Regional District of Central Kootenay

RURAL AFFAIRS COMMITTEE

Open Meeting Agenda

Date: Wednesday, March 15, 2023

Time: 9:00 am

Location: Hybrid Model - In-person and Remote

Directors will have the opportunity to participate in the meeting electronically. Proceedings are open to the public.

Pages

1. **WEBEX REMOTE MEETING INFO**

To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote (hybrid model).

Meeting Time:

9:00 a.m. PST
9:00 a.m. MST

Join by Video:

https://nelsonho.webex.com/nelsonho/j.php?MTID=m492f23b8856df715a2c4ea5d434e08a1

Join by Phone:

1-844-426-4405 Canada Toll Free
+1-604-449-3026 Canada Toll (Vancouver)

Meeting Number (access code): 2771 114 7497
Meeting Password: Yrm37ijRfP3

In-Person Location: RDCK Head Office - Board Room, 202 Lakeside Drive, Nelson BC

2. **CALL TO ORDER**

Chair Jackman called the meeting to order at ____ a.m.

3. **TRADITIONAL LANDS ACKNOWLEDGEMENT STATEMENT**

We acknowledge and respect the indigenous peoples within whose traditional lands we are meeting today.

4. ADOPTION OF THE AGENDA

RECOMMENDATION:
The agenda for the March 15, 2023 Rural Affairs Committee meeting be adopted as circulated.

5. DELEGATIONS

No delegations.

6. PLANNING & BUILDING

6.1 CANCEL - BUILDING BYLAW CONTRAVENTION - MCARTHUR

5 - 6

File No.: 3130-20-H-707.21888.000-BP24594
7322 Highway 6
(Kimberley McArthur)
Electoral Area H

The Memorandum dated March 2, 2023 from Chris Gainham, Building Manager, re: Cancellation of Notice on Title - McArthur, has been received.

RECOMMENDATION:
That it be recommended to the Board:

That the Corporate Officer be authorized to remove the Notice on Title relating to 7322 Highway 6, Electoral Area H, currently owned by Kimberley McArthur, property legally described as LOT 2, DISTRICT LOT 7357, KOOTENAY DISTRICT PLAN 797A, EXCEPT PART INCLUDED IN PLAN R252, the RDCK Building Department has confirmed that a building permit has been obtained and the deficiencies associated with the construction have been rectified.

6.2 BUILDING BYLAW CONTRAVENTION - HUSER

File No.: 3135-20-G-707.05549.650 BP22241
1720 Carney Mill Rd
(Henry and Jaqueline Huser)
Electoral Area G

Rural Affairs Committee
Referred December 8, 2021 to February 16, 2022.

NOTE: The RDCK Building Department has confirmed that a building permit has been obtained and the property owners are in compliance. Staff recommend no further action.

RECOMMENDATION:
That it be recommended to the Board:

That the Board take NO FURTHER ACTION to file a Notice on Title relating to land at relating to land at 1720 Carney Mill Road, Electoral Area Area G, currently owned by Henry and Jaqueline Huser, legally described as legally described as LOT 3, DISTRICT LOT 1236, KOOTENAY DISTRICT PLAN 1339.

6.3 BUILDING BYLAW CONTRAVENTION - FEE 7 - 16
File No.: 3135-20-H-707.08907.530-BP023334
3168 Pass Creek Rd
(Zoe Fee)
Electoral Area H

The Committee Report dated February 2, 2023 from Graeme Wood, Building / Plumbing Official, re: Building Bylaw Contravention - Fee, has been received.

RECOMMENDATION:
That it be recommended to the Board:

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 3168 Pass Creek Road, Electoral Area H, legally described as LOT 44 PLAN NEP5486 DISTRICT LOT 8773 KOOTENAY LAND DISTRICT EXCEPT PLAN NEP82064, and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

6.4 NON-FARM USE IN THE AGRICULTURAL LAND RESERVE - KOOTENAY PET STOP LTD. 17 - 33
File No.: A2210B
3211 Highway 3
(Kootenay Pet Stop Ltd.)
Electoral Area B

The Committee Report dated February 28, 2023 from Zachari Giacomazzo, Planner, re: Non-Farm Use In The Agricultural Land Reserve - Kootenay Pet Stop Ltd., has been received.

RECOMMENDATION:
That it be recommended to the Board:

That the Board SUPPORT application A2210B for the purposes of a Non-Farm Use in the ALR proposed by Kootenay Pet Stop for property located at 3211 Highway 3, Electoral Area B and legally described as LOT 3, DISTRICT LOT 812, KOOTENAY DISTRICT PLAN 13008 (PID: 008-932-344).

7. ENVIRONMENTAL SERVICES

No items.

8. RURAL ADMINISTRATION

No items.

9. PUBLIC TIME

The Chair will call for questions from the public and members of the media at _____ a.m.

10. ADJOURNMENT

RECOMMENDATION:

The meeting be adjourned at _____ a.m./p.m.

Regional District of Central Kootenay

Box 590, 202 Lakeside Drive, Nelson, BC V1L 5R4
Telephone (250) 352-6665
BC Toll Free 1-800-268-7325

Web: www.rdck.ca
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Fax: (250) 352-9300

MEMORANDUM

File 3130-20-H-707.21888.000-BP24594

March 2, 2023

TO: RDCK Board

FROM: Chris Gainham, Building Manager

SUBJECT: Cancellation of Notice on Title – McArthur

Please be advised that the condition that gave rise to adopting the following resolution on October 22, 2005, has been rectified by Building Permit 24594. We can now file for a Cancellation Notice to cancel bylaw offence KX167879

857/05 The Secretary of the Regional District of Central Kootenay be directed to file a Notice at the Land Title Office in Kamloops, British Columbia, stating that a resolution has been made under Section 57 of the Community Charter by the Regional District Board relating to land legally described as Lot 2, District Lot 7357, Kootenay District Plan 797A, Except part included in Plan R252, and that further information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

The owner, Kimberley McArthur, has requested removal of the Notice on Title in writing and has paid the administration fee of $750.00

As a result of the above, I am recommending cancellation of the said Notice on Title.

Originally signed by

Chris Gainham
Building Manager

Regional District of Central Kootenay

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e-mail: rdck@rdck.bc.ca

CERTIFIED RESOLUTION

RESOLUTION NO. 857/05
AS ADOPTED BY
REGIONAL DISTRICT OF CENTRAL KOOTENAY BOARD
OCTOBER 22, 2005

The Secretary of the Regional District of Central Kootenay be directed to file a Notice at the Land Title Office in Kamloops, British Columbia, stating that a resolution has been made under Section 57 of the Community Charter by the Regional District Board relating to land legally described as Lot 2, District Lot 7357, Kootenay District Plan 797A, Except part included in Plan R252, and that further information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

I, Dawn Attorp, Manager of Corporate Administration of the Regional District of Central Kootenay, hereby certify, under the seal of said Regional District, the foregoing to be a true and correct copy of Resolution No. 857/05, as adopted by the Board of Directors of the Regional District of Central Kootenay on October 22, 2005.

Originally signed by

Dawn Attorp,
Manager of Corporate Administration
Regional District of Central Kootenay

Dated at Nelson, B.C. this 10th day of November, 2005.

Committee Report

Notice on Title

Date of Report:	**Feb 2, 2023**
Date & Type of Meeting:	**March 15, 2023** Rural Affairs Committee
Author:	Graeme Wood_Building/Plumbing Official
Subject:	NOTICE ON TITLE REPORT
File:	3135-20-H-707.08907.530-BP023334
Electoral Area/Municipality:	H / Pass Creek
Registered Owners:	Fee, Zoe J
Civic Address:	3168 Pass Creek Rd
Legal Description:	Lot 44 Plan Nep5486 District Lot 8773 Kootenay Land District Except Plan Nep82064.
Zoning:	Unzoned
ALR:	No

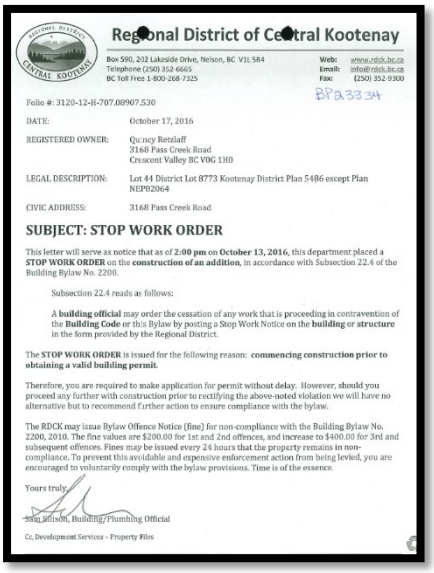
SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the RDCK Board to consider placing a Notice on Title on the above noted property as a consequence of a building bylaw contravention-**Expired permit.**

SECTION 2: BACKGROUND/ANALYSIS

Oct 10, 2014 – Building permit (BP) BP21036 was issued to construct a porch.
Oct 20, 2014- No inspection letter was sent to the owner.
Sep 23, 2016- Pending expiry letter sent to the owner.
Oct 10, 2016- BP21036 expired.
Oct 13, 2016- Stop-Work Order (SWO) was posted on the construction of the addition for: commencing construction prior to obtaining a valid building permit.

Notice on title 00682 – Fee, Zoe J
3168 Pass Creek Rd



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BP23334

Folio #: 3120-12-H-707.08907.530

DATE: October 17, 2016

REGISTERED OWNER: Quincy Retzlaff
3168 Pass Creek Road
Crescent Valley BC V0G 1H0

LEGAL DESCRIPTION: Lot 44 District Lot 8773 Kootenay District Plan 5486 except Plan NEP82064

CIVIC ADDRESS: 3168 Pass Creek Road

SUBJECT: STOP WORK ORDER

This letter will serve as notice that as of **2:00 pm** on **October 13, 2016**, this department placed a **STOP WORK ORDER** on the **construction of an addition**, in accordance with Subsection 22.4 of the Building Bylaw No. 2200.

Subsection 22.4 reads as follows:

A **building official** may order the cessation of any work that is proceeding in contravention of the **Building Code** or this Bylaw by posting a Stop Work Notice on the **building** or **structure** in the form provided by the Regional District.

The **STOP WORK ORDER** is issued for the following reason: **commencing construction prior to obtaining a valid building permit.**

Therefore, you are required to make application for permit without delay. However, should you proceed any further with construction prior to rectifying the above-noted violation we will have no alternative but to recommend further action to ensure compliance with the bylaw.

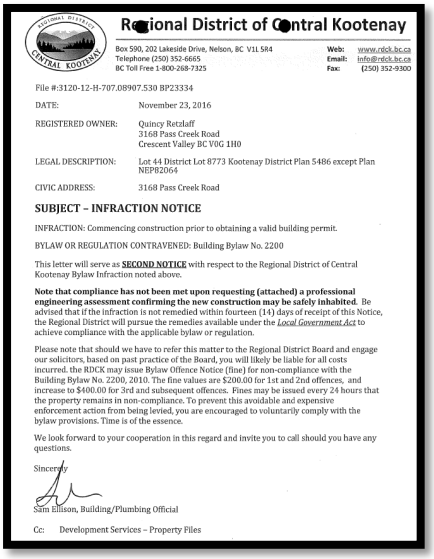
The RDCK may issue Bylaw Offence Notice (fine) for non-compliance with the Building Bylaw No. 2200, 2010. The fine values are $200.00 for 1st and 2nd offences, and increase to $400.00 for 3rd and subsequent offences. Fines may be issued every 24 hours that the property remains in non-compliance. To prevent this avoidable and expensive enforcement action from being levied, you are encouraged to voluntarily comply with the bylaw provisions. Time is of the essence.

Yours truly,

Sam Ellison, Building/Plumbing Official

Cc: Development Services – Property Files

Oct 24, 2016- BP application was received to replace BP 21036.
Nov 04, 2016- Building Department (BD) contacted the owner in regard to Covenant LA137549 requesting that the owner provide Geotechnical report to the RDCK before the BD can issue BP.
Nov 24, 2016- Second SWO notice was sent because the owner was not compliant with Covenant LA137549 requirements.



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Web: www.rdck.bc.ca
Email: info@rdck.bc.ca
Fax: (250) 352-9300

File #:3120-12-H-707.08907.530 BP23334

DATE: November 23, 2016

REGISTERED OWNER: Quincy Retzlaff
3168 Pass Creek Road
Crescent Valley BC V0G 1H0

LEGAL DESCRIPTION: Lot 44 District Lot 8773 Kootenay District Plan 5486 except Plan NEP82064

CIVIC ADDRESS: 3168 Pass Creek Road

SUBJECT – INFRACTION NOTICE

INFRACTION: Commencing construction prior to obtaining a valid building permit.

BYLAW OR REGULATION CONTRAVENED: Building Bylaw No. 2200

This letter will serve as **SECOND NOTICE** with respect to the Regional District of Central Kootenay Bylaw Infraction noted above.

Note that compliance has not been met upon requesting (attached) a professional engineering assessment confirming the new construction may be safely inhabited. Be advised that if the infraction is not remedied within fourteen (14) days of receipt of this Notice, the Regional District will pursue the remedies available under the *Local Government Act* to achieve compliance with the applicable bylaw or regulation.

Please note that should we have to refer this matter to the Regional District Board and engage our solicitors, based on past practice of the Board, you will likely be liable for all costs incurred. the RDCK may issue Bylaw Offence Notice (fine) for non-compliance with the Building Bylaw No. 2200, 2010. The fine values are $200.00 for 1st and 2nd offences, and increase to $400.00 for 3rd and subsequent offences. Fines may be issued every 24 hours that the property remains in non-compliance. To prevent this avoidable and expensive enforcement action from being levied, you are encouraged to voluntarily comply with the bylaw provisions. Time is of the essence.

We look forward to your cooperation in this regard and invite you to call should you have any questions.

Sincerely

Sam Ellison, Building/Plumbing Official

Cc: Development Services – Property Files

Jan 03, 2017- Geotechnical received from P Eng.
Jan 05, 2017- Building Administrative Assistant (BAA) contacted the owner for new covenant signature.
Mar 23, 2017- Geohazard covenant CA5875224 registered.
May 10, 2017 – Building permit BP 23334 was issued as a replacement permit to complete BP21036.
Jun 16, 2017- Change of ownership from Mr Retzlaff to Ms Fee.
Aug 03, 2017- Change of ownership letter sent.
Feb 26, 2020- Pending Expiry letter sent.
Jun 08, 2020- BAA mailed final expiry.
Jul 16, 2020- Emailed reminder to book inspections.

Notice on title 00682 – Fee, Zoe J
3168 Pass Creek Rd

Aug 27, 2020- BAA left message to call the office to discuss booking an inspection or possible NoT.
Dec 10, 2020- BAA left message to call the office to discuss booking an inspection or possible NoT.
Feb 01, 2021- Bldg Dept will proceed to NoT.
Feb 1, 2023- No Further contact from the owner.

SECTION 3: DETAILED ANALYSIS

3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan:	☐ Yes	☒ No	**Financial Plan Amendment:**	☐ Yes	☒ No
Debt Bylaw Required:	☐ Yes	☒ No	**Public/Gov't Approvals Required:**	☐ Yes	☒ No

In keeping with past practice, and further to Building Bylaw Section 22, the following estimate of penalties and costs are provided:

Notice on Title Removal Fee	$750.00
RDCK Building Permit Fee based upon total value of construction in the case of a Stop Work Order (estimated)	$1500.00
Penalty as per Clause 22.3 of Building Bylaw (25% of the Building Permit fee) minimum	$200.00

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

1. Section 57 Community Charter;
2. BC Building Code;
3. RDCK Policy No. 400-01-03 Action for Compliance – Notice on Title Procedures;
4. Building Bylaw Contravention – This contravenes RDCK Building Bylaw 2200, Section 13.3.3 the permit shall expire and the rights of the owner shall terminate in the event and at the time that either of the above conditions is not met or in any event thirty-six months after the date the permit was issued.

3.3 Environmental Considerations

N/A

3.4 Social Considerations:

N/A

3.5 Economic Considerations:

N/A

3.6 Communication Considerations:

N/A

3.7 Staffing/Departmental Workplace Considerations:

N/A

3.8 Board Strategic Plan/Priorities Considerations:

N/A

SECTION 4: OPTIONS & PROS / CONS

Notice on title 00682 – Fee, Zoe J
3168 Pass Creek Rd

1. Do not accept recommendation as presented – the property will remain in contravention of the BC Building Code and RDCK Building Bylaw.
2. Accept recommendation as presented – file Notice on Title.

SECTION 5: RECOMMENDATIONS

That the Corporate Officer of the Regional District of Central Kootenay be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Regional District Board relating to land at 3168 Pass Creek Rd Electoral Area H, legally described as Lot 44 Plan Nep5486 District Lot 8773 Kootenay Land District Except Plan Nep82064, and further, if an active Building permit or Building application is in place, that it be cancelled; and finally, that information respecting the resolution may be inspected at the office of the Regional District of Central Kootenay on normal working days during regular office hours.

Respectfully submitted,
Graeme Wood_Building/Plumbing Official
Digitally approved by John Southam for BO

CONCURRENCE

Chris Gainham/Building Manager
Digitally approved by Chris Gainham
Sangita Sudan/General Manager of Development and Community Sustainability Services
Digitally approved by Sangita Sudan
Stuart J. Horn/Chief Administrative Officer
Digitally approved by Stuart J. Horn

BY REGISTERED MAIL File: 3135-20-H-707.08907.530-BP023334

REGISTERED OWNERS: Fee, Zoe J

SUBJECT: Notice on Title
CIVIC ADDRESS: 3168 Pass Creek Rd

The Rural Affairs Committee members (RAC**)** hereby invite you to attend and address their meeting, the **March 15, 2023** RAC Committee hybrid meeting (in-person or remote attendance). Please advise in advance whether you and/or a representative, who may be legal counsel, will be attending the Rural Affairs Committee meeting by contacting the Administration Department at (250) 352-1575 or by email chopkyns@rdck.bc.ca no less than 3 business days prior to the meeting. Further instructions will be given when you contact the administrative department that you want to be present in the meeting. The next meeting date is as follows:

Date:	**March 15, 2023**
Time:	Delegations will be received beginning at **9:00 am.** Please follow the instructions provided by the Administration Department and wait until your item is called to be dealt with by the Committee. **(Maximum 15 minutes for each delegation 10 minutes presentation, 5 minutes question)**
Location:	Conducted remotely-please refer to the attached letter

At this time, committee members will consider making a recommendation to the Regional District Board to direct the Corporate Officer to file a Notice, in the Land Title Office under Section 57 of the *Community Charter,* against the above noted property.

Please advise in advance whether you and/or a representative, who may be legal council, will be present at the Rural Affairs Committee meeting by contacting the Administration Department at (250) 352-1575 or by email chopkyns@rdck.bc.ca no less than 3 business days prior to the meeting.

Should you prefer not to attend the RAC meeting and have no objection to the filing of the subject Notice, please sign and return the attached statement in the stamped, self-addressed envelope. All owners named on the statement must sign this statement. This will allow the Corporate Officer to proceed with filing of the Notice against your property in the Land Title Office. A copy of the Notice will be forwarded for your records.

A copy of the building official's report relative to your property is attached for your reference, as well as a copy of Section 57 of the *Community Charter*.

In order to avoid a Notice on Title, you must contact the building department to resolve concerns noted in the building official's report **no later than 2 business days prior** to the meeting. For specific building inspection inquiries respecting the above, you may contact the writer at either 1-800-268-7325 or (250) 352-8156.

Yours truly,

Notice on title 00682 – Fee, Zoe J
3168 Pass Creek Rd

Building Official

Enclosures

CC: Electoral Area H

REGIONAL DISTRICT OF CENTRAL KOOTENAY

FILING OF SECTION 57 NOTICE

Building / Plumbing Official
Regional District of Central Kootenay
Box 590
202 Lakeside Drive
NELSON, BC
V1L 5R4

I**,** Fee, Zoe J hereby confirm that we have no objection to the Corporate Officer of the Regional District of Central Kootenay filing a Notice in the Land Title Office under Section 57 of the *Community Charter* against our/my property legally described as Lot 44 Plan Nep5486 District Lot 8773 Kootenay Land District Except Plan Nep82064.

_____ _____

DATE Fee, Zoe J

Notice on title 00682 – Fee, Zoe J
3168 Pass Creek Rd

March 15, 2023 RAC Committee Meeting will be conducted Hybrid meeting (in-person or remote attendance)

To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote. Please refer to the instructions provided if you and/or a representative, who may be legal council wish to attend this meeting remotely.

File No: 3135-20-«FolioNumbers»

Click here to enter a date.

«Name1»«Name2»
«MailingAddress»

Dear «Name1»and «Name2»:

RE: FILING OF NOTICE IN LAND TITLE OFFICE UNDER SECTION 57 OF THE COMMUNITY CHARTER
«LongLegals»

We wish to advise that the Board, at its meeting held Click here to enter a date., adopted the following resolution:

Click here to enter text.

Pursuant to Resolution Click here to enter text., a Notice has been forwarded to the Land Title Office for filing against your property, a copy of which is attached for your records.

The Community Charter offers the following avenues of resolution respecting removal of the Notice:

58(1) "On receiving a report from a building inspector that the condition that gave rise to the filing of the notice under section 57(3) has been rectified, the corporate officer must file a cancellation notice and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates."

58(2) "An owner of land with respect to which a notice has been filed under section 57(3), may apply to the council for a resolution that the note be cancelled."

58(3) "After hearing an applicant under subsection (2), the council may pass a resolution directing the corporate officer to file a cancellation notice."

We also wish to bring to your attention that pursuant to Regional District of Central Kootenay Building Bylaw No. 2200, 2010, you will be charged an Administrative Fee of $750.00 for removal of the "Notice on Title".

If you have any questions, please contact the Building Inspection Department at 250.352.8155.

Sincerely

Sangita Sudan
General Manger of Development Services

Notice on title 00682 – Fee, Zoe J
3168 Pass Creek Rd

Attachment

c.c. BC Assessment Authority
Interior Health Authority, Nelson

Committee Report

Date of Report: 02, 28, 2023
Date & Type of Meeting: 03, 15, 2023, Rural Affairs Committee
Author: Zachari Giacomazzo, Planner
Subject: NON-FARM USE IN THE AGRICULTURAL LAND RESERVE
File: A2210B
Electoral Area/Municipality B

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Board to consider an application for a Non-Farm Use within the Agricultural Land Reserve (ALR) at 3211 Highway 3 in Erickson and legally described as Lot 3, District Lot 812, Kootenay District Plan 13008 (PID: 008-932-344) in Electoral Area 'B'.

The proponents of this application are seeking to expand an existing 56 m^2 accessory building currently accommodating a pet food and pet supplies business to allow a proposed 168 m^2 building for that same purpose. This expansion would exceed the maximum permitted size of 100 m^2 for home occupation uses as per the ALR Use Regulation (BC Reg. 30/2019). Staff recommend that the Board support the application.

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION
Property Owner: Kootenay Pet Stop Ltd.
Property Location: 3211 Highway 3, Erickson
Legal Description: LOT 3 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN 13008 (PID: 008-932-344)
Property Size: 0.26 hectares (0.64 acres)
Current Zoning: General Commercial (C2) – Comprehensive Land Use Bylaw No. 2316, 2013
Current Official Community Plan Designation: General Commercial (GC) – Comprehensive Land Use Bylaw No. 2316, 2013

SURROUNDING LAND USES
North: Commercial
East: Residential
South: Agriculture
West: Residential/Commercial

Site Context

The subject property is located in Erickson in Electoral Area 'B' of the Regional District of Central Kootenay. The parcel is zoned General Commercial (C2) and designated General Commercial (GC) under *Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013*. The property is privately owned and entirely within the ALR.

The subject property is owned and operated by Kootenay Pet Stop Ltd. It is currently used for residential and commercial purposes.

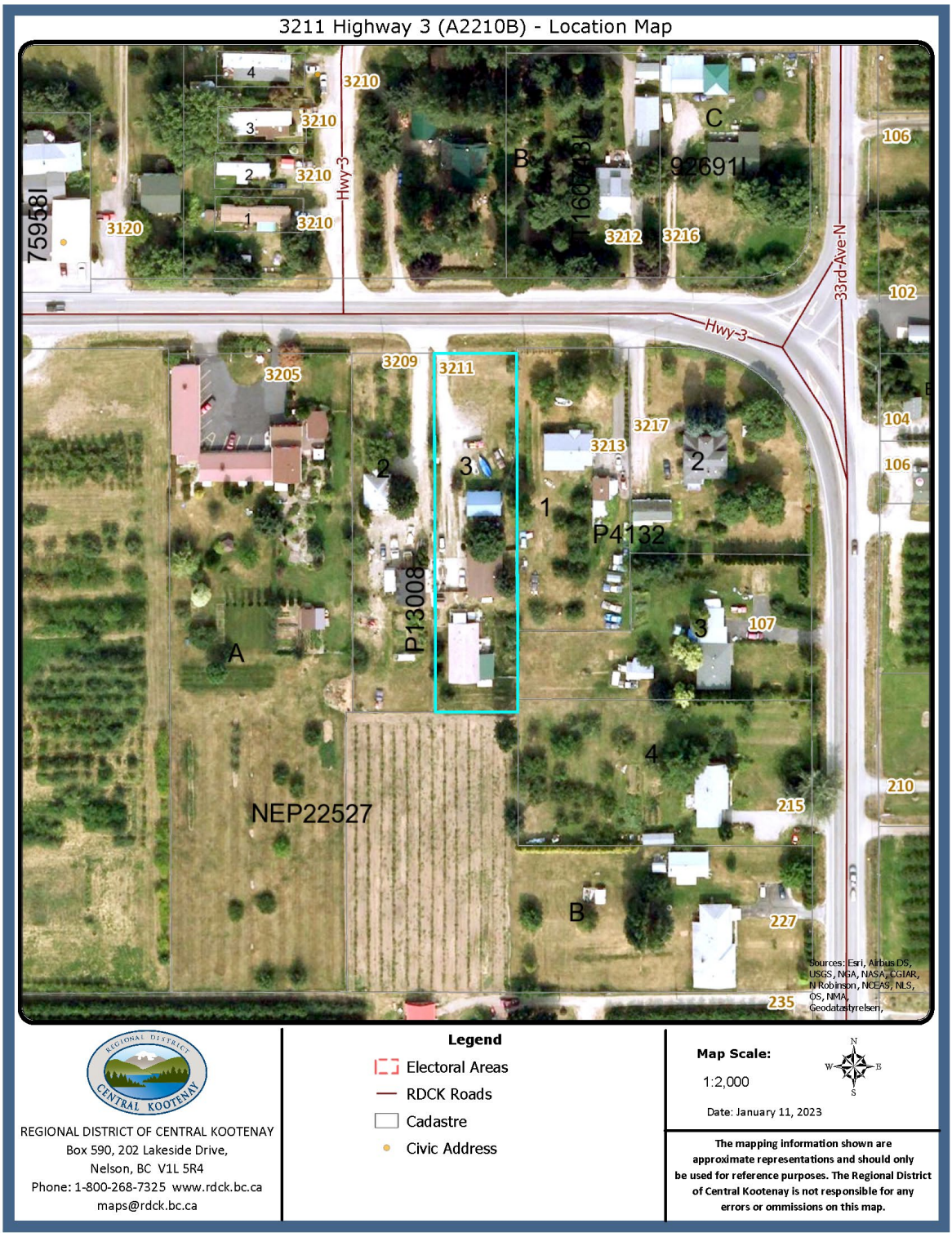

Figure 1 - Location Map

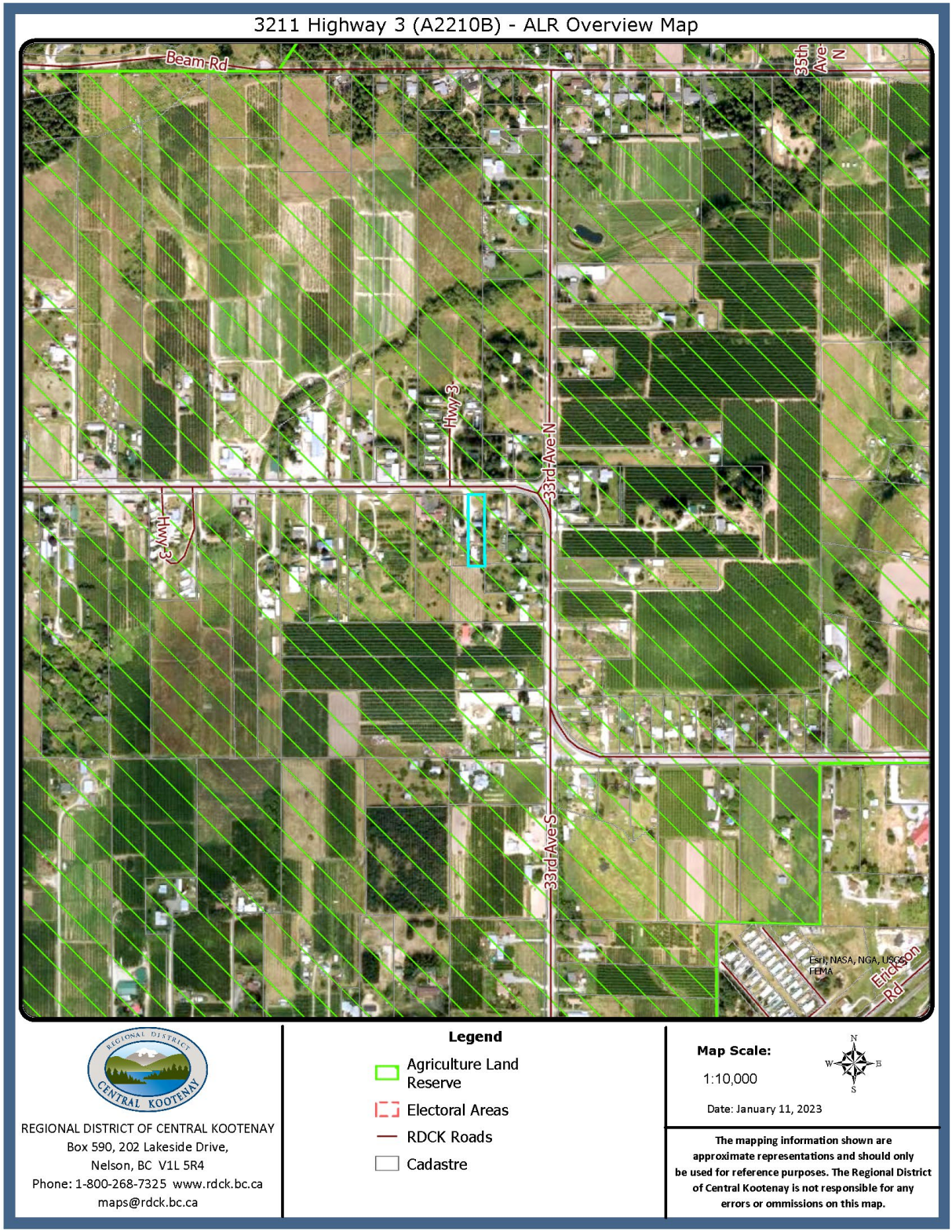

Figure 2 - ALR Overview Map

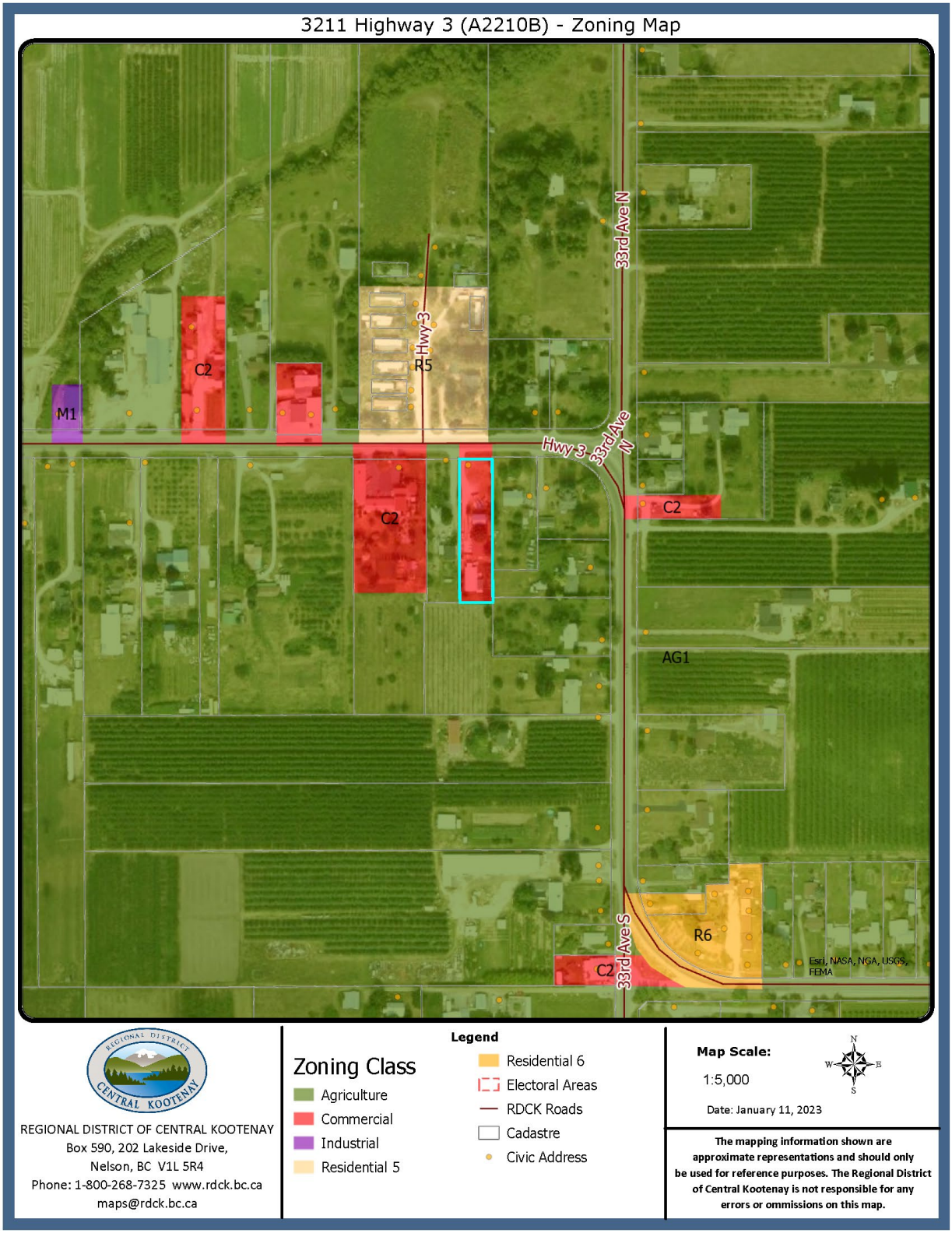

Figure 3 - Zoning Map

Development Proposal

There is an existing manufactured home towards the rear of the lot that was established in 1998 and there are two existing accessory structures: a garage associated with the residential use and the 56 m^2 building that is used for a "pet food and pet supplies business" which is subject to this current Non-Farm Use Application. The proposed addition would bring the GFA of this building to approximately 168 m^2. The proposed building will comply with the zoning regulations in *Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013*, however the proposed size of the building will exceed the maximum permitted building area of 100 m^2 pursuant to Section 24 (1) of the ALR Use Regulation (B.C. Reg. 30/2019). See "Figure 4 – Site Plan" for additional details.

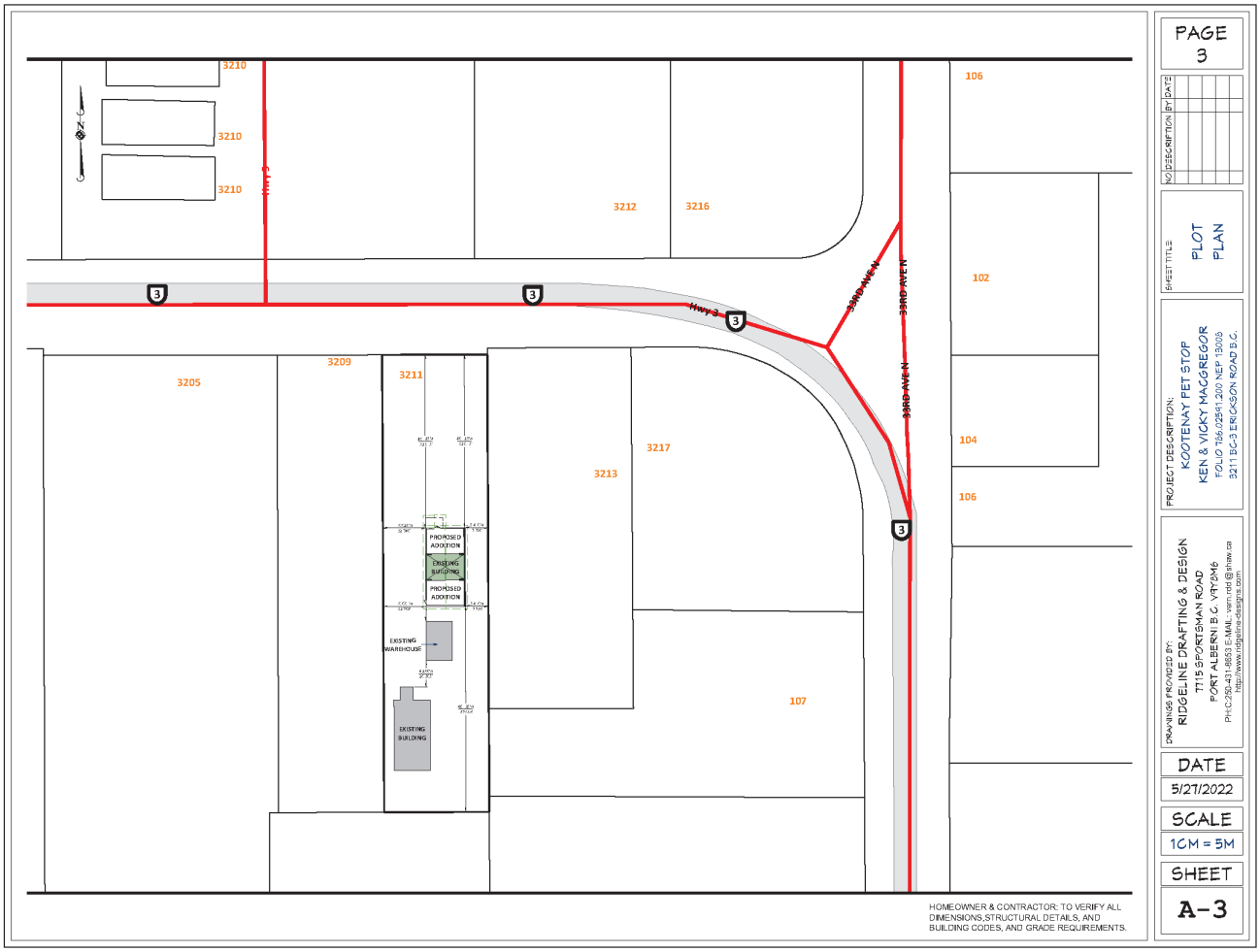

Figure 4 - Site Plan

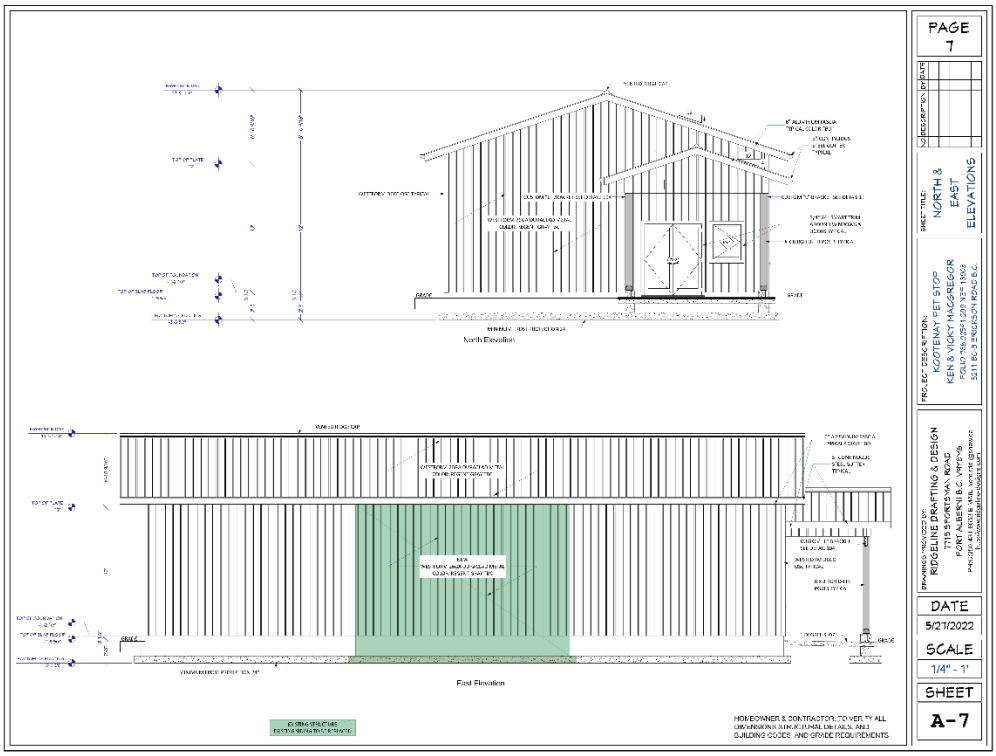

Figure 5 – North and East Building Elevations

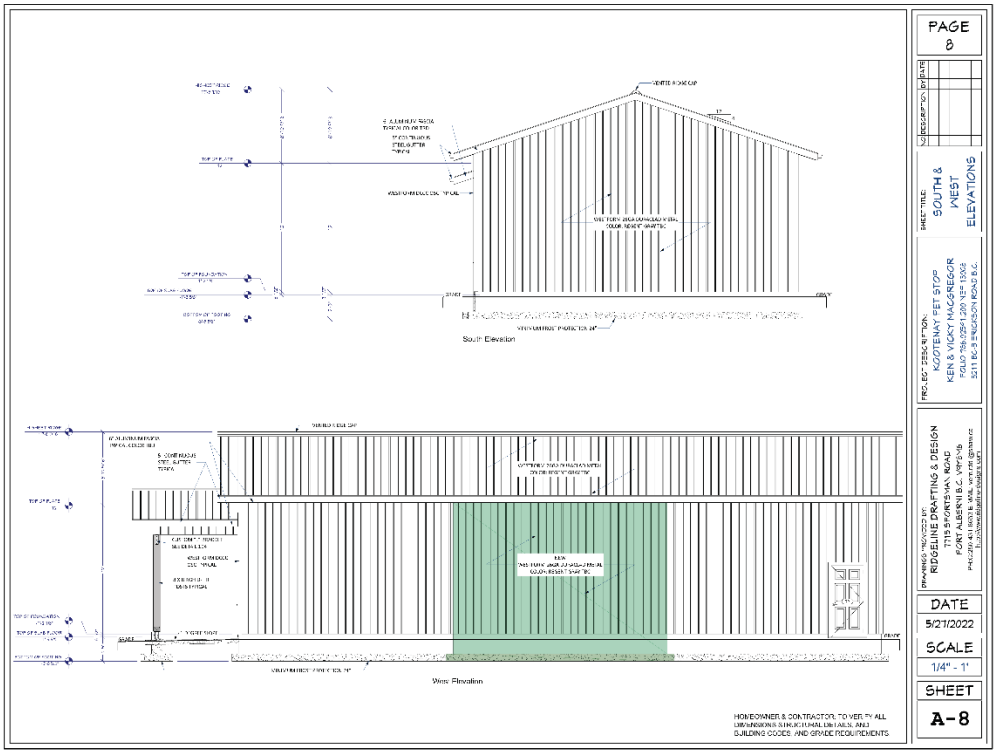

Figure 6 - South and West Building Elevations

Agricultural Area Plan

The Regional District's Agricultural Area Plan (2011) seeks to ensure that the agricultural capability of the area is realized and protected, and reflects the priorities and needs identified by residents of the Central Kootenay's. The purpose of the Agriculture Area Plan is to ensure that the agricultural capability of the area is realized and protected as part of a secure food supply for the region. Agriculture in the Region is characterized by its diversity, with larger operations predominantly in the Creston Valley and many small-lot farms spread across the RDCK. The Plan's recommendations address all sizes and forms of farm operations.

Some of the issues facing farmers and food producers in the region were identified through public consultation when the Agriculture Plan was developed. Some of the issues that are relevant to the current report include:

- ongoing loss of farmland; and,
- farm income cannot support the purchase of land at residential / recreational market values.

The report goes on to make several recommendations which address agricultural viability, capability and secure food supply recommendations. The recommendation relevant to this application are listed below:

CAPABILITY RECOMMENDATION #3 It is recommended that the RDCK encourage the protection of agricultural land where appropriate, through the Official Community Plan process and other land use planning tools.

It is recommended that the RDCK encourage the Agricultural Land Commission to update their ALR decision making guidelines incorporating criteria that acknowledges the unique characteristics of this region and the productive capabilities of smaller parcels.

Agricultural Land Use Inventory

The RDCK's Agricultural Land Use Inventory, 2016 (ALUI) was developed for the purpose of building a common understanding of agriculture within the RDCK. The agriculture in the area is predominantly tree fruits but there are also vegetable crops. There are no livestock operations directly adjacent to the subject property however there are dairy, horse and chicken operations in the surrounding area. There are no cereal or oilseed crops in the area.

Within the RDCK, 30% of the effective ALR was in farmed land cover that includes cultivated crops and barns. 23% of ALR parcels were used for farming and 77% were not used for farming. Farming activities includes forage and pasture, cereals and oilseeds, and tree fruits.

The Agricultural Land Use Inventory (The Inventory) defines the nature of farming practices. Parcel size must be considered when determining the agricultural potential of a parcel. Larger parcels usually allow farmers greater flexibility to expand or change their type of operation as the economy and markets change. Some types of agriculture can be successful on small parcels (e.g. intensive market gardens, nurseries, and poultry), however, the number of viable faming options generally decreases with a reduced parcel size. Smaller parcels are generally more costly per hectare than larger parcels, and can easily be disassembled from larger farm units and sold. Larger parcels accommodate equipment more efficiently and reduce the need to move farm equipment on public roads.

The Inventory outlines that there is evidence that small parcels are less likely than larger parcels to be utilized for farming. In the Regional District there are 1,178 ALR parcels that are less than 1 hectare. Of these parcels, 5% (60 parcels) are "Used for Farming", 21% (245 parcels) are "Available for Farming", and 74% (873 parcels) are

"Unavailable for Farming". Residential use accounts for the majority of the small and "Unavailable for Farming" parcels.

The ALUI identifies that the Creston Valley will continue to be the hub of agriculture in the region. Although the subject property is located in a very important agricultural region, the existing buildings and structures on the lot coupled with a limited lot area do not make agricultural uses on this specific property feasible. The majority of the parcels that are directly adjacent to this property are also relatively small and noted as "residential" uses in The Inventory.

Agricultural Capability Rating

The subject property is located with Class 1 and 2 lands with the limitation subclass of class 2 being topography. 70% of the land area is identified as capability class 1 and 30% of the land area is identified as capability class 2.

Land Capability Class	Unimproved Rating	Improved Rating
7:1~3:2T	No unimproved rating	70% Class 1 30% Class 2T

Limitation Subclass	Description
T	Topography

Soil Class	Description
Class 1	Land in this class either has no or only slight limitations that restrict its use for the production of common agricultural crops.
Class 2	Land in this class has minor limitations that require good ongoing management practises or slightly restrict the range of crops, or both.

Soil Type

The Soil Resources of the Nelson Area published by the BC Ministry of Environment categorizes soils having similar agriculturally important characteristics into 'soil association descriptions'. The subject property is composed of soils from the Creston Association. A description of the agricultural management implications for the Creston Association is included below:

Soil Class	Description
Creston	The areas occupied by Creston soils have favourable climatic characteristics and are very productive agriculturally when irrigated. The Creston soils are particularly suited for tree fruits and presently most orchards in the Creston area are located on these soils. These productive soils should be retained for agricultural production.

Agricultural Land Use Inventory

The RDCK maintains an Agricultural Land Use Inventory (ALUI) to better understand the state of agriculture across the region. The ALUI indicates that the majority of the land surrounding the subject property is used for Residential and Tree Fruit Orchards.

SECTION 3: DETAILED ANALYSIS

3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan:	☐ Yes	☒ No	**Financial Plan Amendment:**	☐ Yes	☒ No
Debt Bylaw Required:	☐ Yes	☒ No	**Public/Gov't Approvals Required:**	☐ Yes	☒ No

The applicant has paid the $750 referral fee pursuant to the Planning Procedures and Fees Bylaw No. 2457, 2015.

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

The application was processed in accordance with the Planning Procedures and Fees Bylaw No. 2457, 2015.

RDCK Bylaw and Policy Review

The subject property is zoned General Commercial (C2) under *Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013.* The C2 zone permits Retail Stores and Warehousing. Based on the information provided by the applicant, Retail Store and Warehousing would be the permitted uses that most closely relate to the existing business. The zoning bylaw does not define "warehousing" but the common definition is "the practice or process of storing goods in a warehouse." The definition of "Retail Stores" from the zoning bylaw is included below.

The RDCK OCP and Zoning Bylaw land use designations of this property are not aligned with the reality of this property being governed by the ALC Act and Regulations. In these situations, the more restrictive regulation applies, which in this case is the ALC Regulations. Consequently, although the relevant OCP policies for the existing commercial designation of the subject property are included below, they are somewhat irrelevant given that the ALC policies and regulations permit mostly agricultural activities and discourage non-farm uses.

***RETAIL STORES** means a place of business in which merchandise is sold;*

Relevant Objectives and Policies

Commercial Objectives

1. To enhance the long term vitality and economic sustainability of the Plan area by supporting new and existing businesses and the creation of employment.
2. To provide for commercial activities servicing the needs of local residents and tourists.
3. To direct commercial development to existing residential nodes and the Town of Creston where services and amenities are more readily available.
4. To minimize land use incompatibility between commercial activities and surrounding land uses by requiring screening and landscaping of new commercial developments.
5. To encourage home based businesses as a means of strengthening the economic base.
6. To accommodate a broad variety of home based businesses.
7. To expand employment opportunities associated with home based businesses and occupations within the Plan area.
8. To support new commercial development in combination with residential use to promote mixed use community areas where appropriate.

9. To accommodate temporary commercial uses in appropriate locations.

General Commercial (GC) Policies

The Regional Board:

19. Directs that existing commercial uses shall be recognized and designated as such.
20. Will encourage the development of neighbourhood commercial areas where appropriate and where the majority of residents in the affected areas have been consulted and are in support of such developments; ensuring the design of such developments is compatible with surrounding land uses.
21. Supports that requirements for screening or landscaping be incorporated into the design of new commercial developments other than home based.
24. Will promote home based businesses as a significant means of satisfying local employment needs provided they do not conflict with or negatively impact on the natural and residential character of communities.
25. Will ensure that home based business opportunities remain flexible and accommodate expanded employment needs.
26. Will ensure that adequate land is designated for commercial uses where deemed appropriate and necessary.

Relevant Agricultural Policies:

The Regional Board:

19. Directs that existing commercial uses shall be recognized and designated as such.
20. Will encourage the development of neighbourhood commercial areas where appropriate and where the majority of residents in the affected areas have been consulted and are in support of such developments; ensuring the design of such developments is compatible with surrounding land uses.
21. Supports that requirements for screening or landscaping be incorporated into the design of new commercial developments other than home based.
22. Will consider the provision of reduced parking in lieu of providing additional amenities to facilitate other modes of transportation such as walking, cycling and transit loading areas in keeping with existing rural form and character.
23. Recognizes the commercial and service center role of the Town of Creston and selected areas within the unincorporated communities of Kitchener, Canyon, Lister, Erickson and Arrow Creek; therefore commercial development in the Plan area will primarily be oriented toward serving local community needs and tourist and traveler needs.
24. Will promote home based businesses as a significant means of satisfying local employment needs provided they do not conflict with or negatively impact on the natural and residential character of communities.
25. Will ensure that home based business opportunities remain flexible and accommodate expanded employment needs.
26. Will ensure that adequate land is designated for commercial uses where deemed appropriate and necessary.

3.3 Environmental Considerations

None anticipated.

3.4 Social Considerations:

There is no public benefit associated with the application.

3.5 Economic Considerations:

None anticipated.

3.6 Communication Considerations:

The application was referred to the Area Director, the Ministry of Agriculture, the Creston Valley Agricultural Advisory Commission and the Advisory Planning Commission for Area C. The following comments were received:

Ministry of Agriculture and Food – Land Use Planner and Regional Agrologist

Thank you for providing Ministry of Agriculture and Food (Ministry) staff the opportunity to comment on File A2210B that proposes to expand an existing home occupation use on the Subject Property. From an agricultural planning perspective, Ministry staff offer the following comments:

- The 0.26 ha Subject Property is located entirely within the Agricultural Land Reserve (ALR), borders ALR land to the south, east and west and Highway 3 to the north and is currently used for residential and commercial purposes that includes a manufactured home and two accessory structures.
- The applicants operate a pet food and supply business in an existing 56 m^2 building and propose to expand the building to 168 m^2.
- Ministry staff note that the Subject Property is not currently used for agriculture and that the existing residential/commercial uses, including the area dedicated to parking/driveway, collectively cover the majority of the Subject Property.
- Given both the small size and historical/current use of Subject Property, it is unlikely to be used for agricultural production in the future and ultimately, is likely to have neither a positive or negative impact on agriculture in the Erikson area.

Director for Electoral Area 'B'

I have discussed this application with some neighbours and there does not seem to be any issue from their perspective.

Creston Valley Agricultural Advisory Committee

The following was discussed:

- There is no agricultural activity on the property
- There's already too many buildings
- Used to be a mechanic shop
- May be contamination on site
- Property mostly changed before the current landowners
- Applicant plans to put a pad, no plumbing, no septic, just a storefront and expanding the floorplate

Moved and seconded, AND Resolved:

That the Creston Valley Agricultural Advisory Commission SUPPORT the Agricultural Land Reserve Application to Ken Macgregor for the property located at 3211 Highway 3 Erickson and legally described as LOT 3 DISCTRICT LOT 812 KOOTENAY DISTRICT PLAN 13008 (PID: 008-932-344) for the Non-Farm Use Application

RDCK Environmental Services Department – Environmental Coordinator

At this time I have no comment as no structures are being added.

RDCK Building Department
Due to the proximity to the lot line on the East and potentially the existing building to the South (distance not indicated) the East and likely South walls would have to be non combustible construction.

Radon remediation would be required as the mercantile occupancy would be occupied for more than 4 hours in a 24 hour period.
The construction drawings indicate that there is 6 inches of crushed gravel and poly under the slab. If this is confirmed it would simplify the installation of a radon remediation system. If not poly and gravel is present under the slab an alternative solution will be required.

The plans do not show interior floor plan details but the structure will be required to be accessible and an accessible washroom must be provided.

Ktunaxa Nation Council
The Ktunaxa Nation Council has no further concerns with this application.

3.7 Staffing/Departmental Workplace Considerations:
Upon receipt of an application accompanied by the required fees and attachments, Planning Department staff follows the 'Agricultural Land Reserve Application Procedure' identified in Schedule 'M' of the Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015. Following a Board resolution, staff will forward the report and the Board resolution to the Agricultural Land Commission.

3.8 Board Strategic Plan/Priorities Considerations:
Not applicable.

SECTION 4: OPTIONS

PLANNING DISCUSSION
The existing pet food and pet supply business and the proposed 112 m^2 addition both comply with the Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316. As such, Planning Staff does not have any land use concerns with the proposed addition. A Building Permit will need to be issued prior to constructing the addition to the existing storage building.

Due to the limited size of the property (0.26 ha) and the fact that there are already three existing non-agricultural structures, the proposed development would not have a significant impact on agricultural land. Prior to the present pet supply business, there have been other Non-Farm Uses operated on this property. As noted by the Creston Valley Agricultural Advisory Commission, the property was most recently used as a mechanic shop prior to Kootenay Pet Stop purchasing the property. The conclusion from the Ministry of Agriculture Land Use Planner and Regional Agrologist was "Given both the small size and historical/current use of Subject Property, it is unlikely to be used for agricultural production in the future and ultimately, is likely to have neither a positive or negative impact on agriculture in the Erikson area."

There are tree fruit orchards immediately south of the subject property, however the storage building considered by this application is located towards the front of the property (Highway 3). Most of the adjacent properties fronting onto Highway 3 are presently residential or commercial uses on lots ranging in size from 0.2 ha to 4.8 ha.

The proposal to expand the existing storage building would not have an impact on the agricultural lands in the surrounding area of Erickson.

For all of the following reasons, staff recommend that the Board support the application:

- The expansion of an existing commercial use that complies with Comprehensive Land Use Bylaw No. 2316 does not create any concerns from the perspective of RDCK Land Use Regulations.
- The commercial use on a 0.26 ha lot does not further erode the Agricultural Land Base.
- The lots adjacent to the subject property that are accessed by Highway 3 are currently used primarily for commercial and residential uses.
- The nearest agricultural use is a tree fruit orchard directly south of the property at 227 33rd Avenue S. Impact on the orchard to the south would be minimal as the commercial building being considered by this application is located at the northern portion of the lot adjacent to Hwy 3 and a one-family dwelling is located at the south end of the property.

Options

Option 1:
That the Board SUPPORT application A2210B for the purposes of a Non-Farm Use in the ALR proposed by Kootenay Pet Stop for property located at 3211 Highway 3 and legally described as Lot 3, District Lot 812, Kootenay District Plan 13008 (PID: 008-932-344).

Option 2:
That the Board PROVIDE NO COMMENT regarding application A2210B for the purposes of a Non-Farm Use in the ALR proposed by Kootenay Pet Stop for property located at 3211 Highway 3 and legally described as Lot 3, District Lot 812, Kootenay District Plan 13008 (PID: 008-932-344).

Option 3:
That the Board NOT SUPPORT application A2210B for the purposes of a Non-Farm Use in the ALR proposed by Kootenay Pet Stop for property located at 3211 Highway 3 and legally described as Lot 3, District Lot 812, Kootenay District Plan 13008 (PID: 008-932-344).

SECTION 5: RECOMMENDATIONS

That the Board SUPPORT application A2210B for the purposes of a Non-Farm Use in the ALR proposed by Kootenay Pet Stop for property located at 3211 Highway 3 and legally described as Lot 3, District Lot 812, Kootenay District Plan 13008 (PID: 008-932-344).

Respectfully submitted,

Zachari Giacomazzo, Planner

CONCURRENCE

Planning Manager – Digitally approved by Nelson Wight.
General Manager Development & Sustainability – Digitally approved by Sangita Sudan.

Chief Administrative Officer – Digitally approved by Stuart Horn.

ATTACHMENTS:
Attachment A – ALC Application

Provincial Agricultural Land Commission - Applicant Submission

Application ID: 66772
Application Status: N/A
Applicant: victoria macgregor , ken macgregor
Local Government: Central Kootenay Regional District
Local Government Date of Receipt: 10/25/2022
ALC Date of Receipt: This application has not been submitted to ALC yet.
Proposal Type: Non-Farm Use
Proposal: Hold Products

Parcel Information

Parcel(s) Under Application

1. **Ownership Type :** Fee Simple
   Parcel Identifier : 008-932-344
   Legal Description : LOT 3 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN 13008
   Parcel Area : 0.3 ha
   Civic Address : 3211 hwy 3. Creston BC V0B 1G1
   Date of Purchase : 10/26/2021
   Farm Classification : No
   Owners
   1. **Name :** [redacted]
      Address :
      [redacted]
      Phone : [redacted]
      Cell : [redacted]
      Email : [redacted]
   2. **Name :** [redacted]
      Address :
      [redacted]
      Phone : [redacted]
      Email : [redacted]

Current Use of Parcels Under Application

1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).
no agriculture

2. Quantify and describe in detail all agricultural improvements made to the parcel(s).
no agriculture improvements

3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).
House and Home-Based Business 55 square metre

Adjacent Land Uses

North

Land Use Type: Transportation/Utilities
Specify Activity : Hwy

East

Land Use Type: Residential
Specify Activity : Home Business/Home

South

Land Use Type: Agricultural/Farm
Specify Activity : Orchard

West

Land Use Type: Residential
Specify Activity : Shop/Home

Proposal

1. How many hectares are proposed for non-farm use?
0.016 ha

2. What is the purpose of the proposal?
Hold Products

3. Could this proposal be accommodated on lands outside of the ALR? Please justify why the proposal cannot be carried out on lands outside the ALR.
No, this is our property

4. Does the proposal support agriculture in the short or long term? Please explain.
We carry pet food , which contains products from the farm south of us

5. Do you need to import any fill to construct or conduct the proposed Non-farm use?

Applicant Attachments

- Proposal Sketch - 66772
- Certificate of Title - 008-932-344

ALC Attachments

None.

Decisions

None.