



Regional District of Central Kootenay
RURAL AFFAIRS COMMITTEE
Open Meeting Agenda

Date: Wednesday, September 23, 2026
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. ZOOM 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 PST

Join by Video:

<https://rdck-bc-ca.zoom.us/j/97918675110?pwd=GmVSuFaa2RntNTq5nTyh8CpcKj5tAL.1>

Join by Phone:

833 955 1088 Canada Toll-free

*6 to unmute or mute

*9 to raise or lower your hand

Meeting ID: 979 1867 5110

Meeting Password: 527524

In-Person Location:

RDCK Board Room
202 Lakeside Drive, Nelson

2. CALL TO ORDER

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

FREEDOM OF THE FLOOR

RECOMMENDATION:

That Director(s) _____ have Freedom of the Floor.

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 September 23, 2026 Rural Affairs Committee meeting be adopted as circulated.

5. RECEIPT OF MINUTES

7 - 22

The August 19, 2026 Rural Affairs Committee meeting minutes, have been received.

6. DELEGATIONS

No delegations.

7. PLANNING & BUILDING

7.1 CANCEL - BUILDING BYLAW CONTRAVENTION - SHEA & MACLEAN

23 - 24

File No.: 3130-20-F-707.08366.140-BP029406

4515 Beasley West Road

(Joseph Shea & Christine Maclean)

Electoral Area F

The Memorandum dated September 15, 2026 from Erik Stout re: Cancellation-Notice on Title – Shea & Maclean, has been received.

RECOMMENDATION:

Moved and seconded,

And resolved that it be recommended to the Board:

That the Corporate Officer be authorized to remove the Notice on Title relating to 4515 Beasley West Road, Electoral Area F, currently owned by Joseph Jon Shea and Christine Nancy Maclean, and property legally described as LOT B, PLAN NEP21605, DISTRICT LOT 7066, KOOTENAY LAND DISTRICT PID 018-931-146, the RDCK Building Department has confirmed that the stair guardrail deficiencies have been rectified.

7.2 BUILDING BYLAW CONTRAVENTION – KENNY & COOK

25 - 30

File No.: 3135-20- B-786.04864.020

1254 Lakeview-Arrow Creek Road

(Timothy Kenny, Jagan Kenny & Stephen Cook)
Electoral Area B

Rural Affairs Committee

Referred from August 19, 2026 to September 23, 2026

The letter dated August 24, 2026 from Erik Stout re: Building Bylaw Contravention – Kenny & Cook, has been received.

The letter dated July 14, 2026 from Mike Morrison, Corporate Officer, re: Building Bylaw Contravention – Kenny & Cook, has been received.

RECOMMENDATION:

Moved and seconded,

And resolved 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 1254 Lakeview- Arrow Creek Road, Electoral Area B and legally described as LOT B, PLAN NEP74758, DISTRICT LOT 4595, KOOTENAY LAND DISTRICT; 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.

7.3 LAND USE BYLAW AMENDMENT - GLADE GENERAL STORE LTD
File No.: Z2405I – GLADE GENERAL STORE LTD
2347 Highway 3A
(Glade General Store LTD)
Electoral Area I

31 - 50

The Committee Report dated September 09, 2026 from Sadie Chezenko, Planner, re: Land Use Bylaw Amendment, has been received.

RECOMMENDATION:

Moved and seconded,

And resolved that it be recommended to the Board:

That *Regional District of Central Kootenay Zoning Amendment Bylaw No. 3083, 2026* being a bylaw to amend the *Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004* is hereby given FIRST, SECOND and THIRD reading by content;

And that the consideration of adoption BE WITHHELD for *Regional District of Central Kootenay Zoning Amendment Bylaw No. 3028, 2025* until the following item has been obtained:

- Approval from the Ministry of Transportation and Transit pursuant to Section 52(3)(a) of the *Transportation Act*

7.4 LAND USE BYLAW AMENDMENT - POSNIKOFF

51 - 75

File No.: Z2602I- POSNIKOFF

1625 Highway 3A

(Stacey, Mary, John & Brian Posnikoff)

Electoral Area I

The Committee Report dated September 09, 2026 from Sadie Chezenko, Planner, re: Land Use Bylaw Amendment - Posnikoff, has been received.

RECOMMENDATION:

Moved and seconded,

And resolved that it be recommended to the Board:

That the Board take no further action regarding *Regional District of Central Kootenay Zoning Amendment Bylaw No. 3080, 2026*.

7.5 TEMPORARY USE PERMIT - DOUCET

76 - 90

File No.: T2602F – Doucet

5775 Woodland Drive

(Ryan Doucet)

Electoral Area F

The Committee Report dated September 12, 2026 from Sadie Chezenko, Planner, re: Temporary Use Permit - Doucet, has been received.

RECOMMENDATION:

Moved and seconded,

And resolved that it be recommended to the Board:

That the Board direct staff to provide notification of the Board's intention to consider Temporary Use Permit application T2602F by Ryan Doucet for the property located on 5775 Woodland Drive, Electoral Area 'F' and legally described as LOT 2, DISTRICT LOT 5922, KOOTENAY DISTRICT PLAN NEP61991, TOGETHER WITH A 1/3 SHARE IN COMMON LOT 4, PLAN NEP61991 (SEE PLAN AS TO LIMITED ACCESS) (PID: 024-165-751).

7.6 AGRICULTURAL LAND COMMISSION REFERRAL - BATCHELOR

91 - 119

File No.: A2610I - BATCHELOR

1993 Highway 3A

(Allie & Jarred Batchelor)

Electoral Area I

The Committee Report dated September 9, 2026 from Sadie Chezenko, Planner, re: Agricultural Land Commission Referral - Batchelor, has been received.

RECOMMENDATION:

Moved and seconded,

And resolved that it be recommended to the Board:

That the Board SUPPORT application A2610I for the proposed Placement of Fill in the Agricultural Land Reserve proposed by Allie Batchelor and Jarred Batchelor for the property located at 1993 Highway 3A, Electoral Area I and legally described as LOT 2, DISTRICT LOT 1239, KOOTENAY DISTRICT PLAN 857, EXCEPT PART OUTLINED RED ON EXPLANATORY PLAN 35476I (PID: 016-022-181);

And that the Board directs Staff to ADVANCE the subject application to the Agricultural Land Commission for consideration.

8. ENVIRONMENTAL SERVICES

No items.

9. RURAL ADMINISTRATION

No items.

10. PUBLIC TIME

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

11. CLOSED

11.1 Meeting Closed to the Public

RECOMMENDATION:

In the opinion of the Board - and in accordance with Section 90 of the Community Charter - the public interest so requires that persons other than DIRECTORS, ALTERNATE DIRECTORS, DELEGATIONS AND STAFF be excluded from the meeting;

AND FURTHER, in accordance with Section 90 of the Community Charter, the meeting is to be closed on the bases identified in the following subsections:

(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

11.2 Recess of Open Meeting

RECOMMENDATION:

The Open meeting be recessed at _____ a.m./ p.m. in order to conduct the Closed Board meeting and reconvened at _____ a.m./p.m.

12. PLANNING & BUILDING CONTINUED

**12.1 SITE SPECIFIC FLOODPLAIN EXEMPTION - STEENHOFF
File No.: F25603HN – Steenhoff**

120 - 193

**260 Wilson Creek Road East
(Darrell & Audrey Steenhoff)
Electoral Area H**

The Committee Report dated September 8, 2026 from Zachari Giacomazzo, Planner, re: Site-Specific Exemption - Steenhoff, has been received.

RECOMMENDATION:

Moved and seconded,

And resolved that it be recommended to the Board:

That the Board NOT APPROVE the issuance of a Site-Specific Exemption to *RDCK Floodplain Management Bylaw No. 2080, 2009*, for the existing unlawfully constructed development on LOT B, DISTRICT LOT 4877, KOOTENAY DISTRICT PLAN EPP30385, as described in the Staff Report "Site Specific Floodplain Exemption F2603HN", dated September 8, 2026.

13. ADJOURNMENT

RECOMMENDATION:

The meeting be adjourned at _____



Regional District of Central Kootenay

RURAL AFFAIRS COMMITTEE MEETING

Open Meeting Minutes

Wednesday, July 15, 2026

9:00 a.m.

Hybrid Model - In-person and Remote

COMMITTEE MEMBERS PRESENT

Director G. Jackman	Electoral Area A – In Person
Director R. Tierney	Electoral Area B – In Person
Director K. Vandenberghe	Electoral Area C – In Person
Director A. Watson	Electoral Area D – In Person
Director C. Graham	Electoral Area E
Director T. Newell	Electoral Area F
Director H. Cunningham	Electoral Area G – In Person
Director W. Popoff	Electoral Area H – In Person
Director A. Davidoff	Electoral Area I
Director H. Hanegraaf	Electoral Area J – In Person
Director T. Weatherhead	Electoral Area K – In-Person

STAFF PRESENT

S. Horn	Chief Administrative Officer
A. Wilson	Acting General Manager of Development and Community Sustainability Initiatives
U. Wolf	General Manager of Environmental Services
E. Stout	Manager of Building and Bylaw
N. Wight	Planning Manager
Z. Giacomazzo	Planner
C. Scott	Planner
S. Chezenko	Planner
P. Marshall Smith	Sustainability & Resilience Supervisor
C. Hopkyns	Corporate Administrative Coordinator – Meeting Coordinator

1. ZOOM 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

Join by Video:

<https://rdck-bc-ca.zoom.us/j/97918675110?pwd=GmVSuFaa2RntNTq5nTyh8CpcKj5tAL.1>

Join by Phone:

833 955 1088 Canada Toll-free

*6 to unmute or mute

*9 to raise or lower your hand

Meeting ID: 979 1867 5110

Meeting Password: 527524

In-Person Location:

RDCK Board Room

202 Lakeside Dr. Nelson

2. CALL TO ORDER

Chair Jackman called the meeting to order at 9:02 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

Moved and seconded,

And resolved:

The agenda for the July 15, 2026 Rural Affairs Committee meeting be adopted as circulated.

Carried

5. RECEIPT OF MINUTES

The June 17, 2026 Rural Affairs Committee meeting minutes, have been received.

6. DELEGATIONS

Item 7.3 – Jenna Traxel

Item 7.5 - Allie Batchelor

Item 7.6 - Brandon & Staci Lukianoff

Item 7.7 - Rebecca Huscroft

7. PLANNING & BUILDING

7.1 BUILDING BYLAW CONTRAVENTION – JOHNSON

File No.: 3135-20-B-786.05279.000

Railway Avenue

(Lorne Johnson & Barbara Johnson)

Electoral Area B

The Memorandum dated June 12, 2026 from Erik Stout, Manager Building and Bylaw, re: Building Bylaw Contravention – Johnson, has been received.

- Erik Stout provided background to the Committee regarding the file and answered the Committee's questions.
- Property owner was not present.
- Chair Jackman thanked staff and referred the recommendation to Committee for consideration.

Moved and seconded,

And resolved 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 Railway Ave, Electoral Area B, and legally described as LOT 1, BLOCK 3, PLAN NEP1407, DISTRICT LOT 4683, KOOTENAY LAND DISTRICT & LOT 2, BLOCK 3, PLAN NEP1407, DISTRICT LOT 4683 KOOTENAY LAND DISTRICT PID 012-042-927 & 012-042-935; 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.

Carried

7.2 BUILDING BYLAW CONTRAVENTION – LAWRENCE

File No.: 3135-20-786.06219.300-25150 & 26072

1715 West Creston Road

(Philip Lawrence)

Electoral Area C

The Memorandum dated June 16, 2026 from Erik Stout, Manager Building and Bylaw, re: Building Bylaw Contravention – Lawrence, has been received.

- Erik Stout provided background to the Committee regarding the file and answered the Committee's questions.
- Property owner was not present.
- Chair Jackman thanked staff and referred the recommendation to Committee for consideration.

Moved and seconded,

And resolved 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 1715 West Creston Road, Electoral Area C, and legally described as LOT C, PLAN NEP13800, DISTRICT LOT 9558, KOOTENAY LAND DISTRICT MANUFACTURED HOME REG. # 6691 PID 005-695-961; 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.

Carried

7.3 DEVELOPMENT VARIANCE PERMIT - TRAXEL & GIBSON

File No.: V2608B – TRAXEL AND GIBSON

7745 Highway 3

(Jenna Traxel & Jeshua Gibson)

Electoral Area B

The Committee Report dated June 15, 2026 from Sadie Chezenko, Planner, re: Development Variance Permit - Traxel & Gibson, has been received.

Sadie Chezenko, Planner, provided an overview to the Committee regarding the Development Variance Permit application proposing to permit an accessory building.

Property owner, Jenna Traxel, was available to answer questions.

Moved and seconded,

And resolved that it be recommended to the Board:

That the Board APPROVE the issuance of Development Variance Permit V2608B to Jenna Traxel and Jeshua Gibson for the property located at 7745 Highway 3, Electoral Area B and legally described as DISTRICT LOT 12974, KOOTENAY DISTRICT, EXCEPT THE MOST

SOUTHERLY 40 CHAINS (PID: 013-872-664) to vary Section 20.10 of Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013 in order to permit an accessory building with a footprint of 297 square metres whereas the bylaw requires a maximum footprint of any accessory building or structure shall not exceed 250 square metres.

Carried

7.4 DEVELOPMENT VARIANCE PERMIT - STANLEY

File No.: V2610F - STANLEY

3305 Hamilton Road

(Property Owner: Leslie and Steven Jardin; Applicant: Matthew Stanley)

Electoral Area F

The Committee Report dated June 23, 2026 from Sadie Chezenko, Planner, re: Development Variance Permit - Stanley, has been received.

Sadie Chezenko, Planner, provided an overview to the Committee regarding the Development Variance Permit application proposing to vary the allowable projection into a setback to accommodate the eaves of a residence.

Moved and seconded,

And resolved that it be recommended to the Board:

That the Board APPROVE the issuance of Development Variance Permit V2610F to Matthew Stanley for the property located at 3305 Hamilton Road, Electoral Area F and legally described as LOT A, DISTRICT LOT 4397, KOOTENAY DISTRICT PLAN EPP143219 (PID: 032-440-791) to vary Section 604.4 of RDCK Zoning Bylaw No. 1675, 2004 in order to vary the allowable projection into a setback from 0.6 m to 1.0 m to accommodate the eaves of a residence.

Carried

7.5 DEVELOPMENT VARIANCE PERMIT – BATCHELOR

File No.: V2609I – Batchelor

1993 Highway 3A

(Allie Batchelor & Jarred Batchelor)

Electoral Area I

The Committee Report dated June 18, 2026 from Zachari Giacomazzo, Planner, re: Development Variance Permit - Batchelor, has been received.

Zachari Giacomazzo, Planner, provided an overview to the Committee regarding the Development Variance Permit application seeking to authorize an accessory dwelling

unit to be constructed in a new Farm Residential Footprint (FRF) at the west side of the property. Staff recommend that the Board not approve the requested variances.

The property owners, Allie Batchelor provided the Committee with background and shared challenges of the property. Ms. Batchelor answered the Committee's questions.

Staff answered the Committee's questions.

Moved and seconded,

And resolved that it be recommended to the Board:

That the Board APPROVE the issuance of the Development Variance Permit to Allie Batchelor and Jarred Batchelor for the property located at 1993 Highway 3A, Electoral Area I and legally described as LOT 2, DISTRICT LOT 1239, KOOTENAY DISTRICT PLAN 857, EXCEPT PART OUTLINED RED ON EXPLANATORY PLAN 35476I (PID: 016-022-181) to vary Section 2701.3 and 2701.4 of RDCK Zoning Bylaw No. 1675, 2004 in order to authorize the maximum size of the Farm Residential Footprint to be 6,000 m² and the maximum depth of the Farm Residential Footprint to be 150 metres from the Front Lot Line.

Carried

7.6 DEVELOPMENT VARIANCE PERMIT – LOUKIANOFF

File No.: V2606I – LOUKIANOFF

2295 Highway 3A

(Property Owners: Valentina & Leonard Loukianoff; Applicant: Brandon Loukianoff)

Electoral Area I

The Committee Report dated June 30, 2026 from Sadie Chezenko, Planner, re: Development Variance Permit - Loukianoff, has been received.

Sadie Chezenko, Planner, provided an overview to the Committee regarding the Development Variance Permit application proposing an oversized accessory dwelling unit (ADU) and to construct a new principal residence at the rear of the property. Staff support the requested ADU size variance but do not support the requested Farm Residential Footprint (FRF) area and depth variance.

The applicant, Brandon and Staci Loukianoff, provided the Committee with background regarding the property and answered questions.

Staff answered the Committee's questions.

Moved and seconded,

And resolved that it be recommended to the Board:

That the Board APPROVE the issuance of Development Variance Permit V2606I to Brandon Loukianoff for the property located at 2295 Highway 3A, RDCK Region and legally described as PARCEL A (SEE 7559I) BLOCK 8 DISTRICT LOT 302A KOOTENAY DISTRICT PLAN 781 EXCEPT THAT PART OUTLINED IN RED ON REFERENCE PLAN 69327I AND PLAN 6580 (PID: 011-939-893) to vary Section 623.4 of *RDCK Zoning Bylaw No. 1675, 2004* in order to permit a 155 m² ADU whereas the bylaw permits only a 90 m² ADU and to vary Section 2701.3 of *RDCK Zoning Bylaw No. 1675, 2004* in order to allow a 12,000 m² farm residential footprint area whereas the bylaw only allows a 2500 m² farm residential footprint area and to vary Section 2701.4 of *RDCK Zoning Bylaw No. 1675, 2004* in order to allow a 646 m farm residential footprint depth whereas the bylaw only allows a 60 m farm residential footprint depth.

Carried

7.7 NON FARM USE IN THE AGRICULTURAL LAND RESERVE – HUSCROFT

File No.: A2602B

924 25 Avenue South

(Property Owners: Cory Huscroft and Rebecca Huscroft; Applicant: Cory Huscroft and Rebecca Huscroft)

Electoral Area B

The Committee Report dated June 18, 2025 from Zachari Giacomazzo, Planner, re: Non Farm Use In The Agricultural Land Reserve - Huscroft, has been received.

Zachari Giacomazzo, Planner, provided an overview to the Committee regarding the Agricultural Land Commission application for a Non Farm Use within the Agricultural Land Reserve (ALR) to authorize a butcher shop in an existing accessory building that will process animals that are not raised on the property.

The applicants, Rebecca Huscroft, was available to answer the Committee's question.

Staff answered the Committee's questions.

Moved and seconded,

And resolved that it be recommended to the Board:

That the Board SUPPORT application A2602B for the purposes of a Non-Farm Use in the ALR proposed by Cory Huscroft and Rebecca Huscroft for the property located at 924 25 Avenue South, Electoral Area B and legally described as LOT 26, DISTRICT LOT 891, KOOTENAY DISTRICT PLAN 698, EXCEPT (1) PARCEL A (SEE DD 18512) AND (2) PART INCLUDED IN PLAN 3031 (PID: 015-493-211); AND FURTHER; that the Board directs Staff to ADVANCE the subject application to the Agricultural Land Commission for consideration.

Carried

7.8 AGRICULTURAL LAND COMMISSION REFERRAL – COMER**File No.: A2604B – COMER****905 32nd Avenue South****(Property Owner: Parcel 1 - Gwendolyn Telling, Parcel 2 - Town of Creston; Applicant: Joel Comer)****Electoral Area B**

The Committee Report dated June 23, 2026 from Sadie Chezenko, Planner, re: Agricultural Land Commission Referral - Comer, has been received.

Sadie Chezenko, Planner, provided an overview to the Committee regarding the application for subdivision within the Agricultural Land Reserve proposing a boundary adjustment between two existing parcels. The boundary adjustment would enable the Town of Creston to acquire a portion of the adjacent property to formalize and secure legal access to the remainder of its lands.

The Committee had a discussion regarding the application and staff answered questions.

Moved and seconded,

And resolved that it be recommended to the Board:

That the Board SUPPORT application A2604B for the proposed Subdivision in the Agricultural Land Reserve proposed by Joel Comer for the properties located on 905 32nd Ave South, Electoral Area B and 1023 32nd Ave South, Electoral Area B and legally described as LOT 16, DISTRICT LOTS 812 AND 3864 KOOTENAY DISTRICT PLAN 1455, EXCEPT PARCEL A (SEE 166370I) (PID: 015-696-235) and LOT 3, DISTRICT LOTS 812 AND 3864 KOOTENAY DISTRICT PLAN 17744 (PID: 009-611-037); and that the Board directs Staff to ADVANCE the subject application to the Agricultural Land Commission for consideration.

Carried

Director Vandenberghe recorded opposed.

DIRECTION TO STAFF: That staff provide additional comment to the Agricultural Land Commission on the application that public feedback has been received and request adequate public engagement be done.

**RECESS/
RECONVENE**

The meeting recessed at 10:24 a.m. for a break and reconvened at 10:40 a.m.

7.9 SITE SPECIFIC FLOODPLAIN EXEMPTION – MYRAM**File No.: F2601F – Myram**

**2168 Annabelle Road
(Lindsey and Kurt Myram)
Electoral Area F**

The Committee Report dated July 10, 2026 from Sadie Chezenko, Planner, re: Site Specific Floodplain Exemption - Myram, has been received.

Sadie Chezenko, Planner, provided an overview to the Committee regarding the site-specific floodplain exemption application requesting a relaxation to the floodplain setback from for the construction of an accessory building.

Staff answered the Committee's questions.

Moved and seconded,
And resolved that it be recommended to the Board:

That the Board APPROVE a Site Specific Exemption to reduce the required setback to Crystal Creek from 15 metres from the natural boundary to 7 metres from the natural boundary in accordance with the Engineering Report prepared by SNT Geotechnical Ltd. for property located at 2168 Annable Road, Electoral Area F and legally described as LOT 3, DISTRICT LOT 4780, KOOTENAY DISTRICT PLAN 5416 (PID 014-442-698) SUBJECT to preparation by Lindsey and Kurt Myram of a restrictive covenant under Section 219 of the Land Title Act and Section 56 of the Community Charter in favour of the Regional District of Central Kootenay.

Carried

**7.10 LAND USE AMENDMENT BYLAW: ENVIRONMENTAL DEVELOPMENT PERMIT AREA (DPA) ENFORCEMENT
File No.: 10\5110\20\COMPLIANCE AND ENFORCEMENT\DEVELOPMENT PERMIT ENFORCEMENT
Electoral Area G**

The Committee Report dated July 15, 2026 from Corey Scott RPP, MCIP, Planner, re: Environmental Development Permit Area (DPA) Enforcement, has been received.

Corey Scott, Planner, provided an overview to the Committee regarding the amendment bylaw would amend the Electoral Area 'G' Official Community Plan (OCP) and Zoning Bylaw to enable the use of bylaw offence notices for contraventions to the Watercourse Development Permit Area (DPA) requirements.

Staff answered the Committee's questions.

Moved and seconded,
And resolved that it be recommended to the Board:

That Regional District of Central Kootenay Electoral Area 'G' Land Use Amendment Bylaw No. 3025, 2026 being a bylaw to amend the Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018 is hereby given FIRST and SECOND reading by content and referred to a PUBLIC HEARING.

Carried

Moved and seconded,
And resolved that it be recommended to the Board:

That in accordance with Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015, Electoral Area G Director Hans Cunningham is hereby delegated the authority to chair the Public Hearing on behalf of the Regional District Board.

Carried

7.11 LAND USE AMENDMENT BYLAW: ZONING BYLAW TEXT AMENDMENTS
File No.: \\FILES\RDCK\10\5110\20\PROVINCIAL HOUSING CHANGES\2025
ZONINGAMENDMENTS
Electoral Areas A, B, C, D, I

The Committee Report dated July 02, 2026, re: Zoning Bylaw Text Amendments, has been received.

The Chair provided an overview to the Committee regarding that the Committee requested staff to prepared amendments to change the way residential density is calculated in most residential zones in Electoral Areas A, B, C, D and one zone in Area I.

Moved and seconded,
And resolved that it be recommended to the Board:

That Electoral Area 'A' Comprehensive Land Use Amendment Bylaw No. 3049, 2026 being a bylaw to amend the Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315, 2013 is hereby given FIRST and SECOND and THIRD READING by content;

- And that the consideration of adoption BE WITHHELD for Regional District of Central Kootenay Zoning Amendment Bylaw No. 3049, 2026 until the following item has been obtained:
 - Approval from the Ministry of Transportation and Transit pursuant to Section 52(3)(a) of the Transportation Act (Controlled Access).

Carried

Moved and seconded,

And resolved that it be recommended to the Board:

That Electoral Area 'B' Comprehensive Land Use Amendment Bylaw No. 3050, 2026 being a bylaw to amend the Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013 is hereby given FIRST and SECOND and THIRD READING by content;

- And that the consideration of adoption BE WITHHELD for Regional District of Central Kootenay Zoning Amendment Bylaw No. 3050, 2026 until the following item has been obtained:
 - Approval from the Ministry of Transportation and Transit pursuant to Section 52(3)(a) of the Transportation Act (Controlled Access).

Carried

Moved and seconded,

And resolved that it be recommended to the Board:

That Electoral Area 'C' Comprehensive Land Use Amendment Bylaw No. 3051, 2026 being a bylaw to amend the Electoral Area 'C' Comprehensive Land Use Bylaw No. 2317, 2013 is hereby given FIRST and SECOND and THIRD READING by content;

- And that the consideration of adoption BE WITHHELD for Regional District of Central Kootenay Zoning Amendment Bylaw No. 3051, 2026 until the following item has been obtained:
 - Approval from the Ministry of Transportation and Transit pursuant to Section 52(3)(a) of the Transportation Act (Controlled Access).

Carried

Moved and seconded,

And resolved that it be recommended to the Board:

That Electoral Area 'D' Comprehensive Land Use Amendment Bylaw No. 3052, 2026 being a bylaw to amend the Electoral Area 'D' Comprehensive Land Use Bylaw No. 2435, 2016 is hereby given FIRST and SECOND and THIRD READING by content;

- And that the consideration of adoption BE WITHHELD for Regional District of Central Kootenay Zoning Amendment Bylaw No. 3052, 2026 until the following item has been obtained:
 - Approval from the Ministry of Transportation and Transit pursuant to Section 52(3)(a) of the Transportation Act (Controlled Access).

Carried

Moved and seconded,
And resolved that it be recommended to the Board:

That Regional District of Central Kootenay Zoning Amendment Bylaw No. 3076, 2026 being a bylaw to amend the District of Central Kootenay Zoning Bylaw No. 1675, 2004 is hereby given FIRST and SECOND and THIRD READING by content;

- And that the consideration of adoption BE WITHHELD for Regional District of Central Kootenay Zoning Amendment Bylaw No. 3076, 2026 until the following item has been obtained:
 - Approval from the Ministry of Transportation and Transit pursuant to Section 52(3)(a) of the Transportation Act (Controlled Access).

Carried

7.12 FOR INFORMATION: PLANNING SERVICES QUARTERLY REPORT - Q2
New Applications and Referrals
(April to June 2026)
All Electoral Areas

The Report dated April to June 2026 from the Planning Services Department, re: Planning Services Quarterly Report - Q2, has been received.

Staff answered the Committee's questions.

8. RURAL ADMINISTRATION

8.1 COMMUNITY WORKS FUND APPLICATION – RDCK – NORTH SHORE FIRE STATION UPGRADES
File No.: 26-0522-CWF
Electoral Area F

The Committee Report dated June 24, 2026 from Monique St Louis, Grants Coordinator, re: Community Works Fund Application - RDCK-North Shore Fire Station Upgrades, has been received.

Moved and seconded,
And resolved that it be recommended to the Board:

That the Community Works Fund application submitted by the RDCK for the RDCK North Shore Fire Station Upgrades in the total amount of \$45,787.20 be approved and that funds be disbursed from Community Works Funds and allocated to Electoral Area F as an internal transfer to Service S134 Northshore Fire Protection – Area F.

Carried

8.2 COMMUNITY WORKS FUND APPLICATION – RDCK – PASS CREEK FIREHALL UPGRADES
File No.: 26-0528-CWF
Electoral Area I

The Committee Report dated July 2, 2026 from Monique St Louis, Grants Coordinator, re: Community Works Fund Application - RDCK-Pass Creek Firehall Upgrades, has been received.

Moved and seconded,
 And resolved that it be recommended to the Board:

That the Community Works Fund application submitted by the RDCK for the RDCK-Pass Creek Firehall Upgrades in the total amount of \$75,000 be approved and that funds be disbursed from Community Works Funds and allocated to Electoral Area I as an internal transfer to Service S137 Pass Creek Fire Protection – Area I.

Carried

8.3 COMMUNITY WORKS FUND APPLICATION – RDCK – PASS CREEK WILDLAND APPARATUS
File No.: 26-0529-CWF
Electoral Area I

The Committee Report dated July 2, 2026 from Monique St Louis, Grants Coordinator, re: Community Works Fund Application - RDCK-Pass Creek Wildland Apparatus, has been received.

The Committee had a discussion regarding the application.

Moved and seconded,
 And resolved that it be recommended to the Board:

That the Community Works Fund application submitted by the RDCK for the RDCK-Pass Creek Wildland Apparatus in the total amount of \$250,000 be approved and that funds be disbursed from Community Works Funds and allocated to Electoral Area I as an internal transfer to Service S137 Pass Creek Fire Protection – Area I.

Carried

8.4 COMMUNITY WORKS FUND APPLICATION – RDCK – SLOCAN RIVER FORESHORE INVENTORY MAPPING AND GUIDANCE

File No.: 26-0508-CWF
Electoral Area H

The Committee Report dated June 24, 2026 from Monique St Louis, Grants Coordinator, re: Community Works Fund Application - RDCK-Slocan River Foreshore Inventory Mapping and Guidance, has been received.

The Committee had a discussion regarding the application and staff answered questions.

Moved and seconded,
 And resolved that it be recommended to the Board:

That the Community Works Fund application submitted by the RDCK for the RDCK Slocan River Foreshore Inventory Mapping and Guidance in the total amount of \$100,000 be approved and that funds be disbursed from Community Works Funds and allocated to Electoral Area H.

Carried

8.5 COMMUNITY WORKS FUND APPLICATION – RDCK – SLOCAN VALLEY FIREHALL INFRASTRUCTURE UPGRADES
File No.: 26-0521-CWF
Electoral Area H

The Committee Report dated June 24, 2026 from Monique St Louis, Grants Coordinator, re: Community Works Fund Application - RDCK-Slocan Valley Firehall Infrastructure Upgrades, has been received.

Moved and seconded,
 And resolved that it be recommended to the Board:

That the Community Works Fund application submitted by the RDCK for the RDCK Slocan Valley Firehall Infrastructure Upgrades in the total amount of \$190,000 be approved and that funds be disbursed from Community Works Funds and allocated to Electoral Area H as an internal transfer to Service S142 Slocan Valley Fire Protection Area H.

Carried

8.6 COMMUNITY WORKS FUND APPLICATION – RDCK – SOUTH SLOCAN WATER DISTRIBUTION SYSTEM UPGRADES
File No.: 26-0508-CWF
Electoral Area H

The Committee Report dated June 24, 2026 from Monique St Louis, Grants Coordinator, re: Community Works Fund Application - RDCK-South Slokan Water Distribution System Upgrades, has been received.

Moved and seconded,

And resolved that it be recommended to the Board:

That the Community Works Fund application submitted by the RDCK for the RDCK South Slokan Water Distribution System Upgrades in the total amount of \$60,000 be approved and that funds be disbursed from Community Works Funds and allocated to Electoral Area H as an internal transfer to Service S245 Water Utility – Area H (South Slokan).

Carried

8.7 COMMUNITY WORKS FUND APPLICATION - CASTLEGAR & DISTRICT ARENA AND WALKING TRACK PROJECT

The Committee Report dated July 14, 2026 from Monique St Louis, Grants Coordinator, re: Community Works Fund Application - Castlegar & District Arena and Walking Track Project, has been received.

Moved and seconded,

And resolved that it be recommended to the Board:

That the Community Works Fund application submitted by the RDCK for the Castlegar & District Arena and Walking Track Project in the total amount of \$60,000 be approved and that funds be disbursed from Community Works Funds and allocated to Electoral Area J as an internal transfer to Service S222 – Area J.

Carried

Moved and seconded,

And resolved that it be recommended to the Board:

That the Board approve an amendment to the 2026 Financial Plan for Arena – Castlegar and Area I & J Service S222 to INCREASE Transfer from Community Works by \$60,000 and INCREASE Capital Expenditures by \$60,000.

Carried

9. PUBLIC TIME

The Chair called for questions from the public and members of the media at 11:25 a.m.

No media or public had questions.

10. ADJOURNMENT

Moved and seconded,
And resolved:

The meeting be adjourned at 11:26 a.m.

Carried

Digitally approved

Garry Jackman, Chair



MEMORANDUM

File 3130-20-F-707.08366.140-BP029406

September 15, 2026

TO: Rural Affairs Committee

FROM: Erik Stout, Manager Building and Bylaw

SUBJECT: Cancellation of Notice on Title – Shea, Joseph J and Maclean, Christine N – 4515 Beasley West Road

Please be advised that the condition that gave rise to adopting the following resolution on April 12, 2012, has been rectified by Building Permit BP029406. We can now file for a Cancellation Notice to cancel bylaw offence LB503705.

314/12 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 at 4515 Beasley West Road in Beasley, Electoral Area "F", currently owned by Joseph Jon Shea and Christine Nancy Maclean, legally described as Lot B District Lot 7066 Kootenay District Plan NEP21605, 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 owners, Joseph Shea and Christine Maclean, have requested removal of the Notice on Title in writing and has paid the administration fee of \$750.00.

RECOMMENDATION

That the Corporate Officer be authorized to remove the Notice on Title relating to 4515 Beasley West Road, Electoral Area F, currently owned by Joseph Jon Shea and Christine Nancy Maclean, property legally described as LOT B PLAN NEP21605 DISTRICT LOT 7066 KOOTENAY LAND DISTRICT PID 018-931-146, the RDCK Building Department has confirmed that the stair guardrail deficiencies have been rectified.

ALTERNATE RECOMMENDATION

That the Rural Affairs Committee REFER the consideration of a cancelation of the Notice with the Land Title and Survey Authority of British Columbia for land at 4515 Beasley West Road, Electoral Area F, legally described as LOT B PLAN NEP21605 DISTRICT LOT 7066 KOOTENAY LAND DISTRICT PID 018-931-146 to the October 2026 Open Rural Affairs Committee meeting.

Erik Stout, Manager Building and Bylaw



August 24, 2026

File: 786.04864.020

KENNY, TIMOTHY M
KENNY, JAGAN P
COOK, STEPHEN W
1254 LAKEVIEW- ARROW CREEK RD
ARROW CREEK BC V0B 1G9

SUBJECT: Bylaw contravention on property legally described as LOT B PLAN NEP74758
DISTRICT LOT 4595 KOOTENAY LAND DISTRICT
CIVIC ADDRESS: 1254 LAKEVIEW-ARROW CREEK RD

Please be advised the Rural Affairs Committee referred the following recommendation at its meeting held August 19, 2026:

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 1254 LAKEVIEW-ARROW CREEK RD, CRESTON, BC, Electoral Area B, legally described as LOT B PLAN NEP74758 DISTRICT LOT 4595 KOOTENAY LAND DISTRICT; 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.

By copy of this letter, you are notified that this matter will be referred to the September 23, 2026 Rural Affairs Committee meeting. 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.

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 250-352-1500

Yours truly,

Originally signed by

Manager Building and Bylaw
Erik Stout



File No: 3135-20- B-786.04864.020

July 14, 2026

KENNY, TIMOTHY M
KENNY, JAGAN P
COOK, STEPHEN W
1254 LAKEVIEW- ARROW CREEK RD
ARROW CREEK BC V0B 1G9

SUBJECT: Notice on Title **CIVIC ADDRESS:** 1254 LAKEVIEW-ARROW CREEK RD

Please be advised that RDCK staff, in accordance with Section 57 of the Community Charter (SBC 2003) are recommending that the RDCK Board place a notice against the land title of your property located at LOT B PLAN NEP74758 DISTRICT LOT 4595 KOOTENAY LAND DISTRICT PID 025-826-816. The staff memo containing the background information on this matter is enclosed for your reference. Section 57 requires that property owners be given the opportunity to be heard on this matter prior to a decision to place the notice.

This letter serves as notification that the RDCK Rural Affairs Committee will consider this matter at the date and time noted below. Alternatively, you may participate in this meeting online. If you choose to attend, you will be provided with the opportunity to address the Committee regarding this matter.

Date: August 19, 2026

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: In-person: RDCK Head Office - Board Room, 202 Lakeside Dr, Nelson BC
Hybrid meeting: Please refer to our website **rdck.ca**

At this meeting 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 us in advance if you 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.

If you wish to avoid the possibility of having a Notice on Title placed on your property, you must contact the building department **no later than 2 business days prior** to the meeting. For specific building inspection inquiries respecting the above, you may contact the RDCK Building department at 1-800-268-7325 or (250) 352-1500

Yours truly,
Mike Morrison, Corporate Officer



MEMORANDUM

File No: 3135-20-B-786.04864.020

July 14, 2026

TO: Rural Affairs Committee

FROM: Erik Stout, Manager Building and Bylaw

SUBJECT: Filing of Section 57-Notice on Title-KENNY, TIMOTHY M, KENNY, JAGAN P, COOK, STEPHEN W
-1254 LAKEVIEW-ARROW CREEK RD

The purpose of this report is for the RDCK Board to consider placing a Notice on Title on the above noted property described as LOT B PLAN NEP74758 DISTRICT LOT 4595 KOOTENAY LAND DISTRICT PID 025-826-816 because of a building bylaw contravention-Commencing construction without a valid building permit.

EXECUTIVE SUMMARY CHOICES:

Commencing construction without a valid building permit.

NOTICE ON TITLE – RURAL AFFAIRS COMMITTEE REPORT – BUILDING BYLAW INFRACTIONS:

4.1 No person shall undertake work regulated by this Bylaw without a permit

6.1 No person shall commence or continue any construction, alteration, reconstruction, demolition, removal, relocation or change the occupancy of any building, structure or plumbing system or other work related to construction unless a building official has issued a valid and subsisting permit for the work.

February 15, 2026 – Received inquiry, asking if there is currently an active building permit issued at the subject property. Building Department let them know there are no active building permits and that unpermitted construction can be reported through our online form.

March 27, 2026 – Building Department receives complaint, stating that unpermitted digging/building is happening on the subject property with accompanying photo. Building official attended site to monitor progress. No foundation work had started, only excavation.



April 21, 2026 – Building Department receives a second complaint from the same complainant with a photo of ICF forms. Building Official attended site on the same day and placed a SWO on ICF Foundation wall prior to placement of concrete.

June 4, 2026 – Building Official reposted Stop Work Order on newly framed wall – foundation wall now poured with concrete. Building Official issued two Bylaw Offence Notice tickets for two separate contraventions of the building bylaw. Both tickets paid by owner.

July 8, 2026 – Building Official conducts follow up at the property – work continuing more framed walls erected. Building Official issues two Bylaw Offence Notice tickets for two separate contraventions of the building bylaw.

As of date of this report no building permit application has been received.



April 21, 2026



June 4, 2026



July 8, 2026

Nelson Office: Box 590, 202 Lakeside Drive, Nelson, BC. V1L 5R4
Phone: 250.352.6665 | Toll Free: 1.800.268.7325 (BC) | Email: info@rdck.ca | Fax: 250.352.9300 | rdck.ca



RECOMMENDATION

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 1254 LAKEVIEW-ARROW CREEK RD, CRESTON, BC, Electoral Area B, legally described as LOT B PLAN NEP74758 DISTRICT LOT 4595 KOOTENAY LAND DISTRICT; 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.

ALTERNATE RECOMMENDATION

That the Rural Affairs Committee REFER the consideration of a Notice with the Land Title and Survey Authority of British Columbia for land at 1254 LAKEVIEW-ARROW CREEK RD, CRESTON, BC, Electoral Area B, legally described as LOT B PLAN NEP74758 DISTRICT LOT 4595 KOOTENAY LAND DISTRICT to the September 2026 Open Rural Affairs Committee meeting.

Erik Stout, Manager Building and Bylaw **Approved**

Amy Wilson, Acting General Manager of Development and Community Sustainability Services **Approved**

Uli Wolf, Acting Chief Administrative Officer **Approved**



Committee Report

Date of Report: September 09, 2026
Date & Type of Meeting: September 23, 2026, Rural Affairs Committee
Author: Sadie Chezenko, Planner 1
Subject: LAND USE BYLAW AMENDMENT
File: Z2405I – GLADE GENERAL STORE LTD
Electoral Area/Municipality I

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Regional Board to consider an application for a land use bylaw amendment in Electoral Area 'I' to rezone a property from Neighbourhood Commercial (C1) to Neighbourhood Commercial (C1) Site Specific. The application has been submitted to consider allowing the addition of a café on the subject property which is also the site of an existing service station. The café was established without a building permit or zoning approvals.

Staff recommend that Amending Bylaw No. 3083, 2026 being a bylaw to amend Zoning Bylaw No. 1675, 2004 be given FIRST and SECOND and THIRD reading by content and that final adoption be withheld pending approval by the Ministry of Transportation and Transit (MOTT).

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION

Property Owner: Glade General Store LTD

Property Location: 2347 Highway 3A, Glade, Electoral Area 'I'

Legal Description: PARCEL A (SEE T3993) OF LOT 3 DISTRICT LOT 302A KOOTENAY DISTRICT PLAN 781, EXCEPT PART INCLUDED IN PLAN 12613 (PID: 016-059-352)

Property Size: 0.25 ha

Current Zoning: Neighbourhood Commercial (C1) in Zoning Bylaw No. 1675, 2004

Current Official Community Plan Designation: Commercial (C) in Sentinel Mountain Official Community Plan Bylaw No. 2821, 2024

Site Context

The subject property is located just off Highway 3A in Glade Central in Electoral Area 'I.' It is designated for Commercial (C) use and similarly zoned Neighbourhood Commercial (C1) in RDCK Zoning Bylaw no. 1675, 2004. The area surrounding the property is designated Agriculture (AG) and most properties are used for residential or agricultural purposes. The subject property is a triangular lot adjacent to Lazeroff and De Jong Roads and has been historically improved with a service station (gas station, liquor store and convenience store) and residence.

In 2023, the owner converted the residence into a restaurant called the Cornerstone Café without zoning approvals or a building permit. This café is attached to the service station.

A Stop Work Order was issued by the Building Department for commencing construction of a café prior to obtaining a valid building permit. In addition to the renovations, a ~69 m² deck for outdoor seating was

constructed on the north side of the building. The deck extends beyond the property line and into the road right-of-way. Typically, the siting of structures is reviewed at the building permit stage which helps to avoid issues like encroachments. In this case, the Ministry of Transportation and Transit (MOTT) has granted the owner a permit to authorize the deck to remain in this location. However, the addition of the café and deck resulted in zoning contraventions. As such, this bylaw amendment application is required in order to legalize the café.



Figure 1: Overview Map

Development Proposal

The purpose of the proposed bylaw amendment application is to rezone the property from Neighbourhood Commercial (C1) to Neighbourhood Commercial (C1) Site-Specific in order to legalize the following:

- A service station and a restaurant on a 0.25 ha lot whereas the bylaw requires a minimum of 2.0 ha of site area for both.
- A setback exemption to accommodate the deck up to 0.0m from the lot line.
- A maximum site coverage of 70% on the property to accommodate the existing development.
- To not meet the general regulations for landscaping (as outlined in S. 620 and 621 of the zoning bylaw) by not providing any new landscaping on site.
- To not meet the general regulations for parking (as outlined in S. 611 and 612 of the zoning bylaw) and instead continue having parking accommodated primarily in the road right of way as has historically occurred. The zoning without this relaxation would require the property owner to provide 22 parking spaces on the lot.

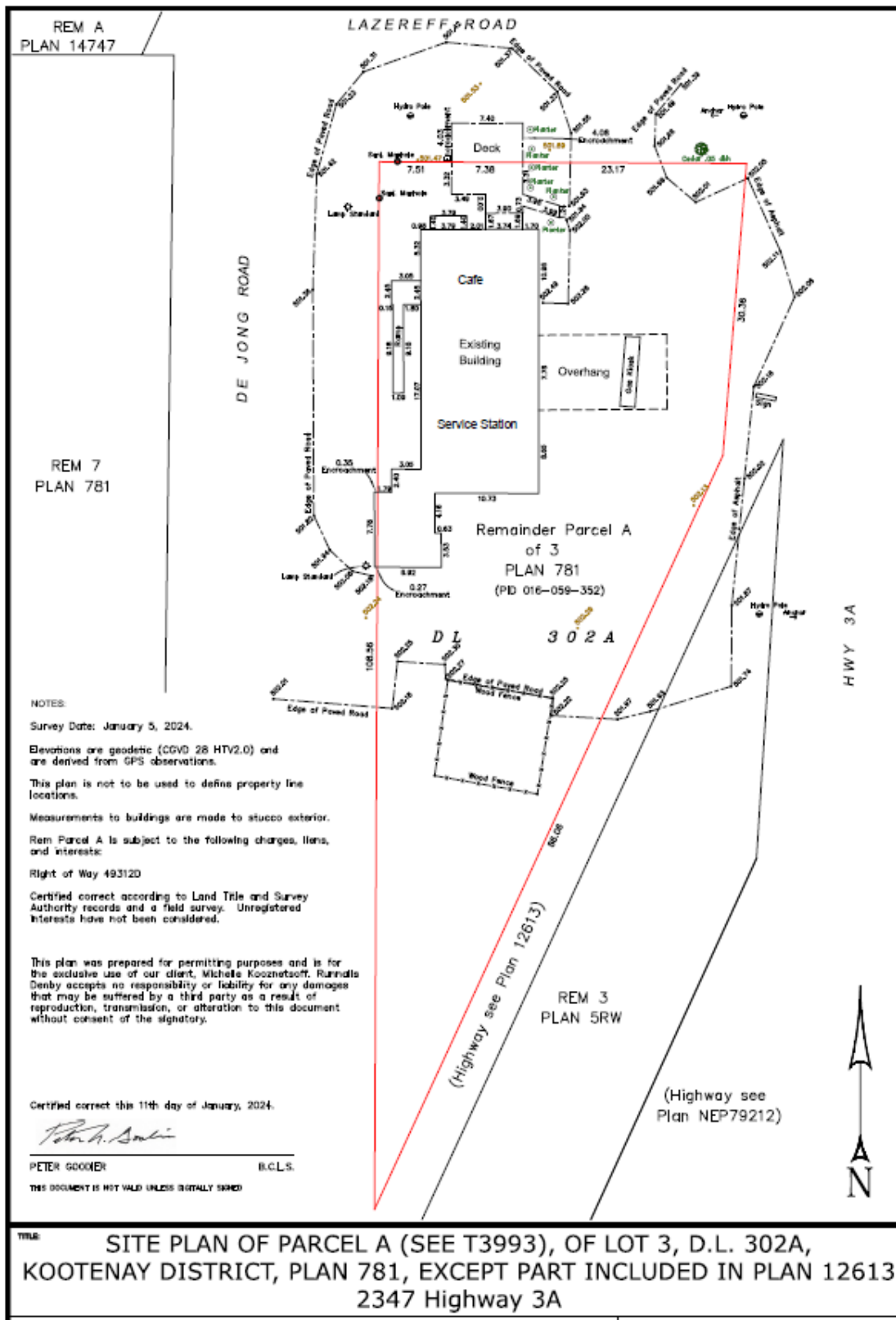


Figure 2: Site Plan

Site Visit

A site visit was conducted on May 19, 2026. The figures below show the areas of existing and proposed development.



Figure 3: Subject Property



Figure 4: Service Station, Café and Deck



Figure 5: Service Station and Café

Land Use Considerations

Official Community Plan (OCP)

The OCP identifies that most commercial growth in the region will occur outside of Electoral Area '1' in nearby places such as Castlegar. For commercial development in Area '1,' the OCP supports the creation of new businesses and employment opportunities particularly when commercial development can be clustered or contributes to the revitalization of existing commercial properties. The OCP emphasizes that new and expanded development should meet form and character guidelines to ensure compatibility with the rural character and surrounding environment. The OCP also identifies the need to foster community through facilitating spaces where residents can come together to connect.

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 and the \$2000 surcharge for development applications resulting from bylaw enforcement action pursuant to the *Planning Procedures and Fees Bylaw No. 2457, 2015* have been paid in full.

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

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

3.3 Environmental Considerations

None anticipated.

3.4 Social Considerations:

The OCP also identifies the need to foster community through facilitating spaces where residents can come together to connect. The addition of a café in this location adds a space for social connection to occur. There are no other spaces nearby which offer a similar point of connection for residents.

3.5 Economic Considerations:

None anticipated.

3.6 Communication Considerations:

Public and Neighbour Notice

In accordance with Schedule 'C' of the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*, a 'Notice of Development' sign was placed on the subject property. Notice of this proposal was sent via mail to owners and tenants of all parcels within 100 meters of the subject property. The proposal and relevant information was also posted to the RDCK Active Applications page where all current planning applications are made available to the public. To date, no responses to these notices have been received and or were received and attached to this report as Attachment B.

Agency Referral Responses

In accordance with Schedule 'C' of the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*, planning staff referred the application to all applicable Regional District departments, First Nations, government ministries and agencies for a period of thirty (30) days. Responses received are attached to this report as Attachment B.

3.7 Staffing/Departmental Workplace Considerations:

Staff reviewed the application in accordance with the Land Use Amendments Procedures within Schedule 'D' of the *Planning Procedures and Fees Bylaw No. 2547, 2015*.

3.8 Board Strategic Plan/Priorities Considerations:

n/a

SECTION 4: SUMMARY

Planning Discussion

The applicant has applied for a bylaw amendment to permit the continued operation of the Cornerstone Café and Service Station on the subject property. Due to the existing development and site constraints, relaxations to the parking, landscaping, site coverage, and setback requirements are also required. The applicant has constructed and operated the café without the necessary building and planning approvals since 2023.

The primary concern with the application is not the suitability of the café or service station at this location, but the concentration of multiple uses on a small site. Other than interior renovations and the addition of the deck, there have been no changes to the site. The café does introduce an additional use and additional patrons, however, the resulting impacts must be considered in the context of an existing, constrained site where opportunities for further improvements are limited.

Parking is primarily accommodated within adjacent road rights-of-way, and there is insufficient area on site to provide the required parking and landscaping. Given the existing site layout, these deficiencies cannot reasonably be addressed without substantially altering the property. Importantly, the parking arrangement and deck location has been reviewed by the Ministry of Transportation and Transit (MOTT). MOTT has confirmed that it has no concerns with the continued use of its rights-of-way to accommodate parking and has also issued a permit authorizing the deck to remain within the right-of-way.

The café provides a meaningful community benefit by creating a place for residents to gather, socialize, and foster connection. This is particularly valuable given the limited opportunities for community gathering spaces along this corridor, and the importance of these spaces is recognized in the OCP. The applicant has also addressed concerns related to the provision of water on site, and the café is not anticipated to create servicing issues.

Overall, staff consider the community benefit of the café to outweigh the site-specific impacts associated with accommodating multiple uses on a constrained property. The proposal supports a valued local business and

provides an important community gathering space without creating servicing concerns. The remaining deficiencies are largely a function of the existing site conditions and cannot reasonably be addressed through further site improvements.

Given the above, staff recommend that the Board grant first, second, and third readings to the amendment bylaw and withhold adoption until approval is received from the Ministry of Transportation and Transit (MOTT).

Options

Option 1: Grant First, Second and Third Reading and withhold consideration of Adoption until MOTT approval

That Regional District of Central Kootenay Zoning Amendment Bylaw No. 3083, 2026 being a bylaw to amend the Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 is hereby given FIRST, SECOND and THIRD reading by content.

And that the consideration of adoption BE WITHHELD for Regional District of Central Kootenay Zoning Amendment Bylaw No. 3028, 2025 until the following item has been obtained:

- Approval from the Ministry of Transportation and Transit pursuant to Section 52(3)(a) of the Transportation Act (Controlled Access).

Option 2: Take no further action

That the Board take no further action regarding Regional District of Central Kootenay Zoning Amendment Bylaw No. 3083, 2026.

SECTION 5: RECOMMENDATIONS

That Regional District of Central Kootenay Zoning Amendment Bylaw No. 3083, 2026 being a bylaw to amend the Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 is hereby given FIRST, SECOND and THIRD reading by content.

And that the consideration of adoption BE WITHHELD for Regional District of Central Kootenay Zoning Amendment Bylaw No. 3028, 2025 until the following item has been obtained:

- Approval from the Ministry of Transportation and Transit pursuant to Section 52(3)(a) of the Transportation Act (Controlled Access).

Respectfully submitted,
Sadie Chezenko, Planner 1

CONCURRENCE

Planning Manager – Nelson Wight **Approved**

Acting Manager of Development and Community Sustainability – Amy Wilson **Approved**

Chief Administrative Officer – Stuart Horn **Approved**

ATTACHMENTS:

Attachment A – Amendment Bylaw No. 3083

Attachment B – Referral Responses

REGIONAL DISTRICT OF CENTRAL KOOTENAY

Bylaw No. 3083

A Bylaw to amend Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004

WHEREAS it is deemed expedient to amend the Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004, and amendments thereto.

NOW THEREFORE the Board of the Regional District of Central Kootenay, in open meeting assembled, HEREBY ENACTS as follows:

APPLICATION

- 1 That Schedule 'A' of Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 be amended by changing the Zoning Designation of PARCEL A (SEE T3993) OF LOT 3 DISTRICT LOT 302A KOOTENAY DISTRICT PLAN 781, EXCEPT PART INCLUDED IN PLAN 12613 (PID: 016-059-352) from Neighbourhood Commercial (C1) to Neighbourhood Commercial (C1) Site-Specific to allow the following:
 - Despite Section 605(1), unless otherwise stated, no principal or accessory building or structure except a fence or a deck may be located within 7.5 metres of a front or exterior side lot line or within 2.5 metres of any other lot line
 - Despite Section 611 and 612, there will be no parking requirements for this property.
 - Despite Section 3001(1), the minimum site area for each permitted use on this property with on-site servicing shall be 0.12 ha
 - Despite Section 3001(2), the maximum site coverage permitted shall be 70 percent of the lot area.
 - Despite Section 3001(4), 620 and 621, landscaping does not need to comply with the requirements of sections 620 and 621.as shown on the attached Map.
- 2 This Bylaw shall come into force and effect upon its adoption.

CITATION

- 3 This Bylaw may be cited as “**Regional District of Central Kootenay Zoning Amendment Bylaw No. 3083, 2026.**”

READ A FIRST TIME this [Date] day of [Month], 20XX.

READ A SECOND TIME this [Date] day of [Month], 20XX.

READ A THIRD TIME this [Date] day of [Month] , 20XX.

ADOPTED this [Date] day of [Month] , 20XX.

[Name of Board Chair], Board Chair

[Name of CO], Corporate Officer

REGIONAL DISTRICT OF CENTRAL KOOTENAY
PROPOSED ZONING BYLAW 3083, 2026
Schedule A



SCHEDULE A - BYLAW 3083



REGIONAL DISTRICT OF
CENTRAL KOOTENAY

Cadastre	Lakeshore Development	Residential 3
Agriculture	Open Space	Residential 4
Commercial	Parks and Recreation	Residential 5
Highway Service Residential	Railway	Rural Residential
Industrial	Residential 1	Resource Area
Institutional	Residential 2	016-059-352

Date: 2026-05-25

The mapping information shown are approximate representations and should only be used for reference purposes.



Referral Responses – Z24051

Agency/Department/First Nation	Response
Archaeology Branch	Results of Provincial Archaeological Inventory Search According to Provincial records, there are no known archaeological sites recorded on the subject property. However, archaeological potential modelling for the area indicates there is high potential for previously unidentified archaeological sites to exist on the property, as indicated by the purple area shown in the screenshot below. 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 for 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 <i>Heritage Conservation Act</i> 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.

	If there are no plans for land altering activities on the property, no action is required at this time. Rationale and Supplemental Information • There is high potential for previously unidentified archaeological deposits to exist on the property. • Archaeological sites are protected under the <i>Heritage Conservation Act</i> and must not be damaged or altered without a Provincial heritage permit issued by the Archaeology Branch. This protection applies even when archaeological sites are previously unidentified or disturbed. • If a permit is required, be advised that the permit application and issuance process takes approximately 20 to 40 weeks; the permit application process includes referral to First Nations and subsequent engagement. • The Archaeology Branch must consider numerous factors (e.g., proposed activities and potential impacts to the archaeological site[s]) when determining whether to issue a permit and under what terms and conditions. • The Archaeology Branch has the authority to require a person to obtain an archaeological impact assessment, at the person's expense, in certain circumstances, as set out in the <i>Heritage Conservation Act</i>. • Occupying an existing dwelling or building without any land alteration does not require a Provincial heritage permit. How to Find an Eligible Consulting Archaeologist An eligible consulting archaeologist is one who can hold a Provincial heritage permit to conduct archaeological studies. To verify an archaeologist's eligibility, ask an archaeologist if he or she can hold a permit in your area, or contact the Archaeology Branch (250-953-3334) to verify an archaeologist's eligibility. Consulting archaeologists are listed on the BC Association of Professional Archaeologists website (www.bcapa.ca) and in local directories. Please note, the Archaeology Branch cannot provide specific recommendations for consultants or cost estimates for archaeological assessments. Please contact an eligible consulting archaeologist to obtain a quote. Questions? For questions about the archaeological permitting and assessment process, please contact the Archaeology Branch at 250-953-3334 or archaeology@gov.bc.ca. For more general information, visit the Archaeology Branch website at www.gov.bc.ca/archaeology.
BC Hydro	BC Hydro has no works in the area, as we do not service that area, so we have no objections.
Ecosystems Section Head -	See attached letter.

Kootenay-Boundary Region Ministry of Water, Land & Resource Stewardship (MWLRS)	
Licensed Authorizations Officer -Boundary Region Ministry of Water, Land & Resource Stewardship (MWLRS)	Water, Land and Resource Stewardship (WLRS) staff have reviewed referral Z24051 and provide the following comments at this time: 1. From a Water Sustainability Act (WSA) perspective, WLRS staff have no concern with the proposed works described in the referral. However, some comments/questions regarding historic and current use of water on the subject property are provided below. 2. The subject property (2347 Highway 3A, PID 016-059-352) appears to have two (2) domestic water licences for domestic purpose use, specifically, licence F019026 (copy attached, link at https://j200.gov.bc.ca/pub/ams/Default.aspx?PossePresentation=PublicDocuments&PosseObjectId=45036758) and licence F019027 (copy attached, link at https://j200.gov.bc.ca/pub/ams/Default.aspx?PossePresentation=PublicDocuments&PosseObjectId=45036758). The two licences allow for domestic purpose use for the periods of April to September (F019026) and October to March (F019027). The term "appears to" is used above as the legal description/appurtenancy on the licences do not match the current legal description in BC Assessment, as such, staff can't confirm the licence appurtenancy. A comparison of the 1965 water licences plans with current parcel boundary information suggest the above noted water licences are appurtenant to the subject property. Please ask the applicant to confirm licences F019026 and F019027 are for the subject property and advise that licence holders are responsible to provide updated information to keep the licence in good standing. If the water licence appurtenancy needs updating, an application will need to be submitted for a "Change in Appurtenancy". Details regarding a Transfer of Appurtenancy application are at https://www2.gov.bc.ca/gov/content/environment/air-land-water/water/water-licensing-rights/water-licences-approvals/amend-or-abandon-a-water-licence/apply-amend-water-licence 3. The subject property supports commercial uses which would require a water licence application for a "commercial enterprise" purpose use. A review of water licensing information for the subject property did not find a water licence for commercial purpose use on the property. However, WLRS staff note that older hard copy licences have sometimes not been digitized incorrectly and, as such, do not appear in a query of the provincial licence search. Please ask the applicant to provide a copy of a water licence, or

	provided a licence number, allowing for use and diversion of water for commercial purpose use on the subject property. 4. If a water licence application has been submitted for a commercial purpose use, it could be sitting in the application queue and waiting for preliminary review to be entered in the water licence application system where it can be viewed by WLRS Water Authorizations staff. If a commercial water use application has been submitted, please ask the property owner to provide the application "tracking number". 5.. If a water licence for commercial purpose use is not held on the subject property, the property owner will need to apply for a new water licence application for a commercial purpose use. WLRS staff advise the water source (i.e., Schiavon Creek) for the existing domestic water licences is fully recorded and, as such, new water rights may not be available to support a commercial water use. WLRS staff note that an existing water licence may be amended to change the purpose use (e.g., from domestic to commercial) provided the quantity of water is not increased. Information regarding an amendment application is at https://www2.gov.bc.ca/gov/content/environment/air-land-water/water/water-licensing-rights/water-licences-approvals/amend-or-abandon-a-water-licence/apply-amend-water-licence . Staff Update: WLRS worked with the applicant and has addressed their concerns via an application to amend their existing water license to shift the authorization from domestic to commercial use.
Fortis BC	<u>Land Rights Comments</u> • 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. <u>Operational & Design Comments</u> • There are FortisBC Electric ("FBC(E)") primary distribution facilities along Lazeroff Road. The existing deck situated within the road allowance is also located beneath FBC(E) overhead facilities. The applicant should contact an FBC(E) designer or operations personnel noted below to ensure that no Electrical Code or WorksafeBC regulations aren't being adhered to. • 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. • <u>The applicant should contact an FBC(E) designer as noted below for more details regarding code and safety compliance.</u> In order to initiate the design process, the customer must call 1-866-4FORTIS (1-866-436-7847). Please have the following information available in order for FBC(E) to set up the file when you call.

	• Electrician's Name and Phone number • FortisBC Total Connected Load Form • Other technical information relative to electrical servicing For more information, please refer to FBC(E)'s overhead and underground design requirements: FortisBC Overhead Design Requirements http://fortisbc.com/ServiceMeterGuide FortisBC Underground Design Specification http://www.fortisbc.com/InstallGuide If you have any questions or comments, please contact us at your convenience.
Lower Similkameen Indian Band (LSIB)	The Lower Similkameen Indian Band (LSIB) would like to acknowledge receipt of the above referral. We have conducted a desktop review of it. The location of the project/activity to which the referral relates is within syilx Territory and may have impacts on inherent and constitutionally protected syilx Title and Rights, which LSIB holds as part of the syilx Nation. However, given the location of the project, we would support Osoyoos Indian Band (OIB) and Penticton Indian Band (PIB) in taking lead in further consultation and engagement on this project. Please keep us informed of any updates or changes to the project as this may change our assessment and our view on the need for further consultation with LSIB and an invoice will follow at a later date.
Ministry of Transportation and Transit (MOTT)	Thank you for the opportunity to review and provide comments on the above-noted application. The Ministry has no concerns or objections to the requested bylaw text amendment for this property.
Okanagan Indian Band (OKIB)	The Territorial Stewardship Division would like to acknowledge receipt of the above referral. The Okanagan Indian Band ("OKIB") has conducted a desktop review of the project. The location of the project to which the referral relates is within Syilx (Okanagan Nation) territory, and may have impacts on Syilx Aboriginal Title and Rights, which OKIB holds as part of the Syilx. However, the project is located outside the OKIB's Area of Responsibility as a member of the Syilx. At this time, we defer to the Lower Similkameen Indian Band, Osoyoos Indian Band and Penticton Indian Band for a more in depth review. Please keep us informed of any updates or changes to the project as this may change our assessment and our view on the need for further consultation with OKIB.
Osoyoos Indian Band (OIB)	The Osoyoos Indian Band hereby acknowledges receipt of the above-referenced referral. The proposed activity is situated within the traditional territory of the Syilx (Okanagan Nation). The Osoyoos Indian Band's Referral Department has reviewed the materials provided and has determined, without prejudice, that the Osoyoos Indian Band, at this time will be deferring all further consultation, engagement, and related correspondence to Penticton Indian Band.

	Fees Defer Admin (12%) \$ 9.60 Desktop Review (Defer) \$ 80.00 Total \$ 89.60 Invoice Amount – Deferral Review: \$89.60 Payment in the amount of \$89.60 is due in respect of the deferral review. Cheques shall be made payable to the Osoyoos Indian Band and remitted to the following address: Osoyoos Indian Band 1155 Sen Pok Chin Blvd Oliver, BC V0H 1T8 Please ensure that Referral ID Number is referenced on the cheque or in all related remittance documentation.
Penticton Indian Band (PIB)	We are in receipt of the above referral. The proposed activity is located within syilx (Okanagan Nation) Territory and the snpink'tn (Penticton Indian Band) Area of Interest. All lands and resources within the vicinity of the proposed development are subject to our unextinguished Aboriginal Title and Rights. snpink'tn has now had the opportunity to review the proposed activity. The proposed bylaw amendment application involves the legalization of a restaurant and outdoor seating deck that were constructed without prior zoning approvals or building permits. As the project includes land disturbance associated with previous construction activities, changes in land use, and the continued operation of commercial infrastructure within an area of potential cultural heritage sensitivity, the snpink'tn(Penticton) Indian Band səxʷtəxtəm Department recommends that a Cultural Heritage Resource Assessment (CHRA) be completed prior to consideration of project approvals. A CHRA is a comprehensive assessment of cultural heritage values and interests that extends beyond the identification of known archaeological sites. The assessment evaluates cultural heritage resources, traditional land use, oral history, cultural landscapes, areas of archaeological potential, and other syilx cultural values that may be affected by the proposed development. The CHRA will assist in identifying any cultural heritage concerns and provide recommendations to avoid, minimize, or mitigate potential impacts to syilx cultural resources. Given the nature of the proposed development and the existing unauthorized construction, completion of a CHRA is necessary to ensure that potential impacts to syilx cultural heritage resources have been adequately assessed and addressed.

	Please contact Maryssa Bonneau, Crown Consultation Management to arrange within 30 days. Please note that our participation in the referral and consultation process does not define or amend snpink'tn Aboriginal Rights and Title or does it limit the positions that we may take in future negotiations or court actions. If you require further information or clarification, please do not hesitate to contact me. limlāmt,
RDCK Building Department	A building permit will be required for café/kitchen and deck. For the deck proposed at property line, spatial separation requirements will be reviewed during the building permit review process.
RDCK Fire Services	Tarrys Fire Department provided a copy of the pre-incident plan for the businesses operating on the subject property and noted that “we do not see any further issues with this facility.”



July 5, 2023

Greetings,

The Kootenay-Boundary Ecosystems Section of the Ministry of Water, Land and Resource Stewardship has received your referral request. We are currently unable to provide a detailed review of the referral but provide the following standard requirements, recommendations and/or comments:

1. All activities are to follow and comply with all higher-level plans, planning initiatives, agreements, Memorandums of Understanding, etc. that local governments are parties to.
2. Changes in and about a “stream” [as defined in the [Water Sustainability Act](#) (WSA)] must only be done under a license, use approval or change approval; or be in compliance with an order, or in accordance with Part 3 of the [Water Sustainability Regulation](#). Authorized changes must also be compliant with the [Kootenay-Boundary Terms and Conditions and Timing Windows](#) documents. Applications to conduct works in and about streams can be submitted through [FrontCounter BC](#).
3. No “development” should occur within 15 m of the “stream boundary” of any “stream” [all as defined in the [Riparian Areas Protection Regulation](#) (RAPR)] in the absence of an acceptable assessment, completed by a Qualified Professional (QP), to determine if a reduced riparian setback would adversely affect the natural features, functions and conditions of the stream. Submit the QP assessment to the appropriate Ministry of Water, Land and Resource Stewardship office for potential review. Local governments listed in Section 2(1) of [RAPR](#) are required to ensure that all development is compliant with RAPR.
4. The federal [Species at Risk Act](#) (SARA) protects Endangered, Extirpated or Threatened species listed under Schedule 1 of SARA. Developers are responsible to ensure that no species or ecosystems at risk (SEAR), or Critical Habitat for Federally listed species, are

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adversely affected by the proposed activities. The BC Species and Ecosystem Explorer website provides information on known SEAR occurrences within BC, although the absence of an observation record does not confirm that a species is not present. Detailed site-specific assessments and field surveys should be conducted by a QP according to [Resource Inventory Standard Committee](#) (RISC) standards to ensure all SEAR have been identified and that developments are consistent with any species or ecosystem specific [Recovery Strategy or Management Plan](#) documents, and to ensure proposed activities will not adversely affect SEAR or their [Critical Habitat for Federally-listed Species at Risk \(Posted\)](#).

5. 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](#).
6. 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

7. 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](#)

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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.

8. 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.
9. 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).
10. Developments must be compliant with all other applicable statutes, bylaws, and regulations.

If the references above do not address your concerns, please do not hesitate to reach out to me for further investigation into your concerns.

Kind Regards,



Shannon White, RPBio
Ecosystems Section Head - Kootenay-Boundary Region
 Ministry of Water, Land & Resource Stewardship
 778-520-2683 / Shannon.white@gov.bc.ca

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Committee Report

Date of Report: September 09, 2026
Date & Type of Meeting: September 23, 2026 , Rural Affairs Committee
Author: Sadie Chezenko, Planner 1
Subject: LAND USE BYLAW AMENDMENT
File: Z2602I- POSNIKOFF
Electoral Area/Municipality I

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Regional Board to consider an application for a land use bylaw amendment in Electoral Area 'I' to rezone a property from Country Residential I (R2I) to Country Residential I (R2I) Site Specific. The application has been submitted to consider allowing a third residence to be constructed on the subject property.

The applicant is proposing a density increase that would maintain the rural character of the area and support multigenerational housing. However, it has not been demonstrated that the three residences have a reliable long-term water supply. Given the absence of proof of water, staff recommend that no further action be taken regarding this application.

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION

Applicant: Stacey Posnikoff

Property Owner: Stacey, Mary, John and Brian Posnikoff

Property Location: 1625 Highway 3A, Thurms, Electoral Area 'I'

Legal Description: LOT 1 DISTRICT LOT 1239 KOOTENAY DISTRICT PLAN 4105, EXCEPT PART INCLUDED IN PLAN 15763 (PID: 014-959-551)

Property Size: 2.38 Ha (5.88 ac)

Current Zoning: Country Residential I (R2I)

Current Official Community Plan Designation: Country Residential (CR)

Site Context

The subject property is located in Thurms in Electoral Area 'I'. It is designated for Country Residential (CR) use and similarly zoned Country Residential I (R2I) in RDCK Zoning Bylaw no. 1675, 2004. The area surrounding the property is designated Country Residential (CR) and most properties are used for residential purposes. The property is a relatively narrow lot which slopes downward from west to east. Approximately half of the property (1.2 ha) is flat, and the remainder is steeply sloped, connecting to Sentinel Mountain. The property is accessed off Highway 3A.

The property has been developed with two residences, two septic systems, two accessory buildings and a driveway. The parcel has one water license issued off Coutts Creek which authorizes the diversion of 250 gallons

of water a day for domestic purposes. There are no groundwater wells on the subject property. The two existing residences get their water from a well on their neighbor's lot. The shared well appears to meet the definition of a water supply system, specifically a specified domestic small system, but does not appear to meet the regulations for water supply systems as outlined in the Drinking Water Protection Act (e.g. obtaining an operating permit).

The neighbours do have a shared well agreement in the form of a registered easement which allows the subject property owners to access, maintain and use the well on their neighbour's property, but does not guarantee the quality of the water (potability) or the availability (volume/quantity) of water. The shared well itself is not registered and there is no well construction report which would identify aspects of the well such as drilled depth or flow rate.



Figure 1: Overview Map

Development Proposal

The applicant is seeking to rezone the subject property from Country Residential I (R2I) to Country Residential I (R2I) Site-Specific to accommodate the three single detached homes on her property and also to increase the minimum lot size for subdivision to 2.0 hectares to limit further residential development on the lot through subdivision.

The two residences are existing and occupied by the owners and the third residence is proposed as housing for the applicant's daughter. The new residence is proposed to be serviced by a new septic system and groundwater well, neither of which have been installed yet.

In order to achieve their development intentions for this parcel, the applicant is proposing the following site-specific amendment to RDCK Zoning Bylaw no. 1675:

Country Residential I (R2I) Development Regulations

- **From:** 1201 (1) The minimum lot size is **1.0** hectare.
- **To:** 1201 (1) The minimum lot size is **2.0** hectares.
- **From:** 1201 (2) The maximum density is **2** Dwelling Units.
- **To:** 1201 (2) The maximum density is **3** Dwelling Units.
- **From:** 1201(2B) Only one **Single Detached Housing or Duplex Housing** is permitted per lot.
- **To:** 1201(2B) Only one **Duplex Housing** is permitted per lot.
- **From:** 1201(3) The minimum lot size for a parcel subdivided for a relative under Section 514 of the Local Government Act with the approval of the Interior Health Authority shall be **0.8** hectare.
- **To:** 1201(3) The minimum lot size for a parcel subdivided for a relative under Section 514 of the Local Government Act with the approval of the Interior Health Authority shall be **2.0** hectares.

These amendments would be specific to this lot and affect this lot only.

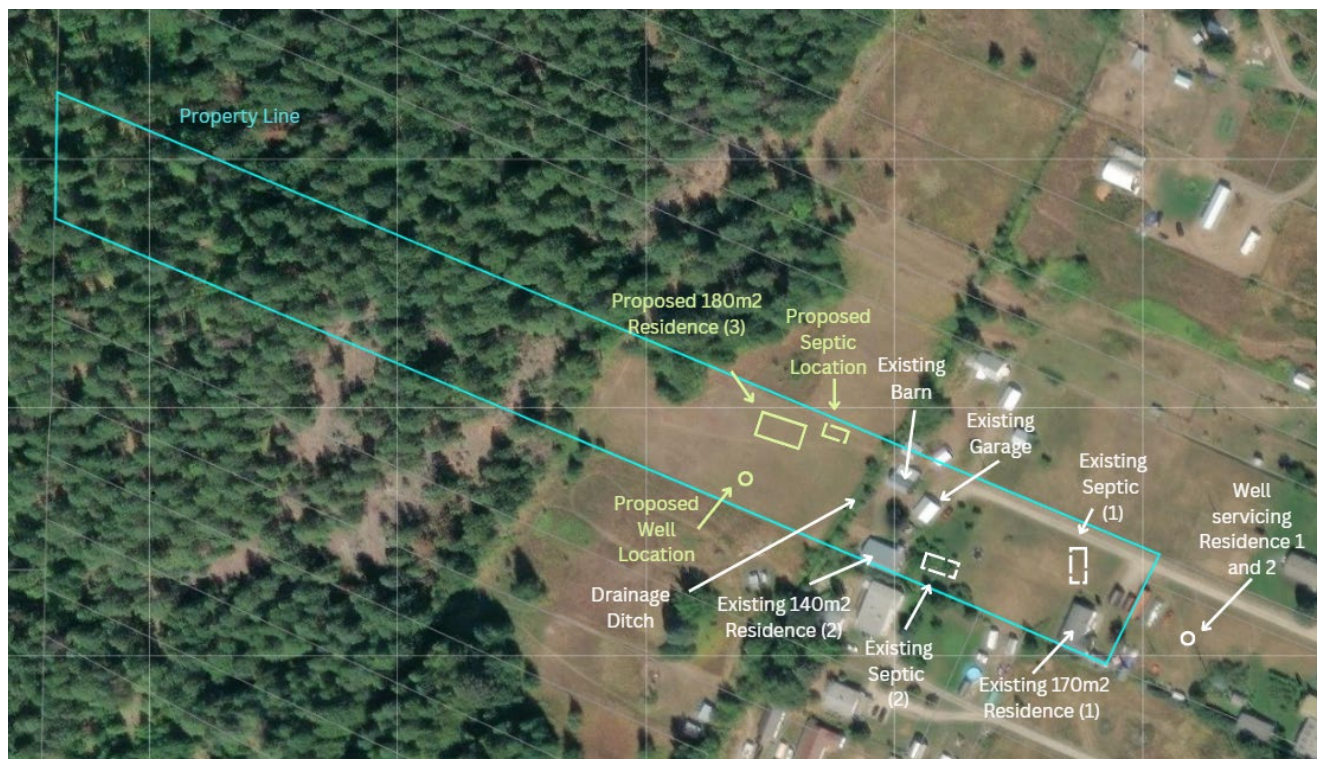


Figure 2: Site Plan

Site Visit

A site visit was conducted on May 19, 2026. The figures below show the areas of existing and proposed development.



Figure 3: Existing and Proposed Development



Figure 4: Location of Proposed 3rd Residence

Land Use Considerations

Official Community Plan (OCP)

The OCP supports incremental residential growth within established settlement areas, prioritizing sensitive infill and efficient use of existing services and infrastructure. It states that new housing should complement existing neighbourhoods, increase affordability and rental opportunities, and support aging in place, while avoiding sprawl. Further, it identifies that growth should be carefully managed to maintain the rural character and natural environment of Sentinel Mountain, with servicing capacity, health, safety, and environmental considerations guiding new development.

RDCK Housing Needs Report (HNR)

The RDCK HNR projects a need for 15,265 new homes over the next 20 years to address housing deficits and future demand. Affordability is the one of the region's greatest housing challenges, with homeownership increasingly out of reach and growing demand for rental housing amid declining vacancy rates.

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 was paid in full pursuant to *Planning Procedures and Fees Bylaw No. 2457, 2015*.

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

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

Drinking Water Protection Act (DWPA) and Drinking Water Protection Regulation (DWPR)

The Drinking Water Protection Act (DWPA) and Drinking Water Protection Regulation (DWPR) set requirements for water supply systems that provide drinking water to users. Water suppliers must provide potable water and comply with the Act and applicable regulations. An operating permit is required for regulated water supply systems, and the permit addresses areas such as water treatment, equipment, operating procedures, operator qualifications, water-quality monitoring and testing, applicable water-quality standards, and reporting of results. Suppliers must also have a written emergency response and contingency plan, carry out required water sampling, including testing for total coliforms and E. coli, report serious water-quality problems, and ensure that the water supplied meets the applicable drinking-water quality standards.

3.3 Environmental Considerations

RDCK Mapping identifies a watercourse running along the northern boundary of the property. There is also a drainage ditch approximately 120m from the front property line. Any proposed development within the floodplain or riparian area will need to comply with RDCK regulations.

3.4 Social Considerations:

None anticipated.

3.5 Economic Considerations:

None anticipated.

3.6 Communication Considerations:

Public and Neighbour Notice

In accordance with Schedule 'C' of the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*, a 'Notice of Development' sign was placed on the subject property. Notice of this proposal was sent via mail to owners and tenants of all parcels within 100 meters of the subject property. The proposal and relevant information was also posted to the RDCK Active Applications page where all current planning applications are made available to the public. One response to this notice was received and is attached to this report as Attachment B.

Agency Referral Responses

In accordance with Schedule 'C' of the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*, planning staff referred the application to all applicable Regional District departments, First Nations, government ministries and agencies for a period of thirty (30) days. Responses are summarized below and full responses are attached to this report as Attachment B.

Agency/Department/First Nation	Response
Advisory Planning and Heritage Commission	Supported the proposal.
Ecosystems Section Head - Kootenay-Boundary Region Ministry of Water, Land & Resource Stewardship (MWLRS)	Standard response provided identifies key provincial requirements relating to stream protection, riparian setbacks, species at risk, vegetation clearing, invasive species, wildlife conflicts, and compliance with applicable legislation, plans, and regulations.

Interior Health Authority (IHA)	The Healthy Built Environment team does not support the proposed development because the property is significantly constrained by steep terrain, watercourses and required setbacks, leaving only approximately 1+ ha for three homes with on-site septic and water. They also raise concerns about the existing shared well arrangement and the potential for the approval to set the expectation for similar higher-density development on constrained properties.
Licensed Authorizations Officer - Ministry of Water, Land & Resource Stewardship (MWLRS)	WLRS advises that the property's existing water licence authorizes water from Coutts Creek for only one dwelling, and the creek is fully recorded and cannot support additional water demand; therefore, the proposed third dwelling raises water supply concerns. WLRS recommends confirming that the existing private well can meet current and future domestic needs and notes that any non-domestic groundwater use, such as irrigation, may require a provincial water licence.
Lower Similkameen Indian Band (LSIB)	The Lower Similkameen Indian Band (LSIB) support Osoyoos Indian Band (OIB) and Penticton Indian Band (PIB) in taking lead in further consultation and engagement on this project.
Ministry of Transportation and Transit (MOTT)	The Ministry has no concerns with the proposal, but does note that an access permit is required.
Okanagan Indian Band (OKIB)	The OKIB defers to the Lower Similkameen Indian Band, Osoyoos Indian Band and Penticton Indian Band for a more in depth review of the proposal.
Penticton Indian Band (PIB)	The band identified that the proposed activity is located within an area of cultural significance and, as such, has the potential to impact snpink'tn cultural heritage, rights and interests. The band identifies that a Cultural Heritage Resource Assessment (CHRA) be undertaken.
RDCK Building Department	The building department notes that the third dwelling unit, if approved, will require an access that is compliant for the purposes of fire department access.
RDCK Emergency Management	Did not have concerns with the proposal.

3.7 Staffing/Departmental Workplace Considerations:

Staff reviewed the application in accordance with the Land Use Amendments Procedures within Schedule 'D' of the *Planning Procedures and Fees Bylaw No. 2547, 2015*.

3.8 Board Strategic Plan/Priorities Considerations:

Not applicable.

SECTION 4: SUMMARY

Planning Discussion

The application proposes to amend the bylaw to permit three single detached homes on the subject property. Due to the topography of the lot, the area suitable for residential development is limited to approximately 1.15 ha.

The primary concern with the proposal is long-term water and septic servicing. These concerns were echoed by Interior Health and the Ministry of Water, Land and Resource Stewardship. The two existing residences are

currently served by a water supply system that does not meet provincial requirements. If this existing water supply becomes inadequate, new wells may be required. While there is currently ample space near the center of the property for future wells and septic systems, this is also the proposed location of the third residence and associated driveway, well and septic system. Development in this area could therefore limit future well and septic locations for the existing residences and compromise the long-term servicing options for the property.

There is one water license authorizing the use and diversion of water from Coutts Creek for domestic purposes. However, this license is only authorized for use in one dwelling, and it is about half what is typically required for new development through subdivision. The Licensed Authorizations Officer from the MWLRS identified that Coutts Creek is fully recorded and cannot support additional water demand.

Ideally, each residence would have an independent water source or the property would be serviced by a compliant shared water system. Until a reliable long-term water servicing solution is demonstrated, it is unclear whether three residences can be sustainably serviced. This application is the RDCK's opportunity to review water supply concerns as water availability and quality is not checked at the time of building permit for private sources.

Staff advised the applicant of the outstanding water servicing concerns and that support could not be recommended unless an adequate and sustainable long-term servicing solution could be demonstrated. The applicant subsequently registered an easement for the shared well, which provides legal certainty regarding access to the existing water source. However, the easement does not address the underlying concerns regarding the capacity, compliance, and long-term reliability of the water supply, nor does it ensure that the property can be sustainably serviced if the existing well becomes inadequate.

Aside from the uncertainty regarding servicing, the proposal appears to have positive attributes. The scale of development is modest and generally maintains the rural character of the area. It would provide additional housing near a bus stop and within close proximity to Castlegar, its services, and amenities. The proposal would also support the housing needs of the multigenerational family currently residing on the property, potentially supporting aging in place in the future.

While the proposal offers benefits as outlined above, the outstanding water and septic servicing concerns remain unresolved. Accordingly, staff recommend that no further action be taken with regards to the proposed amendment.

Options

Option 1: Take no further action.

That the Board take no further action regarding Regional District of Central Kootenay Zoning Amendment Bylaw No. 3080, 2026.

Option 2: Grant First, Second and Third Reading and withhold consideration of Adoption until MOTT approval

That Regional District of Central Kootenay Zoning Amendment Bylaw No. 3080, 2026 being a bylaw to amend the Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 is hereby given FIRST, SECOND and THIRD reading by content.

And that the consideration of adoption BE WITHHELD for Regional District of Central Kootenay Zoning Amendment Bylaw No. 3080, 2026 until the following item has been obtained:

- Approval from the Ministry of Transportation and Transit pursuant to Section 52(3)(a) of the Transportation Act (Controlled Access).

SECTION 5: RECOMMENDATIONS

That the Board take no further action regarding Regional District of Central Kootenay Zoning Amendment Bylaw No. 3080, 2026.

Respectfully submitted,

Sadie Chezenko, Planner 1

CONCURRENCE

Planning Manager – Nelson Wight **Approved**

Acting Manager of Development and Community Sustainability – Amy Wilson **Approved**

Chief Administrative Officer – Stuart Horn **Approved**

ATTACHMENTS:

Attachment A – Amendment Bylaw No. 3080

Attachment B – Referral Responses

REGIONAL DISTRICT OF CENTRAL KOOTENAY

Bylaw No. 3080

A Bylaw to amend Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004

WHEREAS it is deemed expedient to amend the Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004, and amendments thereto.

NOW THEREFORE the Board of the Regional District of Central Kootenay, in open meeting assembled, HEREBY ENACTS as follows:

APPLICATION

- 1** That Schedule 'A' of Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 be amended by changing the Zoning Designation of LOT 1 DISTRICT LOT 1239 KOOTENAY DISTRICT PLAN 4105, EXCEPT PART INCLUDED IN PLAN 15763 (PID: 014-959-551) from Country Residential I (R2I) to Country Residential I (R2I) Site-Specific, as shown on the attached Map. The site-specific amendments to the development regulations are as follows:

1201(1)

- From: The minimum lot size is 1.0 hectare.
- To: The minimum lot size is 2.0 hectares.

1202(2)

- From: The maximum density is 2 Dwelling Units.
- To: The maximum density is 3 Dwelling Units.

1201(2B)

- From: Only one Single Detached Housing or Duplex Housing is permitted per lot.
- To: Only one Duplex Housing is permitted per lot.

1201(3)

- From: The minimum lot size for a parcel subdivided for a relative under Section 514 of the Local Government Act with the approval of the Interior Health Authority shall be 0.8 hectare.
- To: The minimum lot size for a parcel subdivided for a relative under Section 514 of the Local Government Act with the approval of the Interior Health Authority shall be 2.0 hectares.

- 2** This Bylaw shall come into force and effect upon its adoption.

CITATION

- 3** This Bylaw may be cited as **“Regional District of Central Kootenay Zoning Amendment Bylaw No. 3080, 2026.”**

READ A FIRST TIME this [Date] day of [Month] , 20XX.

READ A SECOND TIME this [Date] day of [Month] ,20XX.

READ A THIRD TIME this [Date] day of [Month] , 20XX.

ADOPTED this [Date] day of [Month] , 20XX.

[Name of Board Chair], Board Chair

[Name of CO], Corporate Officer

REGIONAL DISTRICT OF CENTRAL KOOTENAY
PROPOSED ZONING BYLAW 3080, 2026
Schedule A



SCHEDULE A - BYLAW 3080



REGIONAL DISTRICT OF
CENTRAL KOOTENAY

Cadastre	Forest Resource/Reserve	Residential 1
014-959-551	Industrial	Residential 2
Agriculture	Mixed Use	Residential 3
Commercial	Multi-Family Residential	Rural Residential
Community Services	Open Space	
Comprehensive Development	Railway	

Date: 2026-05-20

The mapping information
shown are approximate
representations and should only
be used for reference purposes.



Referral Responses – Z26021

Agency/Department/First Nation	Response
Advisory Planning and Heritage Commission	That the Area I Advisory Planning and Heritage Commission SUPPORT the Bylaw Amendment Application to Stacey Posnikoff for the property located at 1625 Highway 3A, Thrums, LOT 1 DISTRICT LOT 1239 KOOTENAY DISTRICT PLAN 4105.
Ecosystems Section Head - Kootenay-Boundary Region Ministry of Water, Land & Resource Stewardship (MWLRS)	See attached letter.
Interior Health Authority (IHA)	Please see the response below, given from a Healthy Built Environment perspective. *Although the property is 2.38 hectares, only about half of that is available as developable land due to the steeped sloped back half of the property (mapped out, it appears to be a small mountain with visual granite / rock showing). So although the applicant indicates the property is over 2 Hectares, the available land for development is much smaller (i.e. ~1+ hectares). *The property is also constrained by a water course that runs from the mountain towards the highway along the northern property line. and there is an identified water ditch between "House 2" and proposed "House 3" running north and south across the property (additional setbacks which further reduce available land for development). *The well serving house 1 and 2 is on the neighbouring property (whether through an easement or is a newly discovered water system with 1623 Hwy 3A, it's not great). I suppose for the purposes of this rezoning the proposed development is going to be on it's own water source, so the other 2 houses aren't part of the proposal / application, but they are still in the mix for our consideration with respect to looking at the increased density for this constrained property. To conclude, we are essentially talking about densifying for 3 homes, with on-site septic and water in an area that is 1(+) hectares. And for this reason, I would say, our team does not support this development. The other worry, which could also impact RDCK

	planning, is that this could set a precedent going forward on allowing developments like this.
Licensed Authorizations Officer - Ministry of Water, Land & Resource Stewardship (MWLRS)	Water, Land and Resource Stewardship (WLRS) staff have reviewed RDCK referral Z2602I and provide the following comments at this time: 1. Provincial water licence records indicate the subject property currently has one water licence (attached) authorizing use and diversion from Coutts Creek of 1.13652 cubic metres (250 imperial gallons) per day for domestic use in one dwelling, and 604.40520 cubic metres per year (April 1 to September 30) for irrigation use. Water, Land and Resource Stewardship (WLRS) staff note the domestic quantity is approximately one-half of the quantity (i.e., 2.270 cubic metres per day) noted in the RDCK subdivision servicing bylaw (https://www.rdck.ca/wp-content/uploads/2024/11/2159_Subdivision-1-1.pdf) 2. Clause (j) of the existing licence authorizes the licence quantity to be used in <u>one</u> dwelling on the subject property. The referral notes the property has two domestic dwellings and a third dwelling may be allowed if the rezoning application is approved. WLRS staff note that Coutt's Creek is fully recorded and cannot support additional water demand. 3. Use of groundwater for domestic purpose is exempt from water licensing and referral information notes the property is serviced by a private well. While subdivision is not proposed, the RDCK may wish to consider requesting confirmation from the applicant that the existing well can meet current and future domestic water demands on the property as set out in Section 8.02 of the RDCK Subdivision Bylaw. 4. WLRS staff advise that use of groundwater for non-domestic use (i.e., irrigation) requires a water licence. If groundwater is used for non-domestic purpose use on the property, the following is noted: a. If groundwater use began after February 29, 2016, the groundwater use is considered a "new use" and the property owner must obtain a license before any groundwater can be lawfully diverted, stored, or used. b. If groundwater use began before March 1, 2016, the groundwater use is considered an "existing use". Existing users that applied for a water license by March 1, 2022 can continue to use groundwater for non-domestic uses until a decision is made on that application. Existing users that did not apply on or before the March 1, 2022

	deadline must obtain a water licence before the groundwater can be lawfully used for non-domestic purposes. 5. The provincial GWELLS database does not show any groundwater wells on the subject property; however, domestic groundwater wells constructed prior to 2016 may not be in provincial GWELLS database. WLRs staff would like to take the opportunity to suggest the property owner considering registering the groundwater well. Well registration is voluntary, but registration of a domestic well creates a record in the Provincial GWELLS database that groundwater is being used on the property. Registering the water use ensures the use is considered in water management decision making and informs actions during times of water scarcity (e.g., drought) or in response to events (e.g., spills) that may impact on groundwater quality. Information regarding well registration is available at: https://www2.gov.bc.ca/gov/content/environment/air-land-water/water/groundwater-wells-aquifers/groundwater-wells/information-for-property-owners/well-records-registration/domestic-well-registration. If a non-domestic groundwater use application has been submitted the well will be added to the GWELLS database as part of that licence review.
Lower Similkameen Indian Band (LSIB)	The Lower Similkameen Indian Band (LSIB) would like to acknowledge receipt of the above referral. We have conducted a desktop review of it. The location of the project/activity to which the referral relates is within syilx Territory and may have impacts on inherent and constitutionally protected syilx Title and Rights, which LSIB holds as part of the syilx Nation. However, given the location of the project, we would support Osoyoos Indian Band (OIB) and Penticton Indian Band (PIB) in taking lead in further consultation and engagement on this project. Please keep us informed of any updates or changes to the project as this may change our assessment and our view on the need for further consultation with LSIB and an invoice will follow at a later date.
Ministry of Transportation and Transit (MOTT)	Thank you for the opportunity to review and provide comment on the above-noted application. The Ministry has no concerns or objections to the requested Bylaw Text Amendment. This property does not have an access permit to access Highway 3A. The Ministry asks that the RDCK advise the proponent of the need to apply for and receive a permit to access a Controlled Access Highway. The can learn about the permitting process here: https://www2.gov.bc.ca/gov/content/transportation/funding-engagement-permits/permits/access

	The proponent can reach out to the Ministry and request instructions on how to apply by emailing wkd@gov.bc.ca
Okanagan Indian Band (OKIB)	The Territorial Stewardship Division would like to acknowledge receipt of the above referral. The Okanagan Indian Band (“OKIB”) has conducted a desktop review of the project. The location of the project to which the referral relates is within Syilx (Okanagan Nation) territory, and may have impacts on Syilx Aboriginal Title and Rights, which OKIB holds as part of the Syilx. However, the project is located outside the OKIB’s Area of Responsibility as a member of the Syilx. At this time, we defer to the Lower Similkameen Indian Band, Osoyoos Indian Band and Penticton Indian Band for a more in depth review. Please keep us informed of any updates or changes to the project as this may change our assessment and our view on the need for further consultation with OKIB.
Penticton Indian Band (PIB)	1) See attached letter (referral processing fee) 2) See attached letter (Cultural Heritage Resource Assessment)
RDCK Building Department	Did not see access to the proposed location of the 3rd dwelling unit. <i>9.10.20.3. Fire Department Access to Buildings</i> <i>1) Access for fire department equipment shall be provided to each building by means of a street, private roadway or yard.</i>
RDCK Emergency Management	The EM Dept comments is that the areas in question are unaffected by any current concerns.

Public	Response
Brandon Grant	I am following up by email regarding RDCK Planning File No. Z26021 for the property located at 1625 Highway 3A in Thrums. I would like to express my concerns regarding the proposal to construct an additional residence on this property. I am opposed to this development. My family and I moved to our home approximately 12 years ago, in part because of the existing open field and the overall layout of the surrounding properties. The area above these properties includes a creek—commonly referred to as “Kooz Creek”—which is identified as drainage in your planning documentation. The field bordering this creek, at the base of Mount Sentinel, currently remains free of residential development. In my view, it is important that this area remain undeveloped in order to preserve the natural landscape and character of the community. Allowing construction in this upper field may set a precedent for further development on adjacent properties, which is a significant concern.

	Given these considerations, I respectfully oppose the proposal and would prefer that the current property structures and land use remain unchanged. Brandon Grant 1599A Highway 3a
--	--



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Consulting ID:

PIB-2026-1840

Project Name

PIB-2026-1840-Bylaw Amendment Application - Posnikoff .

Consulting Organization:

Regional District of Central Kootenay

Attention: Sadie Chezenko

We are in receipt of the above referral. The proposed activity is located within syilx (Okanagan Nation) Territory and the snpink'tn (Penticton Indian Band) Area of Interest. All lands and resources within the vicinity of the proposed development are subject to our unextinguished Aboriginal Title and Rights.

snpink'tn has now had the opportunity to review the proposed activity. Our preliminary office review has indicated that the proposed activity is located within an area of cultural significance and, as such, has the potential to impact snpink'tn cultural heritage, rights and interests. When potential impacts to snpink'tn interests have been identified, snpink'tn requires that a Cultural Heritage Resource Assessment (CHRA) be undertaken by qualified snpink'tn Cultural Heritage Technicians in an effort to determine the nature and extent of any potential impacts.

Please contact Maryssa Bonneau, Crown Consultation Management at mbonneau@pib.ca to arrange within 30 days.

Please note that our participation in the referral and consultation process does not define or amend snpink'tn Aboriginal Rights and Title or does it limit the positions that we may take in future negotiations or court actions.

If you require further information or clarification, please do not hesitate to contact me.

limlæmt,



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
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Caroline Stewart
Office Administrator
snpink'tn (Penticton) Indian Band səx^wtəxt'am' department
Natural Resources
email: cstewart@pib.ca
office: 250-492-0411 Ext: 241
address: 841 Westhills



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Telephone: 250-492-0411
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Consulting ID:

PIB-2026-1840

Project Name

PIB-2026-1840-Bylaw Amendment Application - Posnikoff .

Consulting Organization:

Regional District of Central Kootenay

20-May-2026 14:39 PDT

Attention: Sadie Chezenko

We are in receipt of the above referral. This proposed activity is within the snpink'tn (PIB) Area of Interest within the Okanagan Nation's Territory, and the lands and resources are subject to our unextinguished Aboriginal Title and Rights.

The Supreme Court of Canada in the *Tsilhqot'in* case has confirmed that the province and Canada have been applying an incorrect and impoverished view of Aboriginal Title, and that Aboriginal Title includes the exclusive right of Indigenous People to manage the land and resources as well as the right to benefit economically from the land and resources. The Court therefore concluded that when the Crown allocates resources on Aboriginal title lands without the Indigenous peoples' consent, it commits a serious infringement of constitutionally protected rights that will be difficult to justify.

snpink'tn (PIB) has specific referral processing requirements for both government and proponents which are integral to the exercise of our management right and to ensuring that the Crown can meet its duty to consult and accommodate our rights, including our Aboriginal title and management rights. According to this process, proponents are required to pay a \$500 processing fee for each referral. This fee must be paid within 30 days. Proper consultation and consideration of potential impacts cannot occur without the appropriate resources therefore it is only with payment that proper consultation can begin and the proposed activity/development can be reviewed.



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Fax: 250-493-2882

Invoice Number: PIB-2026-1840

Referrals Processing Fee

Sub Total \$ 500.00

Tax \$ 0.00

Total \$ \$500.00

INVOICE AMOUNT FOR PRELIMINARY OFFICE REVIEW \$500.00

We accept cash and cheque via mailing as well as EMT. Our mailing address is 841 Westhills Drive Penticton BC, V2A OE8. Our EMT is PIBPayments@pib.ca.

Please have 'ATTN: Natural Resources File # PIB-2026-1840 PC:132 ' in the notes if you are using EMT or if you are using another method, please supply the referral number with it .

Upon receipt of the processing fee, we will commence our review. You may then expect to receive a letter from us notifying you of the results of our review of potential impacts of the project within 30 to 90 days.

If the proposed activity requires a more in-depth review, snpink'tn (PIB) will notify the proponent and all parties will negotiate a memorandum of agreement regarding a process for review of the proposed activity.

Please note that our participation in the referral and consultation process does not define or amend snpink'tn (PIB) Aboriginal Rights and Title, or limit any priorities afforded to Aboriginal Rights and Title, nor does it limit the positions that we may take in future negotiations or court actions.

If you require further information or clarification, please do not hesitate to contact me.

limlæmt,

Caroline Stewart
Office Administrator



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snpink'tn (Penticton) Indian Band səx^wtəxt'am' department
Natural Resources
email: cstewart@pib.ca
office: 250-492-0411 Ext: 241
address: 841 Westhills



July 5, 2023

Greetings,

The Kootenay-Boundary Ecosystems Section of the Ministry of Water, Land and Resource Stewardship has received your referral request. We are currently unable to provide a detailed review of the referral but provide the following standard requirements, recommendations and/or comments:

1. All activities are to follow and comply with all higher-level plans, planning initiatives, agreements, Memorandums of Understanding, etc. that local governments are parties to.
2. Changes in and about a “stream” [as defined in the [Water Sustainability Act](#) (WSA)] must only be done under a license, use approval or change approval; or be in compliance with an order, or in accordance with Part 3 of the [Water Sustainability Regulation](#). Authorized changes must also be compliant with the [Kootenay-Boundary Terms and Conditions and Timing Windows](#) documents. Applications to conduct works in and about streams can be submitted through [FrontCounter BC](#).
3. No “development” should occur within 15 m of the “stream boundary” of any “stream” [all as defined in the [Riparian Areas Protection Regulation](#) (RAPR)] in the absence of an acceptable assessment, completed by a Qualified Professional (QP), to determine if a reduced riparian setback would adversely affect the natural features, functions and conditions of the stream. Submit the QP assessment to the appropriate Ministry of Water, Land and Resource Stewardship office for potential review. Local governments listed in Section 2(1) of [RAPR](#) are required to ensure that all development is compliant with RAPR.
4. The federal [Species at Risk Act](#) (SARA) protects Endangered, Extirpated or Threatened species listed under Schedule 1 of SARA. Developers are responsible to ensure that no species or ecosystems at risk (SEAR), or Critical Habitat for Federally listed species, are

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adversely affected by the proposed activities. The BC Species and Ecosystem Explorer website provides information on known SEAR occurrences within BC, although the absence of an observation record does not confirm that a species is not present. Detailed site-specific assessments and field surveys should be conducted by a QP according to [Resource Inventory Standard Committee](#) (RISC) standards to ensure all SEAR have been identified and that developments are consistent with any species or ecosystem specific [Recovery Strategy or Management Plan](#) documents, and to ensure proposed activities will not adversely affect SEAR or their [Critical Habitat for Federally-listed Species at Risk \(Posted\)](#).

5. 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](#).
6. 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
Herons	Aug 15 – Jan 30
Other Birds	Aug 1 – March 31

7. 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](#)

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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.

8. 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.
9. 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).
10. Developments must be compliant with all other applicable statutes, bylaws, and regulations.

If the references above do not address your concerns, please do not hesitate to reach out to me for further investigation into your concerns.

Kind Regards,



Shannon White, RPBio
Ecosystems Section Head - Kootenay-Boundary Region
 Ministry of Water, Land & Resource Stewardship
 778-520-2683 / Shannon.white@gov.bc.ca

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Committee Report

Date of Report: September 12, 2026
Date & Type of Meeting: September 23, 2026, Rural Affairs Committee
Author: Sadie Chezenko, Planner
Subject: TEMPORARY USE PERMIT
File: T2602F – Doucet
Electoral Area/Municipality F

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Regional Board to consider authorizing a Temporary Use Permit (TUP) in Electoral Area 'F' for the construction of two accessory buildings on a lot prior to establishing a principal residential use.

Staff recommend that the Board direct staff to provide notice of their intention to consider approval of this TUP at a future Board meeting.

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION

Property Owner: Ryan Doucet

Property Location: 5775 Woodland Drive, Taghum, Electoral Area 'F'

Legal Description: LOT 2 DISTRICT LOT 5922 KOOTENAY DISTRICT PLAN NEP61991 TOGETHER WITH A 1/3 SHARE IN COMMON LOT 4 PLAN NEP61991 (SEE PLAN AS TO LIMITED ACCESS) PID: 024-165-751

Property Size: 0.61 hectares (1.47 acres)

Zoning Class: Suburban Residential F (R1F) in RDCK Zoning Bylaw No. 1675, 2004

OCP Designation: Suburban Residential (SR) in Electoral Area 'F' Official Community Plan Bylaw No. 2214, 2011

Site Context

The subject property is in Taghum in Electoral Area 'F.' It is designated for Suburban Residential (SR) use and similarly zoned Suburban Residential F (R1F) in RDCK Zoning Bylaw no. 1675, 2004. The area surrounding the property is designated Suburban Residential (SR) and Country Residential (CR) and most properties are used for residential purposes.

The subject property is accessed off Woodland Drive and a common access lot and is within the service area of the Taghum Improvement District (TID). The property slopes upward to the north and is presently vacant other than a partially constructed accessory building.



Figure 1 – Location Map

Development Proposal

The purpose of the application is to authorize the construction of two accessory buildings prior to the establishment of a principal use on the subject property.

The two accessory buildings proposed are an 8.92m² (96ft²) shed and an 11.15m² (120ft²) studio space. The applicant indicated that the buildings would serve as a dedicated workspace and as tools and building materials storage. He indicated that having these buildings will help facilitate the future development of his residence.

The applicant began construction on one accessory building but has since stopped construction while he awaits a decision on this application.



Figure 2: Site Plan

Site Visit

A site visit was conducted on September 02, 2026. The figures below show the property and the partially constructed accessory building.



Figure 3: Subject Property



Figure 4: Accessory Building

Land Use Considerations

Official Community Plan (OCP)

The OCP identifies that temporary uses may be authorized by the Regional Board through the TUP process. It states that the use should be temporary and not negatively impact surrounding properties or the environment. The OCP designates the property for suburban residential use, which is consistent with the long-term development plans for the property.

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 493 of the Local Government Act (LGA), the Board has the authority to issue a TUP by resolution to designated land within Official Community Plans (OCP's) where temporary uses are allowed.

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

3.3 Environmental Considerations

None anticipated.

3.4 Social Considerations:

None anticipated.

3.5 Economic Considerations:

None anticipated.

3.6 Communication Considerations:

Public and Neighbour Notice

In accordance with Schedule 'G' of the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*, a 'Notice of Development' sign was placed on the subject property. Notice of this proposal was sent via mail to owners and tenants of all parcels within 100 meters of the subject property. The proposal and relevant information was also posted to the RDCK Active Applications page where all current planning applications are made available to the public. Staff received calls requesting information on the proposal but no formal responses were received.

Agency Referral Responses

In accordance with Schedule 'G' of the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*, planning staff referred the application to all applicable Regional District departments, government ministries and agencies for a period of thirty (30) days. Responses are attached to this report as Attachment B.

3.7 Staffing/Departmental Workplace Considerations:

Should the Regional Board resolve to provide the public with a 'Notice of Permit' staff will prepare the notification and publish it in the local paper, pursuant to Section 494 of the Local Government Act.

3.8 Board Strategic Plan/Priorities Considerations:

Not applicable.

SECTION 4: SUMMARY

Planning Discussion

The proposed TUP would allow the construction of two accessory buildings prior to establishing a residence on the subject property. The TUP would provide the ability for the applicant to have a dedicated workspace and tool and material storage space for up to three years.

There were no significant concerns raised by the public, RDCK departments or other agencies with respect to this proposal. Other than the request for this temporary use, the proposal is consistent with the OCP and zoning.

For the reasons noted above, staff recommend that the Board proceed with directing staff to undertake the statutory notification requirements to advance this TUP application.

Option 1

That the Board direct staff to provide notification of the Board's intention to consider Temporary Use Permit application T2602F by Ryan Doucet for the property located on 5775 Woodland Drive, Taghum, Electoral Area 'F' and legally described as LOT 2 DISTRICT LOT 5922 KOOTENAY DISTRICT PLAN NEP61991 TOGETHER WITH A 1/3 SHARE IN COMMON LOT 4 PLAN NEP61991 (SEE PLAN AS TO LIMITED ACCESS) (PID: 024-165-751).

Option 2

That NO FURTHER ACTION be taken regarding the issuance of Temporary Use Permit application T2602F by Ryan Doucet for the property located on 5775 Woodland Drive, Taghum, Electoral Area 'F' and legally described as LOT 2 DISTRICT LOT 5922 KOOTENAY DISTRICT PLAN NEP61991 TOGETHER WITH A 1/3 SHARE IN COMMON LOT 4 PLAN NEP61991 (SEE PLAN AS TO LIMITED ACCESS) (PID: 024-165-751).

SECTION 5: RECOMMENDATIONS

That the Board direct staff to provide notification of the Board's intention to consider Temporary Use Permit application T2602F by Ryan Doucet for the property located on 5775 Woodland Drive, Taghum, Electoral Area 'F' and legally described as LOT 2 DISTRICT LOT 5922 KOOTENAY DISTRICT PLAN NEP61991 TOGETHER WITH A 1/3 SHARE IN COMMON LOT 4 PLAN NEP61991 (SEE PLAN AS TO LIMITED ACCESS) (PID: 024-165-751).

Respectfully submitted,

Sadie Chezenko, Planner 1

CONCURRENCE

Planning Manager – Nelson Wight **Approved**

Acting Manager of Development and Community Sustainability – Amy Wilson **Approved**

Chief Administrative Officer – Stuart Horn **Approved**

ATTACHMENTS:

Attachment A – Draft Temporary Use Permit

Attachment B – Referral Responses



Temporary Use Permit

T2602F (Doucet)

Date:

Issued pursuant to Section 492 of the *Local Government Act*

TO: Ryan Doucet

ADMINISTRATION

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

APPLICABILITY

4. This TUP is issued for the following purpose:
5. This TUP 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' and '2':

Address: 5775 Woodland Drive, Taghum, Electoral Area 'F'

Legal: LOT 2 DISTRICT LOT 5922 KOOTENAY DISTRICT PLAN NEP61991 TOGETHER WITH A 1/3 SHARE IN COMMON LOT 4 PLAN NEP61991 (SEE PLAN AS TO LIMITED ACCESS)
PID (024-165-751)

CONDITIONS

6. This TUP authorizes the following use of the above mentioned lands for a period not to exceed three (3) years from the date of issuance or at the date of expiry:
7. This TUP is issued subject to the following conditions:
 - a. The temporary use shall be limited to two accessory structures on the subject parcel, prior to the construction and establishment of the principal residential use and building on the subject property.
 - b. The accessory structures shall not contain a dwelling unit.

- c. The accessory structures shall not be used for commercial or industrial purposes.
- d. It is understood and agreed that the Regional District of Central Kootenay has made no representations, covenants, warranties, guarantees, promises, or agreements (verbal or otherwise) with the Permittee other than those contained in this Permit.
- e. Notice shall be filed in the Land Title Office that the land described herein is subject to this Permit.
- f. It is understood and agreed that this Permit does not imply approval for future rezoning of the subject property for the specified use.
- g. This Permit shall expire three (3) years from the date of issuance.

Authorized resolution *[enter resolution number]* passed by the RDCK Board on the day of ,
20 .

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



Schedule 2: Site Plan





Referral Responses- T2602F

Agency/Department/First Nation	Response
Crown Land Authorizations	Thank you for the opportunity to review. On behalf of Crown Lands, we have no concerns regarding this TUP on private land.
Ecosystems Section Head - Kootenay-Boundary Region Ministry of Water, Land & Resource Stewardship	See attached letter.
RDCK Building Department	A building permit for the studio building will be required.
RDCK Emergency Management	The EM Dept comments are that the areas in question are unaffected by any current concerns.
Ministry of Transportation and Transit (MOTT)	Thank you for the opportunity to review and provide comments on the above-noted application. The Ministry has no concerns with the proposed Temporary Use of a shed and studio. The Ministry does have concerns over the 'current parking' area and the location of the proposed septic as shown in the Temporary Use Application referral package. The 'current parking' area is in the same location as an Access Easement (Charge # LA127262) identified in Reference Plan NEP81904 registered on title. Immediately above this area is a second Access Easement (Charge # CA7957836) identified in Reference Plan EPP89040 registered on title. These two easements are in place to ensure the continued and uninterrupted access for 5783 and 5765 Woodland Drive. Parking of vehicles, storage of materials, etc are not permitted in this area. The proponent should review the charges on their title with a legal professional to ensure that they are not infringing on the easement agreement. The referral package does not specify how far away the septic field is away from the south property line. The proponent should take steps to ensure that the planned location for the septic field does not encroach over the easement area. It is recommended that the proponent review and update their proposed lot layout to show the easement area, to find a more

	suitable parking location outside of the easement area and to ensure the planned septic location does not conflict with parking or the access easements. Update: The site plan has been revised to address these comments.
Taghum Improvement District (TID)	The TID does not object to this TUP as long as the following conditions are met: 1) Outstanding water connection fees of \$150.53 are paid prior to any construction; and, 2) The proposed accessory buildings will not be connected to the TID water system. Update: The applicant has addressed these comments from TID.



July 5, 2023

Greetings,

The Kootenay-Boundary Ecosystems Section of the Ministry of Water, Land and Resource Stewardship has received your referral request. We are currently unable to provide a detailed review of the referral but provide the following standard requirements, recommendations and/or comments:

1. All activities are to follow and comply with all higher-level plans, planning initiatives, agreements, Memorandums of Understanding, etc. that local governments are parties to.
2. Changes in and about a “stream” [as defined in the [Water Sustainability Act](#) (WSA)] must only be done under a license, use approval or change approval; or be in compliance with an order, or in accordance with Part 3 of the [Water Sustainability Regulation](#). Authorized changes must also be compliant with the [Kootenay-Boundary Terms and Conditions and Timing Windows](#) documents. Applications to conduct works in and about streams can be submitted through [FrontCounter BC](#).
3. No “development” should occur within 15 m of the “stream boundary” of any “stream” [all as defined in the [Riparian Areas Protection Regulation](#) (RAPR)] in the absence of an acceptable assessment, completed by a Qualified Professional (QP), to determine if a reduced riparian setback would adversely affect the natural features, functions and conditions of the stream. Submit the QP assessment to the appropriate Ministry of Water, Land and Resource Stewardship office for potential review. Local governments listed in Section 2(1) of [RAPR](#) are required to ensure that all development is compliant with RAPR.
4. The federal [Species at Risk Act](#) (SARA) protects Endangered, Extirpated or Threatened species listed under Schedule 1 of SARA. Developers are responsible to ensure that no species or ecosystems at risk (SEAR), or Critical Habitat for Federally listed species, are

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adversely affected by the proposed activities. The BC Species and Ecosystem Explorer website provides information on known SEAR occurrences within BC, although the absence of an observation record does not confirm that a species is not present. Detailed site-specific assessments and field surveys should be conducted by a QP according to [Resource Inventory Standard Committee](#) (RISC) standards to ensure all SEAR have been identified and that developments are consistent with any species or ecosystem specific [Recovery Strategy or Management Plan](#) documents, and to ensure proposed activities will not adversely affect SEAR or their [Critical Habitat for Federally-listed Species at Risk \(Posted\)](#).

5. 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](#).
6. 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

7. 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](#)

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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.

8. 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.
9. 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).
10. Developments must be compliant with all other applicable statutes, bylaws, and regulations.

If the references above do not address your concerns, please do not hesitate to reach out to me for further investigation into your concerns.

Kind Regards,



Shannon White, RPBio
Ecosystems Section Head - Kootenay-Boundary Region
 Ministry of Water, Land & Resource Stewardship
 778-520-2683 / Shannon.white@gov.bc.ca

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Committee Report

Date of Report: September 09, 2026
Date & Type of Meeting: September 23, 2026 – Rural Affairs Committee
Author: Sadie Chezenko, Planner 1
Subject: AGRICULTURAL LAND COMMISSION REFERRAL
File: A2610I - BATCHELOR
Electoral Area/Municipality I

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to consider an application for Placement of Fill within the Agricultural Land Reserve (ALR) in Electoral Area 'I.' The application proposes the placement of 35m³ of fill which is required to facilitate an accessory dwelling unit (ADU) on the property.

The proposed volume of fill is modest and appears limited to the minimum amount necessary to facilitate the development. The siting of the ADU was previously reviewed and approved by the RDCK Board through a Development Variance Permit.

Staff support the proposed placement of fill and recommend that the application be advanced to the ALC for consideration.

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION

Property Owners/Applicants: Allie Batchelor and Jarred Batchelor
Property Location: 1993 Highway 3A, Tarrys, Electoral Area 'I'
Legal Description: LOT 2 DISTRICT LOT 1239 KOOTENAY DISTRICT PLAN 857, EXCEPT PART OUTLINED RED ON EXPLANATORY PLAN 35476I (PID: 016-022-181)
Property Size: 3.0 ha (7.57 acres)
Current Zoning: Agriculture 1 (AG1) in Zoning Bylaw No. 1675, 2004
Current Official Community Plan Designation: Agriculture (AG) in Electoral Area 'I' Official Community Plan Bylaw No. 2821, 2024

Site Context

The subject property is located in Tarrys between Highway 3A and Loff Road. It is 3.0 hectares in size, zoned Agriculture 1 (AG1) and is entirely within the Agricultural Land Reserve (ALR). There is a right of way for a hydro corridor that runs through the middle of the lot, effectively dividing it into two portions: the east side of the property fronts onto Highway 3A and the west side of the property fronts onto Loff Road.

The property has been partially cleared and is primarily used for residential purposes. It has been improved with a residence, shop, two sheds, barn, garage, and on-site services (well and septic system). All of the current improvements are located on the eastern portion of the lot that is accessed from Highway 3A.

Proposal

The purpose of this report is to consider an application for the placement of fill within the Agricultural Land Reserve (ALR).

The applicant is seeking approval to place approximately 35 m³ of fill over an estimated 185 m² area to facilitate the construction of an 87 m² modular accessory dwelling unit (ADU) on the southwest portion of the property. The applicant proposes to place approximately 6 inches of ¾-inch road crush beneath the modular home and the proposed fill will also be used for a short driveway and small parking area.

The proposed ADU is intended to provide accommodation for the property owner's mother. The dwelling will be less than 90 m² and will otherwise comply with applicable RDCK and ALC requirements.

In July 2026, the RDCK Board of Directors authorized the proposed siting of the ADU through a Development Variance Permit (DVP). The approved location is shown on the site plan, and the DVP is included as Attachment C.

The owners have made agricultural improvements to the eastern portion of the property including near the front of the lot adjacent Highway 3A since they purchased the property last year. This includes planting fruit trees, establishing a small apiary and preparing a 525m² planting plot. The owners indicated that they have invested in a tractor and other implements to facilitate agriculture on the parcel. Photos the planting area that they are preparing for fertilization and amendments is shown in Figure 3.



Figure 1: Overview Map

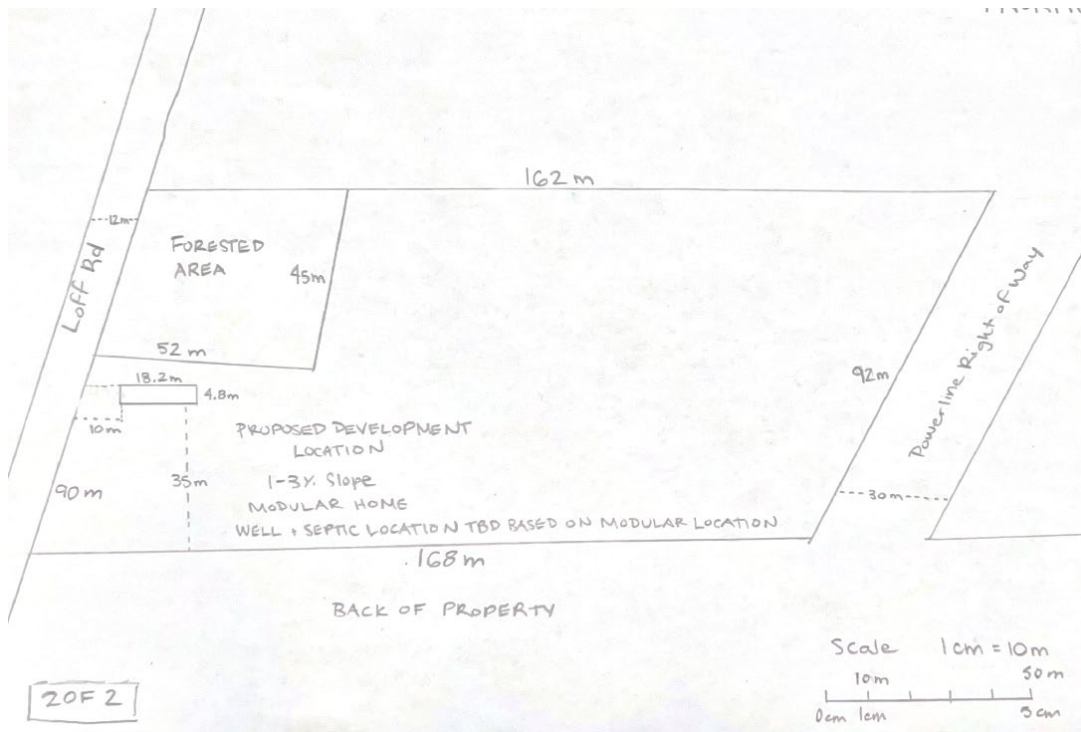


Figure 2: Site Plan

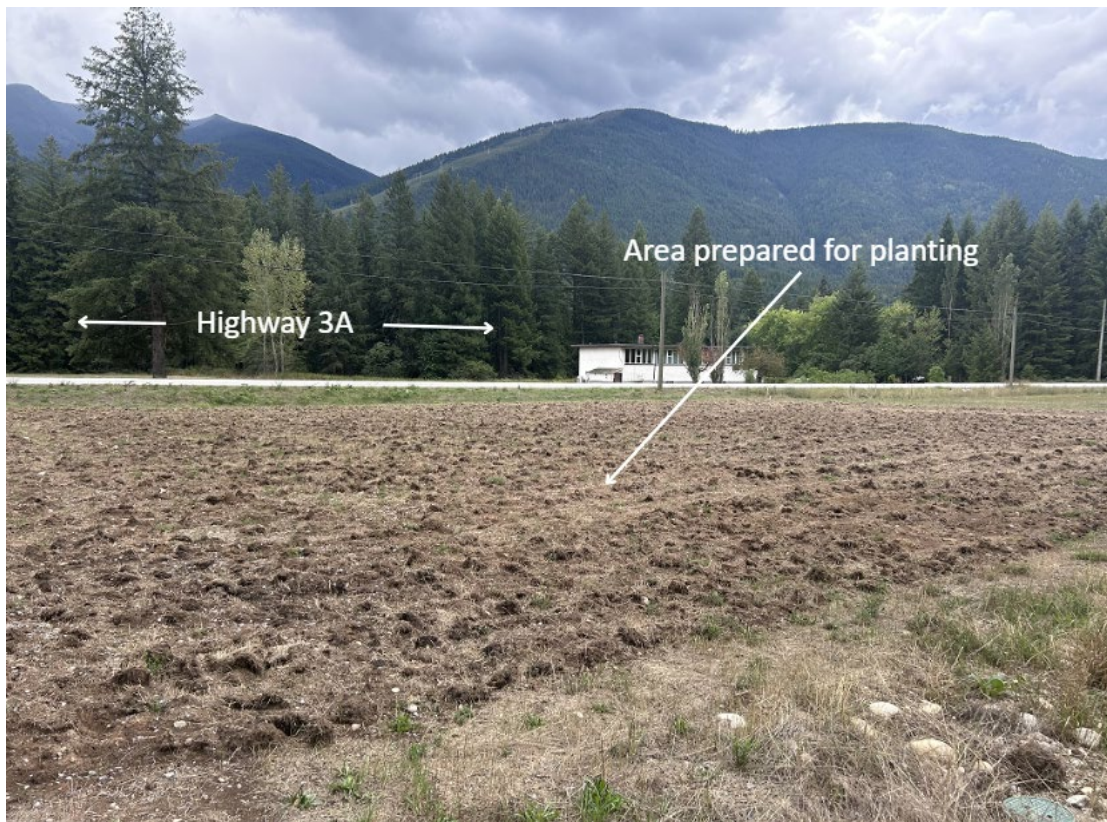


Figure 3: Planting Area

Land Use Considerations

Official Community Plan

The Official Community Plan (OCP) discourages rural sprawl and directs residential development to lands where there is low agricultural capability. It highlights the value of agricultural land for local food production and identifies the need to preserve agriculturally viable land for current and future agricultural production.

Agricultural Capability Rating

Agricultural capability in BC is ranked from Class 1 to Class 7. Class 1 land has the fewest limitations and can support the widest range of crops, while Class 7 land has no capability for soil-bound agriculture. Most of lands are Class 4/5 (shown in green) and the smaller, eastern portions are Class 5/6 (shown in brown).

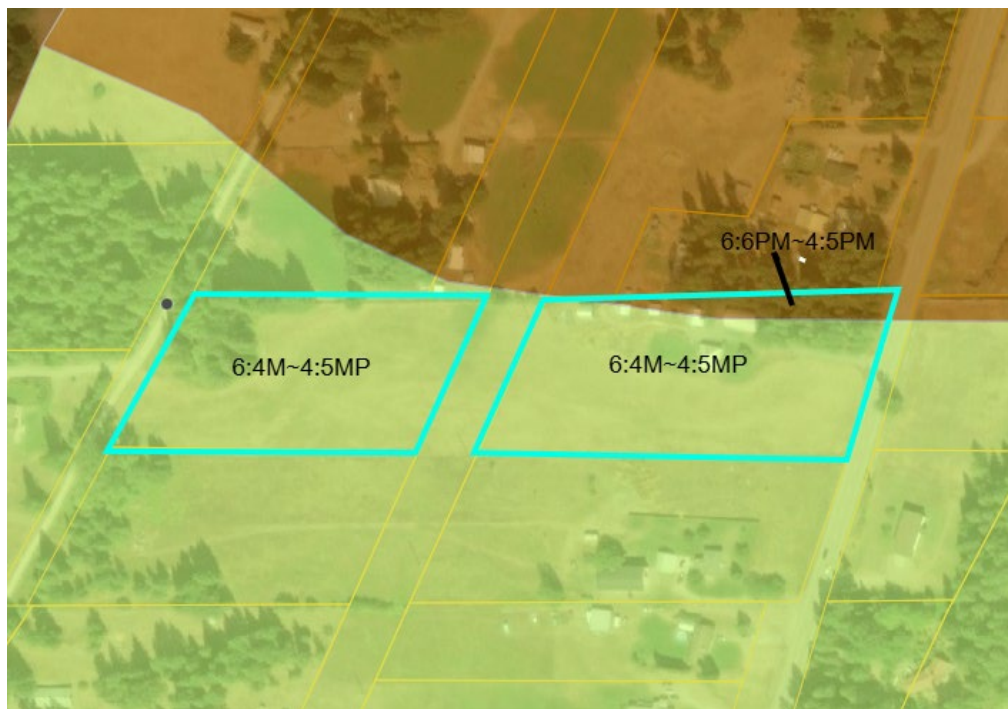


Figure 4: Agricultural Capability

Unimproved Capability Class	Limiting Subclass	Improved Capability Class
6:4M~4:5MP (60% Class 4M and 40% Class 5MP)	P – Stoniness M - Soil moisture deficiency	6:4M~4:5MP (60% Class 4M and 40% Class 5MP)
6:6PM~4:5PM (60% Class 6PM and 40% Class 5PM)	P – Stoniness M - Soil moisture deficiency	6:6PM~4:5PM (60% Class 6PM and 40% Class 5PM)

Soil Type

This parcel is primarily comprised of soils from the Gillis Soil Association and minimally composed of soils from the Glenlily Soil Association as shown in Figure 4.

Gillis soils have moderate to high capability for agricultural uses if irrigated. The main limitation is low soil moisture holding capacity. Irrigation is required for good production of crops. Glenlily soils have low capability

for agricultural use. Low soil moisture holding capacity and severe stoniness limit the range of crops possible. Irrigation is required for most crops.



Figure 5: Soil Association

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 RDCK Referral Fee pursuant to the Planning Fees and Procedures Bylaw No. 2457, 2015. When the application advances to the ALC, the applicant is required to pay an additional \$750 to the ALC for their review.

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

Agricultural Land Commission

The placement of fill in the Agricultural Land Reserve (ALR) is regulated. There are three possible pathways to compliance when placing fill in the ALR:

1. No application or notice required
 - Some fill placement activities are permitted and do not require authorization from the ALC. Common examples typically include fill necessary to establish a structure for farm use or fill necessary to establish a principal residence that has a total area of up to 1,000 m².
2. Notice of Intent (NOI)
 - Some moderate fill placement activities require a Notice of Intent to the ALC for the proposed fill. The ALC will review the NOI and either approve or not approve the fill placement. If required, they may direct the applicant to instead apply for a soil and fill use application. Common examples of when an NOI is appropriate are principal residences where the proposed fill area is greater than 1,000 m² or ADUs that are clustered with the principal residence.
3. Soil and Fill Use (SFU) Application

- A SFU application is typically required for more extensive fill activities, or activities that are not covered under the previous circumstances. Common examples of when a SFU is required is for bulk or area wide filling or when unauthorized fill placement has already occurred. In this case, the fill required for the ADU can not be considered under the NOI process because it is not clustered with the principal residence.

As per Section 20.3.5 of the Act, a person may apply to the commission for permission under section 25 for a soil or fill use of agricultural land.

Planning Procedures and Fees Bylaw No. 2456, 2015

The bylaw states “For areas subject to an official community plan or zoning bylaw, the Board will consider RAC’s recommendation and will pass a resolution to deny or advance the proposal to the ALC. The local government resolution may include additional comments for the ALC to consider.

3.3 Environmental Considerations

None anticipated.

3.4 Social Considerations:

None anticipated.

3.5 Economic Considerations:

None anticipated.

3.6 Communication Considerations:

Agency Referral Responses

In accordance with Schedule ‘P’ of the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*, planning staff referred the application to all applicable Regional District departments and government ministries and agencies for a period of thirty (30) days. Responses received are included in Attachment B.

3.7 Staffing/Departmental Workplace Considerations:

The proposal is considered under the operational requirements of Planning Services.

3.8 Board Strategic Plan/Priorities Considerations:

Not applicable.

SECTION 4: SUMMARY

Planning Discussion

This application has been submitted to consider the placement of fill required to facilitate the construction of a modular home on the subject property.

The proposed volume of fill is relatively minor and appears consistent with the minimum amount required to prepare the site for the development. While clustering residential development is generally preferred from an agricultural perspective, the RDCK Board of Directors recently undertook a detailed review of the proposed siting of the modular home as part of a Development Variance Permit application and determined that the proposed location was acceptable via the issuance of the permit.

Given that the RDCK Board has already authorized the modular home siting in this location and that the proposed volume of fill is modest and necessary to facilitate the approved development, staff support the proposed placement of fill and recommend the application be advanced to the ALC for consideration.

Options:

Option 1 – Support

That the Board SUPPORT application A2610I for the proposed Placement of Fill in the Agricultural Land Reserve proposed by Allie Batchelor and Jarred Batchelor for the property located at 1993 Highway 3A, Tarrys and legally described as LOT 2 DISTRICT LOT 1239 KOOTENAY DISTRICT PLAN 857, EXCEPT PART OUTLINED RED ON EXPLANATORY PLAN 35476I (PID: 016-022-181).

and that the Board directs Staff to ADVANCE the subject application to the Agricultural Land Commission for consideration.

Option 2 – Not Support

That the Board NOT SUPPORT application A2610I for the proposed Placement of Fill in the Agricultural Land Reserve proposed by Allie Batchelor and Jarred Batchelor for the property located at 1993 Highway 3A, Tarrys and legally described as LOT 2 DISTRICT LOT 1239 KOOTENAY DISTRICT PLAN 857, EXCEPT PART OUTLINED RED ON EXPLANATORY PLAN 35476I (PID: 016-022-181).

and that the Board directs Staff to NOT ADVANCE the subject application to the Agricultural Land Commission for consideration.

SECTION 5: RECOMMENDATIONS

That the Board SUPPORT application A2610I for the proposed Placement of Fill in the Agricultural Land Reserve proposed by Allie Batchelor and Jarred Batchelor for the property located at 1993 Highway 3A, Tarrys and legally described as LOT 2 DISTRICT LOT 1239 KOOTENAY DISTRICT PLAN 857, EXCEPT PART OUTLINED RED ON EXPLANATORY PLAN 35476I (PID: 016-022-181).

and that the Board directs Staff to ADVANCE the subject application to the Agricultural Land Commission for consideration.

Respectfully submitted,

Sadie Chezenko, Planner

CONCURRENCE

Planning Manager – Nelson Wight **Approved**

Acting General Manager Development & Sustainability – Amy Wilson **Approved**

Chief Administrative Officer – Stuart Horn **Approved**

ATTACHMENTS:

Attachment A – ALC Application

Attachment B – Referral Responses

Attachment C – Development Variance Permit



Provincial Agricultural Land Commission - Applicant Submission

Application ID: 108234
Application Type: Placement of Fill within the ALR
Status: Submitted to L/FNG
Name: Batchelor et al.
Local/First Nation Government: Regional District of Central Kootenay

1. Parcel(s) Under Application

Parcel #1

Parcel Type Fee Simple
Legal Description LOT 2 DISTRICT LOT 1239 KOOTENAY DISTRICT PLAN 857, EXCEPT PART OUTLINED RED ON EXPLANATORY PLAN 35476I
Approx. Map Area 3.12ha
PID 016-022-181
Purchase Date Sep 3, 2025
Farm Classification No
Civic Address 1993 Highway 3A Castlegar BC
Certificate Of Title TITLE_S.pdf

Land Owner(s)	Organization	Phone	Email	Corporate Summary
Alexandra Batchelor	Not Applicable	2505516016	aechown@gmail.com	Not Applicable
Jarred Batchelor	Not Applicable	2506084255	jabatch24@gmail.	Not Applicable

com

2. Other Owned Parcels

Do any of the land owners added previously own or lease other parcels that might inform this application process? No

3. Primary Contact

Type	Land Owner
First Name	Alexandra
Last Name	Batchelor
Organization (If Applicable)	No Data
Phone	2505516016
Email	aechown@gmail.com

4. Government

Local or First Nation Government: Regional District of Central Kootenay

5. Land Use

Land Use of Parcel(s) under Application

Describe all agriculture that currently takes place on the parcel(s).	The current agriculture that takes place on our property is an apiary of 5 hives and a garden plot that we started this Spring, as well as an orchard of 9 fruit trees we planted this Spring. We have plans and goals for future farming, but at the present time the bees are the primary agriculture. Historically the field has been used for hay, but this Spring we could not find someone to cut the field due to the grass being short, sparse, and lacked nutrients. None of the local hay cutters would commit to it due to there being no benefit to them. We intend to have large grazing animals, chicken, ducks, sheep, bees, and pigs in the near future.
--	--

Describe all agricultural improvements made to the parcel(s).

In less than a year of owning this property, we have cleared a substantial amount of scrap metal from the land, cleared debris, garbage, and brush in treed areas to clean up the property and get it to a state that we can begin farming and taking on animals. We have made updates to old irrigation as we discover it. We've planted 9 fruit trees and created a large garden space. We will be getting our land surveyed on July 24th. Once we know where our exact property lines are we can begin fencing. We have added amendments to soil in parts of the field to raise pH. We have also amended the garden soil to improve the quality and make it more fertile.

Describe all other uses that currently take place on the parcel(s).

The use for the parcel is a young family with myself and my husband and our two small kids. We live on the property as our primary full-time residence.

Land Use of Adjacent Parcels

	Main Land Use Type	Specific Activity
North	Commercial / Retail	Sentinel Meats. Local meat butcher and meat sales as well as residential home
East	Other	Community Hall across the highway from our property
South	Residential	Residential Home on ALR zoned property. No farming activities.
West	Residential	Residential home on ALR zoned property. No farming activities.

6. Proposal

Are you removing soil and placing fill in order to build a structure? Yes

Has the ALC previously received an application or Notice of Intent for this proposal? Yes

Application or NOI ID 107427

What is the purpose of the The purpose of our proposal is to approve the fill that is required for the

proposal?

site prep of an accessory dwelling modular home. We have been working closely with our Regional District the past 3 months to obtain a variance required for the bylaw that restricts the siting of accessory dwellings. On July 16th, the variance we needed to vary the residence clustering bylaw on our property was approved by the RDCK Board of Directors. There are a few factors that contributed to this variance. The location of the primary residence and the outbuildings on our property is the main reason; the house and the outbuildings are grouped to the perimeter of the property and it doesn't leave adequate space for a second dwelling. Our home was built in the 1950's and the location of the house and the buildings are as they have been for a long time. We bought the property in 2025, and have dreams and plans for farming. The layout of the property as we purchased it does not provide an ideal clustered location for a second dwelling that won't negatively impact and disrupt the farm. Our property also has a powerline right-of-way running through it, and this further restricts siting. The location of the septic system is another restriction, removing the option that a second dwelling could go between the primary house and the highway. The North side of the house is a quonset hut and a small garage building, to the West is the septic system. To the South is primary agriculture land where we have put the garden and the orchard. To the East is the back yard which has 3 outbuildings extending toward the barn, which is closest to the Right-of-Way. We have plans to utilize the space between the house and the Right-of-Way for small animals where we can take advantage of the outbuildings that are already existing. This will give us proximity to the animals to have a close eye on them and care for them easily. It also save us from having to build more infrastructure for the animals, further promoting farming. So when these outbuildings and the back yard space is utilized for farming and agriculture, it removes all clustering options for a second dwelling. The benefit to agriculture will drastically increase when we can utilize this space for farming, instead of having a dwelling there. Having a house in our back yard would make farming more difficult, and would restrict the vantage point we currently have of the field. When we have animals grazing in the pasture we need to be able to watch over them from the house. The Loff Rd access will provide a second vantage point looking towards the primary house and pasture. Our property has 2 road frontages, and on the back side of the property there is a great spot that we can utilize that will positively impact agriculture. The dwelling will need its own septic system and well. Having a second well on our property will provide irrigation 300 meters away from the primary well, giving us agriculture and farming benefits as well as

wildfire preparedness. For a family with young kids, it can be hard to get ahead on our farm goals when Jarred works full time. We've been able to do what we have so far due to help from Allie's mom with both babysitting and farm tasks, and when she is living on the property that help will increase. Agriculture on our property will benefit when there are more adults to help with the kids and farming. We have researched ALC Guidelines thoroughly, so we know that there is nuance when it comes to siting of dwellings. The access from Loff road does not fragment the land, and for the reasons mentioned will benefit the farm. We are aspiring farmers, and have the same goals as the ALC does—preserve agriculture land and encourage farming. After receiving approval from the RDCK Board of Directors, we are confident with our siting location and now seek the permission from ALC to bring Fill onto the property for site prep of the modular home. The home will be within ALC guidelines of under 90m².

Placement of Fill Project Duration 2 weeks- once we have the fill it will be spread and compacted in the required area, making sure to minimize our overall footprint.

Fill to be Placed

Volume	35 m ³
Area	185 m ²
Maximum Depth	0.15 m
Average Depth	0.15 m

Fill already Placed

Volume	0 m ³
Area	0 m ²
Maximum Depth	0 m
Average Depth	0 m

Describe the type of soil proposed 6 inches of 3/4 road crush to be compacted at 2% slope from center out

to be removed.

underneath the modular home, and a short driveway with small parking area to be accessed from the back of our property on Loff Road.

The total floor area (m²) for each of the proposed structure(s)

#	Type	Area
1	Additional Residence	87 m ²

Describe why placing fill/removing soil is required for the residential structure(s)

The modular home company we have been in contact with has specified that the land preparation for under the modular is 6 inches of $\frac{3}{4}$ road crush to be compacted with a 2% slope from center out.

Any fill beyond that will make a small driveway and parking space, making sure that we minimize the agriculture land impact. Calculating the m³ of fill needed at this stage is tough to know exactly how much, so I estimated a larger amount than what is really needed to be on the safe side.

We are in a tricky spot where we've gotten the approval from local government, so we have been discussing modular options with local companies but cannot commit to one officially until we get the ALC green light. We do know for sure that the home will be under 90m², and that the siting location requires a very short driveway and parking space. I will attach photos for reference.

Proposal Map / Site Plan

Site Plan_A.pdf

Detailed Building Plan(s)

Image of Site.jpeg
Design Plan_A.pdf

7. Optional Documents

Type	Description	File Name
Photo of the Application Site	Image showing aerial photo of area	Image of effected area_A.png
Photo of the Application Site	Picture taken of approved modular location	Image of Site.jpeg



Referral Responses- A2610I

Agency/First Nation	Response
Lower Similkameen Indian Band (LSIB)	The Lower Similkameen Indian Band (LSIB) would like to acknowledge receipt of the above referral. We have conducted a desktop review of it. The location of the project/activity to which the referral relates is within syilx Territory and may have impacts on inherent and constitutionally protected syilx Title and Rights, which LSIB holds as part of the syilx Nation. However, given the location of the project, we would support Osoyoos Indian Band (OIB) and Penticton Indian Band (PIB) in taking lead in further consultation and engagement on this project. Please keep us informed of any updates or changes to the project as this may change our assessment and our view on the need for further consultation with LSIB and an invoice will follow at a later date. If you require further information or clarification, please do not hesitate to contact me at the address below.
Okanagan Indian Band (OKIB)	The Territorial Stewardship Division would like to acknowledge receipt of the above referral. The Okanagan Indian Band ("OKIB") has conducted a desktop review of the project. The location of the project to which the referral relates is within Syilx (Okanagan Nation) territory, and may have impacts on Syilx Aboriginal Title and Rights, which OKIB holds as part of the Syilx. However, the project is located outside the OKIB's Area of Responsibility as a member of the Syilx. At this time, we defer to the Lower Similkameen Indian Band, Osoyoos Indian Band and Penticton Indian Band for a more in depth review. Please keep us informed of any updates or changes to the project as this may change our assessment and our view on the need for further consultation with OKIB.
Ministry of Agriculture and Food	Thank you for sending the above noted referral to Ministry of Agriculture and Food staff for comment. Ministry staff have reviewed the application materials and note that the proposed project to construct an additional residence on the Subject Property is virtually identical to the DVP referral that Ministry staff provided comments on June 17, 2026. In essence, the fill deposit portion phase of the project does not appear to add anything new to Ministry staff's original concerns regarding siting and clustering of the additional residence. Please accept our aforementioned letter (attached) as referral comments for RDCK File: A2610I. See attached letter.

Penticton Indian Band (PIB)	See attached letters.
Shuswap Band	See attached letter.



June 17, 2026

Zachari Giacomazzo
Planner
Regional District of Central Kootenay

Sent by email

Dear Zachari:

Re: File V2609I – Development Variance Permit Application at 1993 Highway 3A (PID: 016-022-181) – The Subject Property

Thank you for providing Ministry of Agriculture and Food (Ministry) staff the opportunity to comment on File V2609I that proposes to vary Sections 2701(3) and 2701(4) in the Agriculture 1 (AG1) Zone in Zoning Bylaw No. 1675, 2004. From an agricultural planning perspective, Ministry staff offer the following comments:

- Ministry staff note that the existing 4,000 m² Farm Residential Footprint (FRF) is already twice the size of the permitted FRF and that locating the additional residence in the proposed location would vastly exceed the permitted 2,500 m² FRF for two residences. Further, the applicant has not provided a valid reason why the additional residence cannot be located within the existing FRF. Specifically, there appears to sufficient space directly adjacent to the existing residence to the west that could accommodate the additional residence without encroaching on the agriculturally productive area of the Subject Property.
- Ministry staff recognize that because the proposed location for the additional residence is in close proximity to Loff Road, only a short driveway would be required which in turn, minimizes the impact on the Subject Property. However, in addition to being a considerable distance from the existing FRF, this location also comprises part of the active hayfield. Generally, Ministry staff recognize the importance of clustering buildings as it reduces the impact on the agricultural potential of a property.
- Given that the Subject Property fronts onto two roads and is severed in half by the hydro corridor right-of-way, constructing an additional residence in the proposed location will render the Subject Property more attractive to subdivision. While Ministry staff recognize that the owners currently do not wish to pursue subdivision, they may opt to do so in the

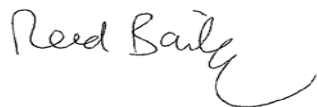
future and/or a prospective future owner may desire to do so if/when the Subject Property is sold.

- While the applicant currently proposes to only construct an additional residence, thereby limiting the area impacted by development, it is Ministry staff experience that additional accessory residential development often follows which requires additional land and in turn, reduces the amount of land available for farming. The existing FRF illustrates this scenario where in addition to the residence itself, numerous accessory residential structures including a shop, two sheds, and a garage were constructed which contributes to the large, existing 4,000 m² FRF.
- Ultimately, the two proposed variances appear to prioritize residential development and separation distance between residences and/or privacy and likely do not have a positive impact on agriculture on the Subject Property. Ministry staff recommend that the additional residence is located within the existing FRF and support a variance to Section 2701(4) of Zoning Bylaw No. 1675, 2004 to accommodate this use.

Please contact Ministry staff if you have any questions about the above comments.

Thank you for the opportunity to provide comments from an agricultural perspective with respect to this file.

Sincerely,



Reed Bailey
Land Use Planner
BC Ministry of Agriculture
778-698-3455
Reed.Bailey@gov.bc.ca

Cc: Agricultural Land Commission – ALC.Referrals@gov.bc.ca



10-Aug-2026 14:10 MDT

Weyt-k (Hello),

Shuswap Band is in receipt of the project information for: -Batchelor - A2610I - ALC Soil and Fill Use.

The proposed project is located within Shuswap Band's Caretaker Area, within the greater Secwépemcúlecw (Secwepemc Traditional Territory). As land users and stewards, Shuswap Band members continue to exercise their Section 35 Aboriginal rights as their ancestors have done for generations, including hunting, trapping, gathering, and fishing, along with rights associated with spiritual and cultural traditions that are practiced in accordance with Secwepemc customs, laws, and governance structures. Secwepemc share an obligation of caretaker responsibility (stewardship) which is to act mindfully, learning from and caring for surrounding ecosystems for the health and survival of future generations, as is their Indigenous right (UNDRIP, Bill 41, Bill C15) Secwepemc culture hinges on the belief that the land responds positively to care and respect, and that tmicw (the air, lands, and resources) is interconnected at a watershed level. It is therefore critical for Shuswap Band to be actively engaged and consulted on all developments occurring within their Caretaker Area.

Based on our initial review, the nature of the proposed activity, its location, the current information available to our office at this time, we do not see any apparent significant impacts to our indigenous rights, including title at this time. However, we may at future date want to revisit consultation on this matter should new information become available.

Further, the watersheds in this area are significant to Shuswap Band's cultural heritage, as an area of ancestral land use, and presently significant as an area needing restoration and protection. Currently, Shuswap Band members collect medicines and berries in the surrounding area, fish the area waters, and camp nearby. While the area and its vitality has been impacted by industry developments, Shuswap Band has been actively involved in research and other initiatives which aim to restore this region to an ecologically and culturally thriving place.



3A – 492 Arrow Road
Invermere, BC V0A 1K2



T: 250-341-3678
F: 250-341-3683



www.shuswapband.net

Wherever possible, Shuswap Band recommends the reuse of existing infrastructure so as to avoid unnecessary ground disturbance and additional cumulative impacts to the region. It is Shuswap Bands expectation that all disturbed areas be reclaimed as soon as possible with the areas being monitored and treated for invasive plants to aid the ecosystem in its healing.

The province is responsible for ensuring adequate consultation and where appropriate, accommodation to address potential impacts of proposed developments on asserted Aboriginal rights including title. It is Shuswap Band expectation that continued consultation on projects and on matters that may affect our long-term traditional land use, occupancy and access, including potential cumulative impacts between proposed activity and other previous or future developments within the project footprint and in adjacent areas (watershed, habitat type, aquifer, viewscape, etc).

Kukwstsétsemc (Thank you).

Referrals Coordinator

"Our people are our strength. Our children are our future."

ec: Barb Cote - Chief, Shuswap Band

Mark Thomas - Councilor, Shuswap Band

Richard Martin - Councilor, Shuswap Band

Braydi Rice – Director, Territorial Stewardship, Shuswap Band

Joshua Martin – Guardian Manager, Shuswap Band



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Consulting ID:

PIB-2026-2176

Project Name

PIB-2026-2176-Batchelor - A2610I - ALC Soil and Fill Use.

Consulting Organization:

Regional District of Central Kootenay

7-Aug-2026 16:10 PDT

Attention: Sadie Chezenko

RE: 40 (forty) day extension

Thank you for the above application that was received on 6-Aug-2026.

This letter is to inform you that due to current levels of internal capacity, we are unable to review your referral in your proposed timeline. With additional time, the snpink'tn (Penticton) Indian Band səxʷtəxt'am' department will be able to ensure that an informed review process will occur. We are setting the new timeline to be 40 days from the existing timeline.

syilx (Okanagan Nation) Title includes snpink'tn right to proactively use and manage our resources. In Tsilhqot'in, the Supreme Court of Canada emphasizes the need to seek the consent of the title-holding Aboriginal group, and warns, without consent for a project, the proponent risks having the project cancelled. The obligation to seek free, prior and informed consent is further required by the United Nations Declaration on the Rights of Indigenous People (UNDRIP). UNDRIP requires that Indigenous peoples shall be consulted and cooperated with in good faith in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

Please note that not receiving a response regarding a referral from snpink'tn in the pre-application, current or post-application stage does not imply our support for the project.



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

I appreciate your co-operation.

limləmt,

Caroline Stewart
Office Administrator
snpink'tn (Penticton) Indian Band səxʷtəxt'am' department
Natural Resources
email: cstewart@pib.ca
office: 250-492-0411 Ext: 241
address: 841 Westhills Drive
Penticton, British Columbia
Canada V2A 0E8



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Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Consulting ID:

PIB-2026-2176

Project Name

PIB-2026-2176-Batchelor - A2610I - ALC Soil and Fill Use.

Consulting Organization:

Regional District of Central Kootenay

7-Aug-2026 16:05 PDT

Attention: Sadie Chezenko

We are in receipt of the above referral. This proposed activity is within the snpink'tn (PIB) Area of Interest within the Okanagan Nation's Territory, and the lands and resources are subject to our unextinguished Aboriginal Title and Rights.

The Supreme Court of Canada in the *Tsilhqot'in* case has confirmed that the province and Canada have been applying an incorrect and impoverished view of Aboriginal Title, and that Aboriginal Title includes the exclusive right of Indigenous People to manage the land and resources as well as the right to benefit economically from the land and resources. The Court therefore concluded that when the Crown allocates resources on Aboriginal title lands without the Indigenous peoples' consent, it commits a serious infringement of constitutionally protected rights that will be difficult to justify.

snpink'tn (PIB) has specific referral processing requirements for both government and proponents which are integral to the exercise of our management right and to ensuring that the Crown can meet its duty to consult and accommodate our rights, including our Aboriginal title and management rights. According to this process, proponents are required to pay a \$500 processing fee for each referral. This fee must be paid within 30 days. Proper consultation and consideration of potential impacts cannot occur without the appropriate resources therefore it is only with payment that proper consultation can begin and the proposed activity/development can be reviewed.



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Invoice Number: PIB-2026-2176

Referrals Processing Fee

Sub Total \$ 500.00

Tax \$ 0.00

Total \$ \$500.00

INVOICE AMOUNT FOR PRELIMINARY OFFICE REVIEW \$500.00

We accept cash and cheque via mailing as well as EMT. Our mailing address is 841 Westhills Drive Penticton BC, V2A OE8. Our EMT is PIBPayments@pib.ca.

Please have 'ATTN: Natural Resources File # PIB-2026-2176 PC:132 ' in the notes if you are using EMT or if you are using another method, please supply the referral number with it .

Upon receipt of the processing fee, we will commence our review. You may then expect to receive a letter from us notifying you of the results of our review of potential impacts of the project within 30 to 90 days.

If the proposed activity requires a more in-depth review, snpink'tn (PIB) will notify the proponent and all parties will negotiate a memorandum of agreement regarding a process for review of the proposed activity.

Please note that our participation in the referral and consultation process does not define or amend snpink'tn (PIB) Aboriginal Rights and Title, or limit any priorities afforded to Aboriginal Rights and Title, nor does it limit the positions that we may take in future negotiations or court actions.

If you require further information or clarification, please do not hesitate to contact me.

limləmt,

Caroline Stewart
Office Administrator



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
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Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

snpink'tn (Penticton) Indian Band səx^wtəxt'am' department
Natural Resources
email: cstewart@pib.ca
office: 250-492-0411 Ext: 241
address: 841 Westhills



Development Variance Permit

V2609I (BATCHELOR)

Date: June 18, 2026

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

TO: Allie Batchelor and Jarred Batchelor

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' and '2':

Address: 1993 Highway 3A, Tarrys, Electoral Area 'I'

Legal: LOT 2 DISTRICT LOT 1239 KOOTENAY DISTRICT PLAN 857, EXCEPT PART OUTLINED RED ON EXPLANATORY PLAN 35476I

PID: 016-022-181

CONDITIONS

5. Development Variance

RDCK Zoning Bylaw No. 1675, 2004, Sections 2701.3 and 2701.4 are varied as follows:

Section 2701.3

From: 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.

To: The maximum Farm Residential Footprint shall be a maximum of 6,000 square meters for this property only.

Section 2701.4

From: 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.

To: The maximum depth of the Farm Residential Footprint shall not exceed 150.0 metres measured from the Front Lot Line adjacent to Highway 3A (in order to recognize the existing farm residential footprint at the Highway 3A frontage).

As shown on Schedules '1' and '2'

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 **353/26** passed by the RDCK Board on the 16th day of July, 2026.

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

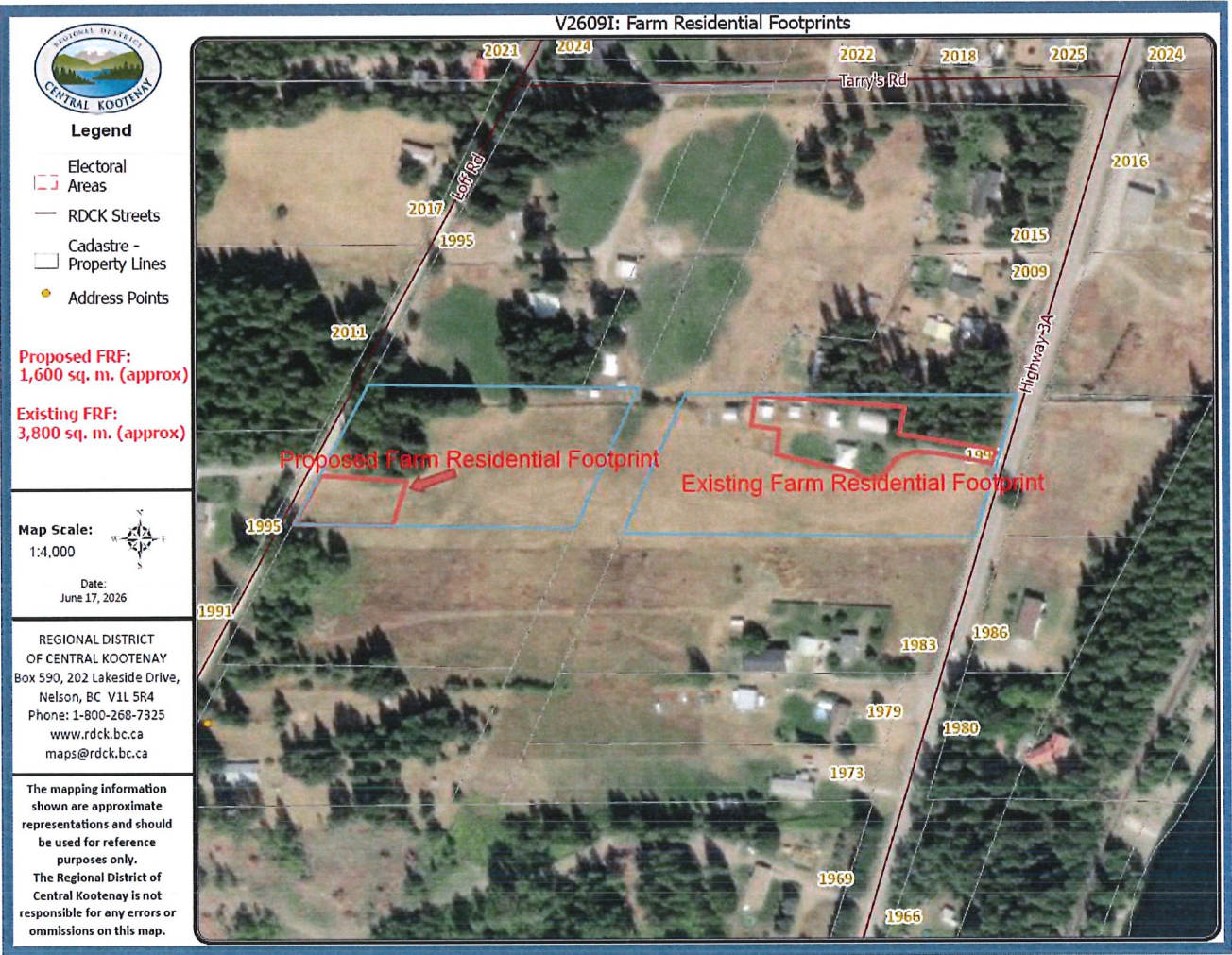

Aimee Watson, Board Chair


For Mike Morrison, Corporate Officer
Angela Lund, Deputy Corporate Officer

Schedule 1: Subject Property



Schedule 2: Site Plan





Committee Report

Date of Report: September 8, 2026
Date & Type of Meeting: September 23, 2026 Rural Affairs Committee
Author: Zachari Giacomazzo, Planner
Subject: SITE SPECIFIC FLOODPLAIN EXEMPTION
File: F25603HN – Steenhoff
Electoral Area/Municipality H

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Regional Board to consider an application for a Site-Specific Exemption to Regional District of Central Kootenay Floodplain Management Bylaw No. 2080, 2009, in Electoral Area 'H'.

The applicant seeks relief from the floodplain setback requirements for this portion of Wilson Creek specified in *RDCK Floodplain Management Bylaw No. 2080, 2009* to authorize the unlawfully constructed single detached dwelling on the subject property.

It is recommended that the Board NOT APPROVE the issuance of a Site-Specific Exemption to *RDCK Floodplain Management Bylaw No. 2080, 2009*, for the existing unlawfully constructed single detached dwelling on LOT B DISTRICT LOT 4877 KOOTENAY DISTRICT PLAN EPP30385, as described in the Staff Report "Site Specific Floodplain Exemption F2603HN", dated September 8, 2026.

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION

Property Owners: Darrell Steenhoff; Audrey Steenhoff

Property Location: 260 Wilson Creek Rd E

Legal Description: LOT B DISTRICT LOT 4877 KOOTENAY DISTRICT PLAN EPP30385

Property Size: 0.91 hectares (2.25 acres)

Zoning: Not subject to a zoning bylaw

Land Use Designation: Rural Residential (R3) – Slocan Lake North portion of Electoral Area 'H' Official Community Plan Bylaw No. 1967, 2009

SURROUNDING LAND USES

North: Wilson Creek/Vacant land designated Park (across Wilson Creek)

West: Wilson Creek/East Wilson Creek Road

East: Rural Residential (Single family dwelling)

South: Agriculture/Industrial (Crown gravel pit to southwest)

Background and Site Context

The subject property is in Electoral Area 'H' of the Regional District of Central Kootenay (RDCK), south of Rosebery and approximately 300 meters east of Highway 6 on East Wilson Creek Road (Attachment A). It is located along the east side of Wilson Creek on the Creek's alluvial fan (Attachment B). The property falls within Wilson Creek's

designated floodplain and, as such, is subject to the requirements of *Regional District of Central Kootenay Floodplain Management Bylaw No. 2080, 2009* (the Floodplain Bylaw). The Floodplain Bylaw indicates a minimum flood construction level (FCL) of 3.0 metres above the natural boundary of Wilson Creek and a minimum setback of 30.0 metres from the natural boundary of Wilson Creek.

The subject property falls outside of the non-standard flood and erosion area (NSFEA) for Wilson Creek specified in the Floodplain Bylaw. However, findings from the 2020 Floodplain and Steep Creek Study¹ determined that the property has a variable flood hazard rating that ranges from “very low” (in the southeastern corner) to “high” (on the northern most portion of the property). Most of the property has a “low” flood hazard rating with the majority of development generally falling in this area. However, the portions of the development on the property nearest to Wilson Creek fall within an area that has a “moderate” flood hazard rating (see Attachment C – Steep Creek Hazard Rating Map).

The property’s title has three covenants registered on it, in addition to a Notice on Title pursuant to Section 57 of the *Community Charter* for commencement of construction without a valid building permit (more detail on the contraventions is provided in the sections below). The covenants and their purposes are:

- KT16468 – Section 219 (*Land Title Act*) no-build covenant for an approximately 10-15 metre-wide strip of land (the distance fluctuates across the property’s frontage) adjacent to East Wilson Creek Road
- KT16479 – Section 219 flood covenant prohibiting construction of a building, mobile home or unit, modular home or structure within 30 metres of and below 3.0 metres of the natural boundary of Wilson Creek
- KT16477 – Section 219 water potability covenant

Property History

The following summarizes relevant dates related to previous development on the property (2002-2013):

- February 14, 2002 – 3 covenants registered on title in subdivision.
- August 22, 2005 – building permit 00332N processed for single family dwelling on the parent parcel (final inspection completed May 17, 2006).
- April 19, 2006 – building permit 00857N processed for manufactured home on the parent parcel (final inspection completed May 29, 2009).
- October 3, 2007 – building permit 02146 processed for Quonset hut garage structure on parent parcel (final inspection completed May 29, 2009).
- April 18, 2013 – subdivision of the parent parcel under MoTI file no. 2012-03852. The manufactured home (BP00857N) and Quonset hut (BP02146) remain on the subject property – 260 East Wilson Creek Road – while the previously constructed single-family dwelling (BP00332N) is now located on the neighbouring parcel to the east – 270 East Wilson Creek Road.

The following summarizes the timeline related to enforcement actions regarding unauthorized development on the subject property (2022-present):

- June 22, 2022 – complaint received regarding building without a permit and a stop work order (SWO00226) is issued the next day for commencement of construction without a valid building permit.
- July 13, 2022 – compliance letter sent to property owners by Planning staff outlining additional bylaw contraventions (i.e. building within the designated floodplain of Wilson Creek and without a valid Development Permit).

¹ RDCK Floodplain and Steep Creek Study – Wilson Creek (March 31, 2020). Prepared by BGC Engineering Inc.
https://rdck.ca/wp-content/uploads/2024/11/2020-07-17-Wilson_Creek-FINAL.pdf

- October 3, 2022 – no correspondence received from property owners. Building Official recommends moving to Notice on Title.
- February 16, 2023 – second notice issued under SW000226 and no correspondence received from the property owners in the months that followed.
- May 9-July 6, 2023 – correspondence from Planning staff encouraging voluntary compliance with floodplain bylaw and development permit requirements. Property owner indicates they will not be submitting the required applications.
- July 19, 2023 – request to place Notice on Title presented to RAC and direction given to place the Notice on Title (BRD RES 460/23). Notice on Title (CB780580) registered one week later, on July 26, 2023.
- September 5, 2024 – Notice of Civil Claim filed with the Supreme Court of British Columbia
- March 3, 2025 – following continued efforts to compel compliance, the property owner submits a Site Specific Floodplain Exemption application (F2501Hn) and with Crowsnest Engineering February 14, 2025 Technical Memorandum – Post-Construction Hazard Report
- May 9, 2025 – site visit from Planning staff. Applicant and engineer unable to meet on site.
- September 4, 2025 – Planning staff meet with the applicant and engineer to explain that staff would not be able to recommend that the Board support the application based on the engineer's report not satisfying the requirements of the RDCK's Terms of Reference.
- October 14, 2025 – Applicant chooses to proceed with having the Board consider the application without a new engineer's report.
- January 22, 2026 – F2501Hn is denied by the Board of Directors (Resolution No. 42/26).
- March 12 and April 28, 2026 – Site visits of RDCK staff and posting of a do not occupy notice
- May 15, 2026 – Amended Notice of Civil Claim filed with the Supreme Court of British Columbia which referenced additional contraventions in relation to additional structures on the property: Z241 Park Model Trailer erected without a floodplain exemption and in contravention of development permit requirements and the terms of restrictive covenants; and two shipping containers, which were altered to provide living space, and erected in contravention of development permit and building permit requirements and the terms of restricted covenants.
- May 31, 2026 – Property owner submits a new Site Specific Floodplain Exemption Application (F2603Hn) with a Flood Hazard Assessment Report prepared by a different Qualified Professional.
- September 3, 2026 – Site visit by RDCK staff. Staff noted that the shipping containers had been relocated to the no build area and had been connected with a roof assembly to create one building – without a building permit

In addition to a garden and chicken coop area, the following is a list of the existing structures on the subject property at the time this report was prepared:

1. Manufactured home
2. Quonset hut structure
3. Primary Residence (subject of this Site Specific Floodplain Exemption Application)
4. Semi-permanent residence (park model trailer)
5. 3 shipping containers (unmodified)
6. 2 shipping containers (modified and connected by a roof structure)

2 of the structures were constructed with permits (manufactured home and Quonset hut) while the remaining structures (primary residence, semi-permanent residence, and 2 modified shipping containers) were constructed without permits. Permitting the remaining structures involves 2 RDCK Planning approvals (in addition to Building Permits):

1. Site-specific exemption to the Floodplain Bylaw to address flood hazards on the property.

2. Development Permit to address environmental (riparian area) considerations for the development.

A Development Permit application was submitted on August 9, 2025. Processing of that application has not commenced, as the outcome of this floodplain exemption application could alter environmental recommendations covered under the Development Permit.

Development Proposal

The site specific floodplain exemption application is a request to permit the primary dwelling within Wilson Creek's designated floodplain. While the semi-permanent residence (park model trailer) is also located in the floodplain, the proposal summary submitted by the applicant (Attachment D) indicates that it will be relocated outside of the floodplain. The proposal summary further describes that the existing primary residence is the only structure subject to this site specific floodplain exemption application and the only structure intended to remain its current location [within the designated floodplain].

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 \$500 fee for a Site-Specific Floodplain Exemption application has been paid pursuant to the RDCK's *Planning Procedures and Fees Bylaw No. 2457, 2015*.

This application is associated with compliance issues dating back to 2022. Since that time there has been considerable staff effort to encourage the owner to bring the property into compliance with the relevant bylaws. The resources dedicated to this effort far surpass the costs recovered from the application fees and surcharge levied through the previous application.

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

Under Section 524(7) of the *Local Government Act (LGA)*, the Board has the authority to:

... exempt a person from the application of [a floodplain bylaw and its associated regulations] in relation to a specific parcel of land or a use, building or other structure on the parcel of land, if the local government considers it advisable and either:

- a) *considers that the exemption is consistent with the Provincial guidelines, or*
- b) *has received a report that the land may be used safely for the use intended, which report is certified by a person who is*
 - i. *a professional engineer or geoscientist and experienced in geotechnical engineering, or*
 - ii. *a person in a class prescribed by the environment minister under subsection (9).*

Granting of an exemption under *LGA* Section 524(7)(a) is not recommended for reasons explained in Section 4 of this Staff Report. Pursuant to *LGA* Section 524(7)(b), an Engineer's Report, "260 Wilson Creek Road East, Flood Hazard Assessment, v3" (Attachment E), has been submitted with this application.

3.3 Environmental Considerations

Environmental considerations would be evaluated in the review of the Development Permit application.

3.4 Social Considerations:

The actions of the property owner to continue to build while knowing doing so contravenes multiple RDCK bylaws perpetuates the sentiment of lawlessness in the RDCK, particularly in areas without zoning. This sentiment

undermines the time and effort of individual community members who have participated in a community planning process and have a certain expectation for how development will be undertaken, in this case in a way that mitigates flood hazards and is sensitive to the natural environment. Further, it undermines the efforts of the RDCK to ensure that new development is safe from geohazards.

3.5 Economic Considerations:

There can be significant costs associated with emergency response and structural protection in a flood event. These costs are absorbed by the local and provincial governments and ultimately place a burden on all taxpayers. The Floodplain Bylaw exists to ensure that where these risks may be present, they are effectively understood and responded to appropriately.

3.6 Communication Considerations:

In accordance with the RDCK's *Planning Procedures and Fees Bylaw No. 2457, 2015* staff referred the application to all relevant government agencies, internal RDCK departments and the Electoral Area 'H' Director for review. The following comments were received:

Agency/Department	Referral Response
RDCK Fire Services	<i>This location is outside of a Fire Protection Area and is not serviced by an RDCK Fire Department. The regional Fire Service has reviewed this file and has concerns with the spacing between each structure on the property. From looking at the pictures provided, it looks like the distance between each building is not sufficient to stop fire spread from one building to another.</i>
RDCK Parks Department	<i>There are no issues related to Rosebery Parklands in this referral.</i>
RDCK Emergency Management Department	<i>The EM Dept comments are that the property in question is located within the NDMP 2 - Steep Creek Hazards, detailed priority areas. RDCK Emergency Management defers to the recommendation of Planning and Development Services staff on this file.</i>
BC Ministry of Transportation and Transit (MoTT)	<i>Thank you for opportunity to review and provide comments on the above-noted application. As the Ministry's authority is limited to the safety, operation and maintenance of our roads and right-of-way, for the purpose of this floodplain exemption the Ministry has no comments. The Ministry understands that as part of the Floodplain Exemption, the RDCK is considering requesting the release of (or modification of) Covenant KT16479. This email is not intended to respond to the RDCK's inquiry regarding if the Province would consider KT16479 to be discharged or amended should the RDCK Board approve a site specific exemption. Michele Ihas, Provincial Approving Officer, will be responding to this request in a different email.</i> Supplemental comments from the Provincial Approving Officer, MoTT <i>I would be open to considering a request from the owners to modify or discharge covenant KT16479. The authority for the approving officer comes from sections 219 (9.1) and (9.2) of the Land Title Act. The typical process would be for the owners to supply supporting documentation from a qualified professional proposing either an amendment to the covenant, a</i>

	<i>new covenant or justification that no covenant is required. The QP would be requested to follow the terms of reference attached.</i> <i>The report by Apex for the site specific floodplain exemption is considering the placement of the existing building and does not speak to the land (entire property). I noticed that section 11 on the assurance statement has been marked instead of section 12. It is my understanding that the RDCK is in the process of adopting a risk tolerance and updating the current Floodplain Bylaw, but that process has not been concluded.</i> <i>As covenant KT16479 aligns with the current floodplain bylaw, would the RDCK consider leaving this covenant on title and registering a new covenant with the Apex report attached allowing the existing building in question?²</i> <i>Please let me know if you have any questions.</i>
Ministry of Water, Land and Resource Stewardship – Kootenay Boundary Crown Land Authorizations – Section Head, Permitting Transformation Division	<i>Thank you for the referral package on this application. I believe we are being asked to speak specifically to the S. 219 covenant on the title of this property. In my experience with covenants like this and requests for their removal, it's about whose Ministry name they are registered under but also who has the authority now to manage them under that legislation, because portfolios have shifted around.</i> <i>We had some conversation in our region a while ago about flood plain type restrictive covenants and determined that local governments now have the authority to manage these themselves. I think that the MOTI approving officer may just be able to release these. I would say as Ministry of WLRS we don't have any concerns as long as the local government is satisfied. We are treating these types of things as out of our jurisdiction.</i> <i>Where a parcel has horizontal and elevation setbacks restrictive covenants that a Ministry has imposed:</i> <i>Local governments (Municipal) now have authority to manage floodplain development issues in the absence of Provincial oversight but are encouraged to follow Provincial floodplain development guidelines to ensure a minimum level of flood protection and public safety.</i> <i>SECTION 19: [Local Government Act, re-enacts section 910] removes the authority of the minister to designate flood plains and to set construction requirements for development on a designated flood plain, but requires local government bylaws in respect of these things to have regard for ministry policies and standards.</i> <i>Existing floodplain development covenants can be released or modified by the "Approving Officer" working on behalf of a local government (municipal) or if the subject property is located outside their area of jurisdiction, the Ministry of Transportation and Infrastructure (MOTI). The amended legislation now allows for changes to the existing covenants including the ability to remove, relax or impose new floodplain restrictions on properties at the time of subdivision without the need for the previous Ministry of Environment to sign a release.</i>

² Modification of the existing covenant registered against title to the property is the more appropriate approach. The terms of a new covenant proposed to be registered against title to a property should not be inconsistent with the terms of a covenant already registered against title to a property.

	<i>I hope that helps clarify our involvement/position. Let me know if you have any questions or concerns.</i>
BC Hydro	<i>Thank you for your referral concerning the proposed Floodplain Exemption of the above property. After reviewing our records, BC Hydro has no objection to this development.</i>
Fortis BC	<i>Please be advised FortisBC Inc. (Electric) has no concerns as it appears from our internal mapping, we have no electric asset in the area.</i>
BC Ministry of Water, Land, and Resource Stewardship (MWLRS) – Water Authorizations	<i>Ministry of Water, Land and Resource Stewardship (WLRS) staff have reviewed information provided in RDCK Referral F2501Hn pertaining to civic address 260 Wilson Creek Road in Electoral Area 'H' (PID 029-139-716) ("subject property) and provide the following comments at this time.</i> <i>WLRS staff understand that: 1) works have been completed on the property without required municipal permits/authorizations, 2) applications have been submitted to the Regional District of Central Kootenay (RDCK) permit/authorize works, and (3) this referral was distributed seeking input from WLRS regarding proposed works. Further, it is understood that works described in the referral are not consistent with Terms and Conditions of a covenant registered on property title on February 14, 2022 (copy attached) where the Province of British Columbia is named as a Grantee on the covenant.</i> <i>The purpose of the covenant is, among other things, to safeguard the province of British Columbia against potential damages or liabilities resulting from development or activities on the subject property which the covenant identified as having flood risk. In doing so, the covenant also informs the property owner regarding flood hazards associated with the subject property enabling informed decisions regarding land use and development. This awareness may also prompt further investigation into applicable regulatory requirements to mitigate flood risk, such as determining appropriate flood construction levels, conducting site-specific assessments, and obtaining required permits etc. The covenant is an instrument for indemnification and information-sharing and not a regulatory instrument (e.g., permit, approval) with a compliance or enforcement component³. Regardless of any works or activities that may be authorized by the RDCK on the property, the covenant remains valid and continues to indemnify the province of British Columbia as detailed in the covenant.</i> <i>Noting that no works or activities are proposed below high-water mark and/or use and diversion of water is not proposed, WLRS staff do not have concerns with works described in the referral from a Water Sustainability Act perspective.</i>
Ministry of Water, Land and Resource	<i>Thank you for the opportunity to review the Floodplain exemption. On behalf of Lands, I have no concerns.</i>

³ The author's comment about the covenant not being enforceable is not correct. Both the Province and RDCK can enforce restrictive covenants through court proceedings seeking injunctive relief.

Stewardship – Crown Land Authorizations – Kootenay Boundary Region, Sr. Authorizations Specialist	<i>Note - floodplain restrictions are now the responsibility of local government and no longer in our jurisdiction. We will however be happy to work with you should the covenant need to be amended/removed.</i>
Ministry of Water, Land and Resource Stewardship – Aquatic Ecosystems Biologist, Habitat Officer	<i>Full Comments are included as Attachment 'F'.</i>

3.7 Staffing/Departmental Workplace Considerations:

Processing development applications, such as a site-specific exemption to the Floodplain Bylaw, is part of the operational role of Planning Services.

3.8 Board Strategic Plan/Priorities Considerations:

The following areas of focus from the Board's 2024-2026 Strategic Plan are relevant in considering this application:

Energy Efficiency and Environmental Responsibility:

- Proactively prepare for and mitigate the impacts of natural risks, (fire, floods, and slides) including preparedness at the community level.
- Support community resiliency with resident safety as our top priority.

SECTION 4: SUMMARY

Planning Discussion – Provincial Guidelines (LGA S.524(7)(a))

The Board can exempt the development from the requirements of the Floodplain Bylaw if it considers the exemption to be consistent with the Provincial guidelines.

Section 3.2.1 of the Province's Flood Hazard Area Land Use Management Guidelines (the Provincial Guidelines)⁴ states that:

- Buildings should be setback at least 30 metres from the natural boundary of any watercourse; and
- The Flood Construction Level should be no lower than 3.0 metres above the natural boundary of any nearby watercourse.

The Provincial Guidelines also state at section 1.3:

Setback requirements should not be reduced unless a serious hardship exists and no other reasonable option is available. A valid hardship should only be recognized where the physical characteristics of the lot (e.g., exposed bedrock, steep slope, the presence of a watercourse, etc.) and size of the lot are such that building

⁴ Flood Hazard Area Land Use Management Guidelines (2004, amended January 1, 2018). BC Ministry of Water Land and Air Protection. https://www2.gov.bc.ca/assets/gov/environment/air-land-water/water/integrated-flood-hazard-mgmt/flood_hazard_area_land_use_guidelines_2017.pdf

development proposals, consistent with land use zoning bylaws, cannot occur unless the requirements are reduced.

In order to avoid setting difficult precedents these site characteristics should be unique to the subject property and environs. The economic circumstances or design and siting preferences of the owner should not be considered as grounds for hardship. Before agreeing to a modification, consideration should be given to other options such as the use of alternate building sites, construction techniques and designs (e.g., constructing an additional storey and thereby reducing the size of the 'building footprint').

Sections 3.3, 3.4 and 3.4.1 of the Provincial Guidelines further state that:

- development of alluvial fans should be discouraged;
- consent to develop alluvial fans may be granted by an approving officer *where there is no alternative land available* and where an area of an alluvial fan can be shown to be stable because of hydraulic, physical and/or geological conditions;
- development of areas subject to debris flows should be discouraged in areas where local knowledge, experience or studies indicate that there may be a debris flow hazard;
- consent to develop areas subject to debris flow may be granted, with standard requirements as established for alluvial fans in section 3.3, *where there is no other land available, and* where an assessment of the land by a suitably qualified professional indicates that development may occur safely.

The subject property does not meet the criteria for a hardship laid out in the Provincial Guidelines for the following reasons:

- no evidence has been presented in the application to identify the presence of physical constraints on the subject property. There has been no clear rationale provided for why the dwelling needs to be within the 30 metre floodplain setback.
- the size of the 0.91-hectare (2.25-acre) property does not restrict the ability to build elsewhere on it, outside of the floodplain setback area. When taking into account the 30-metre setback from Wilson Creek, the no-build area adjacent to East Wilson Creek Road, minimum spatial separation requirements of the *BC Building Code*, and already developed areas there is still ample area (estimated to be over 0.2 hectares/0.5 acres) with either a low or very low flood hazard rating on the subject property that could likely accommodate development; and,
- were the development to have been constructed lawfully, there would have been ample opportunity to consult with RDCK staff and explore the viability of alternate building sites or designs that could have better considered the floodplain or avoided it altogether.

Planning Discussion – Professional Engineer’s Report (LGA 5.524(7)(b))

Where a development proposal does not meet the Provincial Guidelines, an exemption is still possible where a report from a professional engineer or geoscientist has been submitted confirming “that the land may be used safely for the use intended.”

The Engineer’s Report (Attachment E) submitted with the application summarizes hazard-related data, reviews and summarizes findings from past engineering reports and hazard assessments that have been completed for

other properties in the Rosebery area, reviews the 2020 BGC report titled “RDCK Floodplain and Steep Creek Study: Wilson Creek” and compares site-specific conditions with Engineers and Geoscientists British Columbia’s (EGBC) standard levels of risk tolerance and outlines risk considerations. The report relies on multiple independent lines of evidence: historical air photos, field geomorphology, hydraulic calculations, regional flood-frequency analysis, and previous geotechnical reports.

The RDCK provides qualified professionals with a Terms of Reference document, “*Standard Terms of Reference*”, which outlines basic information that should be included in such reports. The Engineer’s Report has been written specifically to satisfy RDCK’s Terms of Reference and includes the Engineers and Geoscientists BC Flood Mapping Assurance Statement required for a floodplain exemption application. Staff are satisfied that the report addresses the technical requirements identified in the RDCK Terms of Reference for Flood Hazard Assessments.

Planning Discussion – Implications of the Flood Covenant (KT16479)

The existing floodplain covenant (KT16479) would either need to be modified or released in order for the RDCK to issue a Building Permit to permit the development within the floodplain. If the exemption were approved, registration of a second covenant on the property in accordance with the requirements of the Floodplain Bylaw would not supersede the requirements of the existing covenant. Modification or release of KT16479 would still be required regardless of whether the RDCK registered a new floodplain covenant.

The Provincial Approving Officer (PAO) has indicated that they would be willing to consider a request from the property owners to modify or discharge floodplain covenant KT16479. The PAO is also required to consider the same Provincial Guidelines as the RDCK (described in the Planning Discussion – Provincial Guidelines (LGA S.524(7)(a)) Section above) in their determination of whether to grant such a request. As highlighted above, we contend that the development proposal does not meet the Provincial guidelines to reduce a floodplain setback. If the PAO also does not consider that the proposal meets these Guidelines, it is questionable whether they would agree to modify or release the existing covenant.

Planning Discussion – Recommendation

As per the above section “*Planning Discussion – Professional Engineer’s Report (LGA S.524(7)(b))*” RDCK staff acknowledge that the Flood Hazard Assessment provided with this application addresses the technical requirements identified in the RDCK Terms of Reference for Flood Hazard Assessments. However, satisfying the RDCK’s technical terms of reference does not, on its own, establish that a floodplain exemption should be granted. The Province of British Columbia’s Flood Hazard Area Land Use Management Guidelines identify floodplain exemptions as an exceptional measure that should only be considered where there is a demonstrated hardship or practical necessity that justifies varying the normal floodplain management requirements. The purpose of the hardship criteria is to ensure that exemptions are reserved for circumstances where strict application of floodplain regulations would create an unreasonable or unavoidable burden, while maintaining the broader public interest in minimizing flood risk.

In this case, the Flood Hazard Assessment is focused on evaluating the flood and erosion hazards affecting the property and concludes that the principal residence has a low probability of being affected by flooding or bank erosion. The report does not, however, provide evidence or a rationale demonstrating that the applicant meets the hardship criteria described in the Provincial Guidelines. The report explains why the authors believe the principal residence can safely remain within the 30 metre floodplain setback, but it does not identify any exceptional circumstances, physical constraints, or other hardship that would justify exempting the property from the requirements of RDCK Floodplain Management Bylaw No. 2080.

The application therefore establishes a technical opinion regarding flood hazard but does not establish the policy basis required to support an exemption. Granting an exemption without a demonstrated hardship would be inconsistent with the intent of the Provincial Guidelines, which contemplate exemptions only in limited circumstances rather than as an alternative means of varying generally applicable floodplain setbacks and flood construction requirements.

For these reasons, staff note that the application has not demonstrated the hardship necessary to justify a site-specific floodplain exemption. Staff therefore recommend that the Board not approve the requested exemption.

Should the RDCK Board refuse to grant the exemption, the RDCK will seek to have the unauthorized structures removed from the floodplain.

OPTIONS

Option 1 – Not approve the issuance of the exemption

That the Board NOT APPROVE the issuance of a Site-Specific Exemption to RDCK Floodplain Management Bylaw No. 2080, 2009, for the existing unlawfully constructed development on LOT B DISTRICT LOT 4877 KOOTENAY DISTRICT PLAN EPP30385, as described in the Staff Report “Site Specific Floodplain Exemption F2603HN”, dated September 8, 2026.

Option 2 – Approve the issuance of the exemption

That the Board APPROVE the issuance of a Site-Specific Exemption to RDCK Floodplain Management Bylaw No. 2080, 2009, for the existing unlawfully constructed development (primary residence) on LOT B DISTRICT LOT 4877 KOOTENAY DISTRICT PLAN EPP30385, as described in the Staff Report “Site Specific Floodplain Exemption F2603HN”, dated September 8, 2026.

AND THAT As a condition of the Board’s approval of the site-specific exemption to RDCK Floodplain Management Bylaw 2080, 2009 for the existing unlawfully constructed development (primary residence) on LOT B DISTRICT LOT 4877 KOOTENAY DISTRICT PLAN EPP30385, as described in the Staff Report “Site Specific Floodplain Exemption F2603HN”, dated September 8, 2026, and subject to His Majesty the King in Right of the Province of British Columbia’s approval and execution, the property owners, at their own expense, prepare and register a modification of the Flood Covenant registered on February 14, 2002 under land title instrument KT16479 – Section 219 flood covenant, and in priority of charges of a financial nature, under section 219 of the *Land Title Act*, in favour of RDCK, with terms satisfactory to RDCK that will include but not be limited to:

1. a comprehensive waiver of liability, release and indemnification of RDCK;
2. an acknowledgement by the property owners of the dangers in building and occupying lands subject to flooding;
3. an acknowledgment and agreement by the property owners that disaster financial assistance funding is not available for the existing unlawfully constructed development (primary residence) or any other buildings or structures or the contents of such primary residence and any other buildings and structures constructed or erected in contravention of the setback requirements of RDCK Floodplain Management Bylaw 2080, 2009, as may be amended or replaced from time to time;
4. reference to, attachment of and conditions of the Apex Geoscience Consultants Ltd.’s April 2, 2026 Flood Hazard Assessment and Crowsnest Engineering’s February 14, 2025 Technical Memorandum - Post-Construction Hazard Assessment Report that includes certification that the subject lands, and the

existing unlawfully constructed development (primary residence) on the subject lands, may be used safely for the intended purpose; and

5. with respect to any redevelopment at the end of the building lifespan, any future reconstruction of the existing unlawfully constructed development (primary residence) must meet the flood construction levels and setback requirements in force at the time of redevelopment.

SECTION 5: RECOMMENDATIONS

That the Board NOT APPROVE the issuance of a Site-Specific Exemption to RDCK Floodplain Management Bylaw No. 2080, 2009, for the existing unlawfully constructed development on LOT B DISTRICT LOT 4877 KOOTENAY DISTRICT PLAN EPP30385, as described in the Staff Report “Site Specific Floodplain Exemption F2603HN”, dated September 8, 2026.

Respectfully submitted,

Zachari Giacomazzo, Planner 1

CONCURRENCE

Planning Manager – Nelson Wight **Approved**

General Manager Sustainability and Development Services – Amy Wilson **Approved**

Chief Administrative Officer – Stuart Horn **Approved**

ATTACHMENTS:

Attachment A – Site Context Map

Attachment B – Subject Property Map

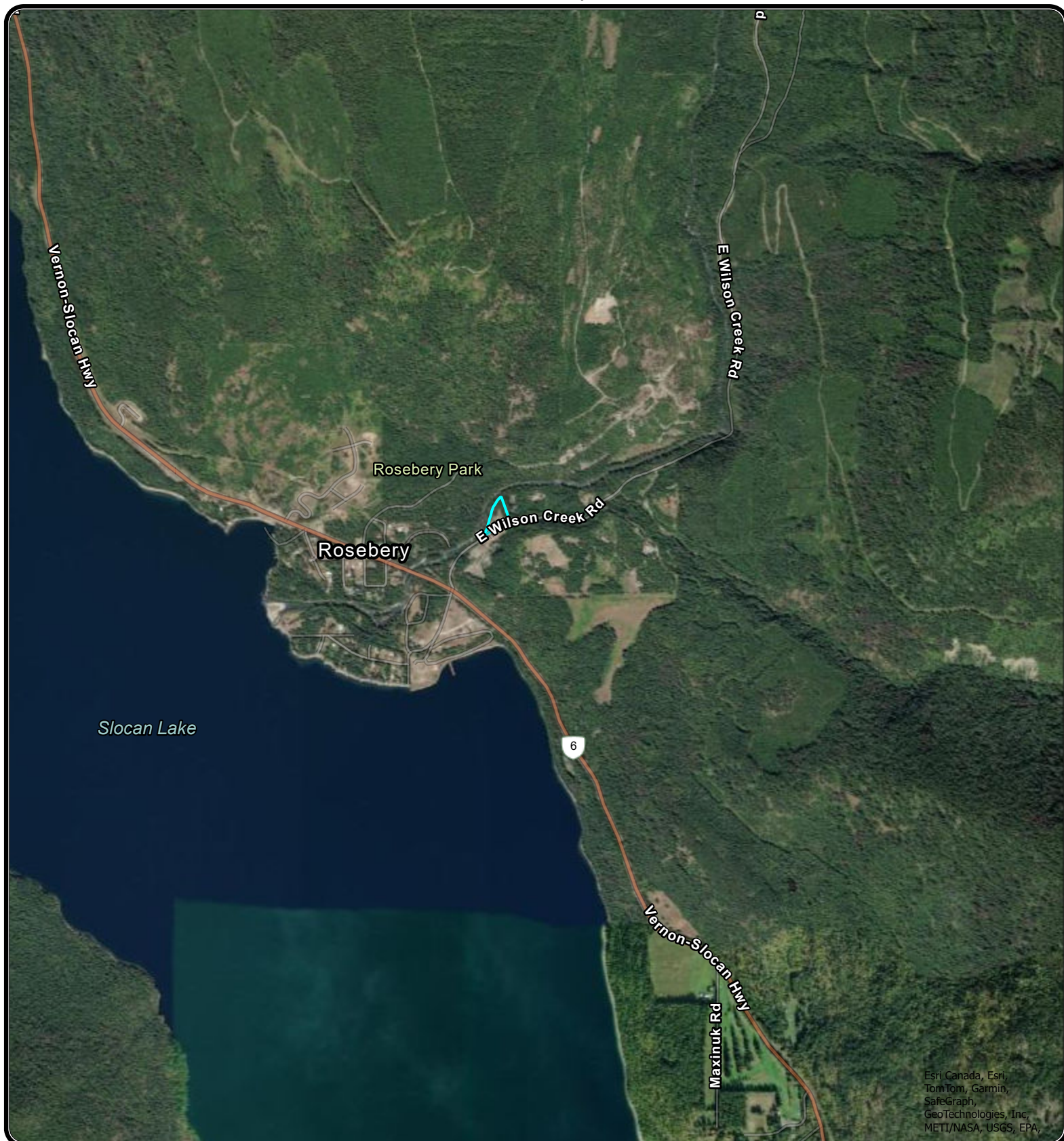
Attachment C – Steep Creek Hazard Rating (2020) Map

Attachment D – Proposal Summary, prepared by applicant

Attachment E – Engineer’s Report, “260 Wilson Creek Road East, Flood Hazard Assessment, v3”, prepared by Apex Geoscience Consultants Ltd., dated July 23, 2026

Attachment F – Ministry of Water, Land and Resource Stewardship Habitat Officer Comments

Attachment G – Amended Notice of Civil Claim



Esri Canada, Esri,
TomTom, Garmin,
SafeGraph,
GeoTechnologies, Inc.,
METI/NASA, USGS, EPA,



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

 Electoral Areas

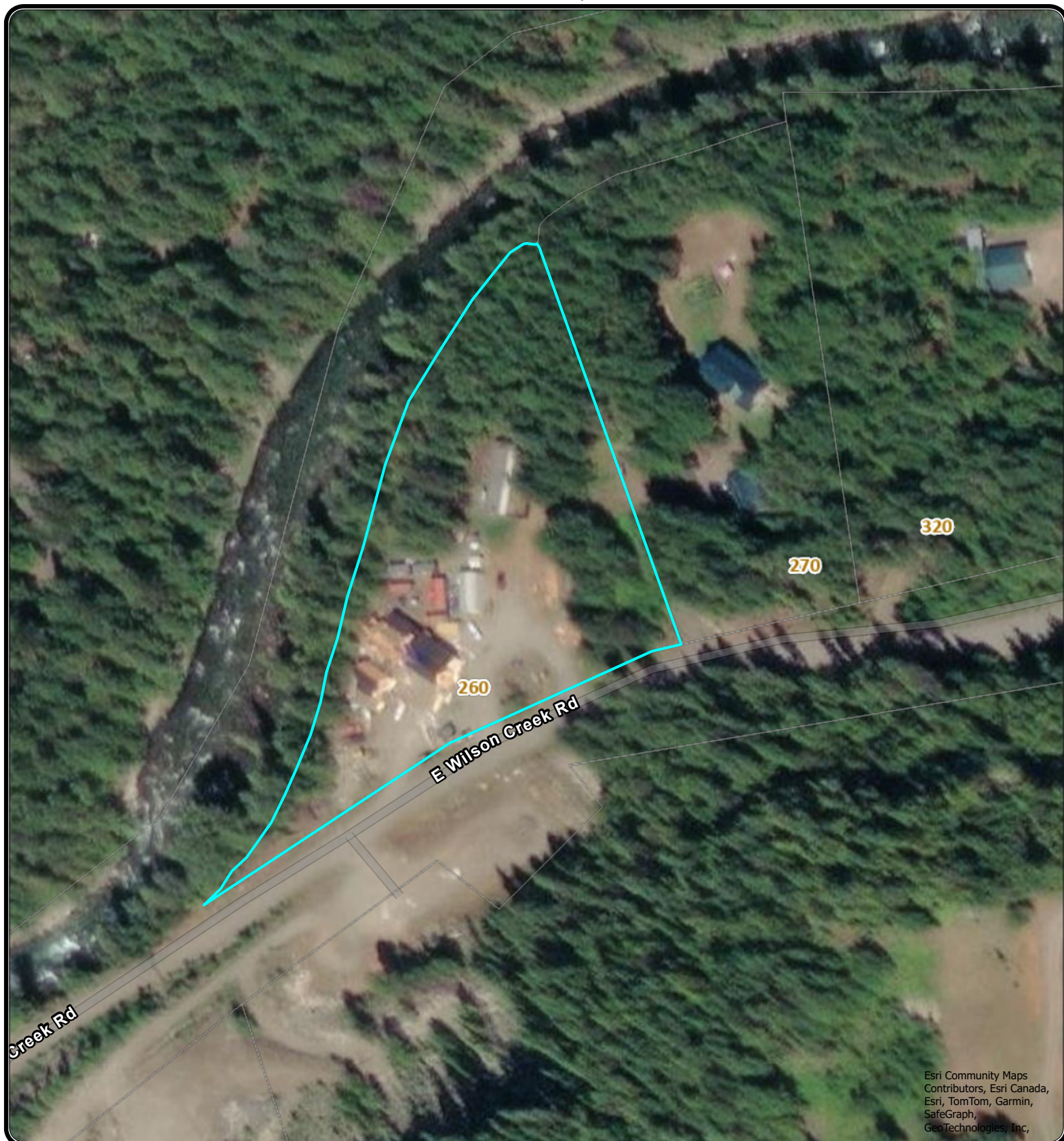
Map Scale:

1:36,112

Date: October 14, 2025



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.



Esri Community Maps
Contributors, Esri Canada,
Esri, TomTom, Garmin,
SafeGraph,
GeoTechnologies, Inc,



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Legend

- Electoral Areas
- Cadastre - Property Lines
- Address Points

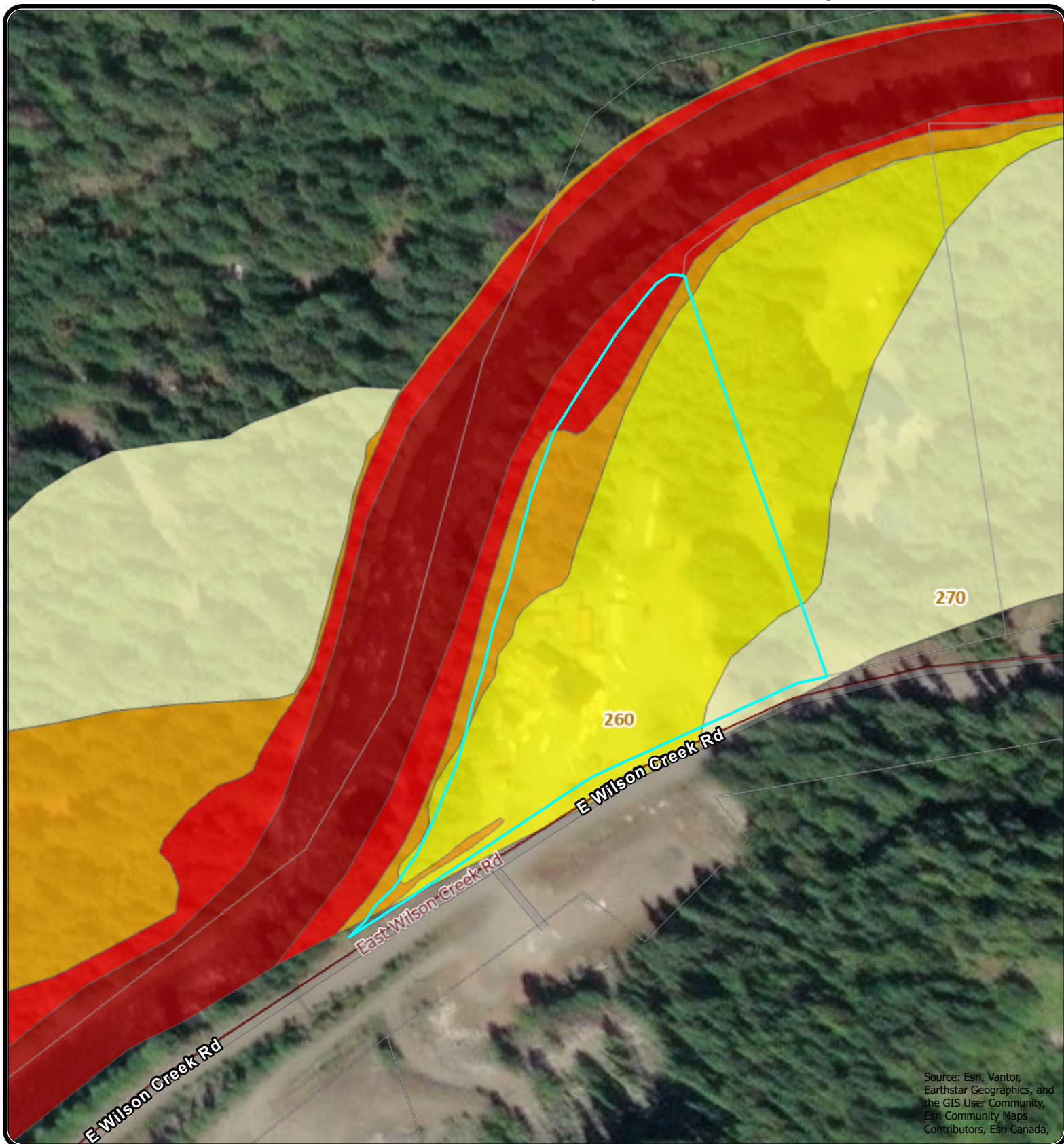
Map Scale:

1:2,257

Date: October 14, 2025



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.



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Steep Creek Hazard Rating - 2020 Composite

Very High
 High
 Moderate

Legend

- Low
- Very Low
- Electoral Areas
- RDCK Streets
- Cadastre - Property Lines
- Address Points

Map Scale:

1:2,257

Date: December 5, 2025



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.

PROPOSAL SUMMARY

Site Specific Floodplain Exemption Application

260 Wilson Creek Road East, Rosebery, BC

Purpose of Application

The purpose of this application is to request a Site Specific Floodplain Exemption under RDCK Floodplain Management Bylaw No. 2080, 2009 for the existing primary residence located at 260 Wilson Creek Road East, Rosebery, BC. This application relates solely to the existing primary residence and does not seek approval for any additional residential development within the floodplain setback area.

Existing Structures Intended to Remain

The existing primary residence is the only structure subject to this application and intended to remain in its current location. The residence is an existing full-time dwelling that has been professionally assessed by Apex Geoscience Consultants Ltd. as part of the accompanying Flood Hazard Assessment.

Other Structures Located on the Property

Two shipping containers remain on the property and are used exclusively for storage purposes. The containers have been relocated outside the 30 metre floodplain setback and are not intended for residential occupancy.

A CSA-approved park model trailer is located on the property for temporary seasonal use. The park model is not a permanent residence and is not the subject of this application. The park model trailer will be relocated outside the 30 metre floodplain setback and will remain outside the setback area.

Upon relocation of the park model trailer, the only structure remaining within the floodplain setback area and subject to this application will be the existing primary residence.

Actions Taken to Address Previous Review Comments

Since the previous application review, efforts have been made in good faith to address concerns identified by RDCK staff and to simplify the current application. The shipping containers previously located within the floodplain setback area have been relocated outside the 30 metre floodplain setback and are now used exclusively for storage purposes. In addition, the temporary CSA-approved park model trailer will be relocated outside the 30 metre floodplain setback and is not included as part of this application.

As a result of these actions, the current application has been intentionally narrowed in scope and now relates solely to the existing primary residence.

Floodplain Setback and Flood Construction Level

Survey measurements completed by Crowsnest Engineering determined that the minimum setback from the primary residential structure footprint to the natural boundary of Wilson Creek is approximately 15.5 metres. The closest measured setback of approximately 11.2 metres relates to spread footings supporting the covered patio roof overhang and not the primary residential structure footprint itself.

Crowsnest Engineering further determined that the average natural boundary elevation in proximity to the residence is approximately 534.845 metres, while the elevation of the lowermost habitable floor surface of the residence is approximately 537.912 metres. This results in a vertical elevation difference of approximately 3.013 metres above the natural boundary, satisfying the 3.0 metre Flood Construction Level requirement contained within RDCK Floodplain Management Bylaw No. 2080, 2009.

Accordingly, no structures subject to this application are located below the required Flood Construction Level. The primary residence satisfies the Flood Construction Level requirement. This application does not seek relief from the Flood Construction Level requirement. The sole purpose of this application is to request a Site Specific Floodplain Exemption for the reduced setback of the existing primary residence from the natural boundary of Wilson Creek.

Summary of Apex Flood Hazard Assessment

The assessment concluded that the primary residence is located within a low composite hazard area; remains approximately 11 to 14 metres beyond the maximum possible erosion limit identified in the BGC Wilson Creek assessment; has a low probability of flooding and bank erosion; and requires no mitigation measures.

Most importantly, Apex concluded that the home is safe for full-time use (safe for its intended purpose) and requires no mitigation measures.

Request

Based on the findings and conclusions of Apex Geoscience Consultants Ltd. and the survey information prepared by Crowsnest Engineering, the applicant respectfully requests approval of a Site Specific Floodplain Exemption for the reduced floodplain setback applicable to the existing primary residence located at 260 Wilson Creek Road East.

This application concerns an existing residence and does not propose new residential development within the floodplain setback area. The application has been intentionally limited to the existing primary residence. Other accessory or temporary structures located on the property are either situated outside the 30 metre floodplain setback or will be relocated outside the 30 metre floodplain setback and are not part of this exemption request.

The professional assessment concludes that the residence can be safely used for its intended purpose, that the probability of flooding and bank erosion affecting the residence is low, and that no mitigation measures are required. The applicant therefore respectfully requests that the Regional District of Central Kootenay approve the requested Site Specific Floodplain Exemption for the reduced setback applicable to the existing primary residence.

260 Wilson Creek Road East, Flood Hazard Assessment

Apex File FA-26-PRIV-01



Image 1: Looking across Wilson creek towards subject property (KGreen Photo).

Prepared for:
Darrell and Audrey Steenhoff
260 Wilson Creek Road E.

Prepared by:
Will Halleran P.Geo P.L.Eng
K. Green P.Geo PhD
Apex Geoscience Consultants Ltd
1220 Government St. Nelson, BC



2026-07-23, v3

Version Control	Date	Comment
Version 1	March 30, 2026	Submitted to client for comment
Version 2	April 2, 2026	Edited for clarity
Version 3	July 23 2026	Change to Assurance Statement

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1 EXECUTIVE SUMMARY

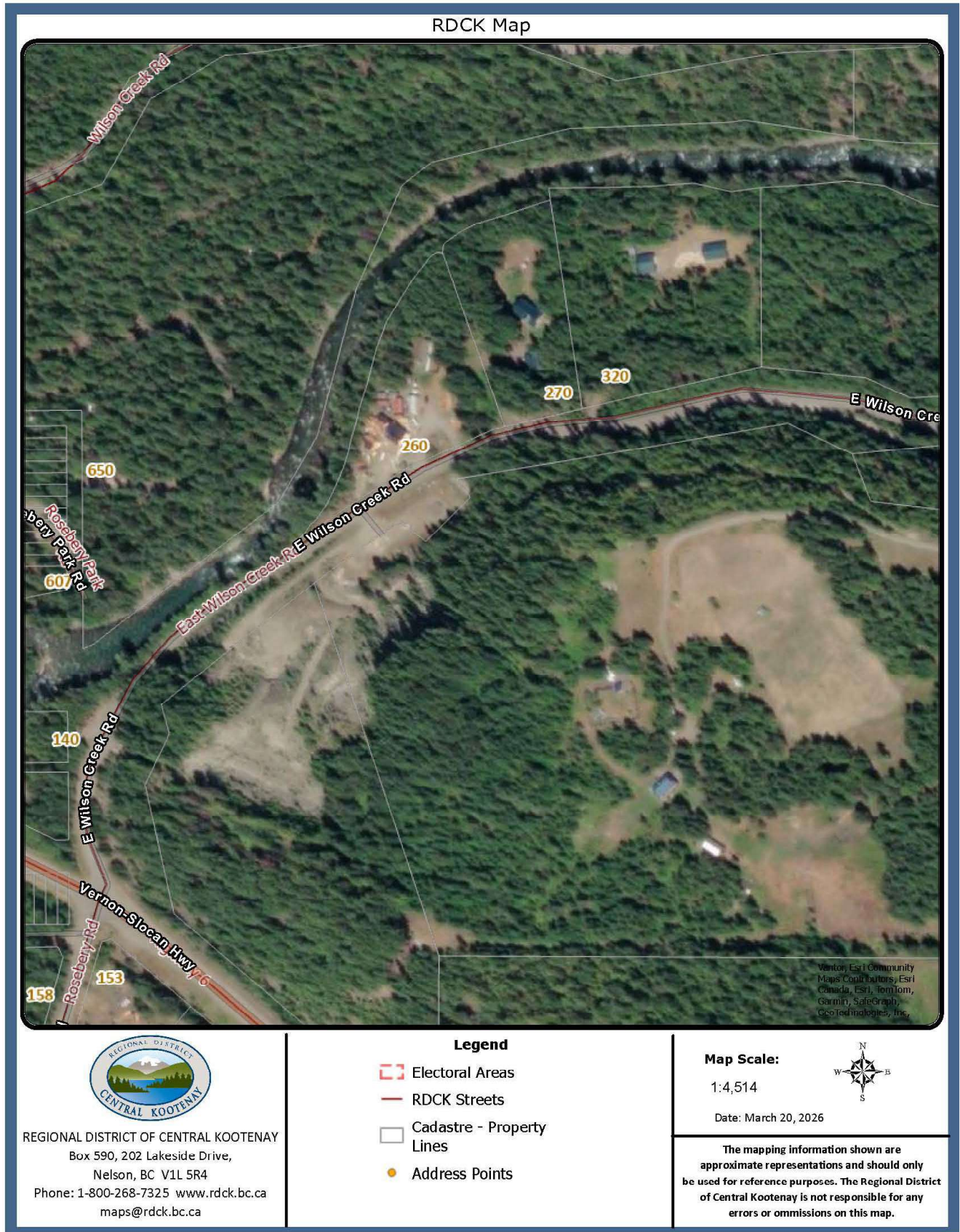
This flood hazard assessment evaluates the potential flooding and bank erosion of 260 Wilson Creek Road E (Lot B District Lot 4877 Kootenay District Plan EPP30385). The property is on the southeast side of Wilson Creek near the apex of the fan as delineated by BGC Engineering. BGC Engineering completed a detailed hydrogeomorphic hazard assessment of Wilson Creek (2020) for the RDCK. BGC Engineering has determined that the 1-in-200-year event is likely to be characterized as a debris flood. As part of that assessment BGC stratified Wilson fan by composite hazard zones and delineated bank erosion limits. Most of the subject property including the primary residence (the subject of this exemption) is within a 200-year Low Composite Hazard Zone ($<1\text{Kn/M}^2$). The primary residence is set back 11m to 14m from the BGC delineated “improbable erosion” limit. The improbable erosion limit defines the maximum possible extent of bank erosion during a 1 in 200-year debris flood event.

Currently the RDCK are reviewing how development near flood and steep creek hazard areas will be managed by updating outdated policies and regulations. The detailed BGC hazard mapping will likely replace the generic flood construction levels (3m) and setback (30m) recommended in RDCK Floodplain Management Bylaw 2080, 2009 for Wilson Creek. The primary residence is set back 15m from and 3m above the natural boundary of Wilson Creek (Crowsnest Engineering).

The RDCK is also developing a risk tolerance policy to strengthen risk-informed land use decisions and enhance community resilience in areas exposed to geohazards, such as floods, landslides, and steep creek hazards (debris flows and debris floods).

Observations of the Wilson Creek channel and banks by Apex Geoscience Consultants Ltd. revealed no evidence of debris flows, debris floods, or channel avulsion on this portion of Wilson Creek Fan. The 1 in 200-year event will be a clear water flood. With consideration for climate change the estimated 200-year flood discharge for Wilson Creek is $220\text{ m}^3/\text{sec}$. The primary residence is 1.889 m above this flood level. The probability of flood inundation effecting the primary residence is considered low ($<0.5\%$ annual probability). For a clear water flood, the location of the property on the inner curve of the creek reduces the likelihood and extent of bank erosion. The likelihood of bank erosion impacting the primary residence is assessed as low ($<0.5\%$ annual probability). The primary residence can be used safely for the intended purpose of full-time residency. No mitigation measures are required.

Figure 1: Subject Property 260 E. Wilson Creek Rd.



2 INTRODUCTION

In early 2025, Mr. Darrell Steenoff, the owner of 260 Wilson Creek Road E, approached Apex Geoscience Consultants Ltd. to request a Site-Specific Flood Exemption assessment of his property near Wilson Creek, in accordance with RDCK Floodplain Management Bylaw 2080, 2009. At that time, Apex was occupied with other projects and unable to take on the assessment. Mr. Steenoff then hired Crowsnest Engineering, which prepared a Post Construction Hazard Assessment Technical Memorandum. This memorandum was submitted as part of Mr. Steenoff's exemption application. The RDCK provides a term of reference document titled "Professional Engineers/Geoscientists undertaking Geotechnical/Flood Hazard Assessment reports." On January 5, 2026, the RDCK Committee report (file # F2501HN-Steenoff) determined that the Technical Memorandum did not satisfy the terms of reference requirements, identifying five deficiencies that led to the denial of the application.

The deficiencies were identified as:

1. A flood assurance statement
2. Confirmation that the land may be used safely for the use intended.
3. Confirmation of which structures on the property will be subject to the site -specific exemption,
4. Identification of which section of the flood plain bylaw the development is to be exempted from and
5. Recommendations for mitigation measures, such as flood proofing or other protective measures.

At the beginning of March 2026, Mr. Steenoff hired Apex Geoscience to prepare a report in support of his Site-Specific Flood Exemption application.

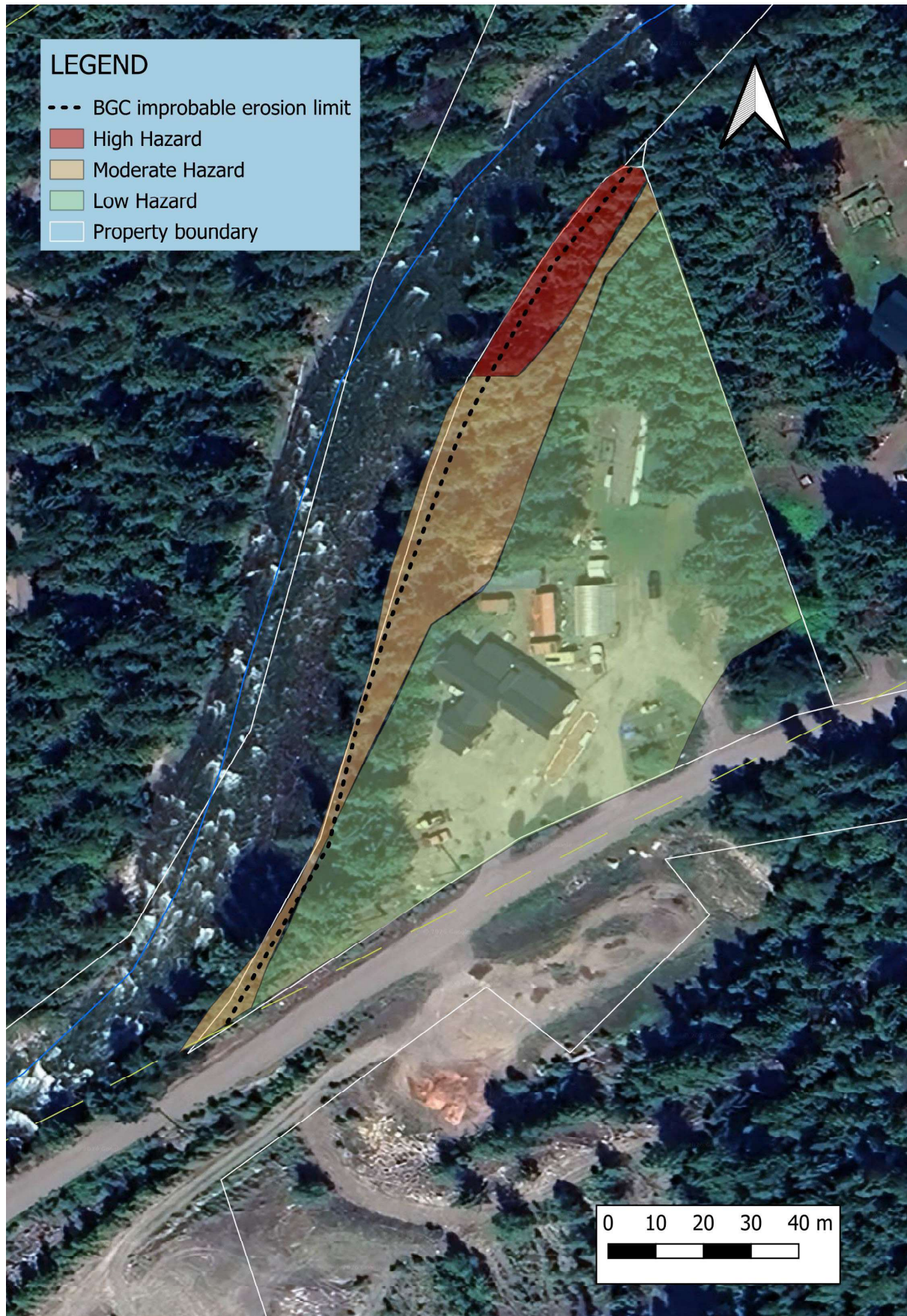
Portions of Wilson Creek fan had a Non-Standard Flooding and Erosion Rating of E (Schedule E Bylaw 2008,2009), the subject property is outside the area rated as E as shown on figure 2. Previously, and as stipulated in Schedule C of Bylaw 2080,2009, the flood construction level along Wilson Creek was 3m above the natural boundary of Wilson Creek with a 30 m setback.

BGC Engineering completed a detailed hydrogeomorphic hazard assessment of Wilson Creek (2020) for the RDCK. BGC Engineering flood plain composite hazard mapping has replaced the NSFA E rating. BGC Composite Hazard zones and bank erosion limits are shown on figure 3. The primary residence is the large building with black roof in figure 3. This exemption is to reduce the set back to ~ 15m and to comment on the newly designated Low Composite Hazard Zone (<1kN/M).

Figure 2: NSFEA map from RDCK.



Figure 3: Subject property with BGC composite hazard zones and improbable erosion limit.



3 METHODS AND LIMITATIONS

3.1 FLOOD MAPPING IN BC GUIDELINES AND LEGISLATED FLOOD ASSESSMENTS IN A CHANGING CLIMATE IN BC GUIDELINES (APEGBC 2017, 2018)

Guidelines developed by APEGBC (2017, 2018) outline the current standard of practice for undertaking flood hazard mapping on fans. This assessment incorporates the standards and tasks as required in the APEGBC flood mapping guidelines.

3.2 PREVIOUS REPORTS, DOCUMENTATION AND BACKGROUND.

The insights obtained by Apex Geoscience during the 2001 and 2025 hydrological assessments of Wilson Creek are utilized to support informed decision-making regarding the hydrology and associated hazards of Wilson Creek. Of interest, a dam burst flood (from a debris slide) in Burkitt Creek resulted in aggradation of Wilson Creek channel at the confluence of Burkitt Creek. This event (thought to have occurred in 1972) did not trigger a debris flood in Wilson Creek.

Technical Memorandum – Post Construction Hazard Assessment: 260 East Wilson Creek Road, Regional District of Kootenay (RDCK), BC. Lot B, Plan EPP 30385, District Lot 4877, Kootenay Land District. Crowsnest Engineering, February 14, 2025.

Mr. Steenoff commissioned Crowsnest Engineering to prepare a report for inclusion in a Flood Plain Exemption application. Relevant information from this comprehensive document will be referenced in our assessment to eliminate redundancy. According to the findings, bank erosion limits do not extend to the development site. The report further states that, per BGC's analysis, the subject structures would experience impact forces below 1kN/m in a 1-in-200-year flood event. Additionally, Crowsnest determined that the interior floor elevation (living area) is situated 3.013 meters above the stream's natural boundary, and the principal residence footprint maintains a setback of 15.5 meters from this boundary.

RDCK Steep Creek and Flood Plain Study Wilson Creek March 31, 2020, by BGC Engineering: BGC Engineering Inc. (BGC) was retained by RDCK to conduct a comprehensive hydrogeomorphic risk assessment for Wilson Creek. The study identified debris floods as the primary hydrogeomorphic hazard, and a zoned composite hazard map of the fan was developed based on the impact force of a modeled 1:200-year debris flood event. Depth and velocity of the flood waters in this zone were not included in the report. The designation of debris floods as the principal hazard is not substantiated by the observations and data presented within the report, and contrasts with

findings from previous studies. The report included projections of potential bank erosion limits associated with debris flood events of varying return periods. Specifically, for a 1 in 200-year event, bank erosion was estimated to reach up to 15 meters, depending on local factors such as bank height; this extent was depicted on figures that included the subject property. The fan area delineated by BGC exceeds that outlined in the original Non-Standard Flooding and Erosion assessment by including regions formerly classified as part of the inactive alluvial fan. This expanded area encompasses the subject property, which was previously situated on the inactive fan.

RDCK planning staff provided geotechnical and flood assessment reports for nearby properties and a landslide investigation report in the vicinity. The reports were reviewed and the pertinent information summarised below.

Wilson Creek Debris Flow Memorandum Ministry of Forests May 4, 1999: This memorandum details a road failure that caused a debris slide into Wilson Creek, as shown in photographs. The debris deposited into Wilson Creek did not trigger a debris flood.

Flood Hazard Assessment, Wilson Creek Property Rosedale, Klohn Crippen Berger July 24, 2006.

This report pertains to #402 Fourth Street, Rosedale. The assessment identifies the fan as an alluvial fan rather than a debris flood fan. It references earlier findings that indicate the stream has remained in its current position for more than 50 years (1939 to 1987), confirming that, as of 2006, the stream channel location remains unchanged. The estimated stream gradient is approximately 2%. Additionally, the report cites WLAP Report #229 by Oxland, which details the impacts of the 1972 flood—considerable erosion of the north bank upstream of the former highway crossing.

Floodplain Setback Relaxation Assessment, District Lot 298, Lots 13-20 of Block 24, Plan 569

Kootenay District, WSA November 6, 2006: The assessment recommended reducing the floodplain setback from 30m to 15m. The lots, located in NSFEE hazard rating E on Wilson Creek's south bank, have areas raised 1.2m above the stream's natural boundary with no signs of flooding.

Floodplain Setback Relaxation Assessment, District Lot 298, Lots 14 to 21 of Block 9, Plan 569

Kootenay District, WSA November 16, 2006.

This assessment considered relaxing the setback from 30 meters to 15 meters. The lots are situated between the active Wilson Creek channel and an abandoned channel, with parts of the properties lying within the active Wilson Creek channel itself. Portions of the properties are elevated up to 1.2 meters above the "high water mark."

Natural Hazard Assessment Lot 21 Plan NEP 10379, District Lot 298 Kootenay District, Perdue Geotechnical Services November 14, 2014. This assessment was conducted to identify any natural

hazards that might affect the approval of a building permit. The Melton Ratio (the ratio of drainage area to channel gradient) indicated that Wilson Creek experiences clear water floods but is not prone to debris floods. Field observations of the channel and fan supported this finding. Some areas of the elevated fan were identified as paleo features formed during deglaciation, when the stream carried a considerable sediment load. Over the past millennia, Wilson Creek, with a reduced sediment load, has cut down into this paleo fan.

Regional Flood Frequency analysis, based on data from the Kaslo River, estimated the 200-year flood volume at 378 m³/sec. With a 10% increase to account for climate change, the volume rises to 416 m³/sec. This amount exceeds the capacity of Wilson Creek's channel and would result in the creek overflowing its banks.

3.3 DEFINITIONS

The pertinent bylaw is Regional District of Central Kootenay Floodplain Management Bylaw NO. 2080, 2009.

The RDCK document includes the following definitions.

DESIGNATED FLOOD: A flood, which may occur in any given year, of such magnitude as to equal a flood having a 200-year recurrence interval, based on a frequency analysis of unregulated historic flood records or by regional analysis where there is inadequate stream flow data available.

DESIGNATED FLOOD LEVEL: The observed or calculated elevation for the Designated Flood which is used in the calculation of the Flood Construction Level.

FLOOD CONSTRUCTION LEVEL: The Designated Flood Level plus the allowance for freeboard and is used to establish the elevation of the underside of a wooden floor system or top of concrete slab for habitable buildings. In the case of a manufactured home, the ground level or top of concrete or asphalt pad on which it is located shall be no lower than the above-described elevation. It also establishes the minimum crest level of a Standard Dike. Where the Designated Flood Level can not be determined or where there are overriding factors, an assessed height above the natural boundary of the water body or above the natural ground elevation may be used.

Where Floodplain Mapping is available, the Flood Construction Level (F.C.L.) for a specific property shall be determined by interpolation from the “200-year frequency Flood Level” as identified in Schedule “B” of this Bylaw, (if not available) 1.5 metres above natural boundary for all other small lakes, ponds, marshes and small watercourses.

NATURAL BOUNDARY means the visible high watermark of any lake, river, watercourse, or other body of water where the presence and action of the water are so common and usual and so long continued in all ordinary years as to mark upon the soil of the bed of the lake, river, watercourse, or other body of water a character distinct from that of the banks thereof, in respect to vegetation, as well as in respect to the nature of the soil itself. In addition, the natural boundary includes the best estimate of the edge of dormant or old side channels and marsh areas.

NON-STANDARD FLOODING AND EROSION AREAS (NSFEA) are areas where standard floodplain setbacks and flood construction levels may not be adequate to provide the necessary level of protection against flooding, erosion and/or debris flow; including alluvial fans, debris flow fans and floodway areas subject to flooding and erosion hazards which require special flooding and erosion precautions.

NON-STANDARD FLOODING AND EROSION RATING (NSFER) is a rating assigned for the purposes of establishing reasonable subdivision and floodplain bylaw requirements. The rating is based upon field experience and all information available to the province at the time it was assigned. As outlined in Schedule C of Bylaw 2080, 2009, the Wilson Creek flood construction level was established at 3 meters above the natural boundary, with a required setback of 30 meters.

3.4 AIR PHOTOGRAPHS USED IN THIS INVESTIGATION

Reviews of historical air photographs have been extensively reported in previous reports. BGC included prints of the airphotos from 1939 to 2006. Apex reviewed airphotos and satellite images from 1966 to 2022.

In all reports analysis of aerial photographs taken over roughly 80 years shows there are no signs of avulsions, flooding outside the existing channel or extensive bank erosion. Additionally, the imagery does not show debris flood deposits or flooding related sediment erosion/deposition on the fan.

3.5 FIELD ASSESSMENT

Kim Green, P.Geo, PhD, conducted field reviews in the project area on September 4th, 2025, as part of field work undertaken for the 2025 Wilson Creek Hydrological Assessment completed for Interfor Corporation that manages a forest license in the watershed. Navigation and documentation for that field assessment were performed using an iPad tablet equipped with Avenza Maps and a georeferenced, high-resolution LiDAR hillshade map (property of Interfor Corporation). The Wilson Creek survey included channel sections both upstream and downstream of the subject property.

3.6 ELEVATION DISTRIBUTION AND AREA (FROM K.GREEN)

Wilson Creek above Slocan Lake has a catchment area of 584 km² and spans the Nakusp and Goat Ranges of the northern Selkirk Mountains (Figure 4). At just over 2926 meters Cascade Mountain at the northeastern headwater of Wilson Creek forms the highest point in the watershed. Wilson Creek flows south and discharges into Slocan Lake at Rosebery, BC at approximately 565 meters elevation. Fitzstubbs Creek is the largest tributary to Wilson Creek and Bremner Creek, is the main headwater tributary of Fitzstubbs Creek. All valleys of Wilson Creek display U-shape profiles and complex topographies due to being both scoured by alpine glaciers and containing thick accumulations of glacial sediments left from past deglaciation.

The longitudinal main channel profile for Wilson Creek and major tributary channels considered here is shown in figure 4. Wilson Creek flows generally south with a channel gradient ranging from less than 1% at the downstream end to approximately 10% in the headwater reaches in the Goat Range Provincial Park. The presence of bedrock falls above the confluence with Fitzstubbs Creek is evident as a step in the channel profile. Fitzstubbs Creek above Wilson Creek averages 0.5% for much of its length except for the lower 5 kilometers where there are bedrock cascades. Bremner Creek, Burkitt Creek and Hamling Creek all display hanging valley characteristics with steep gradient reaches directly upstream from the Wilson Creek and Fitzstubbs Creek mainstem channels. Ranch Creek, a tributary to Fitzstubbs Creek and Dennis Creek which is most southern tributary to Wilson Creek both display average gradients of just under 8%.

The hypsometric curve for a watershed provides information on the elevation distribution through the watershed. Watersheds with a substantial amount of higher elevation area will be more strongly influenced by the presence of winter snow, which will persist into the spring, despite warmer temperatures at low elevations. The hypsometric curve for Wilson Creek indicates it is a predominantly high-elevation watershed with 20% of the watershed area above 2000m elevation. Wilson Creek has an upper elevation of over 2900 meters and an H60 elevation (above which includes 60% of the watershed area) of 1550 meters (Figure 6).

Figure 4: Longitudinal Stream Channel Profiles For Wilson Creek and Tributaries.

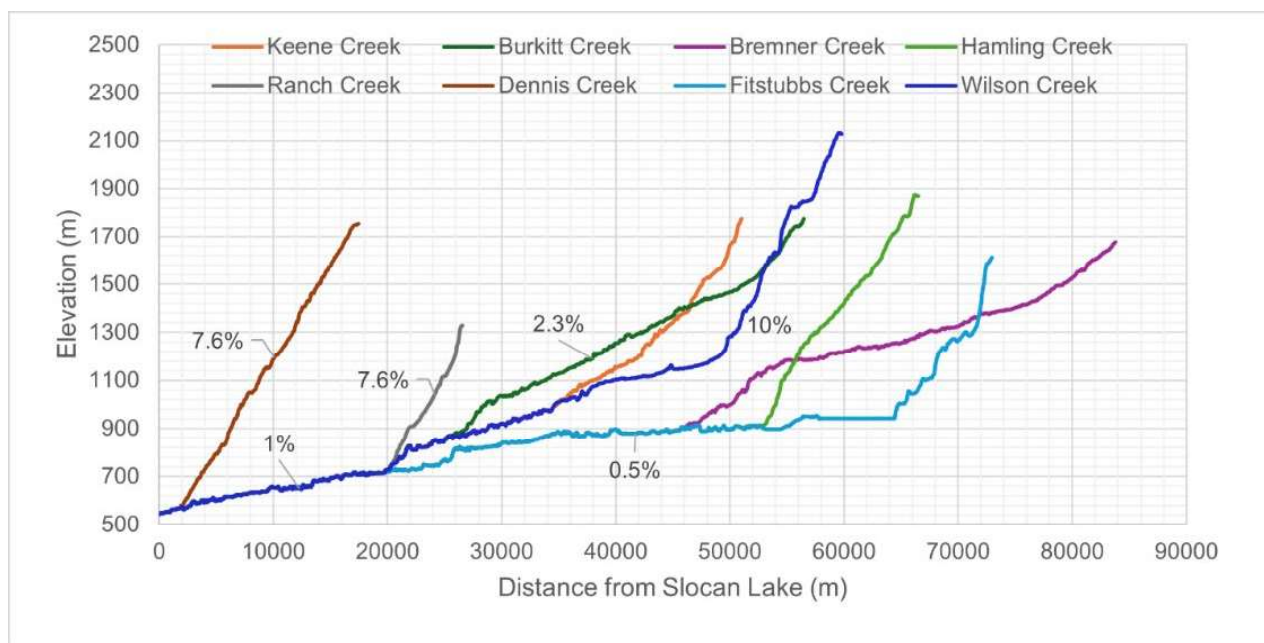
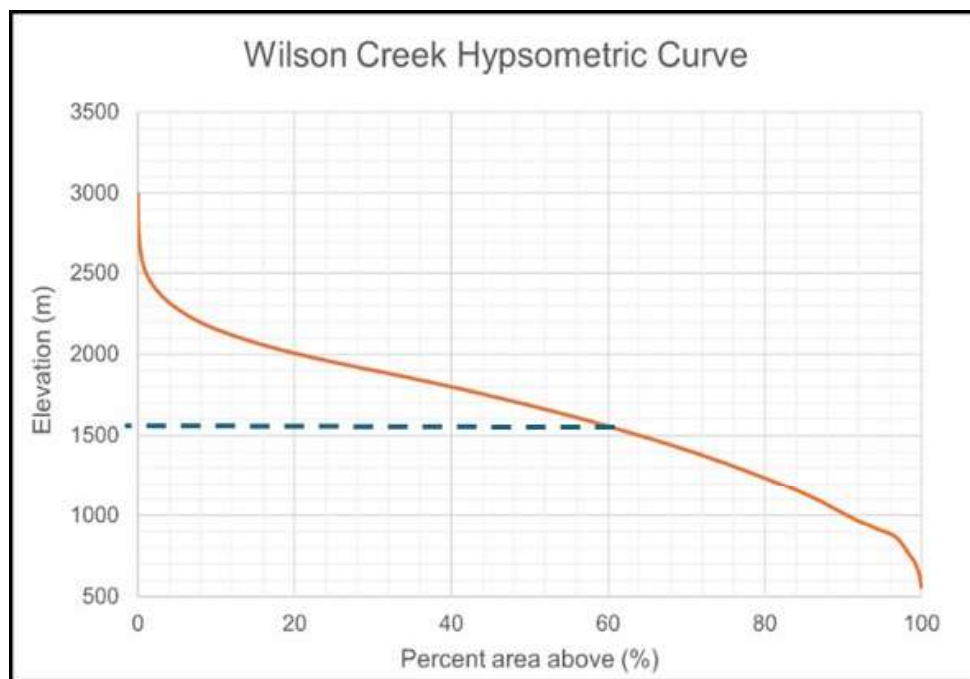


Figure 5: Hypsometric Curve and H60 Elevation (1550m) for Wilson Creek Watershed.



3.7 FLOOD FREQUENCY ESTIMATION

Only one year of stream flow gauging is available for Wilson Creek (1916). For ungauged watersheds it is necessary to use multiple methods to produce flood frequencies. The flood frequency is chosen based on best fit for noted hydrogeomorphic features and historical records.

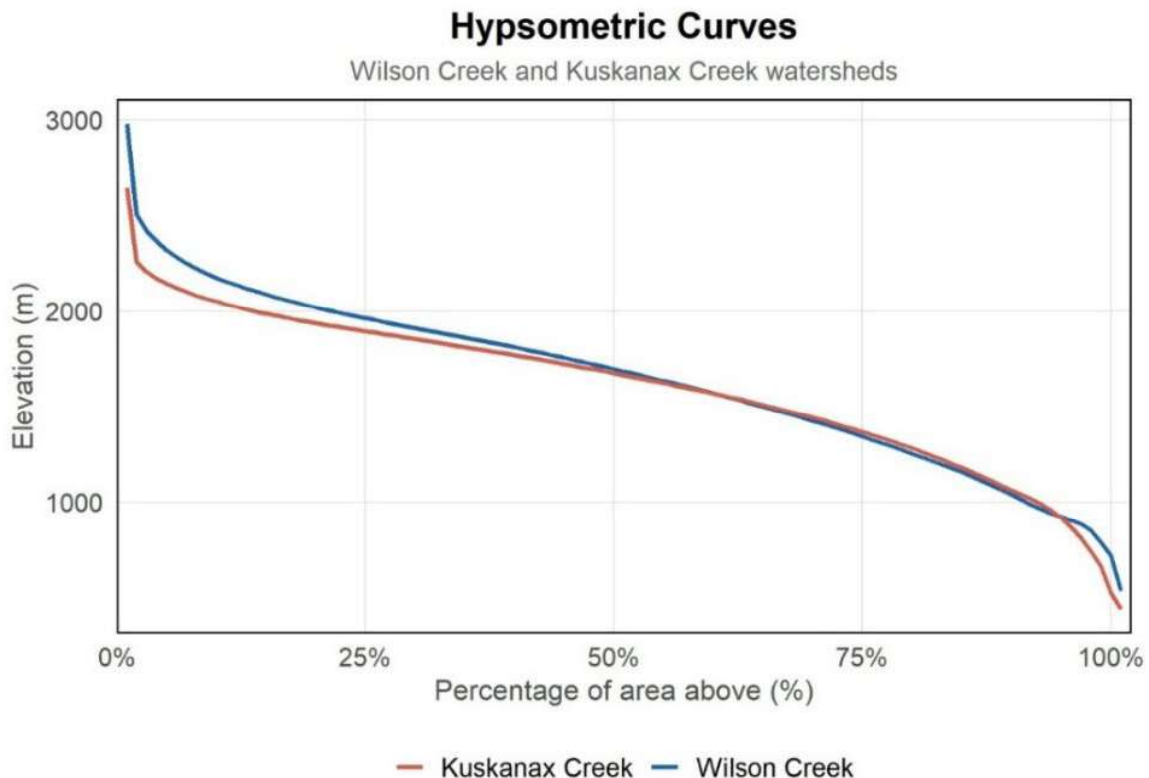
The flow volume of the 2-year return period peak flow (Q_2) can be estimated by using hydraulic geometry of the channel and Manning's equation. Manning's equation is expressed as,

$$Q = (1/n)(A)(Rh)^{2/3} (S)^{1/2} \quad \text{Eq. 1}$$

where Q is discharge in m^3/s , ' n ' is Manning's number (dimensionless friction coefficient), A is cross sectional bank full area in m^2 , Rh is hydraulic radius in meters (Area divided by the Wetted Perimeter at bank full stage), and S is slope (rise/run). The measured bank full channel is assumed to represent the Q_2 flow. Manning's ' n ' is estimated from comparing the appearance of Isaac Brook with pictures of similar stream channels for which the Manning's ' n ' value is known (<https://culvertbc.ca>).

The relationship between the Q_2 and the Q_{200} is estimated by comparing the ratio of Q_{200}/Q_2 of nearby gauged watersheds included in British Columbia Regional Flood Frequency Analysis Portal web application. Additionally, the per unit discharge (m^3/s per km^2) of the watershed is estimated from the nearby gauged watersheds. For this assessment, the nearby watershed used in the analysis was Kuskanax Creek. Kuskanax watershed was used due to the similarity in elevation, aspect distribution, and proximity. The hypsometric curve shows the comparison of percentage of elevation.

Figure 6: Hypsometric Curves for Wilson and Kuskanax.



4 OBSERVATIONS

The field investigation undertaken for the hydrologic assessment of Wilson Creek collected comprehensive data on channel morphology, hydraulic geometry—including bank full width and depth—indicators of channel disturbance, and bedload sediment grainsize and transport processes.

4.1 STREAM CHANNEL

The channel at the north end of the property is 23m wide and 1.1 m deep, the D_{90} (diameter of the 90th percentile) of the mobile bedload is 40cm. The channel morphology is a boulder plane bed with lag boulders over 1 meter. On the south (east) side of the channel there is a flood deposit (gravel) approximately 50cm above the bank full height. Fir and cedar established on this gravel bar appear between 70 and 100-years-old indicating an approximate timing of this major flood event. On the north (west) side of the channel this same ~ 100-year event appears to have eroded the bank to expose large lag boulders.



Photo 1: Looking across Wilson creek towards the top of the property. Showing elevated old flood deposit estimated at between 70 and 100 years based on the age of the cedar and hemlock.

4.2 FLOOD FREQUENCY

4.2.1 Q2 estimate for Wilson Creek

The bank full flow which approximates the Q₂ peak flow of Wilson Creek is calculated using the field-measured channel geometry and gradient (Jarrett, 1985; Bathurst, 1985) Manning's 'n' values (Table 1). The two Manning's numbers used give the range of the visual estimates along the channel.

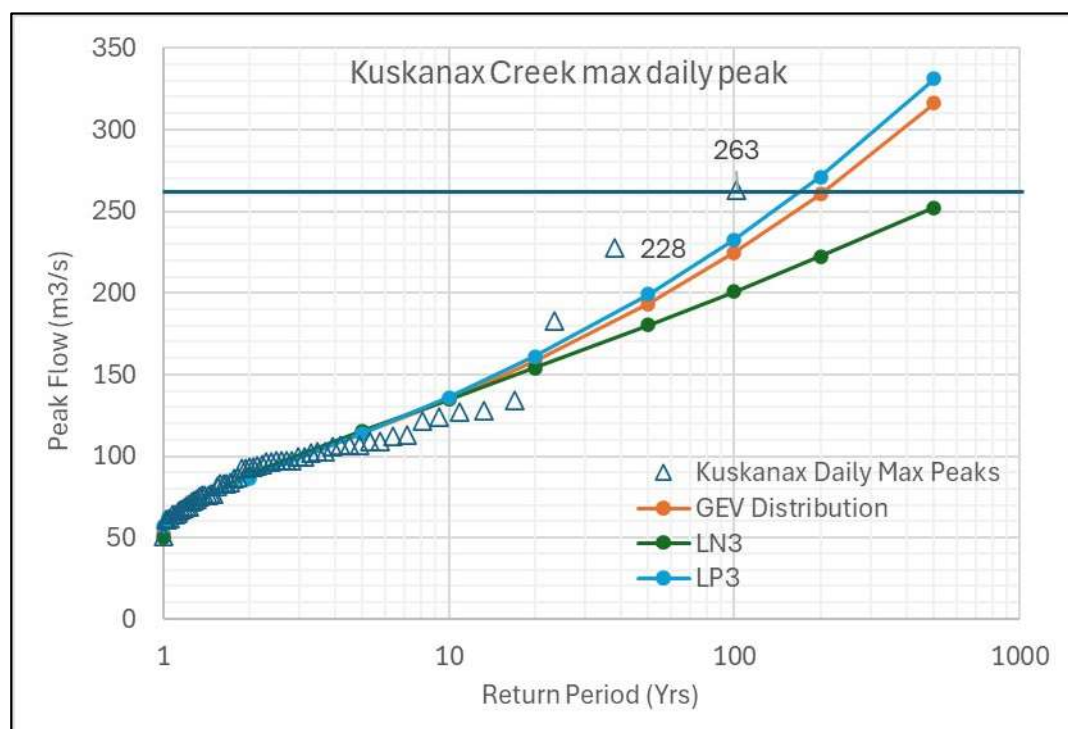
Table 1: Wilson Creek Hydraulic Geometry and instantaneous discharge calculations.

Bank full Width (m)	Average bank full Depth (m)	Bank full Flow Area (m ²)	Gradient m/m	d ₈₄ (m)	Hydraulic radius (m)	Est Mannings 'n'	Q (m ³ /s) from Mannings equation
						Visual	
23	1.1	25.3	0.0129	0.4	25.2	0.075	38.6
23	1.1	25.3	0.0129	0.4	25.2	0.065	44.5

4.2.2 Q200 estimate for Wilson Creek

4.2.2.1 Q2:200 method

Using the generalised extreme value (GEV) distribution, log normal 3 (LN3) distribution, and Log Pearson III (LP3) flood frequency analysis on daily maximum discharge data for Kuskanax Creek (330 km²), the Q₂ daily maximum peak flow values are as follows: GEV – 87.7 m³/s, LN3 – 88.9 m³/s, and LP3 – 86.5 m³/s. The corresponding Q₂₀₀ values are GEV – 260.6 m³/s, LN3 – 222.5 m³/s, and LP3 – 271.2 m³/s.



For Wilson Creek, using the Kuskanax discharge ratios, the estimated Q200 ratios are GEV 0.33638, LN3 0.399874, and LP3 0.319119.

For Wilson Creek with a Q2 of 38 m³/sec the Q200 will be GEV = 112.97 m³/sec, LN3 = 95.03 m³/sec and LP3 = 119.08 m³/sec. For a Q2 of 44m³/sec the Q200 flows are 130.80 m³/sec, 110.03 m³/sec and 137.88 m³/sec, respectively.

4.2.2.2 NHC Regional Flood Frequency Equation

$$Q = 10^A * \text{Area}^B * \text{MAP}^C * \text{MedianZ}^D \quad \text{Eq (3)}$$

Q represents the estimated daily peak flow for the given return period. Area is the basin size in km², MAP is mean annual precipitation (mm) from PCIC PRISM data, and MedianZ is median basin elevation (m). For Wilson Creek: area = 562 km², MAP = 1446.3 mm, MedianZ = 1680 m.

Table 2. Regional 1-day duration Flood Frequency Equation exponents from NHC(2020) model for Ecohydro zone 14.4.

Exponent	10-yr RP	100 Yr RP	200-Yr
A	-5.0331	-4.5616	-4.487
B	0.9021	0.8673	0.8584
C	0.567	0.4799	0.465
D	0.8995	0.9088	0.9183

$$Q_{200} = 10^{-4.487} \times (562 \text{ km}^2)^{0.8584} \times (1446.3 \text{ mm})^{0.465} \times (1680 \text{ m})^{0.9183} = 201.69 \text{ m}^3/\text{sec}$$

The 200-year return period flood in Wilson Creek based on the NHC equation above is 201.69 m³/s.

4.2.2.3 Unit discharge method

Wilson Creek watershed covers 562 km², Kuskanax Creek watershed covers 330 km², yielding a ratio of 1.70303. By multiplying Kuskanax's peak flow by this ratio, the range is 378.84–461.86 m³/sec.

4.2.3 Wilson Creek Q200 estimate discussion and climate change consideration.

The estimated Q₂₀₀ for Wilson Creek ranges from 95 m³/s to 462 m³/s depending on the method used.

It is likely that the unit discharge methods for estimating Q₂₀₀ for Wilson Creek over-estimates the Q₂₀₀ because the stream flow of Wilson Creek will be attenuated by lakes and broad low gradient valley bottoms (Fitzstubb) that would serve to slow down the delivery of runoff and act as reservoirs. The hydrogeomorphic features (or lack of) along the channel do not support the larger estimates of flow. Additionally, the magnitude the largest floods on record in nearby large rivers with long term

discharge gauging (from 1960s) including the Duncan River (1310km²) and Illecillewaet River (1150km²) both record maximum annual daily peak flows of less than 450 m³/s.

A Q₂₀₀ of about 200 m³/s which is consistent with the Q₂:Q₂₀₀ ratio method and Regional Flood Frequency Equation estimate is a reasonable estimate of the Q₂₀₀ flood in Wilson Creek. This is supported by the reported impacts of the 1972 (and 1967) flood event, both of which correspond to a 1:100 flow in Kuskanax Creek. In 1972, the stream remained within its banks, and bank erosion was limited to specific sections of the channel. Historic airphoto interpretation shows no significant impact changes to the channel location for over 80 years indicating floods were confined to the stream channel. The 50cm elevated gravel bar noted during the field review and estimated to be about 100 years old is likely associated with the 1916 or 1933 flood event. The 1972 event may have inundated this bar and caused minor scour but did not erode or deposit appreciable amounts.

News reports of the 1933 flood are included in the government publication Floods and Slides 1886 to 2006. The 1933 floods caused numerous highway and bridge washouts. It is reported that Sandon, Carpenter, and Star Creeks flooded residences and forced evacuations. The New Denver main street was blocked with debris and many buildings undermined. The Slocan River flooded the valley and Springer Creek washed out the highway bridge. It appears from the 1939 airphotos that Wilson Creek mostly stayed within its channel.

The 1916 flood is reported to be the largest since 1894 (largest recorded). Monitoring of the 1916 freshet serendipitously captured the highest recorded flood on the Kaslo River. GEV analysis of the flood indicates a return period of 1:100 to 1:150. There was widespread flooding reported that year. In 1916 the recording station on Wilson Creek is marked just upstream on Dennis creek reporting 176 m³/sec which supports the choice of 200 m³/sec for the 200-year return period flood.

4.2.3.1 Climate Change Consideration

Due to global and regional climate change the prospect for changed hydrological conditions must be incorporated into estimates of future flood hazards (APEGBC, 2020). Although recorded trends for interior B.C. snow melt dominated watersheds show a decrease in flood magnitudes extreme floods are still likely to occur. EGBC suggests adding 10% to the flood magnitudes to account for possible increases.

5 FLOODING AND EROSION ASSESSMENT FOR 260 WILSON CREEK ROAD E.

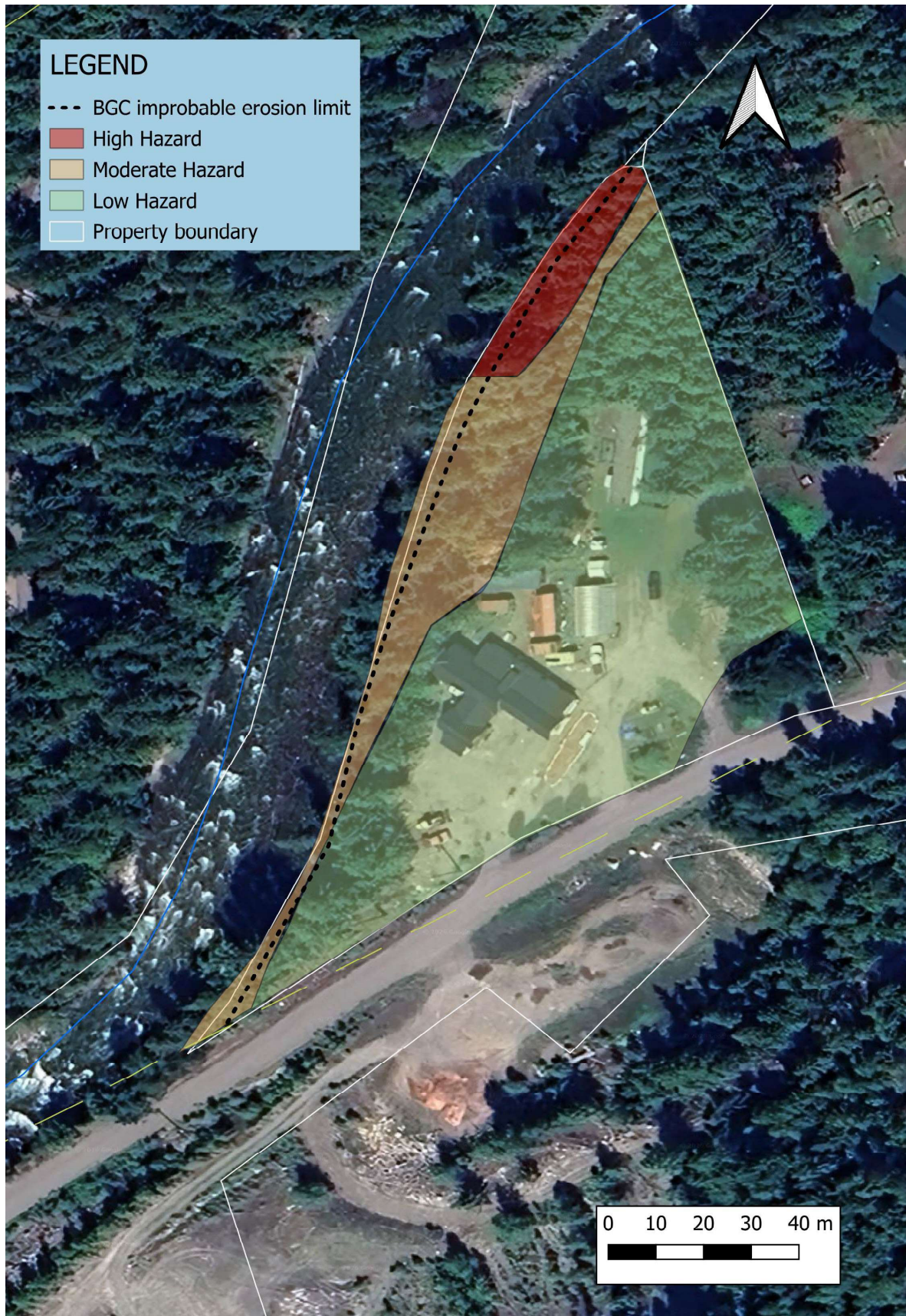
The designated flood corresponds to a 1-in-200-year return period. Both this assessment and earlier assessments concluded that such an event would be a clear water flood. However, BGC evaluated the 1-in-200 event as a debris flood and mapped the fan based on that scenario. This assessment will address both possibilities.

5.1 DEBRIS FLOOD

The subject property and primary residence are situated within an area that BGC has mapped as having a low composite hazard, corresponding to a debris-loaded impact force of less than 1 kN/m². The composite hazard maps do not specify flood water depth or velocity; the stated impact force reflects a combination of velocity and debris loading. For context, a column of water 10 cm high exerts a hydrostatic force of approximately 1 kilonewton. According to the NRC publication “Guide for Design of Flood-Resistant Buildings,” an impact force of 1.48 kN/m² is considered when mitigation measures are in place. Therefore, the assigned value of less than 1 kN/m² represents a low risk to both the structure and its occupants.

The BGC report modeled bank erosion caused by debris floods. Figure 7 shows the maximum potential erosion limit. The primary residence, with its covered deck, sits 11 to 14 meters away from this boundary.

Figure 7. Figure showing erosion line and hazard areas from BGC report.



5.2 CLEAR WATER FLOOD

Regional Flood Frequency estimates included here, indicate a 200-year flood is expected to have a flow of 220 m³/s. Previous research points to the 1972 flood as the largest documented event on the fan, though floods from 1916 and 1933 were bigger. The recorded flow for the 1916 flood was 176 m³/s (measured upstream from Dennis Creek), and this volume would also remain confined within the banks of Wilson Creek.

The 1972 flood caused some local bank erosion on the outer edges of the channel. This flood did not rise enough to erode the flood deposit that sits 0.5 metres above the Wilson Creek channel, nor did it cause significant erosion along the channel bank next to the subject property. Because the property lies on the inside bend of the channel, hydrodynamics dictates there is slower water in this area that would deposit sediment, while faster water on the opposite bank along the outside bend erodes the banks. This natural pattern moves the stream across the floodplain and makes bank erosion less likely along most of the property's creek side boundary.

5.2.1 ESTIMATED CLEARWATER 200 YEAR FLOOD DEPTH USING MANNINGS AND CHANNEL GEOMETRY

The flood water depth estimate during a 1-in-200-year event is determined by back analysis of channel geometry using Manning's n assuming ~ 220 m³/sec.

Table 3: 1 in 200-year flood depth.

Bank full Width	Average bank full Depth (m)	Flow Area (m ²)	Gradient m/m	Est Mannings n	Hydraulic radius	Q (m ³ /s) from Mannings equation
23	2.23	51.29	0.013	0.04	27.46	221.8

Using channel geometry, a reduced Manning's number assuming planar flow in the flood's upper section, and a 1-in-200-year flood rate of 220m³/sec, the flood level is approximately 1.13 m above the natural (1.1 m depth bank full) boundary (Table 3) for a total channel depth of 2.23m.

6 SUMMARY

Based on analyses of the 1972 flood impacts, prior assessments, channel studies, and flood frequency evaluations, the 200 year flood elevation above the natural boundary of Wilson Creek ranges from 0.5 to 1.13 meters.

The principal residence is located 3.012 meters above the creek's natural boundary and approximately 1.889 meters above the estimated 1-in-200-year flood level.

Positioned on the inner curve of the creek, the property is less susceptible to bank erosion. Even in the unlikely scenario of a debris flood, the primary residence remains 11 to 14 meters distant from the maximum possible erosion limit.

7 CONCLUSION

Accounting for climate change, the estimated 200-year flood discharge for Wilson Creek is 220 m³/sec. The probability of flooding or bank erosion affecting the primary residence is low (<0.2% annually). The home is safe for full-time use (safe for its intended purpose) and requires no mitigation measures.

8 DISCLOSURE OBLIGATION

Subject to the following, the Qualified Professional (QP) will keep confidential all information, including documents, correspondence, reports, and opinions, unless disclosure is authorized in writing by the client. However, in keeping with Engineers and Geoscientists BC's Code of Ethics, if the QP discovers or determines that there is a material risk to the environment or the safety, health, and welfare of the public or worker safety, the QP shall notify the client as soon as practicable of this information and the need that it be disclosed to the appropriate parties. If the client does not take the necessary steps to notify the appropriate parties in a reasonable amount of time, the QP shall have the right to disclose that information to fulfill his/her ethical duties, and the client hereby agrees to that disclosure.

9 LITERATURE CITED

- APEGBC 2017. Flood mapping in BC APEGBC Professional Practice Guidelines V1.0. Available online at apeg.bc.ca/For-Members/Professional-Practice/Professional-Practice-Guidelines [accessed: 08/03/2025]. 50 pp
- APEGBC 2018. Legislated Flood Assessments in a Changing Climate in BC APEGBC Professional Practice Guidelines V2.1. 192 pp.
- Apex Geoscience Consultants Ltd. 2026. Wilson Creek Hydrological Assessment of Wilson Creek for Interfor

- Bathurst J.C. 1985. Flow resistance estimation in mountain rivers. *Journal of Hydraulic Engineering*, 111 (4): 625-643.
- BGC 2020. RDCK Floodplain and Steep Creek Study, Wilson Creek. 108 pp.
- Bulletin 2020-1. RFFA British Columbia Extreme Flood Project.
- Crowsnest Engineering 2025. 260 East Wilson Creek Road, RDCK B.C. Post-Construction Hazard Assessment. 15 pp.
- Jarrett, R. D., 1985. Determination of roughness coefficients for streams in Colorado. US. Geological Survey Water-Resources Investigations, Report 85-4004. 54 pp.
- National Research Council of Canada. Guide For Design of Flood Resistant Buildings.
- Northwest Hydraulic Consultants 2020. British Columbia Extreme Flood Project, Regional Flood Frequency Analysis – Technical development report and manual to complete a regional flood frequency analysis (Bulletin 2020-1-RFFA, NHC NP3004476). Report prepared by Northwest Hydraulic Consultants Ltd (NHC). For the British Columbia Ministry of Forests, Lands, Natural Resource Operations, and Rural Development.
- Marcus, W.A., Roberts, K., Harvey, L., and G. Tackman 1992. An evaluation of methods for estimating Manning's n in small mountain streams. *Mountain Research and Development*, V.12., No. 3., pp. 227-239.
- Ministry of Environment. Flooding and Landslide events Southern British Columbia 1808-2006.
- Ministry of Forests 1999. File 59908, Memorandum Wilson Creek Debris Flow.
- RDCK: Regional District of Central Kootenay Floodplain Management Bylaw NO. 2080, 2009.
- RDCK: Terms of reference, Requirements for Professional Engineers/Geoscientists undertaking Geotechnical reports/flood hazard assessment reports November 2009
- Water Survey of Canada 1973. Flood of May-June 1972. 133 pp
- Yochum S.E., Comiti F., and E., Wohl (2014). Photographic Guidance for Selecting Flow Resistance Coefficients in High-Gradient Channels. USFS General Technical Report RMRS-GTR-323.

Note: This statement is to be read and completed in conjunction with the current Engineers and Geoscientists BC *Professional Practice Guidelines – Legislated Flood Assessments in a Changing Climate in BC* ("the guidelines") and is to be provided for flood assessments for the purposes of the *Land Title Act*, Community Charter, or the *Local Government Act*. Defined terms are capitalized; see the Defined Terms section of the guidelines for definitions.

To: The Approving Authority

Date: July 23 2026

Regional District of Central Kootenay
202 Lakeside Drive, Nelson B.C. V1L 6B9
 Jurisdiction and address

With reference to (CHECK ONE):

- ☐ *Land Title Act* (Section 86) – Subdivision Approval
- ☐ *Local Government Act* (Part 14, Division 7) – Development Permit
- ☐ Community Charter (Section 56) – Building Permit
- ☐ *Local Government Act* (Section 524) – Flood Plain Bylaw Variance
- ☒ *Local Government Act* (Section 524) – Flood Plain Bylaw Exemption

For the following property ("the Property"): 260 Wilson Creek Rd E

LOT B DISTRICT LOT 4877 KOOTENAY DISTRICT PLAN EPP30385

Legal description and civic address of the Property

The undersigned hereby gives assurance that he/she is a Qualified Professional and is a Professional Engineer or Professional Geoscientist who fulfils the education, training, and experience requirements as outlined in the guidelines.

I have signed, sealed, and dated, and thereby certified, the attached Flood Assessment Report on the Property in accordance with the guidelines. That report and this statement must be read in conjunction with each other. In preparing that Flood Assessment Report I have:

[CHECK TO THE LEFT OF APPLICABLE ITEMS]

___ 1. Consulted with representatives of the following government organizations:

- ☒ 2. Collected and reviewed appropriate background information
- ___ 3. Reviewed the Proposed Development on the Property
- ___ 4. Investigated the presence of Covenants on the Property, and reported any relevant information
- ☒ 5. Conducted field work on and, if required, beyond the Property
- ___ 6. Reported on the results of the field work on and, if required, beyond the Property
- ☒ 7. Considered any changed conditions on and, if required, beyond the Property
- 8. For a Flood Hazard analysis I have:
 - ☒ 8.1 Reviewed and characterized, if appropriate, Flood Hazard that may affect the Property
 - ☒ 8.2 Estimated the Flood Hazard on the Property
 - ☒ 8.3 Considered (if appropriate) the effects of climate change and land use change
 - ☒ 8.4 Relied on a previous Flood Hazard Assessment (FHA) by others
 - ☒ 8.5 Identified any potential hazards that are not addressed by the Flood Assessment Report
- 9. For a Flood Risk analysis I have:
 - ___ 9.1 Estimated the Flood Risk on the Property
 - ___ 9.2 Identified existing and anticipated future Elements at Risk on and, if required, beyond the Property
 - ___ 9.3 Estimated the Consequences to those Elements at Risk

10. In order to mitigate the estimated Flood Hazard for the Property, the following approach is taken:
- ☐ 10.1 A standard-based approach
 - ☐ 10.2 A Risk-based approach
 - ☐ 10.3 The approach outlined in the guidelines, Appendix F: Flood Assessment Considerations for Development Approvals
 - ☒ 10.4 No mitigation is required because the completed flood assessment determined that the site is not subject to a Flood Hazard
11. Where the Approving Authority has adopted a specific level of Flood Hazard or Flood Risk tolerance, I have:
- ☐ 11.1 Made a finding on the level of Flood Hazard or Flood Risk on the Property
 - ☐ 11.2 Compared the level of Flood Hazard or Flood Risk tolerance adopted by the Approving Authority with my findings
 - ☐ 11.3 Made recommendations to reduce the Flood Hazard or Flood Risk on the Property
12. Where the Approving Authority has not adopted a level of Flood Hazard or Flood Risk tolerance, I have:
- ☒ 12.1 Described the method of Flood Hazard analysis or Flood Risk analysis used
 - ☒ 12.2 Referred to an appropriate and identified provincial or national guideline for level of Flood Hazard or Flood Risk
 - ☒ 12.3 Made a finding on the level of Flood Hazard or Flood Risk tolerance on the Property
 - ☒ 12.4 Compared the guidelines with the findings of my flood assessment
 - ☐ 12.5 Made recommendations to reduce the Flood Hazard or Flood Risk
- ☐ 13. Considered the potential for transfer of Flood Risk and the potential impacts to adjacent properties
- ☐ 14. Reported on the requirements for implementation of the mitigation recommendations, including the need for subsequent professional certifications and future inspections.

Based on my comparison between:

[CHECK ONE]

- ☐ The findings from the flood assessment and the adopted level of Flood Hazard or Flood Risk tolerance (item 11.2 above)
- ☒ The findings from the flood assessment and the appropriate and identified provincial or national guideline for level of Flood Hazard or Flood Risk tolerance (item 12.4 above)

I hereby give my assurance that, based on the conditions contained in the attached Flood Assessment Report:

[CHECK ONE]

- ☐ For subdivision approval, as required by the *Land Title Act* (Section 86), "that the land may be used safely for the use intended":
[CHECK ONE]
 - ☐ With one or more recommended registered Covenants.
 - ☐ Without any registered Covenant.
- ☐ For a development permit, as required by the *Local Government Act* (Part 14, Division 7), my Flood Assessment Report will "assist the local government in determining what conditions or requirements it will impose under subsection (2) of this section [Section 491 (4)]".
- ☐ For a building permit, as required by the *Community Charter* (Section 56), "the land may be used safely for the use intended":
[CHECK ONE]
 - ☐ With one or more recommended registered Covenants.
 - ☐ Without any registered Covenant.
- ☐ For flood plain bylaw variance, as required by the *Flood Hazard Area Land Use Management Guidelines* and the *Amendment Section 3.5 and 3.6* associated with the *Local Government Act* (Section 524), "the development may occur safely".
- ☒ For flood plain bylaw exemption, as required by the *Local Government Act* (Section 524), "the land may be used safely for the use intended".

I certify that I am a Qualified Professional as defined below.

July 23 2026

Date

Prepared by

Will Halleran P.Geo P.L.Eng

Name (print)

Will Halleran
2026-07-23

Signature

1220 Government Street,
Address

Nelson B.C.

250-551-5887

Telephone

will.h@apexgeo.ca

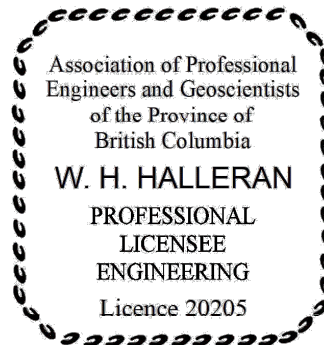
Email

Reviewed by

Kim Green P.Geo

Name (print)

Signature



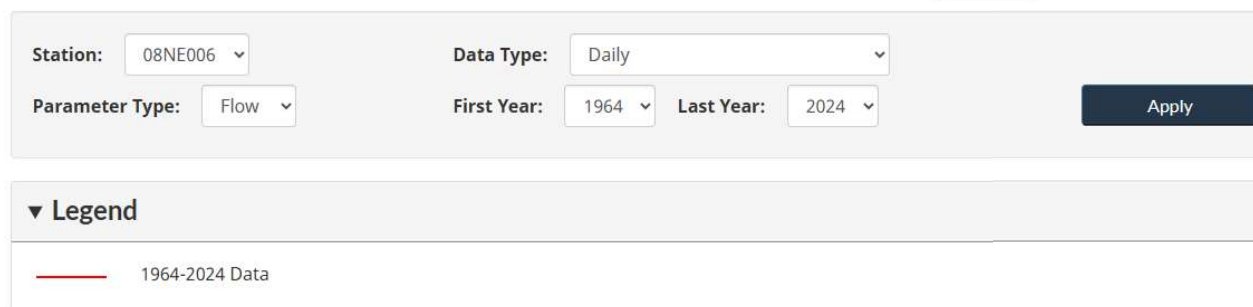
If the Qualified Professional is a member of a firm, complete the following:

I am a member of the firm Apex Geoscience Consultants Ltd.

and I sign this letter on behalf of the firm.

(Name of firm)

11 APPENDIX 1: HYDROGRAPHS FOR KUSKANAX CREEK



Discharge (m^3/s) ⓘ

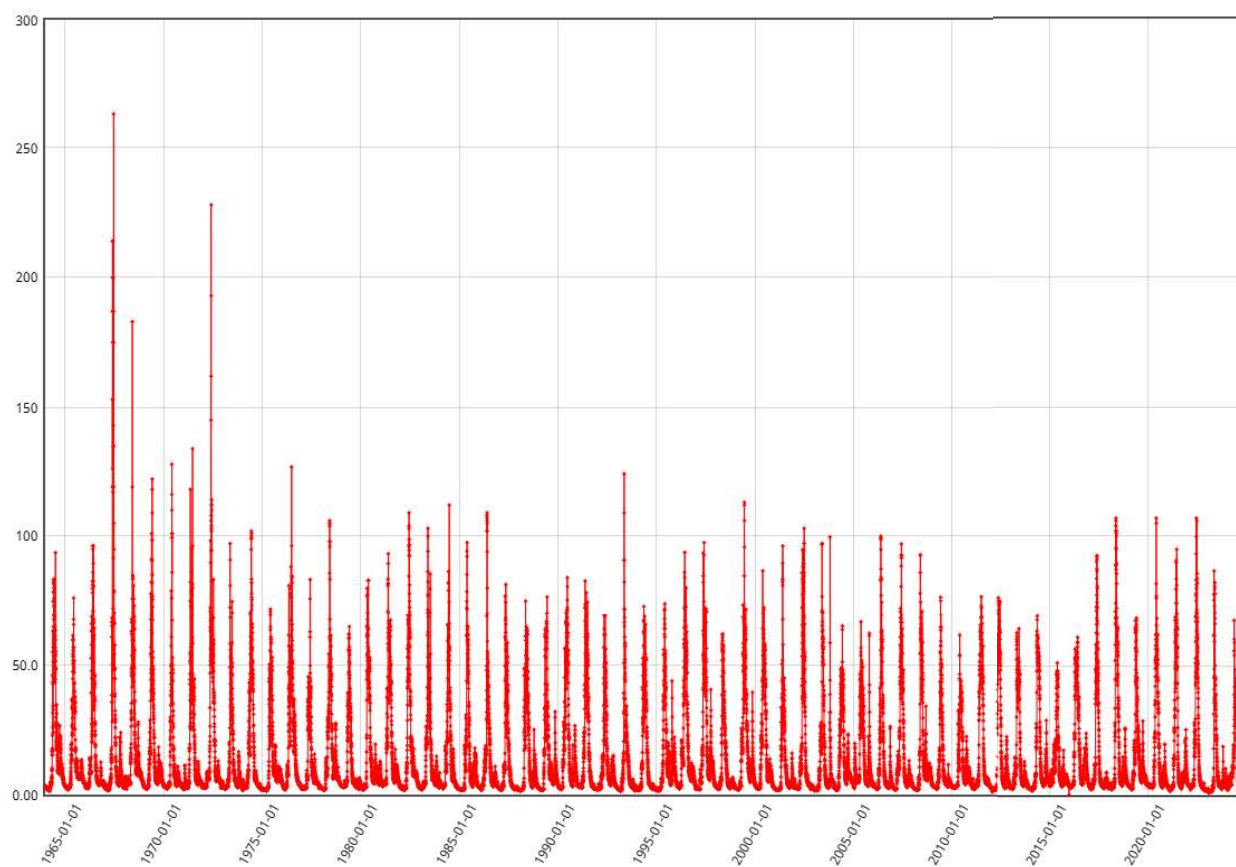


Figure 7: 1964-2024 Kuskanax hydrograph Water Survey of Canada Station 08NE006

12 APPENDIX 2: MANNINGS N VALUES



MANNING'S 'N' VALUE: **0.073**

Location: Boundary Creek near Porthill, Idaho

Discharge at peak, m³/s: 72

Description of Channel: Bed consists of boulders; $d_{50} = 210\text{mm}$, $d_{84} = 375\text{mm}$. Banks are composed of boulders and have trees and brush along top.



MANNING'S 'N' VALUE: **0.075**

Location: Rock Creek near Darby, Mont.

Discharge at peak, m³/s: 42

Description of Channel: Bed consists of boulders; $d_{50} = 220\text{mm}$, $d_{84} = 415\text{mm}$. Banks are composed of boulders and have trees and brush.

<https://culvertbc.ca/Manning-image/n0075.htm>



Referral Number: RDCK File F2603Hn

Referral Type: Requests exemption from floodplain setback bylaw for residence built within 11 m of Wilson Creek after earlier application for exemption was rejected.

Authorization Considerations:

- This application is focused on flood risk rather than potential impacts to aquatic and riparian ecosystems
- Wilson Creek provides spawning and rearing for rainbow trout and is one of few streams supporting spawning and juvenile rearing for bull trout from Slocan Lake
- Our understanding is that if this exemption is granted, there will also be a requirement for a Watercourse Development Permit (WDP) including a riparian assessment by a qualified environmental professional
- We would appreciate the opportunity to provide further comments if and when a WDP application is reviewed.

Habitat Management's legislated and professional responsibilities include but are not limited to: the provincial *Water Sustainability Act*, the *Wildlife Act*, the *Forest and Range Practices Act (FRPA)* and the Government Actions Regulation under *FRPA*, as well as having provincial responsibility for the federal *Species at Risk Act*.

These are comments based on the information provided by the proponent in the referral package. They do not represent a comprehensive evaluation, rather some advice on what to consider for mitigation of possible negative ecosystem impacts of the proposed works. They also do not remove the obligation of the proponent to comply with ALL applicable laws and statutes.

Habitat Comments

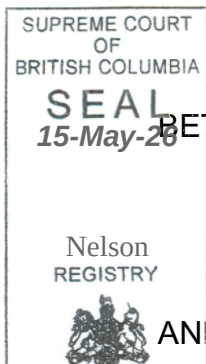
Concern	Details
General Comments	Protection of riparian areas is important for fish and wildlife populations.
Species at Risk	Wilson Creek supports spawning and juvenile rearing for bull trout (blue-listed) from Slocan Lake.
Aquatic Species	Wilson Creek supports spawning and rearing by rainbow trout and bull trout.



Aquatic Habitat	Good trout habitat that supports adfluvial (lake migrating) and likely resident populations of rainbow trout and bull trout.
Instream Works	None proposed; works are in the riparian 11 m from stream.
Timing	Not applicable
Hydrology	Not applicable
Sedimentation	TBD
Invasive Species	TBD
Site Remediation	TBD
BMPs	Further beneficial Best Management Practices guidance is available at https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/laws-policies-standards-guidance/best-management-practices

Amended pursuant to Rule 6-1(1)(a) of the Supreme Court Civil Rules
Originally filed on September 5, 2024

No. NEL-S-L-23324
 Nelson Registry



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

REGIONAL DISTRICT OF CENTRAL KOOTENAY

PLAINTIFF

AND

DARRELL HENRY STEENHOFF AND AUDREY KIM STEENHOFF

DEFENDANTS

AMENDED NOTICE OF CIVIL CLAIM

This action has been started by the Plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the Plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

TIME FOR RESPONSE TO CIVIL CLAIM

A response to civil claim must be filed and served on the Plaintiff.

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you.

- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you.
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

Overview

1. The Plaintiff, the Regional District of Central Kootenay ("RDCK"), is a local government incorporated by Letters Patent pursuant to the *Local Government Act*, RSBC 2015, c. 1 (the "*Local Government Act*").
2. Since in or about August 2013 the Defendants, Darrell Henry Steenhoff and Audrey Kim Steenhoff (together, the "Defendants"), have been the owners, in fee simple, of the property with a civic address of 260 East Wilson Creek Road, New Denver, British Columbia and legally described as:

PID: 029-139-716
 Lot B District Lot 4877 Kootenay District Plan EPP30385
 (the "Property").

3. The Defendants constructed a house (the "House") and undertook land alteration, including removal of vegetation and trees, on the Property that is within a development permit area and the floodplain for Wilson Creek and without building, plumbing and occupancy permits and without a floodplain exemption and in contravention of development permit requirements and the terms of restricted covenants registered against the title to the Property and a Stop Work Order.
4. The Defendants are occupying the House.

5. The Defendants erected on the Property:

(a) a Z241 Park Model Trailer within a development permit area and the floodplain for Wilson Creek and without a floodplain exemption and in contravention of development permit requirements and the terms of restrictive covenants registered against the title to the Property; and

(b) two shipping containers, which were altered to provide living space ("Renovated Shipping Containers"), and within a development permit area and without building, plumbing and occupancy permits and in contravention of development permit requirements and the terms of restricted covenants registered against the title to the Property.

5. 6. Portions of the Property are and have been designated as a Watercourse Development Permit Area ("WDPA") under section 488(1)(a) of the *Local Government Act*.

6. 7. The Property is regulated by the following bylaws enacted under sections 477, 488 to 491, inclusive, 460 and 502, Division 1 of Part 9 of the *Local Government Act*, and further to sections 55, 56 and 57 of the *Community Charter*, SBC 2003, c. 26 (the "*Community Charter*") and section 302 of the *Local Government Act*:

(a) *Slocan Lake North portion of Electoral Area "H" Official Community Plan Bylaw No. 1967, 2009 ("OCP")* for the designation of the WDPA for the protection of the natural environment, its ecosystems and biodiversity;

(b) *The Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015 ("Procedures Bylaw")* for procedures under which a person may apply for the issuance of a development permit and a site specific floodplain exemption;

(c) *Floodplain Management Bylaw No. 2080, 2009 ("Floodplain Bylaw")* that prohibits, among other things, the siting of a structure or building on land that is 30 metres from the natural boundary of Wilson Creek and at a flood construction level below 3.0 meters of the natural boundary of Wilson Creek;

(d) *Regional District of Central Kootenay Building Bylaw No. 2200, 2010 ("Building Bylaw")* that prohibits, among other things:

(i) the construction, alteration, reconstruction, demolition, removal, relocation or change in the occupancy of any building or structure or plumbing system or other work related to construction without application for and obtaining building and plumbing permits;

(ii) occupancy and use of any building or structure unless a valid and subsisting occupancy permit has been issued for the building or structure;

(iii) concealment of aspects of work done before an inspection of such work; and

(iv) continued construction after the posting of a Stop Work Order.

7. 8. The Property is subject to the following restrictive covenants granted to RDCK and His Majesty the King in Right of the Province of British Columbia as represented respectively by the Minister of Transportation, Minister of Health Services and Minister of Water, Land and Air Protection and registered against the Property under section 219 of the *Land Title Act*, RSBC 1996, c. 250:

- (a) on February 14, 2002 under land title instrument number KT016468 (“No Build Covenant”);
 - (b) on February 14, 2002 under land title instrument number KT016477 (“Water Covenant”); and
 - (c) on February 14, 2002 under land title instrument number KT016479 (“Flood Covenant”),
- (together, the “Restrictive Covenants”).

8. 9. The No Build Covenant prohibits the Defendants’:

- (a) construction, reconstruction, move, extension or location of any building; and
 - (b) land clearing, landfill or other such disturbance,
- within the covenant area, being the area in which the Defendants undertook alteration of land of the Property.

9. 10. The Water Covenant prohibits the Defendants from construction of any building on the Property until the Defendants receive information from the Minister of Health about the potability of a surface water source.

10. 11. The Flood Covenant prohibits the Defendants’:

- (a) construction, reconstruction, move, extension of a building, mobile home or unit, or structure within 30 metres of Wilson Creek; and
- (b) habitation of any area or storage of goods damageable by floodwaters within any building at an elevation such that the underside of the floor system is less than 3.0 metres above the natural boundary of Wilson Creek.

Chronology of Events/Background Facts

11. 12. In or about June 2022 the Plaintiff received a complaint that the Defendants commenced construction of the House without a building permit.

12. 13. On June 23, 2022 the Plaintiff's Building Official issued a Stop Work Order for commencing construction prior to obtaining a building permit.
13. 14. After unsuccessful attempts to obtain the Defendants' voluntary compliance with the development permit requirements of the OCP, the *Floodplain Bylaw* and the *Building Bylaw*, RDCK's Board directed registration of a *Community Charter* section 57 notice against title to the Property.
14. 15. On July 26, 2023 RDCK staff filed with the Registrar of Title, Land Title & Survey Authority of British Columbia, a Notice of Contravention of Bylaw under section 57 of the *Community Charter* against title to the Property for failure to comply with the *Building Bylaw*.
15. 16. Despite the Plaintiff's demands and in contravention of the Stop Work Order, the Defendants undertook, allowed or permitted the continued construction of the House and subsequently occupied the House:
 - (a) without a building, plumbing and occupancy permits in contravention of the *Building Bylaw*;
 - (b) without a development permit on lands designated within the OCP as the WDPA and in contravention of the development permit requirements of the OCP; and
 - (c) within a designated floodplain, without a floodplain exemption, and in contravention of the floodplain setback ~~and the floodplain construction level~~ requirements of the *Floodplain Bylaw*.
17. On or about February 14, 2025 the Defendants submitted to the Plaintiff a geotechnical engineer (the "Geotechnical Engineer")'s post-construction hazard assessment memo ("February 14, 2025 Memo") for the Property.
18. The Geotechnical Engineer was unable to provide a full flood assessment of the House within the February 14, 2025 memo. However, the Geotechnical Engineer recommended the relocation or removal of two other structures, the Z241 Park Model Trailer and Renovated Shipping Containers, which are within the 30 metre setback from and below the 3.0 metre flood construction level of the natural boundary of Wilson Creek.
19. On April 29, 2025 and September 4, 2025 Plaintiff's staff informed the Defendants about the deficiencies in the February 14, 2025 Memo, which included:
 - (a) there was no flood assurance statement; and

(b) the Geotechnical Engineer did not state within the February 14, 2025 Report that “the land may be used safely for the use intended”,

(together, the “Sought Safety Assurances”).

20. On or about March 3, 2025 the Plaintiff received from the Defendants an incomplete application for a site specific floodplain exemption for the House.

21. On May 9, 2025 and March 12 and April 28, 2026 RDCK staff attended at the Property for a site visit.

22. Through the February 14, 2025 Memo and RDCK staff’s May 9, 2025 and March 12 and April 28, 2026 inspections of the Property and subsequent review of RDCK files, RDCK staff learned that:

(a) the Z241 Park Model Trailer was erected on the Property and within a designated floodplain and without:

- (i) a development permit on lands designated within the OCP as the WDPA and in contravention of the development permit requirements of the OCP; and
- (ii) a floodplain exemption, and in contravention of the floodplain setback and floodplain construction level requirements of the *Floodplain Bylaw*;

(b) the Renovated Shipping Containers were erected on the Property and without:

- (i) building, plumbing and occupancy permits in contravention of the *Building Bylaw*; and
- (ii) a development permit on lands designated within the OCP as the WDPA and in contravention of the development permit requirements of the OCP.

23. At the May 9, 2025 and March 12, 2026 inspection of the Property, RDCK staff observed that the Z241 Park Model Trailer and Renovated Shipping Containers also appeared to be occupied.

24. On September 10, 2025 the Geotechnical Engineer informed RDCK staff that the February 14, 2025 Memo is not considered to be a full flood assessment because:

(...) this is a post-construction assessment that we were not involved with and thus do not have geotechnical information for. (...)

We are willing to undertake more work on the property if required and engaged, however, I anticipate that would require more invasive subsurface investigation and assessment to reach the typical standard of care for flood assessment with assurance statement.

25. From March 3, 2025 to October 10, 2025 RDCK staff repeatedly sought but was unable to obtain from the Defendants a geotechnical engineer's report with the Sought Safety Assurances.

16. 26. Prior to seeking permits under the *Building Bylaw*, the Defendants were required to seek a site specific floodplain exemption under section 524(7) of the *Local Government Act* and section 11.1 of Schedule "A" to the *Floodplain Bylaw* and also a development permit for alteration of the land and construction of the House within the WDPA in accordance with the development permit requirements within the OCP and pursuant to the procedures defined under the *Procedures Bylaw*.

17. 27. To obtain a site specific floodplain exemption for the House and Z241 Park Model Trailer, *Local Government Act* section 524(7) and sections 11.1, 11.2 and 11.3 of Schedule "A" to the *Floodplain Bylaw* and the *Procedures Bylaw* require the Defendants:

(a) to submit a site specific floodplain exemption application^s with the required information and fees pursuant to sections 6, 7, 8(f) and 10 and Schedules "H" and "A" to the *Procedures Bylaw*;

(b) to submit reports of a professional engineer or geoscientist certifying the land and structures may be used safely for the use intended and in accordance with the conditions specified in the professional engineer's reports and the Provincial Flood Hazard Area Land Use Management Guidelines and the Engineers and Geoscientists of British Columbia's Legislated Flood Assessments in a Changing Climate in BC and associated practice guidance and guidelines; and

(c) to grant to the Plaintiff a restrictive covenant and indemnity further to section 219 of the *Land Title Act*.

(collectively the "*Procedures Bylaw* Information and Fees, Professional Reports and Assurances and Restrictive Covenant for the Floodplain Exemption").

18. 28. To obtain a development permit for the alteration of the land and construction of the House, and erection of the Z241 Park Model Trailer and Renovated Shipping Containers within the WDPA pursuant to the development permit requirements within the OCP and the *Procedures Bylaw*, the Defendants must submit to the Plaintiff:

(a) a development permit application with the required information and fees pursuant to sections 6, 7, 8(b), 10 and Schedules "D", "B", "Q" and "A" of the

Procedures Bylaw; and

- (b) an assessment report prepared and certified by a Qualified Environmental Practitioner (“QEP”) in accordance with the *Riparian Areas Protection Regulation*, BC Reg 178/2019 and which provides an opinion that a lesser setback will not negatively affect the functioning of the watercourse/Wilson Creek or riparian area and that the criteria listed in the *Riparian Areas Protection Regulation* has been fulfilled,

(collectively, the “*Procedures Bylaw* Information and Fees and Assessment Report”).

29. On August 26, 2025 the Plaintiff received a development permit application from the Defendants and in relation to the construction of the House and associated development and alteration of the land within the WDPA. The Plaintiff's consideration of the Defendants' development permit application was placed on hold pending the RDCK Board's decision whether to issue a site specific floodplain exemption in relation to the House.

19. 30. RDCK Building Officials are not able to complete required visual inspections during the stages of construction in instances where construction is already complete, construction elements are covered or concealed, and without submission of a completed building permit application and the issuance of a building permit. These steps are required to determine whether the House complies with all the requirements of the *Building Bylaw* and 2024 British Columbia Building Code, Ministerial Order BA 2023 10, made under the *Building Act*, SBC 2015, c. 2, establishes the British Columbia Building Code, effective March 8, 2024 (“*Building Code*”).

20. 31. In an effort to establish whether the House and Renovated Shipping Containers compl~~y~~ies with the *Building Bylaw*, *Building Code*, 2024 British Columbia Plumbing Code as set out in the National Plumbing Code of Canada 2020 and the *Building Code* (“*Plumbing Code*”), and all other applicable enactments respecting safety, the Plaintiff requires the Defendants to submit a complete building permit application with supporting documents, including:

- (a) as-built plans and drawings drawn to scale in sufficient detail to establish that the design and construction of the House and Renovated Shipping Containers compl~~y~~ies with the *Building Code*, the *Building Bylaw* and other applicable RDCK Bylaws and other applicable enactments respecting safety;
- (b) photographs, of all stages of construction of the House and Renovated Shipping Containers;

- (c) submission of applicable Letters of Assurance and/or sealed documentation (in a form that is acceptable to RDCK's Building Official) provided by registered professionals, including but not limited to architect(s) and engineers, that provide review and professional assurance that all aspects of construction comply with all relevant aspects of the *Building Bylaw*, *Building Code* and *Plumbing Code*;
- (d) submission of permits and approvals indicating compliance with the B.C. Electrical Code, as defined in the *Electrical Safety Regulation*, BC Reg. 100/2004 and also *Plumbing Code*, and the Defendants' adherence to all recommendations or remedial work found in the registered professionals' reports as necessary to bring the House and Renovated Shipping Containers into compliance with the *Building Code*;
- (e) a registered professional's geotechnical subsoil investigation report and the Defendants' adherence to all recommendations or remedial work;
- (f) a registered professional's report assessing foundation drainage and dampproofing, and the Defendants' adherence to all recommendations or remedial work found in report as necessary to bring the House into compliance with applicable code;
- (g) a registered professional's report, or, at the discretion of RDCK's Building Official, a signed professional assurance declaration by a person holding a Canadian tradesperson's qualification certification as a plumber, that the underslab, rough-in and all other plumbing in relation to the House and Renovated Shipping Containers are-is installed and all required tests are conducted in accordance with the *Plumbing Code*;
- (h) a registered professional's report assessing the installed soil gas barrier and radon mitigation system adherence to all recommendations or remedial work found in report as necessary to bring the House into compliance with applicable code;
- (i) a registered professional's structural condition assessment, including all major and minor framing and fire blocking, and report and the Defendants' adherence to all recommendations or remedial work within the assessment as necessary to bring the House and Renovated Shipping Containers into compliance with applicable code;
- (j) a registered professional's building envelope condition assessment, including insulation, vapour barrier and compliance with energy efficiency-step code requirements, and report and the Defendants' adherence to all recommendations or remedial work found in report as necessary to bring the House into compliance with applicable code;
- (k) a registered professional's report assessing the installed mechanical ventilation system and the Defendants' adherence to all recommendations or

- remedial work found in report as necessary to bring the House into compliance with applicable code or the submission of a mechanical ventilation checklist, sealed by a Thermal Environmental Comfort Association (TECA) qualified heating ventilation and air conditioning (HVAC) professional;
- (l) confirmation of services (Sewerage, Water, Electrical and Gas) and their necessary approvals and adherence to RDCK's Bylaws and the Water Covenant and submission of record of sewerage system and a letter of certification from Interior Health;-and
 - (m) a certificate prepared by a British Columbia Land Surveyor showing that the location of the foundation of the House complies with all setbacks, right-of-ways, the *Building Code* and RDCK Bylaws; including the floodplain setbacks to the natural boundary of Wilson Creek and flood construction levels above the natural boundary of Wilson Creek pursuant to the *Floodplain Bylaw*; and
 - (n) evidence under section 30(1) of the Homeowner Protection Act, SBC 1998, c. 31 that the House is covered by home warranty insurance and the constructor of the House is a licensed residential building, as such term is defined in the Homeowner Protection Act, or is exempt from the requirements of home warranty insurance coverage,

(collectively, the "Professional Reports and Assurances ~~for the House~~").

- 32. On October 10, 2025 the Plaintiff's staff informed the Defendants that the Plaintiff would proceed with processing the Defendants' site specific floodplain exemption application for the House and with the February 14, 2025 Memo.
- 33. On November 10, 2025 Ministry of Water, Land and Resource Stewardship staff indicated to RDCK staff that regardless of whether the RDCK Board issues the site specific floodplain exemption for the House, the Flood Covenant remains valid.
- 34. To the best of RDCK staff's knowledge as of the date of filing of this amended Notice of Civil Claim, the Defendants have not:
 - (a) sought consent from His Majesty the King in Right of the Province of British Columbia as represented respectively by the Minister of Transportation and Minister of Water, Land and Air Protection for a modification or discharge of the Flood Covenant or No Build Covenant;
 - (b) commenced a court application for a modification or discharge of the Flood Covenant or No Build Covenant; or
 - (c) adhered to the terms of the Water Covenant.

35. On January 22, 2026 the RDCK Board considered and denied the issuance of a site specific floodplain exemption for the House.
36. On April 23, 2026 RDCK received from the Defendants a new application for a site specific floodplain exemption for the House and with a new geotechnical hazard report.
21. 37. The Defendants have failed, neglected, ignored or refused to ~~apply for~~:
- (a) obtain site specific floodplain exemptions under the *Floodplain Bylaw* for the House and Z241 Park Model Trailer;
 - (b) obtain a retroactive development permit for the House, Z241 Park Model Trailer and Renovated Shipping Containers;
 - (c) apply for and obtain permits under the *Building Bylaw* for the House and Renovated Shipping Containers;
 - (d) obtain a modification or discharge of the Flood Covenant and No Build Covenant; and
 - (e) adhere to the terms of the Water Covenant.

Part 2: RELIEF SOUGHT

1. The Plaintiff claims against the Defendants for:

(a) a declaration that:

- (i) the Defendants' construction of the House without a building and plumbing permit and occupation of the House without an occupancy permit and concealment of work done before seeking an inspection and after the posting of a Stop Work Order are breaches of sections 4.1, 6.1, 6.2, 8.1.1, 8.1.3, 18.4, 18.5, 19.1 and 22.5 of the *Building Bylaw*;

(ii) the Defendants' erection of Renovated Shipping Containers without building and plumbing permits, and concealment of work done before seeking an inspection and permitting, allowing or acquiescing in the occupation of the Renovated Shipping Containers are breaches of sections 4.1, 6.1, 6.2, 8.1.1, 8.1.2, 8.1.3, 18.4, 18.5, and 19.1 of the *Building Bylaw*;

- (ii) (iii) the Defendants are in breach of sections 489(1)(b) and 489(1)(c) of the *Local Government Act*, and in particular the development permit requirements of the WDPa within the OCP, by constructing the House ~~and~~ erection of the Z241 Park Model Trailer and Renovated Shipping Containers

and by the development and alteration of land in contravention of the development permits requirements of the WDPA; and

- (iii) (iv) the Defendants are in breach of sections 4.1, 7.2(h), 7.1(b)(g), 8.1 and 8.2 of Schedule "A" to the *Floodplain Bylaw* in constructing the House and erection of the Z241 Park Model Trailer within a designated floodplain, and without a floodplain exemption, in contravention of the floodplain set back and, where applicable, the flood construction level requirements of the *Floodplain Bylaw*;
- (b) a mandatory injunction order that, within 30 days of the order, the Defendants remove the House, Z241 Park Model Trailer and Renovated Shipping Containers and restore the lands of the Property to the condition the Property was in before the unlawful construction of the House and erection of the Z241 Park Model Trailer and Renovated Shipping Containers and unlawful development and alteration of the lands of the Property and in accordance with the development permit requirements of the WDPA within the OCP;
- (c) an interim, interlocutory and permanent injunction order that the Defendants or anyone acting on their behalf and all other persons to whom notice of the order may be given, by themselves, their servants or agents, be restrained and enjoined from allowing or permitting the use of the House, Z241 Park Model Trailer and Renovated Shipping Containers;
- (d) in the event that the Defendants do not comply with the order under paragraph 1(b) above, an order that the Plaintiff and the Plaintiff's staff, agents and contractors be authorized to enter onto the Property:
 - (ii) to remove at the Defendants' cost the House, Z241 Park Model Trailer and Renovated Shipping Containers and by the time specified by the Court;
 - (iii) to remediate at the Defendants' cost the lands of the Property to the condition the Property was in before the unlawful development and alteration of the lands of the Property and in accordance with the development permit requirements of the WDPA within the OCP and by the time specified by the Court;
- (e) in the alternative, an order that:
 - (i) the Defendants submit to the Plaintiff a complete site specific floodplain exemption application for each of the unlawfully constructed House, unlawfully erected Z241 Park Model Trailer within a designated floodplain. The Defendants' floodplain site specific exemption applications must

include the *Procedures Bylaw* Information and Fees, Professional Reports and Assurances and Restrictive Covenant for the Floodplain Exemption;

(ii) the Defendants obtain a modification or discharge of:

(A) the No Build Covenant to allow for the House and Z241 Park Model Trailer to be within the covenant area of the of No Build Covenant;

(B) the Floodplain Covenant to allow for:

(I) the House and Z241 Park Model Trailer to be located within 30 metres of the natural boundary of Wilson Creek; and

(II) the underside of the floor system of the Z241 Park Trailer to be 3.0 metres below the natural boundary of Wilson Creek;

(iii) the Defendants adhere to the terms of the Water Covenant;

(ii)(iv) the Defendants submit to the Plaintiff a complete development permit application for the unlawfully constructed House and unlawfully erected Z241 Park Model Trailer and Renovated Shipping Containers and alteration of land within the WDPA. The Defendants' development permit application must include *Procedures Bylaw* Information and Fees and Assessment Report;

(iii)(v) the Defendants submit to the Plaintiff a complete building permit application for each of the unlawfully constructed House and unlawfully erected Renovated Shipping Containers. The Defendants' building permit applications must include the applicable Professional Reports and Assurances ~~for the House~~;

(iv)(vi) should the Plaintiff issue the site specific floodplain exemptions, the building, plumbing and development permits in accordance with statutory requirements and *Floodplain Bylaw* requirements, OCP WDPA development permit requirements, *Procedures Bylaw* and *Building Bylaw* requirements, then upon the Plaintiff's issuance of building and plumbing permits, development permit and site specific floodplain exemptions, the Defendants must meet all of the obligations of the building and plumbing permits, development permit conditions and site specific floodplain exemptions, and the authorized works and alterations must be completed, within 90 days of the issuance of the site specific floodplain exemptions and respective permits;

(v)(vii) subject to facilitating and implementing paragraphs 1(e)(i) through 1(e)(vi)(iv), inclusive, of the an order for an interlocutory injunction

restraining the Defendants or anyone acting on their behalf and all other persons to whom notice of the order may be given, by themselves, their servants or agents, from use of the House, Z241 Park Model Trailer and Renovated Shipping Containers until the site specific floodplain exemption_s, development permit and building, plumbing and occupancy permits have been issued;

- (f) a permanent injunction restraining the Defendants from altering the Property, or re-introducing structures, without applying for and the Plaintiff's issuance of such approvals as may be required, including floodplain exemptions, development permits and building, plumbing and occupancy permits;
- (g) the Plaintiff's costs of these proceedings;
- (h) special costs of these proceedings; and
- (i) such further and other relief as the Honourable Court may deem just.

Part 3: LEGAL BASIS

Jurisdiction

1. The Plaintiff is a local government with jurisdiction to:
 - (a) regulate with respect to floodplain areas under section 524 of the *Local Government Act*;
 - (b) regulate with respect to the protection of the natural environment, its ecosystems and biodiversity further to the development permit provisions of Part 14 of the *Local Government Act*, including sections 488 through 491, inclusive;
 - (c) define procedures under which a person may apply for a development permit and site specific floodplain exemption under sections 460 and 524(7) of the *Local Government Act*; and
 - (d) regulate construction, repairs, demolition and alterations to and reconstruction of buildings and structures and installation, alteration or repair of plumbing including septic tanks and sewer connections, heating, air conditioning, electrical wiring and equipment, gas or oil piping and fittings, appliances and accessories of every kind, under Division 1 of Part 9 of the *Local Government Act* and further to sections 55, 56 and 57 of the *Community Charter* pursuant to section 302 of the *Local Government Act*.

OCP and Development Permits

2. The Province has delegated to the Plaintiff through section 488(1)(a) of the *Local Government Act* the legal authority to designate development permit areas and to establish guidelines within its OCP to protect the natural environment.
3. The Plaintiff has jurisdiction to require the Defendants to obtain a development permit prior to undertaking any subdivision, construction or alteration of buildings or structures on or alteration of land of the Property.
4. Sections 491(1)(a), 491(b) and 491(e) provide that for land designated under section 488(1)(a) of the *Local Government Act*, a development permit can specify areas of land that must remain free of development except in accordance with conditions contained in a permit, require specified natural features or areas to be preserved, protected, restored or enhanced and require protection measures, including that vegetation or trees be planted or retained in order to preserve, protect, restore or enhance fish habitat or riparian areas.
5. The portion of the Property in and on which the Defendants constructed the House and erected the Z241 Park Model Trailer and Renovated Shipping Containers is and has been designated under section 488(1)(a) of the *Local Government Act* for the protection of the natural environment, its ecosystems and biodiversity. The WDPA includes lands within a riparian assessment area for fish and wildlife habitat and drinking water, which includes all watercourses and adjacent land within 30 metres of the highwater mark of a watercourse.
6. The OCP sets out the special conditions and objectives of the land designation of the WDPA and specifies the guidelines respecting the manner by which the special conditions or objectives will be addressed. Under sections 490(1) and 490(2) of the *Local Government Act* the Plaintiff may, by resolution, issue a development permit that sets out the requirements, conditions and standards that are in accordance with the WDPA guidelines for addressing the specific conditions and objectives of the WDPA.
7. Designation of the Property under section 488(1)(a) of the *Local Government Act* gives express authority to the Plaintiff to require the Defendants to provide, at their expense, to the Plaintiff an assessment report prepared and certified by a QEP:
 - (a) in accordance with the *Riparian Areas Protection Regulation*; and
 - (b) which provides an opinion that a lesser setback will not negatively affect the functioning of the watercourse or riparian area and that the criteria listed in the *Riparian Areas Protection Regulation* has been fulfilled,

and in order to assist the Plaintiff in determination of appropriate conditions or requirements under sections 490(1)(b), 490(2) and 491(1) of the *Local Government Act* that the Plaintiff will impose in relation to development permits for alteration of land of the Property and construction of the House within the WDPA.

8. Section 490(4) of the *Local Government Act* prohibits the Plaintiff from issuing a development permit in relation to a floodplain specification set out in *Local Government Act* section 524(3).

Floodplain Bylaw

9. *Local Government* section 524(3) allows the Plaintiff to designate land that is a floodplain and specify within the *Floodplain Bylaw* the floodplain setbacks from and flood construction levels above the natural boundary of Wilson Creek.
10. The siting of the House and Z241 Park Model Trailer are is located within the 30 metre floodplain setback in contravention of section 7.2(h), 4.1 and 8.2 of Schedule "A" to the *Floodplain Bylaw* (and for context of the contraventions, see: the definitions within section 5 of the *Floodplain Bylaw* for "Building", "Floodplain", "Floodplain Setback", "Natural Boundary" and "Watercourse"; Schedule "B" – Floodplain Map- to the *Floodplain Bylaw*; and section 2.1 of the *Floodplain Bylaw* and section 6.1 of Schedule "A" to the *Floodplain Bylaw* and Schedule "C" - Floodplain Requirement Table- to the *Floodplain Bylaw*).
11. The ~~House is also constructed and the~~ Z241 Park Model Trailer was erected below the 3.0 metre flood construction level from the natural boundary of Wilson Creek in contravention of sections 7.1(b)(g), 4.1 and 8.1 of Schedule "A" to the *Floodplain Bylaw* (and for context of the contraventions, see: the definitions within section 5 of the *Floodplain Bylaw* for "Building", "Floodplain", "Flood Construction Level", "Natural Boundary"; Schedule "B"- Floodplain Map - to the *Floodplain Bylaw*; and section 2.1 of the *Floodplain Bylaw* and section 6.1 of Schedule "A" to the *Floodplain Bylaw* and Schedule "C" – Floodplain Requirement Table - to the *Floodplain Bylaw*).
12. Under section 524(7) (and the definition of "Provincial Guidelines" within section 524(1) of the *Local Government Act*) and sections 11.1, 11.2 and 11.3 of Schedule "A" to the *Floodplain Bylaw*, the Plaintiff may, by resolution, issue an exemption to the *Floodplain Bylaw* and require:
 - (a) reports of a professional engineer certifying the land and structures may be used safely for the use intended and in accordance with the conditions specified in the professionals' reports in relation thereto and in accordance with

the Provincial Flood Hazard Area Land Use Management Guidelines and the Engineers and Geoscientists of British Columbia's Legislated Flood Assessments in a Changing Climate in BC and associated practice guidance and guidelines, and

- (b) a restrictive covenant and indemnity further to section 219 of the *Land Title Act*.

Procedures Bylaw

13. The *Procedures Bylaw* is a local government enactment that derives its authority under sections 460 and 502 of the *Local Government Act* and allows the Plaintiff to define procedures under which a person may apply for a development permit and site specific floodplain exemption.
14. Section 4 of the *Procedures Bylaw* explains that it applies to the issuance of a development permit and site specific floodplain exemption.
15. Sections 6, 7, 8(b) and 8(f) and Schedules "D" and "H" (and Schedule "B"- Development Sign, Schedule "Q" - Security for Landscaping and Schedule "A"- Fees) of the *Procedures Bylaw* set out what is required for a development permit and site specific floodplain exemption.
16. Section 10 of the *Procedures Bylaw* requires the Defendants to pay fees at the time of submission of the development permit and site specific floodplain exemption and during the processing of such applications as specified in Schedule "A" to the *Procedures Bylaw*.

Building Bylaw

17. The *Building Bylaw* is a local government enactment that derives its authority under Division 1 of Part 9 of the *Local Government Act* and further to sections 55, 56 and 57 of the *Community Charter* pursuant to section 302 of the *Local Government Act*. The *Building Bylaw* requires every person to:
 - (a) apply for and obtain a permit prior to the construction, alteration, reconstruction, demolition, removal, relocation or change in the occupancy of any building or structure or plumbing system or other work related to construction;
 - (b) seek inspections before the concealment of aspects of work done; and

(c) immediately cease construction after the posting of a Stop Work Order and until all applicable provisions of the *Building Bylaw* have been substantially complied with and the Stop Work Order has been rescinded.

18. Sections 4.1, 6.1, 8.1.1 and 8.1.3 of the *Building Bylaw* prohibit the construction and occupation or use of any building or structure unless valid and subsisting building, plumbing and occupancy permits have been issued for the building or structure and plumbing system.

19. Section 8.4 of the *Building Bylaw* provides that each building, structure or plumbing system requires a separate permit and is assessed as separate permit fee.

19. 20. Sections 4.1, 6.2 and 19.1 of the *Building Bylaw* provides that no person shall occupy or use a building or structure until an occupancy permit has been issued.

20. 21. Sections 4.1, 18.3 and 18.4 of the *Building Bylaw* require an inspection of aspects work done prior to concealment of such work.

21. 22. Sections 4.1, 6.2, 22.2 and 22.5 of the *Building Bylaw* prohibit continued construction after the posting of a Stop Work Order.

22. 23. Sections 8.2, 8.3, 10.1 through 10.1.5, inclusive, 12.1 and 12.2 of the *Building Bylaw* set out what must accompany building permit applications for the House.

23. 24. Section 10.1.5.5 and 10.1.5.6 of the *Building Bylaw* require a site plan showing the floodplain setbacks to the natural boundary of Wilson Creek and flood construction levels above the natural boundary of Wilson Creek pursuant to the *Floodplain Bylaw*.

24. 25. Sections 16.1 and 16.2 of the *Building Bylaw* allows RDCK's Building Official to require that registered professionals provide design and plan certification and field review by means of letters of assurance in the form referred to in the *Building Code*.

25. 26. Section 56 of the *Community Charter*, which is applicable to RDCK under section 302(b) of the *Local Government Act*, requires reports of professionals certifying the land and the House and Renovated Shipping Containers may be used safely for the use intended and in accordance with the conditions specified in the professionals' reports.

26. 27. The Defendants have not complied with the permit application provisions of the *Building Bylaw* and *Community Charter* and, to the best of RDCK's knowledge, the *Building Code*.

Restrictive Covenants

27. 28. Section 2 of the No Build Covenant provides that no building or structure, or any part of a building or structure, including any fixed equipment, mobile home or modular home, shall be constructed, reconstructed, moved, extended or located, nor shall any landfill, land clearing or any other disturbance take place within the lands subject to the No Build Covenant.
28. 29. Section 1 of the Water Covenant provides that no building shall take place on the Property until the Defendants receives information from the Ministry of Health regarding the potability of a surface water source.
29. 30. Section 1(a) of the Flood Covenant provides that no building, mobile home or unit, modular home or structure, shall be constructed, reconstructed, moved, extended or located within 30 metres of the natural boundary of Wilson Creek.
30. 31. Section 1(b) of the Flood Covenant provides that no area used for habitation, business, or storage of goods damageable by floodwaters shall be located within any building at an elevation such that the underside of the floor system is less than 3.0 metres above the natural boundary of Wilson Creek.

Statutory Injunctions

31. 32. Under section 274 of the *Community Charter*, and section 420 of the *Local Government Act*, in addition to any other remedy or penalty, and Rule 10-4 of the *Supreme Court Civil Rules*, BC Reg 168/2009, the Plaintiff is authorized to restrain and prevent contravention of the Plaintiff's bylaws by bringing a proceeding in this court.
32. 33. The Plaintiff is entitled to decide when and under what circumstances the Plaintiff will enforce its bylaws and once a clear breach of the Plaintiff's bylaws is established the court must grant a statutory injunction restraining the occupation of the unlawfully constructed House and to order among other things, removal of the House, Z241 Park Model Trailer and Renovated Shipping Containers unless there are exceptional circumstances.

Vancouver (City) v. Stathis, 2003 BCSC 799 at paragraphs 1, 7 to 9

Burnaby (City) v. Pocrnic, 1999 BCCA 652 at paragraphs 19 to 21

Regional District of Kootenay Boundary v. Demski, 2000 BCSC 877 (CanLII) at paragraphs 4 to 6, 10 and 12

Surrey (City) v. Singh, 2022 BCSC 1455 (CanLII) at paragraphs 13, 38, 39, 41, 43 and 45

Surrey (City) v. Sidhu, 2023 BCSC 1837 at paragraphs 4, 31 to 37 and 39

Alberni-Clayoquot (Regional District) v. Berrow, 2020 BCSC 1676 (CanLII) at paragraphs 49, 47, 48

Bowen Island (Municipality) v. Haxby, 2022 BCSC 2069 (CanLII) at paragraphs 19, 22, 24 (and see also paragraphs 12 to 16)

Fraser Valley (Regional District) v. 13H313 Holdings Corp., 2025 BCSC 1590 (CanLII) at paragraph 23 (and also see paragraphs 25, 30, 31, 32, 34, 36, 37, 38, 39, 40, 41 and 42)

British Columbia (Minister of Environment, Lands & Parks) v. Alpha Manufacturing Inc., 1997 CanLII 4598 (BCCA) at paragraphs 30 and 32 to 34

33. 34. When a local government seeks to enforce its bylaws, the remedy sought is a statutory injunction rather than an equitable injunction. Usual equitable considerations do not apply to a statutory injunction.

Burnaby (City) v. Oh, 2011 BCCA 222 at paragraphs 41 and 42

Maple Ridge (District of) v. Thornhill Aggregates Ltd., 1998 CanLII 6446 (BCCA) at paragraphs 7, 8, 9, 12 and 14

34. 35. Section 418 of the *Local Government Act* provides that the authority of a regional district to require that something be done includes the authority to fulfill the requirement at the expense of a person who fails to take the required action.
35. 36. Contravention of the *Building Bylaw*, *OCP* and *Floodplain Management Bylaw* allows the court to order the remediation of the Property to the extent to which the effects of the contravention of the Bylaws can be done – as would have been required by a development permit issued by RDCK.

Section 274 of the *Community Charter* and section 420 of the *Local Government Act*

Denman Island Local Trust Committee v. Ellis, 2005 BCSC 1238 at paragraphs 84 to 85, aff'd *Denman Island Local Trust Committee v. Ellis*, 2007 BCCA 536 at paragraphs 52 to 54, 56 to 57

North Cowichan (District) v. Fokkema, 2014 BCSC 886 at paragraphs 89 to 93, 97 to 99

Mission (City) v. Obasohan, 2023 BCSC 1919 (CanLII) at paragraphs 44 to 49 and 53

Restrictive Covenants

36. [37.](#) The Restrictive Covenants are binding on the Defendants as successors in title under section 219(7) of the *Land Title Act*.

Capital Regional District v. Millstream Industrial Park Ltd., 1990 CanLII 497 (BCSC) at page 7

37. [38.](#) The enforcement of a negative covenant is a matter of specific performance. The court may order the defaulting party under a restrictive covenant to carry out its negative bargain.

Capital Regional District v. Millstream Industrial Park Ltd., 1990 CanLII 497 (BCSC) at pages 8 and 9

38. [39.](#) An injunction is the usual remedy for the contravention of a restrictive covenant.

417489 BC Ltd. v. Scana Holdings Ltd., 1998 CanLII 6770 (BCSC) at paragraphs 8 to 13, inclusive

Racanelli v. Burnaby (City of), 1998 CanLII 3833 (BCSC) at paragraphs 35, 36, 43 and 44 and see paragraphs 8, 9 and 10 of the supplemental reasons indexed at [1998] BCJ No. 140

Costs

39. [40.](#) The Plaintiff seeks its costs and also special costs of this proceeding under Rule 14-1 of the *Supreme Court Civil Rules*.

40. [41.](#) This proceeding is important to the Plaintiff in that it is important to demonstrate that the Plaintiff's Bylaws will be enforced as a matter of public policy. The Defendants' defiance of the Plaintiff's Bylaws was flagrant.

Regional District of Kootenay Boundary v. Demski, 2000 BCSC 877 at paragraphs 5, 6, 7 and 11

41. [42.](#) This proceeding is also important to the Plaintiff since there can be significant costs associated with emergency response and structural protection in a flood event. These costs are absorbed by the Plaintiff and Province and ultimately place

a burden on all taxpayers. Contraventions of the *Floodplain Bylaw* and the *Floodplain Bylaw* requirements can increase such costs.

42. 43. Special costs of these proceedings may be ordered against the Defendants for their deliberate flouting of the OCP and the requirements of the WDPA within the OCP in relation to the construction of the unlawful House and unlawful erection of the Z241 Park Model Trailer and Renovated Shipping Containers and unlawful development and alteration of the land of the Property.

Denman Island Local Trust Committee v. Ellis, 2005 BCSC 1238 (at paragraphs 83 to 84 and 89, aff'd *Denman Island Local Trust Committee v. Ellis*, 2007 BCCA 536 at paragraphs 52 to 54 and 56 to 57

Surrey (City) v. Singh, 2022 BCSC 1455 (CanLII) at paragraphs 39, 46 and 48

Plaintiff's address for service:

Regional District of Central Kootenay
c/o Phoenix Law Corporation and Carvello Law Corporation
203 – 1005 Broad Street
Victoria, BC V8W 2A1

Fax number address for service (if any):

E-mail for service (if any): dana@phoenixlaw.ca

Place of trial: Nelson, British Columbia

The address of the registry is:

320 Ward Street
Nelson, British Columbia
V1L 1S6



Date: September 5, 2024 May 14, 2026

Dana J. Goodfellow, Counsel for the
Plaintiff, Regional District of Central
Kootenay

This **AMENDED NOTICE OF CIVIL CLAIM** was delivered by Dana J. Goodfellow of the law firm of Phoenix Law Corporation and Luigi ("Lui") Carvello of the law firm of Carvello Law Corporation, 203 – 1005 Broad Street, Victoria, BC V8W 2A1.

Rule 7-1 (1) of the *Supreme Court Civil Rules* states:

1. Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

Appendix

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

1. The Plaintiff, the Regional District of Central Kootenay, seeks declarations that the Defendants are in breach:
 - (a) of the development permit requirements of the Plaintiff's OCP in development of and altering land and constructing the House and erecting the Z241 Park Model Trailer and Renovated Shipping Containers on land and a portion of the Defendants' Property within RDCK designated as a Watercourse Development Permit Area;
 - (b) of the Plaintiff's *Building Bylaw* in constructing and occupying the House and erecting the Renovated Shipping Containers on the Defendants' Property without permits;
 - (c) of the Plaintiff's *Floodplain Bylaw* in constructing the House and erecting the Z241 Park Model Trailer within the floodplain of Wilson Creek and without a site specific floodplain exemptions and in contravention of the floodplain setback and where applicable, the floodplain construction level requirements of the *Floodplain Bylaw*; and
 - (d) restrictive covenants registered against the title to the Defendants' Property.
2. The Plaintiff seeks a mandatory injunction directing the Defendants to remove the unlawfully constructed House and unlawfully erected Z241 Park Model Trailer and Renovated Shipping Containers and restore the Property to the condition it was in

before the alteration of the land of the Property and construction of the House and erection of the Z241 Park Model Trailer and Renovated Shipping Containers.

3. In the alternative, the Plaintiff seeks that the Defendants submit a complete development permit application, building permit applications and site specific floodplain exemption applications with all required supporting documents and undertake all work within the time specified by the Court and in accordance with the requirements of an issued development permit, site specific floodplain exemption and building, plumbing and occupancy permits.
4. Subject to fulfilling the requirements of paragraph 3 above, the Plaintiff seeks an interim, interlocutory and permanent injunction restraining the Defendants or anyone acting on their behalf and all other persons to whom notice of the injunction may be given, by themselves, their servants or agents, from use of the House, Z241 Park Model Trailer and Renovated Shipping Containers until and unless development, building, plumbing and occupancy permits and a site specific floodplain exemption has been issued.
5. The Plaintiff seeks an order that the Plaintiff and Plaintiff's agents be authorized to enter onto the Property and remove the House, Z241 Park Model Trailer and Renovated Shipping Containers and remediate the Property at the cost to the Defendants if the Defendants have not applied for and obtained a development permit and building, plumbing and occupancy permits and a site specific floodplain exemption by the time specified by the Court.
6. The Plaintiff seeks costs and special costs of these proceedings.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- ☐ a motor vehicle accident
- ☐ medical malpractice
- ☐ another cause

A dispute concerning:

- ☐ contaminated sites
- ☐ construction defects
- ☐ real property (real estate)
- ☐ personal property

- ☐ the provision of goods or services or other general commercial matters
- ☐ investment losses
- ☐ the lending of money
- ☐ an employment relationship
- ☐ a will or other issues concerning the probate of an estate
- ☒ a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- ☐ a class action
- ☐ maritime law
- ☐ aboriginal law
- ☐ constitutional law
- ☐ conflict of laws
- ☒ none of the above
- ☐ do not know

Part 4: *Local Government Act*, RSBC 2015, c. 1
 Community Charter, SBC 2003, c. 26
 Slocan Lake North portion of Electoral Area "H" Official Community Plan
 Bylaw No. 1967, 2009 ("OCP")
 Riparian Areas Protection Regulation, BC Reg 178/2019
 Regional District of Central Kootenay Planning Procedures and Fees Bylaw
 No. 2457, 2015
 Floodplain Management Bylaw No. 2080, 2009
 Regional District of Central Kootenay Building Bylaw No. 2200, 2010
 Building Code made under the *Building Act*, SBC 2015, c. 2, establishes the
 British Columbia Building Code, Ministerial Order BA 2023 10, made under
 the *Building Act*, SBC 2015, c. 2, establishes the British Columbia Building
 Code, effective March 8, 2024
 Land Title Act, RSBC 1996, c. 250
 Supreme Court Civil Rules, BC Reg 168/2009