer systems are followed in accordance with the appropriate provincial regulations.
- (7) Requests for the RDEK 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 RDEK Subdivision Servicing Bylaw, the RDEK Board policy related to the condition of the utility system and the necessary service establishment approvals.
- (8) Where onsite sewage disposal is utilized for new or redesigned septic systems the use of Type 1 septic systems as defined by the Sewerage System Regulation under the *Health Act* is preferred where site conditions permit their installation. Type 1 systems are generally preferred as they are more reliable over time if the maintenance program is followed.
- (9) The plan supports the creation of alternate forms of transportation, such as public transportation and cycling routes.
- (10) Development that does not create new accesses onto Highway 3 or encumber existing access or egress points is preferred.
- (11) Extension of the portion of Highway 3 within Hosmer designated as a speed control zone is supported.
- (12) A process to identify, evaluate and select the preferred conceptual alignment for an alternate access/egress to Fernie Alpine Resort is encouraged.
- (13) A review of the Fernie Alpine Resort/Highway 3 intersection to determine if there is a need for additional lighting or signage is supported.
- (14) The topography of the Elk Valley has determined the linear nature of settlement and the major traffic route system, consisting of Highway 3 and the Upper Elk Valley Road (Highway 43). It is inevitable that these roads will carry local traffic, however, to aid the flow of traffic, the use of these routes to provide access to new residential lots should be minimized.
- (15) Upgrading the Forest Service Road north of Elkford in order to accommodate summer access is supported. However, the development of areas between Elkford and the Elk Pass along this road for commercial or residential purposes is not supported in recognition of this area's significant natural scenic and environmental values.
- (16) Proposals to upgrade the highway connection between British Columbia and Alberta over Elk Pass as an all-weather, year-round road link is encouraged to be assessed with regard to the nature and distribution of the impacts.
- (17) Federal and provincial agencies are encouraged to assist in providing lighting, fencing and a microwave landing system necessary to complete the Elk Valley Airport so that it can accommodate a full range of air services.
- (18) Increased residential density in the vicinity of the Elk Valley Regional Airport is generally not encouraged because of safety and noise considerations. However, in view of the large amount of private land adjacent to the Airport, rezoning applications may be considered in accordance with the Sparwood to Elkford Subarea residential land use policies included in subsection 4.3(11).
- (19) Wireless communication facilities may be supported where:
  - (a) it is demonstrated that there is community need for improved wireless coverage,
  - (b) efforts have been made to co-locate on existing towers where possible, and no such opportunities exist, and

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- (c) where opportunities to retain and maximize the viewscales are recognized and integrated into the proposal.

## **14. GREENHOUSE GAS (GHG) EMISSIONS REDUCTION AND CLIMATE CHANGE**

### **14.1 Background**

Local governments are required to establish targets and identify specific policies and actions for the reduction of greenhouse gas emissions. Consequently, the RDEK has established a greenhouse gas reduction target of 17% below 2007 levels by 2020. Policies that address this target promote reductions in the consumption of energy and emission of greenhouse gases through proactive land use, solid waste management and transportation planning.

### **14.2 Objectives**

- (1) Recognize the need to plan for the reduction of greenhouse gas emissions and climate change.
- (2) Support policies and actions that will contribute to the RDEK's commitment for a 17% reduction in greenhouse gas emissions.

### **14.3 Policies**

- (1) Green building standards, such as consideration of opportunities to minimize the energy and resource requirements of buildings and structures, is encouraged for all development.
- (2) The integration of energy efficient and renewable energy infrastructure and utilities is encouraged.
- (3) The utilization of passive solar energy through solar orientation is encouraged.
- (4) The location of future development within existing development nodes is encouraged.
- (5) The use of compact development footprints is encouraged within the plan area.
- (6) The reduction of greenhouse gas emissions generated from solid waste landfills through the diversion and reduction of solid waste is encouraged.
- (7) The integration of water efficient landscape features such as xeriscaping and the use of native vegetation is encouraged.

## **15. TEMPORARY USE**

### **15.1 Background**

The *Local Government Act* allows for the issuance of temporary use permits in areas designated within an OCP. A temporary use permit may allow a use not permitted by a zoning bylaw. In general, a temporary use permit may be issued for a period of up to three (3) years and renewed, at the discretion of the Regional Board, only once. The Regional Board may impose special conditions under which the temporary use may be carried on and regulate the construction of buildings or structures related to the temporary use.

### **15.2 Objectives**

- (1) Provide an opportunity for temporary use applications to be considered within the plan area.
- (2) Ensure that temporary uses are compatible with adjacent land uses.

### **15.3 Policies**

- (1) Temporary use permits will be considered throughout the plan area.
- (2) An application for a temporary use permit will be considered in relation to:
  - (a) demonstration that the use is temporary or seasonal in nature;
  - (b) compatibility with the existing land use;
  - (c) compatibility with surrounding land use;
  - (d) potential conflict with agricultural or resource based activities;
  - (e) potential conflict with adjacent land uses;
  - (f) potential impact on fish or wildlife habitat;
  - (g) provision of adequate servicing for water and sewage disposal;
  - (h) duration of the proposed temporary use; and
  - (i) relevant policies within other sections of this plan.
- (3) The permit may be issued subject to conditions such as, but not limited to:
  - (a) the buildings, structures, or area of land that may be used for the temporary use;
  - (b) the period of applicability of the permit;
  - (c) required site rehabilitation upon cessation of the use; and
  - (d) other business or operating conditions to mitigate the impacts of the temporary use.

## **16. CROWN LAND MANAGEMENT**

### **16.1 Background**

The primary purpose of this plan is to provide policy direction for the development of private land in the Elk Valley. However, within the plan area there are large areas of Crown land. Activities on this land are often not under the jurisdiction of the RDEK, but can have a significant impact on local communities. The Crown land in this area is subject to the Southern Rocky Mountain Management Plan (SRMMP). This plan provides provincial government management direction for making decisions for land and resources within the plan area. The SRMMP area exceeds the area of the OCP, including much of the Wigwam River and Flathead River drainages. Recognizing that it may not be in the RDEK's area of responsibility, the plan contains statements regarding land use activities on adjacent Crown land.

Mount Fernie Park is a provincial park located three kilometres south of Fernie on Highway 3. The park consists of 259 ha of land and offers a variety of recreation opportunities. The primary purpose for the creation of Mount Fernie Park was to protect remnant old growth cottonwood and riparian ecosystems. The second was to maintain a tourism travel route; Mount Fernie Park is the first provincial park with camping facilities when driving west from Alberta along Highway 3. The third purpose of the park is to provide day use opportunities for the local residents and visitors. Mount Fernie is part of the regional trail system between the City of Fernie and Fernie Alpine Resort. The protection of Mount Fernie Park has been identified as a high priority by residents of the plan area.

### **16.2 Objectives**

- (1) Support the management of Crown land in a manner that considers the social, environmental and economic needs of the plan area.
- (2) Support ecosystem restoration on Crown land.
- (3) Preserve public access to Crown land for recreation purposes.

### **16.3 Policies**

- (1) Alienation of public land will be supported only where it is demonstrated that such development is in accordance with the goals and policies identified within this Plan.
- (2) Residents and developers are encouraged to support the goals and objectives of the provincial SRMMP and implementation plan, where they apply within the plan area.
- (3) The following policies outline the recommendations of the RDEK on the development of Mount Fernie Provincial Park.
  - (a) The provincial government's provision of a high level of service and maintenance of the purpose statements for the park is supported.
  - (b) Maintenance of or expansion to the existing Park boundaries is supported.
  - (c) If the access road through Mount Fernie Park is alienated from the provincial park inventory adequate park redevelopment and compensation is encouraged.
- (4) 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;
  - (e) protects views 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.

## 17. PRIVATELY MANAGED FOREST

### 17.1 Background

The purpose of this plan is to provide policy direction for the development of private land in the Elk Valley area. Included in the plan area are large areas of privately managed forest. Activities on this land are often not under the jurisdiction of the RDEK, but can have a significant impact on the local community. The managed forest is subject to the *Private Managed Forest Land Act* and regulation. Examples of privately managed forests within the plan area are Tembec's Managed Forest 27, Canfor's Managed Forest 471 and Galloway Lumber's Managed Forest 37 just south of Mount Fernie Park.

Recognizing that it may not be in the RDEK's area of responsibility, this plan contains statements regarding land use activities on managed forest land. This plan will not alter the current use of the managed forest land. It will, however, provide guidance regarding suitable future use when they are no longer part of the active managed forest. Any designations that the plan prescribes for this land are not meant to impact the current forest operations, only to provide future consideration. The plan may also outline items of concern that should be taken into account when any development occurs on the subject property, but is not meant to supersede existing permits, regulations or agreements.

### 17.2 Objectives

- (1) Preserve the economic benefit of the mineral and forest resource base which supports the primary economic activity in the plan area.
- (2) Retain public access opportunities to Tembec's private Managed Forest 27 adjacent to the City of Fernie.
- (3) Review the potential for managed forests within the plan area to be used for alternate purposes and to determine what acceptable alternatives are.

### 17.3 Policies

- (1) Maintenance of public access to land within Tembec's Managed Forest 27 is encouraged, subject to posted restrictions and seasonal closures.
- (2) Preservation of the natural beauty and tourism potential of the plan area by minimizing visual impacts when harvesting timber within the plan area is encouraged.
- (3) Portions of Galloway Lumber's Managed Forest 37 are generally supported for residential and open space land uses, should they be removed from the managed forest classification.
- (4) The portions of Tembec's Managed Forest 27 that remain in the RDEK are not currently supported for residential development at densities above the existing Rural Resource, RR-60, zoning. Should applications for change be received, development in that area will require further assessment and plan amendments.
- (5) An agreement between Tembec and the Fernie Trails Alliance is recognized regarding trails located on Tembec's Managed Forest 27; the agreement stipulates that the Fernie Trails alliance will maintain existing trails and refrain from building new trails on these lands.

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## 18. REGIONAL CONTEXT

### 18.1 Intergovernmental Relations

#### (1) Background

Crown land within the plan area is managed by the provincial government. Provincial responsibilities include the areas of agriculture, energy, mines and mineral policies, water protection, species and ecosystem protection, forest stewardship, Crown land allocation and authorizations, and backcountry public and commercial recreation. The provincial government and the RDEK recognize that land management decisions for Crown land within the Elk Valley can impact residents and communities. In addition, both agencies acknowledge that development activities on private land can impact a variety of values on Crown land. The provincial government and the RDEK agree that consultation between both agencies can result in better land use decisions that consider a range of important values.

The plan area surrounds the City of Fernie, the District of Sparwood and the District of Elkford. Land use within the municipal fringe areas is of common concern and should be addressed within the regional context. Consultation with staff and Council of the three municipalities was undertaken as part of the planning process to develop the OCP.

The Ktunaxa Nation Council (KNC) is responsible for ensuring aboriginal rights and title are respected in the traditional territory outside of the reserve land, and as such, has an interest in the Elk Valley. Consequently, land use within the Elk Valley area is of common concern to the RDEK and the KNC, and should be addressed within the regional context.

#### (2) Objectives

- (a) Promote effective government to government communication and relationships regarding land use applications through referral processes.
- (b) To ensure that any new development within a municipal fringe area is physically and financially compatible with the future urban expansion requirements of the municipality.

#### (3) Policies

- (a) Applications for OCP amendments within the plan area will be referred to the provincial government for consideration of the impact of the proposed change on provincial legislation and interests.
- (b) Provincial referrals for tenure applications for occupation of Crown land under the *Land Act* will be reviewed by the RDEK in consideration of the goals, objectives and policies contained within this plan.
- (c) All applications for OCP amendments within the plan area will be referred to the KNC for comment.
- (d) This plan recognizes the ongoing treaty negotiations taking place for lands contained within the plan area. The RDEK supports the creation of and application of KNC policies to direct development on potential treaty settlement lands.

### 18.2 Resort Areas

#### (1) Background

For the purpose of this plan the term 'resort' refers to the two resorts located outside the City of Fernie boundaries: Fernie Alpine Resort and Island Lake Lodge, both of which are the subject of specific OCPs.

Fernie Alpine Resort consists of 2,155 ha of Crown and private land, comprising the ski area, base facilities, and commercial and residential development areas complementing the Resort. Fernie Alpine Resort is located 5 kilometres south of the City of Fernie on gently to moderately

sloping land. The resort experiences peak use from December to April, but is a year round facility. Some of the activities that take place at the resort include: alpine skiing, nordic skiing, snowshoeing, summer lift access sight-seeing, biking, tennis and hiking. At full build-out the resort is anticipated to have 1,355 dwelling units and accommodate 7,800 people per day. Approximately 730 dwelling units have been constructed to date.

Island Lake Lodge is located to the west of the City of Fernie on 2,833 ha of privately held land. Island Lake Lodge also owns a 242 ha parcel located directly adjacent to Mount Fernie Provincial Park. In the winter, Island Lake Lodge offers cat-skiing and in the summer provides opportunities for hiking, fly-fishing and dining with a view. The onsite facilities consist of a central lodge with a spa, restaurant and lodges for guest accommodation. Island Lake Lodge has planned a significant expansion which includes a ski hill and residential development on the lower parcel.

Issues which are common to both resorts include access management, servicing capacity, and addressing impacts to the City of Fernie. The following policies and objectives set out to address common concerns between these resorts.

**(2) Objectives**

- (a) Review the potential for a Boundary Expansion to include the resorts within the City of Fernie limits and outline policies to define this.
- (b) Ensure that the resort development within the plan area is developed in a comprehensive, not piecemeal, fashion.
- (c) Ensure that servicing capacity is adequately addressed prior to expansion of resort activities.

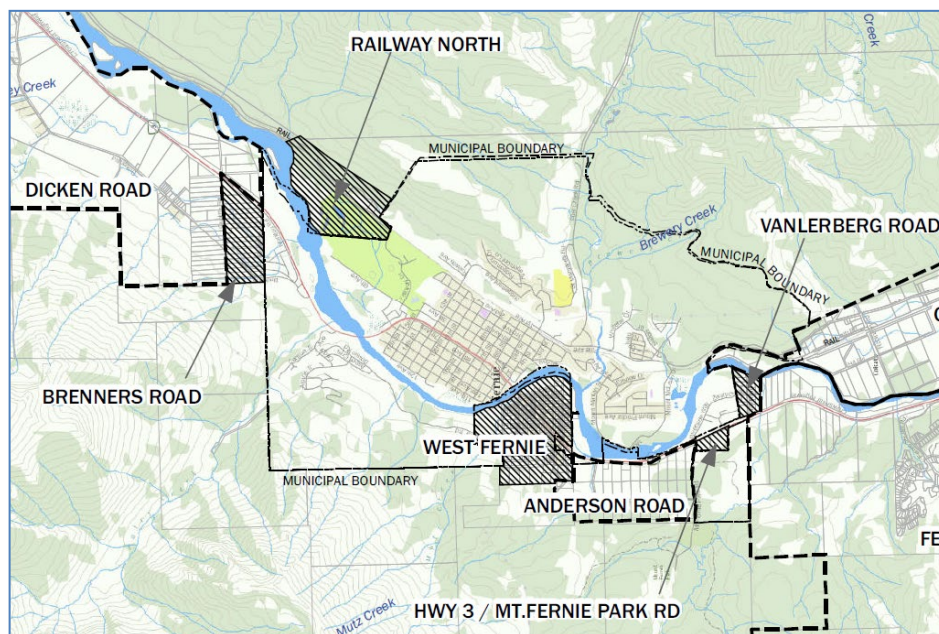
**(3) Policies**

- (a) Fernie Alpine Resort, Island Lake Lodge, the RDEK and the City of Fernie are encouraged to work cooperatively in developing the resorts to ensure that any opportunities to coordinate development and servicing, plan trail networks, and capitalize on economies of scale are utilized.
- (b) If clear support for City of Fernie boundary expansion to include the resort(s) is demonstrated by the residents and landowners of the resort(s), such annexation is supported.
- (d) Both resorts are encouraged to undertake comprehensive reviews of servicing requirements for any resort expansion. Evidence of adequate and environmentally responsible systems must be provided.
- (e) Both resorts are encouraged to work with the City of Fernie and the RDEK to address the City's concerns regarding use of municipal recreation and cultural services, prior to any new application for expansion or residential development.
- (f) Prior to expansion of Fernie Alpine Resort onto land included in this plan, a comprehensive environmental review including, but not limited to, environmental contingency planning, construction management planning and water course sediment control planning shall be conducted. These plans should be submitted to the necessary regulatory bodies for review and approval.
- (g) Where it does not conflict with resort operations or proposed development activities, public access to the Crown land beyond Island Lake Lodge is supported.

**18.2 City of Fernie Expansion**

**(1) Background**

The City of Fernie OCP identifies a number of potential boundary expansion study areas located immediately adjacent to city boundaries. These areas are further identified as either ‘near to medium term’ (5-10 years) extension areas or ‘long term’ (10+ years) extension areas. Near to medium term extension areas include Brenners Road, Railway North, West Fernie, Highway 3 / Mt Fernie Park Road and Vanlerberg Road, identified in Figure 18.1. Long term extension areas identified include Dicken Road, Cokato Road, Fernie Alpine Resort and Morrissey.



**Figure 18.1 - City of Fernie Near to Medium Term Expansion Areas from City of Fernie Official Community Plan (2014)**

As identified in the City of Fernie OCP, these areas have been chosen for one of three reasons:

- (a) They may eventually require the extension of publicly owned water and sewer services.
- (b) They have the long-term potential to accommodate future growth.
- (c) They provide opportunities to improve planning, promote efficient land use, provide greater transportation choices, reduce public servicing costs and reduce rural sprawl.

West Fernie falls into the category of an area which will eventually require the extension of publicly owned water and sewer services. This plan identifies annexation of West Fernie as a potential outcome of a broader restructuring initiative which could include upgrades to sanitary sewer, water, stormwater, flood management, roads, and street lighting. The Fernie OCP identifies additional areas which have been built without municipal infrastructure which may require upgrades over time; these include Dicken Road, Railway North, Brenners Road, Anderson Road and Cokato Road.

Brenners Road is identified as an area suitable to accommodate new industrial or service commercial business expansion in Fernie due to its large area of flat land, rail and highway access, and the potential to accommodate suitable buffers from residential neighbourhoods.

Longer term boundary expansion areas include Dicken Road, Cokato Road, Fernie Alpine Resort and Morrissey. These areas have been identified in the Fernie OCP as “reserve areas” to help accommodate Fernie’s potential long-term growth demands. The Fernie OCP states that if these areas are developed in a compact form and in an orderly manner which does not detract from development in Fernie, they will “promote the efficient use of land, provide greater transportation choices, reduce public servicing costs and reduce sprawl into rural areas”.

**(2) Objectives**

- (a) Support municipal expansion plans as set forth in the City of Fernie OCP and avoid adverse impacts on the municipal fringe area.
- (b) Concentrate serviced commercial and industrial activities within the City of Fernie on appropriately zoned land.
- (c) Ensure that fringe development is physically and economically compatible with expansion requirements of the City of Fernie.
- (d) Provide guidelines for orderly growth and development within the plan area.

**(3) Policies**

- (a) Rezoning applications for properties located within the Fernie rural area will be referred to the City of Fernie for comment.
- (b) Infill development and densification within the City of Fernie rather than expansion for residential growth, until such time as infill capacity has been maximized, is supported.
- (c) Planned, block by block annexation of land in the Urban Expansion Area is encouraged.
- (d) Annexation of the Vanlerberg Road – Zwaryck Road area identified in Figure 4.1 is supported.
- (e) Annexation of the West Fernie area identified in Figure 4.2 is supported.
- (f) The City of Fernie, West Fernie residents, RDEK and the provincial government of British Columbia are encouraged to continue working together to implement the annexation strategy for the West Fernie area.
- (g) Prior to consideration of annexation of any residential land, other than the currently planned annexations land designated as Urban Expansion in the map schedules of this OCP, the future annexation of West Fernie is encouraged to be completed.
- (h) Annexation of the Railway North area identified in Figure 4.3 is supported.
- (i) Annexation of the Brenners Road Urban Expansion Area identified in Figure 5.1 for light industrial or service commercial purposes is supported, subject to the conditions in section 5.3(2) concerning the Ghost rider Expansion Area.

**18.3 District of Sparwood and District of Elkford Expansion**

**(1) Background**

The Sparwood fringe area located north of the District of Sparwood core contains a limited number of large parcel residences plus a number of 2.0 ha lots in the Savarie subdivision. The Elkford fringe contains only a few 8.0 ha lots at the outer edge of the fringe area south of the District boundary.

**(2) Objectives**

To ensure that any new development within the District of Sparwood and District of Elkford fringe area is physically and financially compatible with the future urban expansion requirements of the Districts.

**(3) Policies**

- (a) Rezoning applications for properties located within the rural area surrounding the District of Sparwood or District of Elkford municipal boundaries will be referred to the appropriate municipality for comment.
- (b) Annexation of the Olsen Crossing area, located south of Sparwood along Highway 3, by the District of Sparwood is supported.
- (c) A boundary expansion by the District of Sparwood to annex land at the southeastern corner of the Line Creek Mine is supported.
- (d) A boundary contraction by the District of Sparwood to remove a portion of the Corbin mine site is supported.

## 19. DEVELOPMENT PERMIT AREAS

### 19.1 Background

Pursuant to the *Local Government Act*, it is the policy of the RDEK to designate certain areas within the plan area as Development Permit Areas, and implement special conditions in the form of development permit guidelines.

### 19.2 Development Permit Area #1 - Wildfire Hazard

#### (1) Area

Development Permit Area #1 applies to all properties within the plan area as shown on **Schedule J** of this OCP.

#### (2) Purpose

The purpose of Development Permit Area #1 is for the protection of development from hazardous conditions.

#### (3) Requirements

Within Development Permit Area #1, owners must obtain a development permit before:

- (a) Subdivision creating one or more vacant parcels.

#### (4) Exemptions

Development permits are not required within Development Permit Area #1 under the following conditions:

- (a) The land is already subject to a Wildfire Hazard Development Permit.

#### (5) Justification

In an effort to minimize the risk of damage to property by wildfire, some parcels in the plan area have been identified as requiring wildfire hazard management. Subdivision creating one or more parcels will be subject to FireSmart construction standards that aim to reduce the risk of damage by wildfire.

#### (6) Guidelines

Development permits issued must be in accordance with the following Guidelines:

- (a) Prior to the issuance of final subdivision comments to the Ministry of Transportation and Infrastructure, a development permit will be registered on the parcel and be transferable to all vacant parcels created by the subdivision with the exception of common property proposed for access purposes within a strata subdivision and common lot access routes. The development permit will require that all future dwelling units on the property must be in conformance with the Occupancy Permit Guidelines under section 19.2 (6) (b) of this OCP.

- (b) Occupancy Permit Guidelines

When a development permit is registered on the title of a property, an occupancy permit for a dwelling unit will be not issued by the RDEK until an inspection has been completed and it has been confirmed that the conditions under section 19.2 (6) (b) (i) and (ii) have been met.

- (i) Occupancy Permit requirements for dwelling units:
  - (A) All roofing materials of new dwelling units must conform to Class A, B or C fire resistance as defined in the BC Building Code.
  - (B) Buildings and structures used to store wood or other combustible materials must be located a minimum of 10 metres away from the dwelling unit.
  - (C) Property owners must post their civic address in accordance with the RDEK House Numbering Regulation and Fee Bylaw as may be amended and replaced from time to time.
- (ii) Occupancy Permit landscaping requirements within the FireSmart Priority Zone 1:
  - (A) Removal of combustible fuel is required, including the removal of ground level fuels, piled debris and other combustible debris.
  - (B) Planting of new coniferous species including, but not limited to, juniper, pine and spruce is not permitted.
  - (C) It is not advisable to retain previously existing mature coniferous trees. If retained, coniferous trees must:
    - have limbs pruned such that they are at least two metres above the ground, and
    - be spaced so that there are three metres between crowns, thereby ensuring the tips of the branches of a coniferous tree are no closer than three metres to the tips of the branches of neighbouring coniferous trees; and
    - have no limbs within three metres of the dwelling unit or attachments such as balconies; OR
    - be managed as recommended in a Wildfire Hazard Assessment Report, in consideration of FireSmart Principles, prepared by an RPF who is a member of the Association of BC Forest Professionals.

### 19.3 Development Permit Area #2 - Environmentally Sensitive Areas (Lizard Creek)

#### (1) Area

Development Permit Area #2 applies to all areas designated as Environmentally Sensitive Areas (ESAs) on **Schedule K** of this OCP.

The determination of the extent of the area of applicability for the Riparian Area ESA shall be determined on a site specific basis measured from the natural boundary and extending fifteen metres upland from the natural boundary of the watercourse. When the top of bank is more than fifteen metres above the natural boundary of the watercourse the area of applicability is measured fifteen metres from the top of bank.

#### (2) Purpose

The purpose of Development Area #2 is for the protection of the natural environment, its ecosystems and biological diversity.

#### (3) Applicable Definitions

Within Development Permit Area #2:

**DEVELOPMENT FOOTPRINT** means the area affected by development or by project site activity. Hardscape, access roads, parking lots, non-building facilities, and the building itself are all included in the development footprint.

**ENVIRONMENTAL IMPACT ASSESSMENT REPORT** means a report prepared in accordance with the "Regional District of East Kootenay - Development Approval information Bylaw No. 2122, 2008" and section 20.4 (2)(d) of this OCP, as replaced or amended from time to time. In addition, the scope of the report will either be for the parent parcel or the development footprint in accordance with section 19.3 (4)(a) and consistent with the guidelines contained in section 19.3 (7) of this OCP.

**ENVIRONMENTALLY SENSITIVE AREA** means an area with exceptional ecological values that contribute to maintaining healthy and diverse plant and wildlife populations.

**NATURAL BOUNDARY** means the visible high water mark where the presence and action of water are so common and usual and continued in all ordinary years as to mark upon the soil of the bed of a lake, river or stream or other body of water a character distinct from that of the banks thereof, in respect to vegetation as well as in respect to the nature of the soil itself.

**QUALIFIED ENVIRONMENTAL PROFESSIONAL (QEP)** means an applied scientist or technologist, acting alone or together with another qualified environmental professional, if:

- (a) the individual is registered and in good standing in British Columbia with an appropriate professional organization constituted under an Act, acting under that association's code of ethics and subject to disciplinary action by that association;
- (b) the individual's area of expertise is recognized by their professional organization as one that is acceptable for the purpose of providing all or part of an assessment report in respect of that development proposal; and
- (c) the individual is acting within that individual's area of expertise.

**RIPARIAN ECOSYSTEM** means an area of land adjacent to a stream or wetland that is directly influenced by perennial water either at the surface or below the surface in the form of saturated soils (i.e. soils that contain unbound water). Riparian areas are characterized by plants or plant communities that are dependent upon free water. They are areas through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. The riparian area is influenced by, and exerts an influence on, the associated aquatic ecosystems.

**STREAM** includes any of the following:

- (a) A watercourse, whether it usually contains water or not;
- (b) A pond, lake, river, creek or brook;
- (c) A ditch, spring or wetland that is connected by surface flow to something referred to in (a) or (b).

**WATERCOURSE** means any natural or manmade depression with well-defined banks and a bed of 0.6 metres or more below the surrounding land serving to give direction to a current of water at least six (6) months of the year or having drainage area of 2 square kilometres or more upstream of the point of consideration.

**WETLAND** means land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, fens, estuaries and similar areas that are not part of the active floodplain of a stream.

**(4) Requirements**

Within Development Permit Area #2, owners must obtain a development permit before:

- (a) Subdivision creating one or more vacant parcel(s) where any portion of the parent parcel under application is located within Development Permit Area #2;
- (b) Construction, addition or alteration of a building or structure where any portion of the proposed development footprint is located within Development Permit Area #2; or
- (c) Alteration of land, including construction of new trails, the removal of vegetation or site grading, where any portion of the proposed development footprint is located within Development Permit Area #2.

**(5) Exemptions**

A development permit is not required within Development Permit Area #2 under the following conditions:

- (a) The proposed activity is limited to internal alterations to buildings or structures.
- (b) The proposed activity is limited to the reconstruction, repair of, or addition to existing buildings or structures which increase the development footprint by an amount less than 25% of that which was approved under a previous ESA development permit application for the property.
- (c) The proposed activity is limited to the installation, repair or placement of utilities infrastructure within a public right of way.
- (d) The proposed activity is limited to general maintenance or upgrading of roads.
- (e) The proposed activity is limited to:
  - (i) the removal or pruning of hazardous trees as identified by a qualified hazard tree assessor;
  - (ii) an ecosystem restoration project approved by a Qualified Environmental Professional (QEP);
  - (iii) supplementing or maintaining natural existing vegetation.
- (f) The proposed activity is conducted under the authority of the Provincial Emergency Program, is intended to resolve emergency situations that present an immediate danger to life or property including procedures related to flooding or erosion.
- (g) The proposed activity is limited to emergency repairs to buildings or structures where there is a demonstrable risk to personal or public safety and property.

- (h) The proposed activity is limited to the siting, construction or installation of bank protection devices or measures in accordance with application legislation, regulations and best practices.
- (i) The proposed activity is limited to subdivision which solely involves parcel line adjustments.
- (j) The proposed activity is substantially consistent with a development permit previously issued under section 19.3 (4)(a)(b) or (c).
- (k) The proposed activity is conducted within an area zoned PG-4, Resort Open Space, Recreation and Trails Zone for the routine maintenance of non-motorized trails, bridges and ancillary structures to ensure safe recreational use.
- (l) The proposed activity is limited to parent parcel subdivision and where all parcels thus created are intended for further subdivision or for designation as Conservation / Recreation Area.
- (m) The proposed activity is limited to construction of a public road and/or common lot access, provided the construction of such public road and/or common lot access is completed in accordance with the recommendations of a QEP and include compensation measures such as restoration of natural old growth forest disturbance zones through thinning or spacing in order to minimize the net ESA loss. This exemption shall only take effect after the RDEK has received and approved of the QEP report and the RDEK has provided a letter to the property owner confirming this exemption applies.

**(6) Justification**

- (a) The plan area includes a range of significant ecosystems, habitats and features. These include:

- (i) Wetland and riparian ecosystems

Wetlands and riparian ecosystems play a critical role in helping maintain biodiversity as they provide habitat and wildlife corridors for many terrestrial species including the known presence of the cottonwood-spruce-dogwood ecological community and many aquatic species including the known presence of Bull Trout and West Slope Cutthroat Trout. Wetland and riparian ecosystems, including both the wetted area and adjacent supporting land and vegetation provide productive fish habitat and are important to both aquatic and terrestrial wildlife.

- (ii) Habitat for species at risk

The area contains a range of habitat for vulnerable and endangered wildlife and plants. Information on species at risk within the plan area can be found in the BC Species and Ecosystems Explorer and BC Conservation Data Centre. Information on the spatial extent of the habitat for species at risk and the values identified in each area can be found in the Ministry of Environment's approved Wildlife Habitat Areas.

- (iii) Old Growth Forest

The range of tree ages and species found in old growth forests results in increased ecological complexity such as that found within the cottonwood-spruce-dogwood ecological community. This complexity contributes to varying habitat and

a diversity of species. Some species are highly dependent on attributes found only in older forests.

- (b) The objective of Development Permit Area #2 is the protection, preservation, restoration and enhancement of significant ecosystems, habitats and features as identified in sections 19.3 (6)(a)(i - iii) and on **Schedule K**. These ecosystems, habitats, and features are considered vital to the retention of the character and ecosystems health of the plan area. Activities within these areas must be undertaken in a manner that minimizes the disruption or alteration of its environmental integrity. The intent is not to preclude all development in these areas, but to provide notice that the areas include unique characteristics that warrant special review and consideration and to ensure appropriate mitigation measures are prescribed where appropriate.

## (7) Guidelines

Proposed development must comply with the Guidelines. Development permits issued must be in accordance with the following:

### (a) General

The following Guidelines apply to all areas identified as ESAs on **Schedule K** of this OCP.

- (i) All development proposals are subject to the applicable requirements and approval processes under federal or provincial legislation or regulations. Identification of the permits and approvals required must be submitted with the development permit application. Issuance of the development permit will be conditional upon the acquisition of all required permits and approvals from the responsible jurisdictions. It is the responsibility of the applicant to identify and complete the applicable federal and provincial approval processes.
- (ii) Where development is considered in an ESA, the following strategies may be used to meet guideline provisions and direct development away from the ESA:
- (A) Variance through the development permit to vary setbacks or siting regulations in the zoning bylaw;
  - (B) Reduction of the minimum parcel sizes specified in the zoning bylaw in a subdivision application may be considered on the parcel that contains the ESA if the proposed subdivision is based on Conservation Subdivision Design principles and conserves the environmentally sensitive feature or area as recommended by a QEP in an Environmental Impact Assessment Report. Further details on Conservation Subdivision Design can be found in Randal Arendt's *Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks*. Washington DC: Island Press, 1996;
  - (C) Registration of a conservation covenant against the title of the property which requires that the environmentally sensitive area be protected in its natural, existing or restored state as recommended in an Environmental Impact Assessment Report by a QEP.
- (iii) The RDEK may require additional information as part of the development permit application process, for example,

submission of an Environmental Impact Assessment Report prepared by a QEP.

- (iv) When an Environmental Impact Assessment Report by a QEP is prepared as part of a development permit application for Development Permit Area #2, an inventory of any habitat that supports species at risk which are identified as extirpated, endangered or threatened in federal or provincial legislation or regulations may be required to be completed as part of the identification of relevant baseline information, depending on the scope of the report and its Terms of Reference. If habitat that supports species at risk is identified, the Environmental Impact Assessment Report must:
- (A) Document the species at risk and their habitat which may be impacted by the proposed activity or development;
  - (B) Identify and describe any potential and likely impacts of the activity or development on the species at risk and their habitat, including any cumulative effects when combined with other projects proposed or under development;
  - (C) Evaluate the impacts in terms of their significance and the extent to which they might be mitigated; and
  - (D) Make recommendations as to conditions of approval that may be appropriate to ensure that undesirable impacts are mitigated or avoided;

in accordance with accepted impact assessment methodology. All approved development should be completed in accordance with the recommendations of the Environmental Impact Assessment Report.

(b) Wetland and Riparian Ecosystem Guidelines

The following Guidelines apply to areas identified as riparian area ESAs on **Schedule K** on this OCP:

- (i) Human settlement and other land development activities within or adjacent to wetlands is discouraged.
- (ii) Proposals that offer to register a conservation covenant on the title of the lands in order to permanently protect riparian ecosystems are encouraged. The covenant should be registered before any development, including subdivision, and should be in favour of the RDEK, other public agencies including the provincial government, or non-governmental organizations, such as a private land trust committed to the management of watercourses or streamside areas.
- (iii) Locating road and utility corridors along riparian ecosystems should be avoided to maintain natural connectivity. When a road or utility corridors must cross a riparian ecosystem, the work must be completed in accordance with the recommendations of a QEP to minimize the net ESA loss.
- (iv) A riparian buffer for watercourses must be established within which no development or alteration of land is permitted. Unless an Environmental Impact Assessment Report by a QEP indicates otherwise, the size of the riparian buffer must be equal to or greater than the minimum setback distance as required by the RDEK's floodplain management regulations and no less than 15 m measured on a perpendicular line

inland from the natural boundary. When the top of bank is more than 15 m above the natural boundary of the watercourse the 15 m setback distance shall be measured from the top of bank, unless an Environmental Impact Assessment Report by a QEP indicates that a smaller or greater setback is required due to site specific features.

- (v) Despite subsection 19.3 (7)(b)(iv), development proposals that involve disturbance of creeks, watercourses or riparian ecosystems may be permitted in compliance with the following guidelines:
  - (A) For development proposals that involve disturbance within the riparian buffer or the filling in of riparian ecosystems, an Environmental Impact Assessment Report by a QEP must be completed to determine the appropriate measures to protect wetland hydrology and ecological processes. All approved development should be completed in accordance with the recommendations of the Environmental Impact Assessment Report or the conditions of the development permit.
  - (B) All channelization or alterations of creeks must incorporate mitigation measures as determined by a QEP in an Environmental Impact Assessment Report to minimize adverse environmental effects and be in compliance with federal and provincial legislation or regulations.
  - (C) Applications for development activities that will negatively impact riparian ecosystems should include appropriate compensatory enhancement or restoration measures as determined in an Environmental Impact Assessment Report by a QEP in order to minimize the net loss of riparian ecosystems.
- (vi) When an Environmental Impact Assessment Report by a QEP is prepared to satisfy Guidelines in subsection 19.3 (7)(b)(i-v) the potential for upland development to impact riparian ecosystem areas through increased runoff, sedimentation, loss of shade, or increased watercourse temperature must be considered. Appropriate mitigation strategies should be identified where applicable. All approved development should be in accordance with the recommendations of the Environmental Impact Assessment Report.

(c) Old Growth Forest Guidelines

The following Guidelines apply to areas identified as Old Growth Forest ESAs on **Schedule K** on this OCP:

- (i) Human settlement and other land development activities within, or adjacent to, old growth forests is discouraged.
- (ii) If development is proposed within old growth forest areas a compact development footprint should be utilized to minimize negative impacts to the old growth forest.
- (iii) Large diameter trees, and trees which are part of a rare or endangered ecological community such as the cottonwood-spruce-dogwood ecological community known to be present

along Lizard Creek, should be preserved, subject to related provisions of this OCP.

- (iv) Snags, downed logs, stumps and other forest features should be preserved unless they present a danger to personal or public safety.
- (v) Where development within old growth forests or within old growth related rare or endangered ecological communities is unavoidable, applications should identify trees which are part of a rare or endangered ecological community such as the cottonwood-spruce-dogwood ecological community known to be present along Lizard Creek and include compensation measures such as restoration of natural old growth forest disturbance zones through thinning or spacing in order to minimize the net ESA loss. Restoration is encouraged through removal and spacing of smaller trees and burning debris piles as determined by a QEP in an Environmental Impact Assessment Report. Restoration should maintain the key characteristics of ecosystem old growth forests including a spaced open crown closure comprised of large diameter trees. This guideline does not apply to the restoration of higher elevation old growth forests. Restoration activities must be completed under the guidance of a QEP.

## 20. IMPLEMENTATION

### 20.1 Background

The OCP sets out the broad objectives and policies of the RDEK for the Elk Valley area. The plan does not provide all the tools to implement the specific directions contained within it.

Many of the policy statements contained within the OCP are not the direct responsibility of the RDEK. In these cases, the OCP represents the RDEK's position with respect to the preferred course of action for other levels of government, public authorities or individuals.

### 20.2 OCP Amendments

- (1) In the future, OCP amendments may occur in response to a change in the needs of the community or the objectives for development or conservation. Amendments may be initiated by the RDEK or by an application by a property owner. All amendments to the OCP require a bylaw amendment as prescribed by the *Local Government Act*.
- (2) Upon application to amend the OCP the applicant shall demonstrate that the proposed development site(s) will have adequate access and infrastructure services and that they are able to sufficiently mitigate any hazardous site conditions such as soil erosion, flooding or interface fire.
- (3) To ensure that the OCP remains effective, relevant and responsive to the needs of the community, the OCP should periodically be reviewed to determine if the level of development that has occurred in the plan area, or a change in other conditions, necessitates that the plan be substantially amended or rewritten.

### 20.3 Zoning Bylaw Amendments

Parcels may be rezoned in conformity with the land use designations contained in **Schedules D, D1-D8**. The proposed zoning must also conform to the objectives and policies contained in the OCP.

The subject parcel(s) shall be developable and meet the requirements of the zoning bylaw.

The owner shall demonstrate that the proposed development site(s) will have adequate access and infrastructure services and will sufficiently mitigate any hazardous site conditions such as soil erosion, flooding or wildfire.

## 20.4 Development Approvals Information

- (1) Pursuant to Section 485 (1) of the *Local Government Act* the RDEK may require the submission of development approval information to ensure that sufficient supporting documentation is provided, prior to approval, to assess the potential impact of a development or activity.

The procedures for the preparation and review of development approval information are established within “Regional District of East Kootenay – Development Approval Information Bylaw No. 2122, 2008”, as may be amended or replaced.

- (2) Development approval information may be required for the following circumstances and areas.

(a) Alluvial Fan and Debris Flow Fan

**Criteria:** Applications for amendments to the zoning bylaw or temporary use permits where the subject property is in an alluvial fan or debris flow fan identified on **Schedules F1 and F2** of this plan.

**Rationale:** To assess the nature, extent, magnitude, frequency and potential effect of all flood hazards that may affect the property.

To assess the proposed development with regards to safe building sites, building elevations and foundation design requirements, and the construction of onsite protective works.

(b) Agriculture

**Criteria:** Applications for amendments to the zoning bylaw or temporary use permits for land that has not previously been subject to an application for which a report under section 6.3(2)(h) of this plan has been provided to the Regional District.

**Rationale:** To minimize conflict between agriculture and other land uses and meet the objectives and policies identified within section 6 of this plan.

(c) Wildfire Hazard

**Criteria:** Applications for development permits under section 19.2, Development Permit Area #1 - Wildfire Hazard.

**Rationale:** To minimize the risk of damage to property by wildfire and to create a natural environment with a reduced fire risk.

(d) Natural Environment

**Criteria:** Applications for amendments to the zoning bylaw, temporary use permits or development permits under section 19.3, Development Permit Area #2 – Environmentally Sensitive Areas (Lizard Creek).

**Rationale:** To consider the impact of the proposed activity or development on water bodies, wetlands, riparian areas, environmentally sensitive areas, fish and wildlife habitat, and invasive species in order to meet the objectives and policies identified within the following sections of this OCP:

10. Environmental Considerations

19.3 Development Permit Area #2 –  
Environmentally Sensitive Areas (Lizard  
Creek)

**21. LAND USE DESIGNATIONS**

**21.1 Background**

The land use designations are meant to identify, in general terms, the type of land uses that are appropriate for the designated lands. The ranges in parcel sizes are reflective of parcel sizes that currently exist within the land use designation. The referenced minimum parcel sizes do not reflect the perspective of the ALC. For lands within the ALR, it is possible that subdivision into these lot sizes will not be supported by the ALC.

Subject to the zoning bylaw, agricultural use is permitted on all lands located within the ALR. The ALR is a provincial zone in which agriculture is recognized as the priority use. Farming is encouraged and non-agricultural uses are controlled. Further detail regarding the intent of the land use designations is found below.

The land use designations are shown on **Schedules D and D1-D8**. Where a land use designation boundary is shown as following a highway or creek, the center line of such highway or creek shall be the land use designation boundary.

**21.2 Residential Land Uses**

- (1) **R-SF, Residential Low Density** supports single family residential subdivisions, duplexes and manufactured home parks.
- (2) **SH, Small Holdings** supports low density residential development with minimum parcel sizes in the range of 0.2 ha to 2.0 ha.
- (3) **LH, Large Holdings** supports rural residential development and rural resource land uses on parcels sizes in the range of 2.0 ha to 8.0 ha.

**21.3 Rural Land Uses**

BL 3425  
Apr 10/26

- (1) **RR, Rural Resource** 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.
- (2) **REC, Recreation** supports recreational use and associated amenities and infrastructure, including ski terrain, ski lifts, recreation lodge, recreation cabins, mini-golf, tennis courts, indoor and outdoor pool facilities, trails and day use / skier parking.

**21.4 Commercial Land Uses**

- (1) **C, Commercial** supports the limited range of local, service and commercial land uses identified in the zoning bylaw.
- (2) **CR, Commercial – Recreation** supports commercial recreation land uses, including campgrounds.

**21.5 Industrial Land Uses**

**I, Industrial** supports light industrial land uses.

**21.6 Institutional Land Uses**

- (1) **INST, Institutional** supports such land uses as utilities, parks and playing fields, educational facilities, churches or places of assembly, and similar developments.
- (2) **OSRT, Open Space, Recreation and Trails** supports greenspaces, recreational amenities, agricultural use, local, regional and provincial parks and other protected areas, such as wildlife corridors.

**21.7 Future Expansion Land Uses**

BL 3213  
Jul 14/23

- (1) **RE, Resort Expansion Area** supports a variety of land uses including resort recreation, commercial accommodation, residential and other resort related developments and will require inclusion in a resort OCP prior to development.
- (2) **UE, Urban Expansion Area** supports such land uses for the expansion of the City of Fernie's boundaries for residential, serviced commercial, recreation or other land uses.

This is Schedule A referred to in Bylaw No. 2532 cited as "Regional District of East Kootenay – Elk Valley Official Community Plan Bylaw No. 2532, 2014".

*"Rob Gay"*

Chair

*"Lee-Ann Crane"*

Corporate Officer

*October 3, 2014*

Date

This is Schedule A referred to in Bylaw No. 2532 cited as "Regional District of East Kootenay – Elk Valley Official Community Plan Bylaw No. 2532, 2014".

*"Rob Gay"*

Chair

*"Lee-Ann Crane"*

Corporate Officer

*October 3, 2014*

Date