



Committee Report

Date of Report: April 3, 2024
Date & Type of Meeting: April 17, 2024, Rural Affairs Committee
Author: Stephanie Johnson, Planner
Subject: DEVELOPMENT VARIANCE PERMIT
File: V2309I-09362.000-SPERLING-DVP00243
Electoral Area/Municipality |

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Regional Board to consider a Development Variance Permit (DVP) application. The subject property is located at 2464 Pass Creek Road in Electoral Area 'I'.

This DVP application seeks to vary Sections 2901.3, 2901.4, and 2901.6 b. of the *RDCK's Zoning Bylaw No. 1675, 2004*, as follows:

- To permit a Farm Residential Footprint of approximately 3,800 m² (40, 903 ft²) whereas the bylaw permits a Farm Residential Footprint of 2,500 m² (26,910 ft²) for a Single Family Dwelling and additional permitted dwelling unit.
- To allow a Farm Residential Footprint with a maximum depth of 200 metres (656 ft) from the Front Lot Line whereas the bylaw requires that the maximum depth of the Farm Residential Footprint shall not exceed 60 metres from the Front Lot Line.
- To permit an accessory dwelling with a maximum Gross Floor Area (GFA) of 136 m² (1,464 ft²) whereas the bylaw permits a maximum GFA of 90 m² (969 ft²).

Staff recommend that the Regional Board approve issuance of this DVP.

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION

Property Owners: Terese Sperling and Arthur Patrick Sperling

Property Location: 2464 Pass Creek Road, Pass Creek, Electoral Area 'I'

Legal Description: DISTRICT LOT 8430 KOOTENAY DISTRICT EXCEPT PART INCLUDED IN PLANS 12090 & 15269 (PID: 016-449-312)

Property Size: 126.7 hectares (ha)

Current Zoning: Agriculture Three (AG3)

Current Official Community Plan Designation: Agriculture (AG)

SURROUNDING LAND USES

North: No zoning / Electoral Area 'H' boundary and a portion of Agricultural Land Reserve (ALR) lands

East: Agriculture One (AG1) and Agriculture Three (AG3) / ALR lands

South: Agriculture 2 (AG1)/ ALR lands and Country Residential I (R2I)

West: Country Residential I (R2I) and no zoning/Electoral Area 'H' boundary

Background Information and Site Context

The 126.7 ha subject property lies partially in the ALR. A small portion of the lot is currently used for hay production adjacent to the existing residence. To the north the parcel abuts the Electoral Area 'H' boundary; agricultural uses to the south; and, a combination of agricultural and country residential uses to east and west. Pass Creek Road bisects the subject site from east to west, and Shepard Drive runs through a portion of the parcel to the south to access lands beyond. Due to the floodplain and creek drainages adjacent to the existing residence, and hay production in front of this existing dwelling the applicant is proposing to develop an additional dwelling unit outside of the floodplain and existing residential footprint to utilize a former house site pre-dating land use regulations in the area, which has existing access, and servicing.

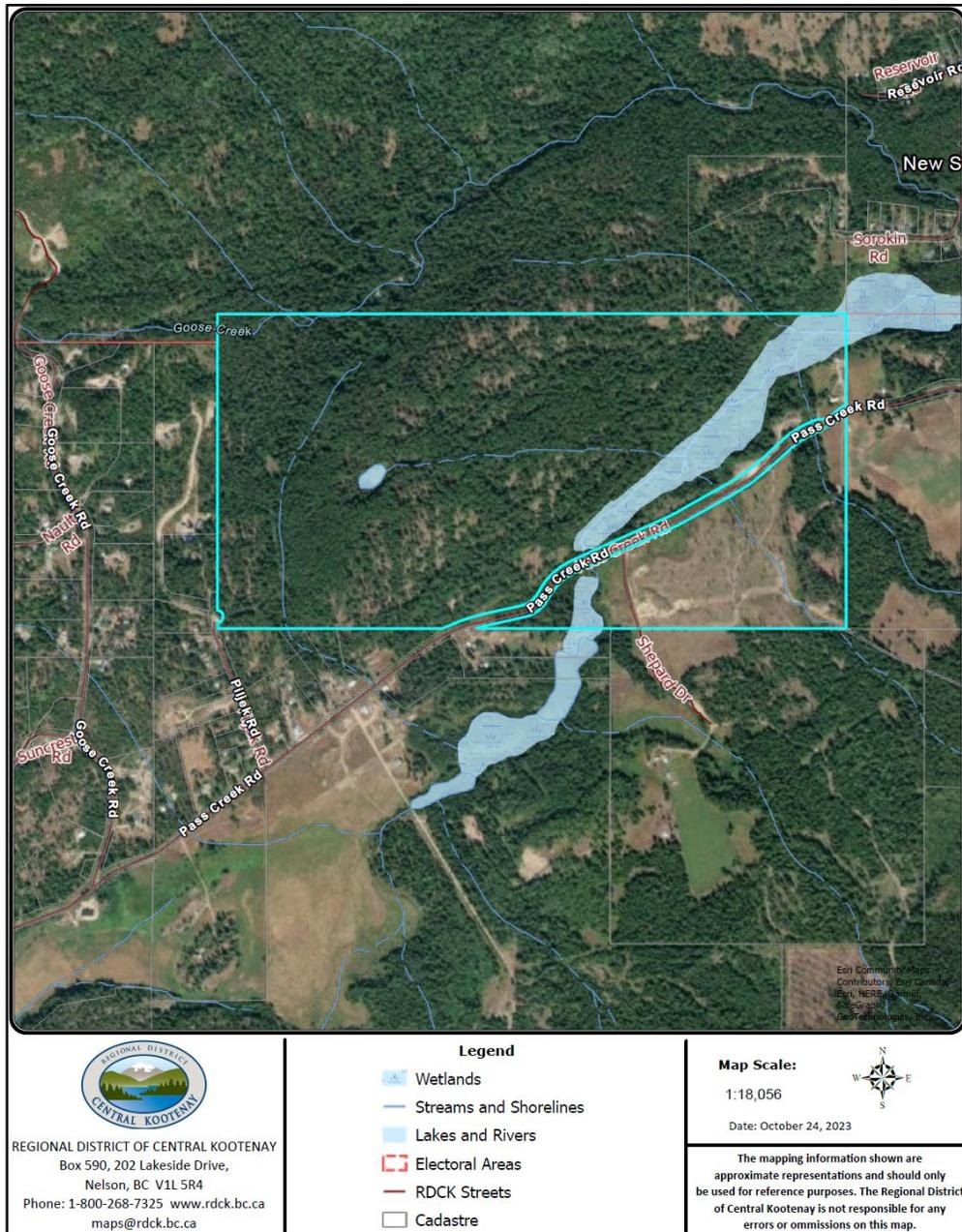
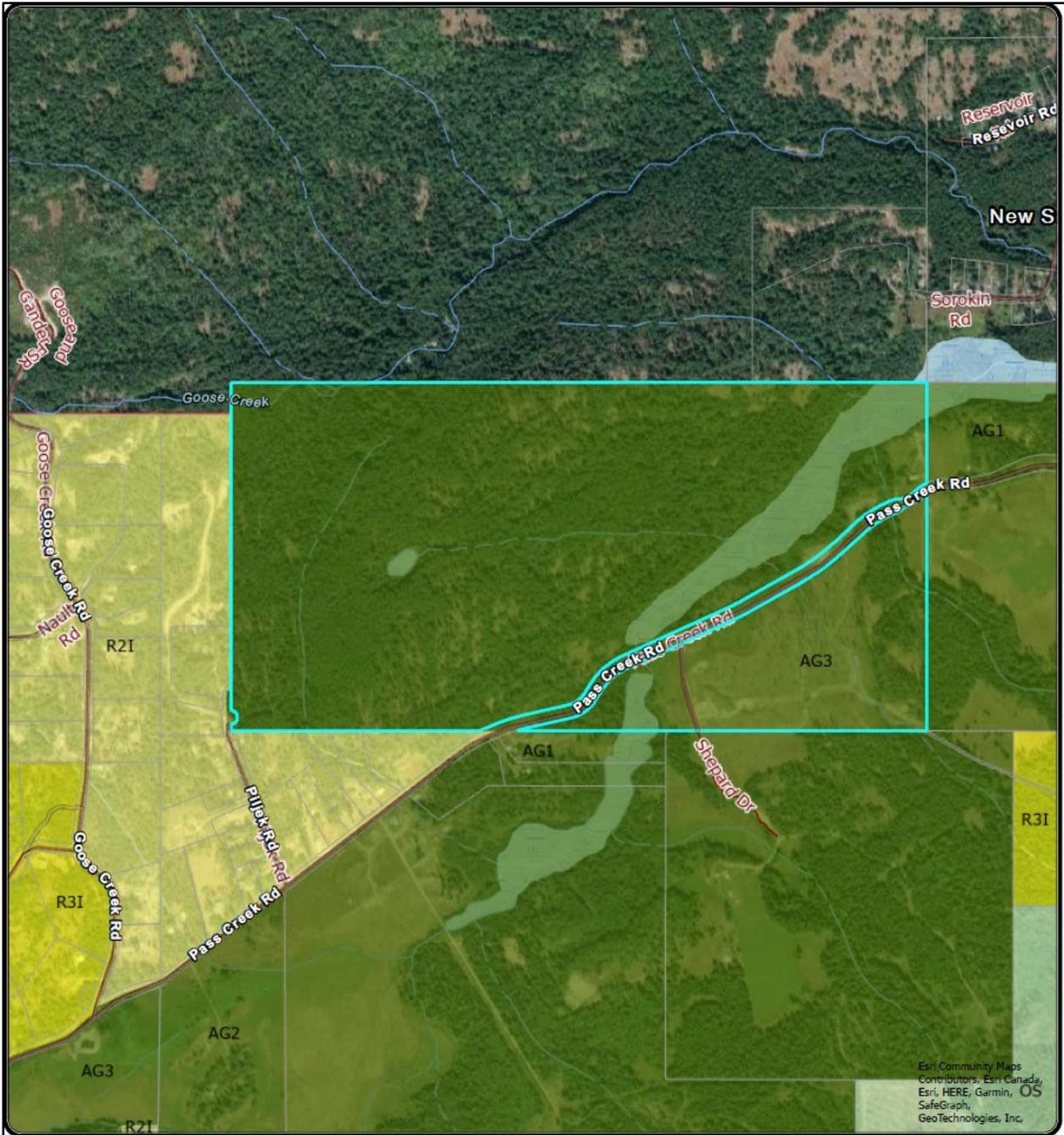


Figure 1: Overview Map




 REGIONAL DISTRICT OF CENTRAL KOOTENAY
 Box 590, 202 Lakeside Drive,
 Nelson, BC V1L 5R4
 Phone: 1-800-268-7325 www.rdck.bc.ca
 maps@rdck.bc.ca

Zoning Class

- Agriculture
- Open Space
- Residential 2
- Residential 3

Legend

- Wetlands
- Streams and Shorelines
- Lakes and Rivers
- Electoral Areas
- RDCK Streets
- Cadastre

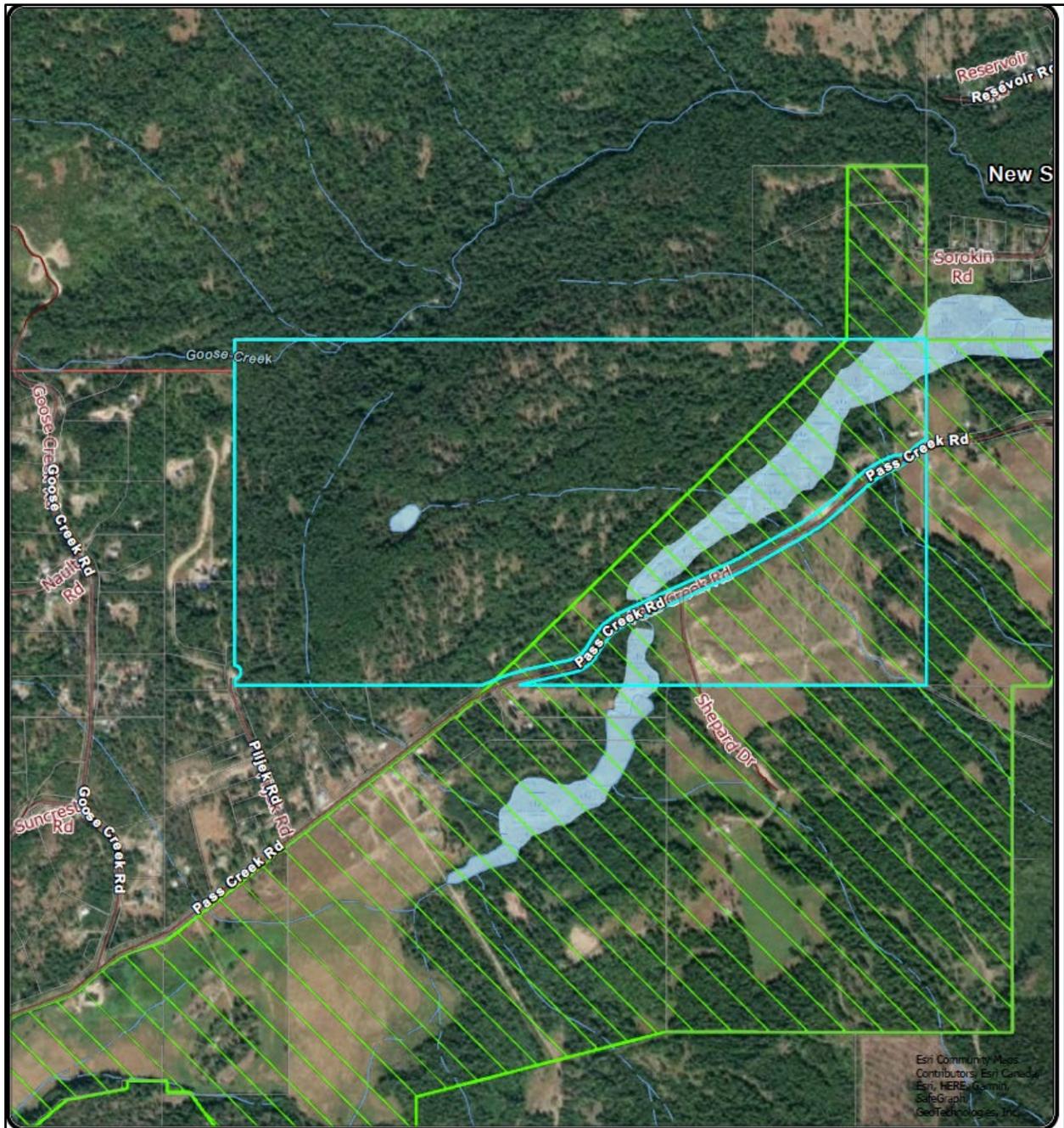
Map Scale:
1:18,056

Date: October 24, 2023



The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.

Figure 2: Zoning Map



 <p>REGIONAL DISTRICT OF CENTRAL KOOTENAY Box 590, 202 Lakeside Drive, Nelson, BC V1L 5R4 Phone: 1-800-268-7325 www.rdck.bc.ca maps@rdck.bc.ca</p>	<p>Legend</p> <ul style="list-style-type: none"> Agriculture Land Reserve Lakes and Rivers Wetlands Electoral Areas Streams and Shorelines RDCK Streets Cadastre 	<p>Map Scale: 1:18,056</p> <p>Date: October 24, 2023</p> <p>The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.</p>
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Figure 3: ALR Map

Development Proposal

This DVP application seeks to permit the construction of an additional dwelling unit for a family member(s) on the subject property. The preferred siting of that dwelling requires variances to Sections 2901.3, 2901.4, and 2901.6 b. of the RDCK's Zoning Bylaw No. 1675, as follows:

Section 2901.3: To permit a Farm Residential Footprint of approximately 3,800 m² (40, 903 ft²) whereas the bylaw permits a Farm Residential Footprint of 2,500 m² (26,910 ft²) for a Single Family Dwelling and additional permitted dwelling unit.

Section 2901.4: To allow a Farm Residential Footprint with a maximum depth of 200 metres (656 ft) from the front property line whereas the bylaw requires that the maximum depth of the Farm Residential Footprint shall not exceed 60 metres from the Front Lot Line.

Section 2901.6 b.: To permit an accessory dwelling with a maximum Gross Floor Area (GFA) of 136 m² (1,464 ft²) whereas the bylaw permits a maximum GFA of 90 m² (969 ft²).

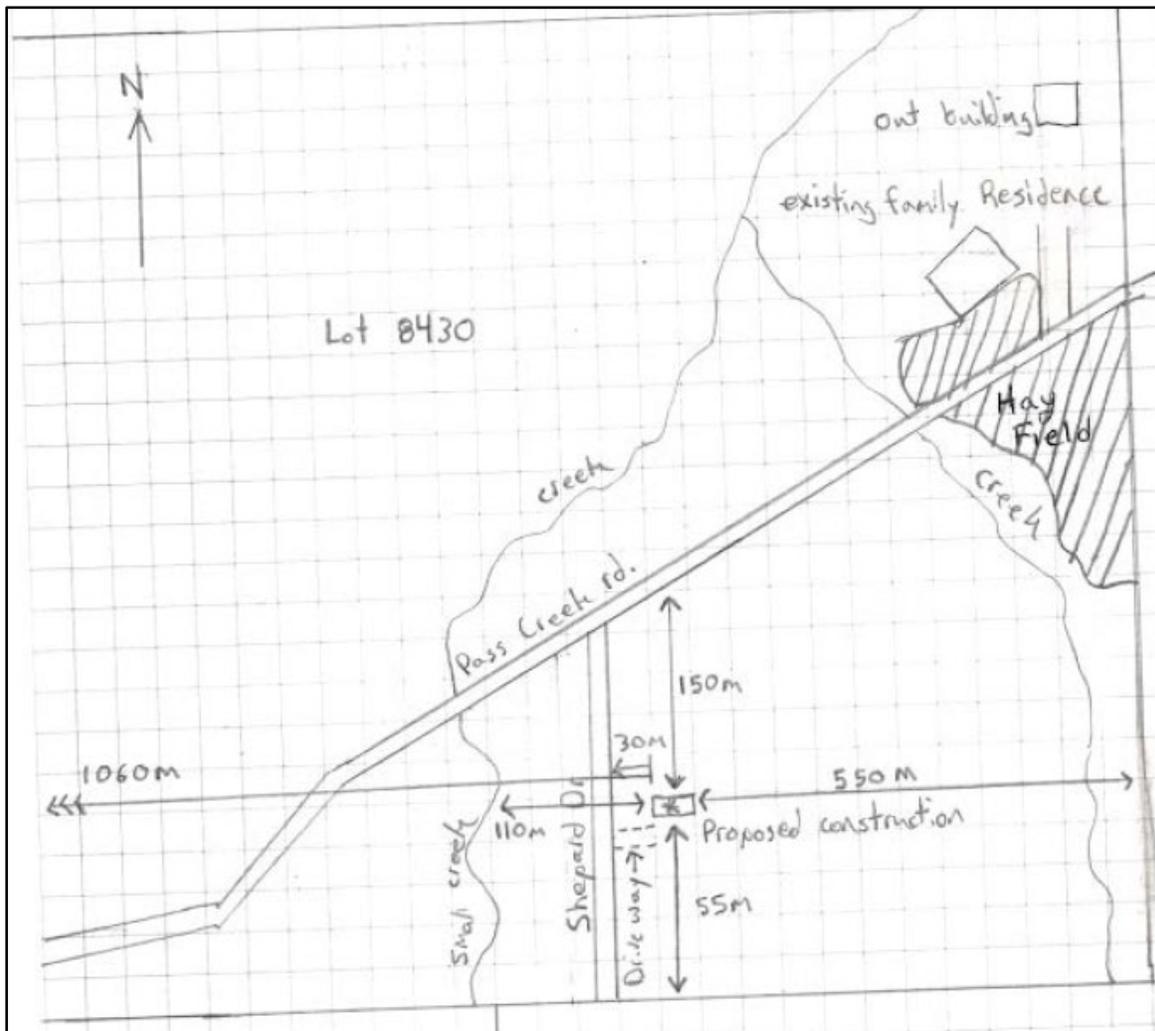


Figure 4: Site Plan showing the proposed Accessory Dwelling location

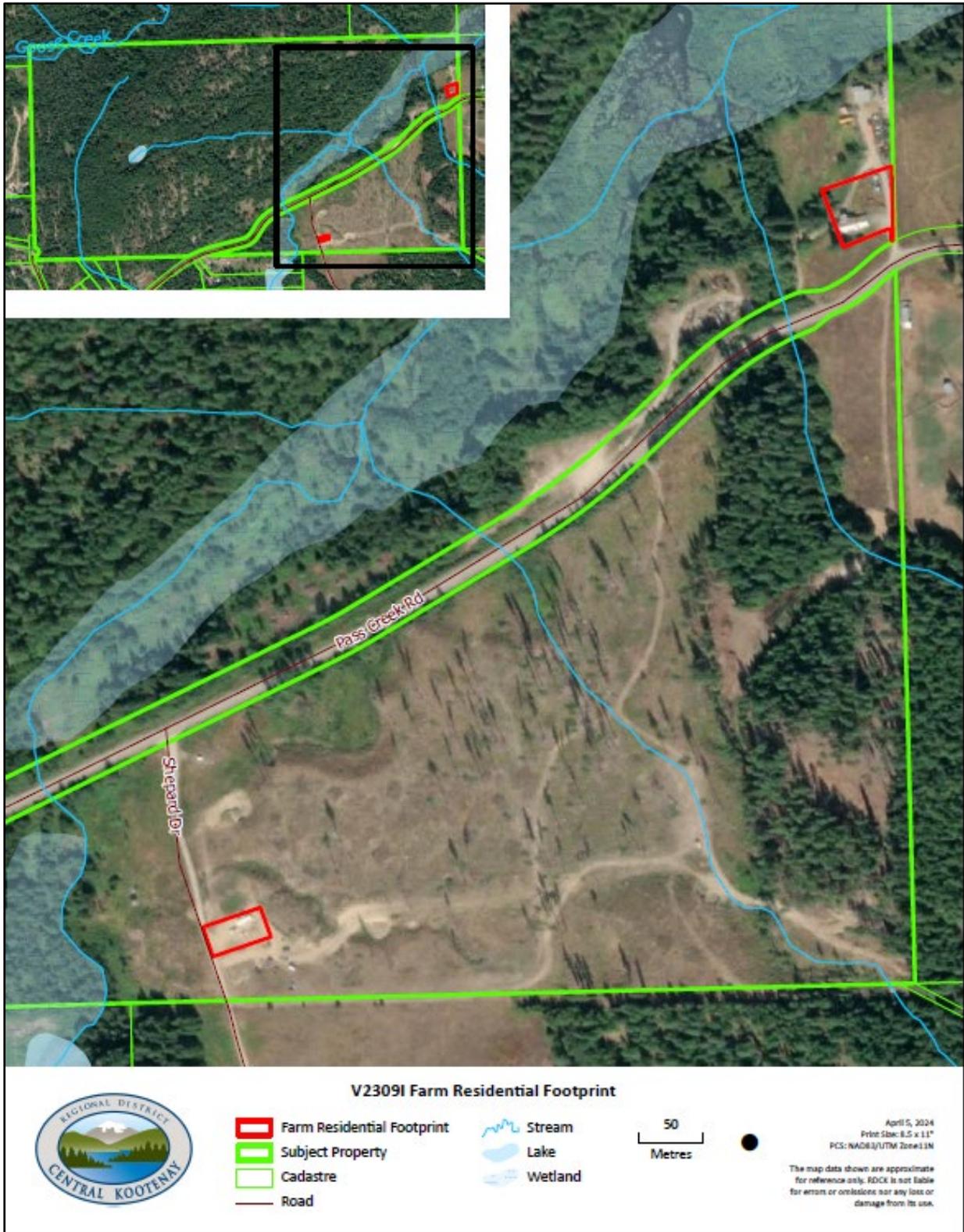


Figure 5 - Conceptual New Farm Residential Footprint – General Overview



Figure 6 – Proposed Accessory Dwelling Unit Elevations

Planning Policy

Kootenay Columbia Rivers Official Community Plan Bylaw No. 1157, 1996

Objectives

2.3. Agricultural

- 2.3.2 To encourage the protection and agricultural use of land with continuing value for agriculture.
- 2.3.3 To encourage optimum use and development of agricultural activities on agricultural land.
- 2.3.4 To encourage agricultural practices that do not adversely affect the surrounding environment nor compromise the capability of the land for future food production.
- 2.3.5 To minimize conflicts between agriculture and other land uses.
- 2.3.7 To promote buffered cluster development to maximize the preservation of suitable agricultural land within the ALR.

Policies

3.4 Agriculture

- 3.4.1. The principal use of lands designated as Agriculture on Schedule 'B' – Land Use Designations shall be agriculture.
- 3.4.2 All land within the Agricultural Land Reserve shall be zoned for agricultural use unless otherwise approved by the Agricultural Land Commission.

- 3.4.4 May consider an accessory dwelling to accommodate farm help and support secondary farm income where the additional density can be sustainably serviced.
- 3.4.14 The clustering of development in either single detached or multi-residential dwellings subject to the maintenance of buffers on agricultural lands will be considered and supported by the Board of the Regional District through zoning regulations.

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 application fee has been paid in full pursuant to the *Planning Fees and Procedures Bylaw No. 2457, 2015*.

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

Under Section 498 of the *Local Government Act (LGA)*, the Board has the authority to vary provisions of a Zoning Bylaw (other than use or density) through a DVP.

3.3 Environmental Considerations

This variance request would permit the applicants to build in a location outside of the existing floodplain and Non Standard Flooding and Erosion Areas on the subject lot, which would be consistent with the Regional District's land use and flood hazard management bylaws.

3.4 Social Considerations:

No negative social considerations are anticipated from this DVP application, however, the applicant's have stated that they intend to improve and actively farm this section of the subject lot south of Pass Creek Road.

3.5 Economic Considerations:

While residential uses can alienate arable land and negatively affect long-term agricultural potential the existing road access and water servicing infrastructure associated with this residential footprint is proposed to assist with increasing agricultural production on this portion of the subject property.

3.6 Communication Considerations:

In accordance with the *LGA* and the RDCK's *Planning Procedures and Fees Bylaw No. 2457, 2015* a sign describing the proposal was posted on the subject property, and notices were mailed to surrounding neighbours within a 100 metre radius of the subject property. To date, one verbal submission in support and one written submission (Attachment 'C') outlining concerns about the proposal have been received in response to the above notification and/or notice sign posted.

Planning staff referred the application to all relevant government agencies, First Nations, internal RDCK departments, Advisory Planning and Heritage Commission and the Director for Electoral Area 'I' for review. The following comments were received:

Ministry of Water, Land and Resource Stewardship

"Development specific Best Management Practices (BMPs) should be applied to help meet necessary legislation, regulations, and policies. Current BC BMPs can be found at: Natural Resource Best Management Practices - Province of British Columbia (gov.bc.ca) and Develop with Care 2014 - Province of British Columbia.

Vegetation clearing, if required, should adhere to the least risk timing windows for nesting birds (i.e., development activities should only occur during the least risk timing window). Nesting birds and some nests are protected by Section 34 of the provincial Wildlife Act and the federal Migratory Birds Convention Act. Guidelines to avoid harm to migratory birds can be found at: Guidelines to avoid harm to migratory birds - Canada.ca. If vegetation clearing is required during the bird nesting period (i.e., outside of the least risk timing window) a pre-clearing bird nest survey should be completed by a QP. The following least risk windows for birds are designed to avoid the bird nesting period:

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

The introduction and spread of invasive species is a concern with all developments. The provincial Weed Control Act requires that an occupier must control noxious weeds growing or located on land and premises, and on any other property located on land and premises, occupied by that person. Information on invasive species can be found at: Invasive species - Province of British Columbia. The Invasive Species Council of BC provides BMPs that should be followed, along with factsheets, reports, field guides, and other useful references. For example, all equipment, including personal equipment such as footwear, should be inspected prior to arrival at the site and prior to each daily use and any vegetative materials removed and disposed of accordingly. If noxious weeds are established as a result of this project or approval, it is the tenure holder’s responsibility to manage the site to the extent that the invasive, or noxious plants are contained or removed.

Section 33.1 of the provincial Wildlife Act prohibits feeding or attracting dangerous wildlife. Measures should be employed to reduce dangerous human-wildlife conflicts. Any food, garbage or organic waste that could attract bears or other dangerous wildlife should be removed from the work area. If this is not feasible and waste is not removed, it should be stored in a bear-proof container to avoid drawing wildlife into the area and increasing the threat of human/wildlife conflict.

If this referral is in relation to a potential environmental violation it should be reported online at Report All Poachers & Polluters (RAPP) or by phone at 1-877-952-RAPP (7277).

Developments must be compliant with all other applicable statutes, bylaws, and regulations”.

Provincial Archaeological Branch

“According to Provincial records, there are no known archaeological sites recorded on the subject property.

However, archaeological potential modelling for the area (shown as the purple areas in the screenshot below) indicates there is high potential for previously unidentified archaeological sites to exist on the property. Archaeological potential modelling is compiled using existing knowledge about archaeological sites, past indigenous land use, and environmental variables. Models are a tool to help predict the presence of archaeological sites and their results may be refined through further assessment.

Archaeology Branch Advice -

If land-altering activities (e.g., home renovations, property redevelopment, landscaping, service installation) are planned on the subject property, a Provincial heritage permit is not required prior to commencement of those activities.

However, a Provincial heritage permit will be required if archaeological materials are exposed and/or impacted during land-altering activities. Unpermitted damage or alteration of a protected archaeological site is a contravention of the Heritage Conservation Act and requires that land-altering activities be halted until the contravention has been investigated and permit requirements have been established. This can result in significant project delays.

Therefore, the Archaeology Branch strongly recommends engaging an eligible consulting archaeologist prior to any land-altering activities. The archaeologist will review the proposed activities, verify archaeological records, and possibly conduct a walk-over and/or an archaeological impact assessment (AIA) of the project area to determine whether the proposed activities are likely to damage or alter any previously unidentified archaeological sites.

Please notify all individuals involved in land-altering activities (e.g., owners, developers, equipment operators) that if archaeological material is encountered during development, they must stop all activities immediately and contact the Archaeology Branch for direction at 250-953-3334”.

RDCK Building Services

No comments received.

Ministry of Agriculture

- *“Ministry staff understand that a significant portion of the Subject Property is impacted by both the floodplain and creek drainage, which in turn, limits suitable locations to construct an additional residence.*
- *The proposed location for the additional residence utilizes both an existing road and homesite and is serviced which minimizes the impact on the Subject Property.*
- *The only portion of the Subject Property being used for agricultural production is a small hay field located in the vicinity of the existing residence. While Ministry staff recognize the importance of clustering buildings to reduce the impact on the land, in this instance, locating the additional residence in close proximity to the existing residence would likely negatively impact the existing hay field.*
- *To reduce the impact on the current and any future farming activity occurring on the Subject Property, Ministry staff understand and support the applicant’s rationale for requesting a variance to both the maximum depth and size of the Farm Residential Footprint.*
- *However, Ministry staff note that no agricultural rationale has been supplied to justify an increase to the Maximum Gross Floor Area of the proposed residence. Further, the applicant has not indicated that agricultural production on the Subject Property will increase beyond the very limited farming activity that is currently occurring.*

Ultimately, Ministry staff support the proposed location of the new residence but not the increase to the Maximum Gross Floor Area”.

Ministry of Transportation and Infrastructure

"The Ministry has no concerns with the proposed Development Variance Permit. Should the applicant be conducting farming operations on the property resulting in larger equipment frequently utilizing the driveway access, it is requested that they apply for an agricultural access permit".

Fortis BC

"Land Rights Comments -

- *There are no immediate concerns or requests for additional land rights, however there may be additional land rights requested stemming from changes to the existing FortisBC Electric ("FBC(E)") services, if required.*

Operational & Design Comments -

- *There are FortisBC Electric ("FBC(E)") primary distribution facilities along Pass Creek Road and Shepard Road.*
- *All costs and land right requirements associated with changes to the existing servicing are the responsibility of the applicant.*
- *The applicant and/or property owner are responsible for maintaining safe limits of approach around all existing electrical facilities within and outside the property boundaries.*
- *For any changes to the existing service, the applicant must contact an FBC(E) designer as noted below for more details regarding design, servicing solutions, and land right requirements.*

In order to initiate the design process, the customer must call 1-866-4FORTIS (1-866-436-7847)".

Electoral Area 'I' Advisory Planning and Heritage Commission (APHC)

It was resolved, "THAT the Area I APHC support all of the variances requested under DVP application V2309I".

3.7 Staffing/Departmental Workplace Considerations:

Should the Board approve the requested variances, staff would issue the Permit and register a Notice of Permit on the property's Title. A Building Permit would then be required prior to constructing the new dwelling.

3.8 Board Strategic Plan/Priorities Considerations:

The application falls under the operational role of Planning Services.

SECTION 4: OPTIONS

Planning Discussion

The Agriculture Policy Review project (Phase Two - 2023) considered current legislation, existing plans and best management practices, as well as, input from farmers, technical advisors and the public to amend RDCK land use regulations with the goal of supporting farming and protecting farmland in the Regional District. This project identified that the DVP application process would be the best tool for the RDCK to consider site specific circumstances when the agricultural residential footprint regulations would not result in the desired objective of protecting farmland. This application is an example where alternative siting—while perhaps not protecting farmland—is posing nor further erosion of it, given that the chosen site was previously developed for that purpose.

Consequently, Staff cite the following rationale in support of the recommendation:

- Existing site conditions including that it is bisected by Pass Creek Road, includes significant areas undevelopable due to watercourses and important wetland habitat constrain the ability to site the additional dwelling within the same farm residential footprint as the existing dwelling.
- The requested variance to increase the maximum GFA of an accessory dwelling to 136 m² (1,464 ft²) seems a reasonable size for a family dwelling in a rural context and on a property over 125 ha in area.
- The existing residence is approximately half the size (190 m² / 2,000 ft²) of a primary single family dwelling permitted under that AG3 Zone at 375 m² (approximately 4,000 ft²), so the proposed overall residential building(s) footprint on this parcel would still be less at 326 m² / 3,500 ft² if approved.
- No new driveway construction would be required as the existing road access proposed to the proposed new expanded residential footprint would be via Shepherd Drive. In addition, locating the proposed new farm residential footprint closer to the road would mean siting a dwelling within a floodplain hazard area.
- The proposed development site is an area used previously as a home site, and therefore would not result in any further loss of farm land.

Options

Option 1

That the Board APPROVE the issuance of Development Variance Permit V2309I to Arthur Patrick Sperling and Terese Sperling for the property located at 2464 Pass Creek Road and legally described as DISTRICT LOT 8430 KOOTENAY DISTRICT EXCEPT PART INCLUDED IN PLANS 12090 & 15269 (PID: 016-449-312) to vary Section 2901.3, 2901.4, and 2901.6 b. of the *Regional District of Central Kootenay's Zoning Bylaw No. 1675, 2004* to permit, as follows:

1. To permit a Farm Residential Footprint of approximately 3,800 m² whereas the bylaw permits a Farm Residential Footprint of 2,500 m² (26,910 ft²) for a Single Family Dwelling and additional permitted dwelling unit.
2. To allow a Farm Residential Footprint with a maximum depth of 200 metres (656 ft) from the Front Lot Line whereas the bylaw requires that the maximum depth of the Farm Residential Footprint shall not exceed 60 metres from the Front Lot Line.
3. To permit an accessory dwelling with a maximum Gross Floor Area (GFA) of 136 m² (1,464 ft²) whereas the bylaw permits a maximum GFA of 90 m² (969 ft²).

Option 2

That the Board NOT APPROVE the issuance of Development Variance Permit V2309I to Arthur Patrick Sperling and Terese Sperling for the property located at 2464 Pass Creek Road and legally described as DISTRICT LOT 8430 KOOTENAY DISTRICT EXCEPT PART INCLUDED IN PLANS 12090 & 15269 (PID: 016-449-312) to vary Section 2901.3, 2901.4, and 2901.6 b. of the *Regional District of Central Kootenay's Zoning Bylaw No. 1675, 2004* to permit, as follows:

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2. To allow a Farm Residential Footprint with a maximum depth of 200 metres (656 ft) from the Front Lot Line whereas the bylaw requires that the maximum depth of the Farm Residential Footprint shall not exceed 60 metres from the Front Lot Line.
3. To permit an accessory dwelling with a maximum Gross Floor Area (GFA) of 136 m² (1,464 ft²) whereas the bylaw permits a maximum GFA of 90 m² (969 ft²).

SECTION 5: RECOMMENDATIONS

That the Board APPROVE the issuance of Development Variance Permit V23091 to Arthur Patrick Sperling and Terese Sperling for the property located at 2464 Pass Creek Road and legally described as DISTRICT LOT 8430 KOOTENAY DISTRICT EXCEPT PART INCLUDED IN PLANS 12090 & 15269 (PID: 016-449-312) to vary Section 2901.3, 2901.4, and 2901.6 b. of the *Regional District of Central Kootenay's Zoning Bylaw No. 1675, 2004* to permit, as follows:

1. To permit a Farm Residential Footprint of approximately 3,800 m² (40,903 ft²) whereas the bylaw permits a Farm Residential Footprint of 2,500 m² (26,910 ft²) for a Single Family Dwelling and additional permitted dwelling unit.
2. To allow a Farm Residential Footprint with a maximum depth of 200 metres (656 ft) from the Front Lot Line whereas the bylaw requires that the maximum depth of the Farm Residential Footprint shall not exceed 60 metres from the Front Lot Line.
3. To permit an accessory dwelling with a maximum Gross Floor Area (GFA) of 136 m² (1,464 ft²) whereas the bylaw permits a maximum GFA of 90 m² (969 ft²).

Respectfully submitted,

Stephanie Johnson

CONCURRENCE

Planning Manager – Nelson Wight
General Manager Development & Sustainability – Sangita Sudan
Chief Administrative Officer – Stuart Horn

ATTACHMENTS:

Attachment A – Development Variance Permit
Attachment B – Excerpt from *RDCK Zoning Bylaw No. 1675, 2004*
Attachment C – Community Correspondence



Development Variance Permit

V2309I (Sperling)

Date:

Issued pursuant to Section 498 of the *Local Government Act*

TO: Terese Sperling and Arthur Sperling

ADMINISTRATION

1. This Development Variance Permit (DVP) is issued subject to compliance with all of the bylaws of the Regional District of Central Kootenay (RDCK) applicable thereto, except as specifically varied or supplemented by this Permit.
2. The land described shall be developed strictly in accordance with the terms and conditions and provisions of this DVP, and any plans and specifications attached to this Permit that shall form a part thereof.
3. This DVP is not a Building Permit.

APPLICABILITY

4. This DVP applies to and only to those lands within the RDCK described below, and any and all buildings, structures and other development thereon, substantially in accordance with Schedules '1', '2' and '3':

Address: 2464 PASS CREEK ROAD

Legal: DISTRICT LOT 8430 KOOTENAY DISTRICT EXCEPT PART INCLUDED IN PLANS 12090 & 15269

PID: 016-449-312

CONDITIONS

5. Development Variance

Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004, Sections 2901.3, 2901.4, and 2901.6 b. are varied as follows:

Section 2901.3: FROM a Farm Residential Footprint of 2,500 m² **TO** a Farm Residential Footprint of approximately 3,800 m² to permit a Single Family Dwelling and additional permitted dwelling unit.

Section 2901.4: FROM a maximum depth of the Farm Residential Footprint of 60 metres to the Front Lot Line **TO** allow a Farm Residential Footprint with a maximum depth of 200 metres from the Front Lot Line.

Section 2901.6 b.: FROM a maximum Gross Floor Area (GFA) of 90 m² for accessory dwelling unit **TO** permit an accessory dwelling with a maximum GFA of 136 m².

As shown on Scheduled '1','2' and '3'.

6. Schedule

If the holder of the DVP does not substantially start any construction or does not register the subdivision with respect to which the permit was issued within two years after the date it is issued, the permit lapses.

7. Other

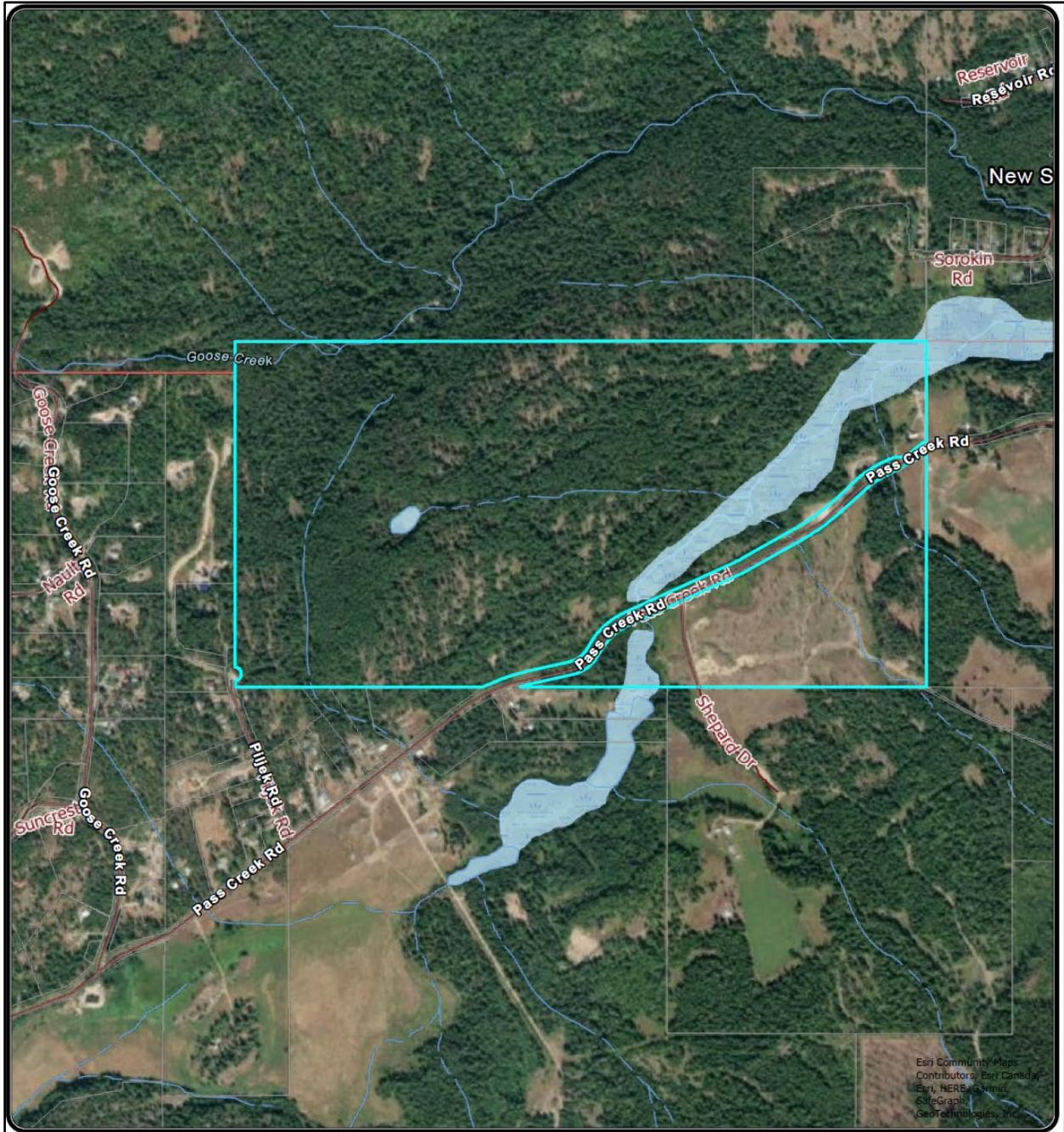
Authorized resolution [*enter resolution number*] passed by the RDCK Board on the _____ day of _____, 202_.

The Corporate Seal of
THE REGIONAL DISTRICT OF CENTRAL KOOTENAY
was hereunto affixed in the presence of:

Aimee Watson, Board Chair

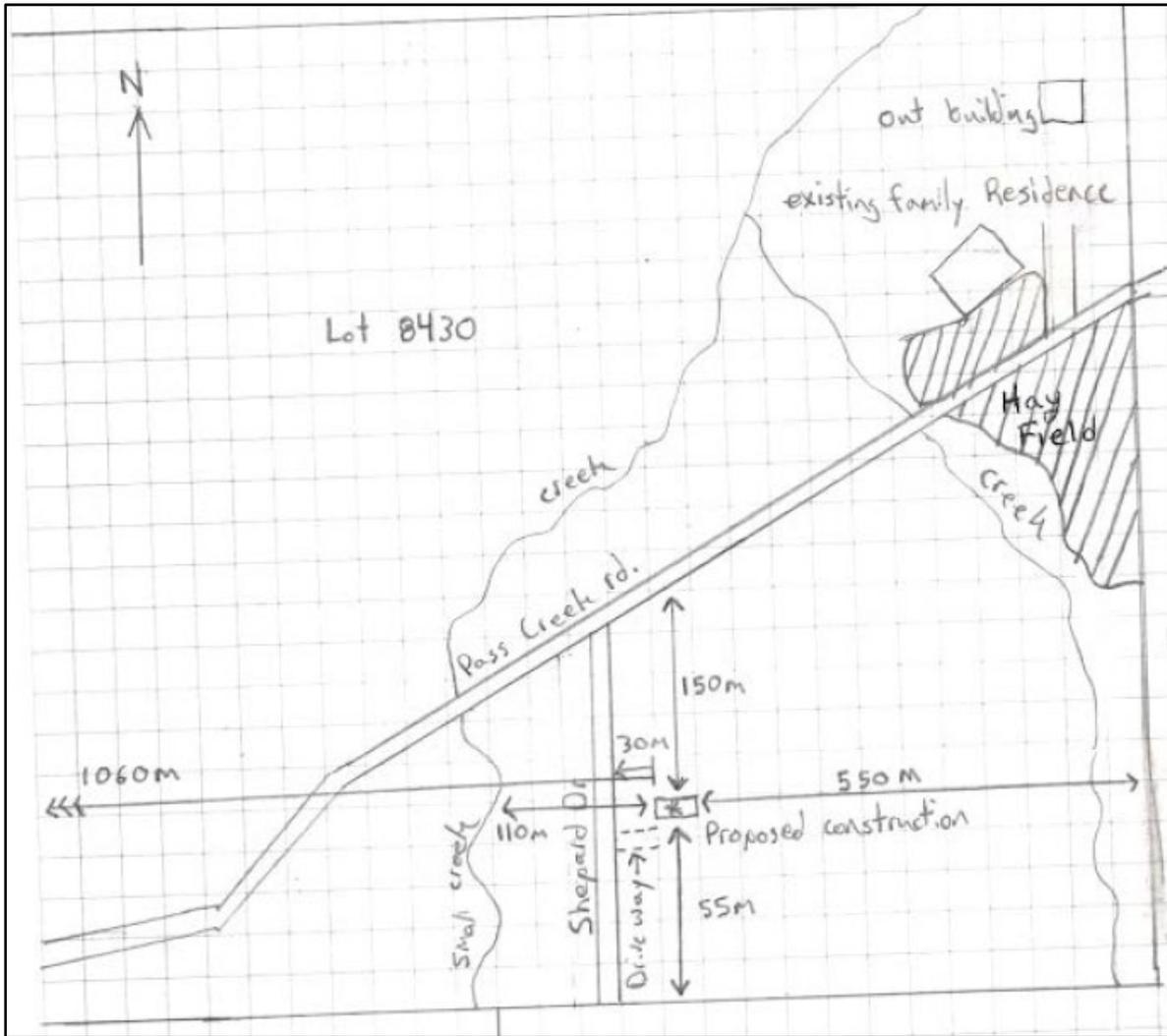
Mike Morrison, Corporate Officer

Schedule 1: Subject Property



 <p>REGIONAL DISTRICT OF CENTRAL KOOTENAY Box 590, 202 Lakeside Drive, Nelson, BC V1L 5R4 Phone: 1-800-268-7325 www.rdck.bc.ca maps@rdck.bc.ca</p>	<p>Legend</p> <ul style="list-style-type: none"> Wetlands Streams and Shorelines Lakes and Rivers Electoral Areas RDCK Streets Cadastre 	<p>Map Scale: 1:18,056</p> <p>Date: October 24, 2023</p> <div style="text-align: center;">  </div> <p style="font-size: small;">The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.</p>
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Schedule 2: Site Plan



Schedule 3: Dwelling Unit Plan

CUSTOM PRINT



FRONT SIDE ELEVATION

FRONT END ELEVATION

BACK END ELEVATION

BACK SIDE ELEVATION

5/12 ROOF PITCH
 12" SIDE WALL EAVES
 16" FRONT & REAR EAVES

27'W X 54'L = 1458 sqft

NOTES: MODULINE ASSUMES NO RESPONSIBILITY FOR FIRE SEPARATION, SEISMO OR DOOR/WINDOW PENETRATION REQUIREMENTS. CONSULT YOUR LOCAL BUILDING OFFICIAL OR ENGINEER OF RECORD TO CONFIRM.

Any renderings and depictions are conceptual only and are for the convenience of reference. They should not be relied upon as representations, express or implied, of the final detail of the units. Moduline Industries expressly reserves the right to make modifications, revisions, and changes it deems desirable in its sole and absolute discretion. All depictions of appliances, counters, furniture, finishes, lighting, plumbing fixtures, soffits, floor coverings and other matters of detail are conceptual only and are not necessarily included in each Unit. Consult your Purchase Agreement and the Offering Documents for the items included with the Unit. Dimensions and square footage are approximate and may vary with actual construction.

 <p style="font-size: 8px; margin: 0;">MODULINE PENTTICON P.O. BOX 190 1175 RAILWAY STREET PENTTICON, B.C. V2A 6R3 (250) 493-8122</p>	CUSTOMER: _____	A	DEALER CHANGE REQUEST	TITLE: A004080-A/B
	DEALER: _____	B		DRAWING NO: Q14156B - 27C05402
	DATE: _____	C		DRAWN BY: RCS DATE: 09/25/23

SPEERUNG

DIVISION 29 AGRICULTURE 3 (AG3)

Permitted Uses

2900 Subject to the *British Columbia Agricultural Land Commission Act*, *Agricultural Land Reserve Use Regulation* and Orders, land, buildings and structures in the Agriculture 1 (AG1) zone shall be used for the following purposes only:

Agriculture

All activities designated as "Farm Use" as defined in the *Agricultural Land Commission Act* and Part 2 of the *Agricultural Land Reserve Use Regulation* as amended or replaced from time to time

Dwelling, One

Family Kennel

Micro Cultivation, Cannabis

Micro Processing, Cannabis

Nursery, Cannabis

Standard Cultivation, Cannabis

Standard Processing, Cannabis

Veterinary Clinic (*may require ALC non-farm use approval*)

Accessory Uses:

- Accessory Buildings or Structures
- Accessory Dwelling
- Accessory Tourist Accommodation
- Farm Product Processing of farm product from another parcel in the Regional District of Central Kootenay (*may require ALC non-farm use approval*)
- Home Based Business
- Portable Sawmills for processing of material harvested on site only
- Temporary Farm Worker Housing (*may require ALC non adhering residential use approval*)

Development Regulations

2901

1. The minimum lot area shall be 60 hectares in the Agricultural Land Reserve and 8 hectares outside the Agricultural Land Reserve.
2. The maximum site coverage permitted shall be 35 percent of the lot area

unless an area not larger than 60 percent of the lot is covered with greenhouses.

3. The maximum Farm Residential Footprint shall be a maximum of 2000 square meters where one dwelling unit is permitted plus 500 square meters per additional permitted dwelling unit.
4. The maximum depth of the Farm Residential Footprint shall not exceed 60.0 metres measured from the Front Lot Line or Exterior Side Lot Line.
5. The Maximum Gross Floor Area of the Single Family Dwelling is 375.0 square metres.
6. Subject to approval from the regional health authority for sewage disposal and water supply, 2 accessory dwellings per lot are permitted as an accessory use subject to the following:
 - a. the minimum site area for each accessory dwelling shall be 1 hectare;
 - b. the maximum gross floor area is limited to 90 square metres;
 - c. one of the accessory dwellings shall be a secondary suite; and
 - d. the accessory dwelling shall not be a recreational vehicle or other vehicle.
7. Temporary Farmworker Housing is permitted on a lot provided that all of the following apply:
 - a. The lot is classified as a farm under the Assessment Act;
 - b. The lot is larger than 1.2 hectares;
 - c. The minimum setback is 6.0 metres from the Front Lot Line and Exterior Lot Line and 15.0 metres from other lot lines; and
 - d. The minimum setback from the nearest exterior wall of a dwelling unit on another lot is 30.0 metres, or where a landscape screen comprised of a thick hedge of hardy shrubs or evergreen trees not less than 1.8 metres in height and 1.5 metres in width and maintained in a healthy growing condition is provided, the minimum setback from the nearest exterior wall of a dwelling unit shall not be required.
8. No building, structures or enclosures used for housing farm animals; no drinking or feeding troughs and no manure piles may be located

within 5 metres of a lot line.

9. Section 2901 (8) does not apply to fences adjacent to lot lines that are used for enclosures for the grazing of farm animals.
10. Farm Product processing that involves processing livestock:
 - a. must be located on a minimum 2 hectare site outside the Agricultural Land Reserve;
 - b. must be setback at least 7.5 metres from any lot line; and
 - c. must be located at least 30 metres from the nearest business or residence on another parcel.
11. The minimum setback for a kennel building shall be 7.5 metres from any lot line.

Cannabis Regulations

12. Any building or structure for the purposes of cannabis micro cultivation, cannabis micro processing or cannabis nurseries shall be a minimum of 15 metres from all property lines, with the exception of a structure that has a base entirely of soil which may be located within 7.5 metres of a property line.
13. Any building or structure for the purposes of cannabis standard cultivation or cannabis standard processing shall be a minimum of 30 metres from all property lines, with the exception of a structure that has a base entirely of soil which may be located within 7.5 metres of a property line.
14. The maximum height of any building or structure for the purposes of cannabis standard cultivation, cannabis standard processing, cannabis micro cultivation, cannabis micro processing or cannabis nurseries shall be 15 metres.
15. The maximum footprint of any building or structure for the purposes of cannabis standard cultivation, cannabis standard processing, cannabis micro cultivation, cannabis micro processing or cannabis nurseries shall not exceed 250 square metres.
16. The maximum gross floor area of any building or structure for the purposes of cannabis standard cultivation, cannabis standard processing, cannabis micro cultivation, cannabis micro processing or cannabis nurseries shall not exceed 600 square metres.

Dear RDCK Planners and regional district organizers

I live at 2389 Pass Creek road, on autonomous sinixt territory. My lot is zoned ALR and RR1. I am a bordering neighbour to the proposed variance permit and I have concerns. I know Art Sperling and some of his family and know him to be a hardworking man with a lot of land in the area. I do not know his son but know people who know him.....I do not know Micheal Gagnier but have asked many around here if he lives in the neighbourhood, no one knows him or what his interests in Pass Creek are.....

I am concerned that the development will wreck the character of the neighbourhood in many, many ways. Locals are already being priced out of the area. In my opinion, Art may build himself a home for his son there, but I worry that after Art is gone, the property will be sold yet again and a more opulent house will be built there. This is ALR! not a suburb for the rich and wealthy! .

I also have concerns for the species at risk that dwell at 2464 Pass Creek Road. There are saw whet owls, long eared owls and a few nights ago I heard a spotted owl call!!! There are nighthawks and red listed frogs, many woodpeckers and blue skinks. These are many, many red listed and nearly extinct species that will be threatened due to this development.

I know part of the development plan for 2464 Pass Creek road is to log around a small lake on the western bench above Pass Creek road. I feel if RDCK allows this, it puts at risk my property, the 2 adjacent properties and more. This is a spot where a state of emergency was called in 2011 due to logging debris left in the creek. If the RDCK proceeds with allowing a development(logging around the lake) with a gentle over steep pitch, I feel you as a governing organization have prior notice will be liable and I myself, a property owner have warned you of the dangers in advance.

I would appreciate a response from the RDCK regarding my concerns.

Thank you in advance,

Marianne Choi

Addendum: I also think it is unwise for the RDCK to populate the downtown with social housing and neglect rural social housing needs. I am aware that a much requested bus service in Pass Creek requires a density adjustment. A parcel such as the one under proposed development could solve the bus issues for the many, many seniors in the area with smart and thoughtful planning..I would hope for a plan that includes rural social housing, needs of elders, hard to house, refugees and newcomers. This neighbourhood could also benefit from helping an intentional community and Pass Creek is beautiful. Not everyone can live in a city and all deserve the peace that rural living affords