



# REGIONAL DISTRICT OF CENTRAL KOOTENAY

## Board Report

**Date of Report:** August 28, 2019  
**Date & Type of Meeting:** September 19, 2019 Open Regular Board Meeting  
**Author:** Meeri Durand, Senior Project Planner  
**Subject:** LAND USE AMENDMENT Z1901G-BLOCK  
**File:** 4600-20-Z1901G-BLOCK

### SECTION 1: EXECUTIVE SUMMARY

This application is part of a larger Block Amendment process initiated in Electoral Area G in January 2019. The original Block Amendment included nine properties, of which four were pulled from further consideration, and another two proposals are being considered in a concurrent report to the Rural Affairs Committee with recommendation of a second Public Hearing to allow for additional community input.

The purpose of this report is to consider land use amendments to the *Electoral Area 'G' Land Use Bylaw No. 2452, 2018* under a Block Land Use Amendment for the remaining three properties. If successful, the proposed land use amendments would authorize the following amendments to the OCP and Zoning designation for the following:

115 Burgess Park Road

- **OCP Designation:** From Country Residential (CR) to Rural Residential (RR)
- **Zoning Designation:** From Country Residential (R2) to Rural Residential (R3)

8908 Highway 6

- **OCP Designation:** From Country Residential (CR) to Agricultural (AG)
- **Zoning Designation:** From Country Residential (R2) to Agricultural (AG)

4451 Highway 6

- **OCP Designation:** From Country Residential (CR) to Rural Residential (RR)
- **Zoning Designation:** From Country Residential (R2) to Rural Residential (R3)

Staff recommendation is to proceed with adoption of the proposed land use amendments now that Provincial approval under Section 52 of the Transportation Act has been obtained.

### SECTION 2: BACKGROUND / ANALYSIS

GENERAL INFORMATION		
APPLICANT	LOCATION , SIZE AND LEGAL DESCRIPTION	PROPOSED AMENDMENT
Josh Burrage	115 Burgess Park Road (5.5 Acre) Lot 2 District Lot 1237 Kootenay Land District	From: Country Residential (R2) To: Rural Residential (R3)

	Plan NEP16092 Manufactured Home Regulation #54687 (PID 009-219-021)	
Darren Sutton	8908 Highway 6 (43.14 Acre) Lot A District Lot 273 and District Lot 1237 Kootenay Land District Plan NEP17516 (PID 007-725-094)	From: Country Residential (R2) To: Agricultural (AG)
Guy Argon	4451 Highway 6 (4.57 Acre) Lot 1 District Lot 1239 and District Lot 1241 Kootenay Land District Plan NEP79176 (PID 026-447-142)	From: Country Residential (R2) To: Rural Residential (R3)

The amendments are being pursued as a Block Amendment for properties that made request for land use amendments as part of the Electoral Area G Land Use Bylaw review that concluded in September 2018. The requests were received too far into the process for them to be given adequate consideration by staff and community members at the time. All three proposals are for the purposes of Health Canada licensing for cannabis.

#### **115 Burgess Park Road**

Proposed outdoor micro cultivation license. The proposed amendment involves a 5.5 acre property in a residential area. The community was previously a mixed residential area of both Country Residential (R2) and Rural Residential (R3) parcels which were amended for consistency as part of the community plan review. The property has a manufactured home sited on the property and backs onto forest.

Impacts to water supply and energy supply will need to be addressed as part of the licensing process with Health Canada. There are three ground water wells in the area ranging in depth from 45 metres to 195 metres. The two shallower wells are located up hill from the proposed cultivation site and there is sufficient depth to the other that there is limited risk of contamination. A small creek also transverses across the property. Cultivation siting will need to be at least 30 metres from this watercourse. Odor nuisance will also need to be mitigated by the property owner.

#### **8908 Highway 6**

Proposed outdoor standard cultivation license. The proposed amendment involves a 43.14 acre property in a mixed agricultural and residential area. The property is currently developed with two single family residences and associated accessory buildings. The property is of sufficient size, allowing for siting of operations in a manner as to minimize potential nuisance to adjacent property owners. There is no associated size restriction associated with standard cultivation licenses if grown outdoors.

Impacts to water supply and energy supply will need to be addressed as part of the licensing process with Health Canada. Hearn Creek transects the property and there are areas of seasonal high water adjacent to the creek. No concerns have been raised by external agencies or community members following the referral period and public hearing.

#### **4451 Highway 6**

Proposed indoor micro cultivation license. The proposed amendment involves a 4.57 acre property in a location that is significant distance from other residential properties. The intent is to develop a facility on

an upper bench of the property that is visually obscured from neighbors and the highway. The property falls just under the minimum parcel size for a Rural Residential designation, but it is not unusual for lot sizes to be made non-conforming to minimum site area requirements. The applicant is pursuing a boundary adjustment to increase the parcel size.

Impacts to water supply and energy supply will need to be addressed as part of the licensing process with Health Canada. No concerns have been raised by external agencies or community members following the referral period and public hearing.

**DISCUSSION:**

Each of the properties is of sufficient size for the proposed intent of each proposal and are buffered from adjacent properties to an extent that associated nuisance impact is not anticipated. The proposal for property located 4451 Highway 6 was just under the required site area for cannabis cultivation but is currently pursuing a boundary adjustment to meet minimum site requirements.

The proposed land use amendments and activities may require upgrades to electrical supply. These concerns will need to be addressed as part of the application for licensing for each proponent and will be unique to the circumstances of each property.

The water and odor concerns raised at the Public Hearing with regard to the proposal at 115 Burgess Park Road were investigated further by staff and it was determined that the proposal is sufficiently distanced from adjacent ground water wells and residences as to mitigate impacts. The two of the three groundwater wells in the vicinity are located up hill from the proposal and the other is of sufficient distance and depth as to not be vulnerable to contamination from surface water run off from the proposed outdoor cultivation.

Traffic concerns were raised with regard to a fourth proposal in Rosebud Lake. Due to this being the main concern brought up at the public hearing, planning staff have amended the proposed bylaws to exclude this property to allow for further consultation with those residents along the access route to this site. This property proposal and another in rural Ymir will be subject to a second public hearing in September 2019.

**SECTION 3: DETAILED ANALYSIS**

**a. Financial Considerations – Cost and Resource Allocations:**

<b>Included in Financial Plan:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<b>Financial Plan Amendment:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
<b>Debt Bylaw Required:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<b>Public/Gov't Approvals req'd:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

The Block Amendment is being undertaken by the RDCK to resolve unresolved requests from the Area G Land Use Bylaw review process that concluded in September 2018.

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

The proposed land use amendments were subject to a Public Hearing held on May 9, 2019 in accordance with Section 464 of the *Local Government Act*.

**c. Environmental Considerations:**

Cannabis cultivation can have several environmental consequences associated with increased energy needs, water consumption and in association with waste water disposal. The three proposals being

recommended to move forward are small scale and have addressed these concerns through design considerations and siting of the proposed cultivation activity.

**d. Social Considerations:**

Potential impacts to the use and enjoyment of land for neighbouring property must be considered. Notification of the proposal was distributed by mail to adjacent property owners of all four properties. Concerns raised at the public hearing were specific to traffic volume in Rosebud Lake and groundwater contamination and odor on Burgess Park Road. The groundwater and odor concerns have since been determined to be of sufficient distance from the proposed outdoor cultivation area.

**e. Economic Considerations:**

There is the potential for the creation of local employment opportunities with all three proposals.

**f. Communication Considerations:**

Notice of Public Hearing in accordance with Section 464 of the *Local Government Act* was sent to adjacent property owners for each property.

**g. Staffing/Departmental Work Plan Considerations:**

This application falls under the operational role of Planning Services.

**h. Board Strategic Plan/Priorities Considerations:**

This application falls under the operational role of Planning Services.

**SECTION 4: OPTIONS & PROS / CONS**

**Option 1:**

THAT *Regional District of Central Kootenay Bylaw No. 2672, 2019* being a bylaw to amend the *Electoral Area G Land Use Bylaw No. 2452, 2018* is hereby ADOPTED;

AND FURTHER that the Chair and Corporate Officer be authorized to sign the same.

**Pro**

This option would allow applicants to pursue Health Canada licensing in a shorter time frame. The two property proposals along Highway 6 required Provincial approval due to their location on a controlled highway. This approval has been obtained.

**Con**

Due to public concerns with regard to concurrent proposals, a second public hearing was needed to be held for a property in Rosebud Lake and Rural Ymir. This was hosted on September 5, 2019 and will be considered under a separate report.

**Option 2:**

THAT no further action be taken with respect to the *Regional District of Central Kootenay Bylaw No. 2672, 2019* being a bylaw to amend the *Electoral Area G Land Use Bylaw No. 2452, 2018*.

**Pro**

Regional District land use regulations will not change.

**Con**

This option has no benefit to the applicants pursuing land use amendments. The proponents will not be able to pursue licencing with Health Canada.

**SECTION 5: RECOMMENDATION(S)**

THAT *Regional District of Central Kootenay Bylaw No. 2672, 2019* being a bylaw to amend the *Electoral Area G Land Use Bylaw No. 2452, 2018* is hereby ADOPTED;

AND FURTHER that the Chair and Corporate Officer be authorized to sign the same.

Respectfully submitted,



Meeri Durand, Senior Project Planner

**CONCURRENCE**

**Initials:**

Planning Manager  
General Manager of Development Services  
Chief Administrative Officer

**ATTACHMENTS:**

**Attachment A – Proposed Bylaw Amendment 2672**

**Attachment B – Public Hearing Minutes Dated May 9<sup>th</sup>, 2019**