

Keddleston/McLennan Road Alliance
c/o 7765 McLennan Road
Vernon, BC V1B 3S7

November 2, 2023

Regional District of the North Okanagan
9848 Aberdeen Road
Coldstream, BC V1B 2K9

By email: publichearing@rdno.ca

Re: Zoning Amendment Bylaw No. 2850 (19-0906-C-RZ Chris Bonnough)

WSP Canada Inc., formerly Golder Associates Ltd (“WSP”)

In an effort of due diligence, the RDNO retained WSP to provide an unbiased opinion with respect to the groundwater in the Keddleston area. For the period of 2018 to 2022, the RDNO has paid WSP \$869,224.00 for their opinions and expertise. Despite the opinions of WSP, the RDNO continues to accept the findings of the hydrogeologists retained by the Developers to the detriment of the existing properties with wells.

With respect to the Nodding hill development (Bylaws 2771 and 2772), the RDNO accepted the findings of Wester Water Associates even though they are not hydrogeologists and asked for review by WSP (Attached email from the Planning Department to WSP dated March 2, 2023).

The Planning Department’s Information Report, Re-zoning Application Report dated November 20, 2019 with respect to Bylaw 2850

The Planning Department states at page 2:

“The Final Adoption of Zoning Amendment Bylaw No. 2850, 2019 be withheld until the applicant has made suitable arrangements with the Regional District of North Okanagan to provide an approximate 0.5 m to 1.0 m wide public hiking trail within a 6 m wide Statutory Right of Way that would link McLennan Road through the subject property to the existing Grey Canal Trail”.

The Planning Department states at page 4:

“An application for subdivision, to create three 2 ha lots plus one remainder lot, was submitted to the Ministry of Transportation and Infrastructure on May 17, 2017. As the area subject of the subdivision included lands with High Conservation Ranking, an Environmentally Sensitive Lands Development Permit was required and covenants, to address protection of environmentally sensitive areas, were registered on the titles of the three new lots and the remainder lot (the subject property)”.

There is no Environmentally Sensitive Lands Development Permit in the Agenda Package of today.

The Planning Department states at page 5:

“Prior to final subdivision approval, unless an exemption applies, a Development Permit will be required which assesses the impact of development activities on riparian areas and terrestrial environmentally sensitive areas”.

There is no development permit or report addressing the riparian areas in the Agenda Package of today.

The Planning Department states at page 5:

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“With respect to environmentally sensitive areas, the Official Community Plan identifies the majority of the subject property as having a High Conservation Ranking while the westerly edge of the property is identified as having a Very High Conservation Ranking. Development Permit guidelines suggest that subdivisions should be designed to protect environmentally sensitive areas and wildlife habitat and a report by a Qualified Environmental Professional may be required. The Development Permit process is intended to address protection of riparian and terrestrial environmentally sensitive areas”.

None of these recommendations have been completed. Despite having a Very High Conservation Ranking, there is no environmental impact study on file nor in the Agenda Package.

The Planning Department states, at page 8, the RDNO’s policies which have been breached:

“Natural Area Policies

11.2.1 Land within the Environmentally Sensitive Land, Development Permit Areas as designated on Schedule ‘C’ shall not be altered or developed, or subdivision approval granted, *unless a Development Permit is issued in accordance with the guidelines in this plan* (emphasis added)

11.2.3 All development within the Regional District shall be *undertaken in compliance with the provincial Riparian Areas Regulation* (emphasis added)

11.2.6 Encourage the voluntary protection of natural features.

11.2.7 *Encourage the protection, preservation, enhancement and management of sensitive ecosystems or land contiguous to sensitive ecosystems of private lands through the following methods* (emphasis added):

- a. Donation of areas to the Regional District or provincial government;
- b. Donation of areas to a Land Trust or conservation organization;
- c. Creation of conservation covenants in favour of municipal, provincial government, private conservation organizations;
- d. Establishment of statutory right of ways under the Land Title Act for affected areas;
- e. Establishment of long-term leases for sensitive areas;
- f. Land stewardship and participation in conservation initiatives by the private landowner;
- g. Consideration of alternative development standards, such as clustering.

The Planning Department further states at page 9,

“Environmentally Sensitive Lands Development Permit Area

The subject property will require an Environmentally Sensitive Lands Development Permit at the time of subdivision as the property falls within areas of High and Very High Conservation Ranking as identified on map Schedule ‘C’ of the Official Community Plan. The primary objective of the Environmentally Sensitive Lands Development Permit Area designation is to regulate development activities in areas of High and Very High conservation value to protect rare and fragile terrestrial ecosystems and habitat for endangered species or native rare vegetation or wildlife.

Riparian and Swan Lake Development Permit Area

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The Regional District considers that all watercourses are within the Riparian and Swan Lake Development Permit Area. Given the presence of watercourses within the subject property, a Riparian and Swan Lake Development Permit will be required at the time of subdivision unless an exemption applies. The primary objective of the Riparian and Swan Lake Development Permit designation is to regulate development activities in watercourses and their riparian areas in order to preserve natural features, functions and conditions that support natural processes”.

None of these recommendations have been completed.

Attached is a letter dated November 12, 2019, from the Ministry of Forests, Lands, Natural Resource Operations and Rural Development to the RDNO outlining their requirements that have not been fulfilled to date.

11 Developments in the Keddleston Area as of April 2020 (Letter to Lui Carvello, dated April 7, 2020)

In addition to the within Development, there are 10 others as of April 7, 2020 (page 3).

The Planning Department states on page 2:

“Based on the hydrogeological information and water balance estimates described in the Golder (*now WSP*) study, it is inferred that within the study area, Aquifer 350 has the least capacity for further development, followed by Aquifer 351, and to a lesser extent, Aquifer 349. The study determined that Aquifer 350 has a high risk with respect to groundwater availability under both the lower-bound and upper-bound estimates. Aquifer 351 has a medium to high risk and Aquifer 349 has a low to medium risk with respect to groundwater availability”

We would appreciate being provided with a copy of Mr. Carvello’s legal opinion given that the retainer letter has been produced by the RDNO and solicitor/client privilege has been waived. The report was procured with taxpayer funding.

RDNO Staff Report dated November 28, 2022

Despite knowing that there is a medium to high risk that there will be no groundwater, the Planning Department continues to recommend that Bylaw 2771 and 2772 (Noddinghill), would have enough groundwater sources to service a full buildout of **30 lots** and the use of groundwater supplies would not have a negative impact on the use of existing wells that obtain water from Aquifer 351. (*Recommendation 1*)

Despite knowing that there is a low to high risk of insufficient groundwater, the Planning Department continues to recommend that Bylaw 2805 (Wilson Jackson) will have enough groundwater sources available to the **4 lots** and that the groundwater supplies would not have a negative impact on the use of existing wells from Aquifers 349 and 351 (*Recommendation 2*).

Further consideration of Bylaw 2838 (Wallace Road) is withheld until the applicant submits a hydrogeological report that provides an evaluation of how the proposal aligns with the findings and recommendations of the Keddleston Groundwater Study which states that there are groundwater sources available to the **8 lots** and the use of groundwater supplies would not have a negative impact on the existing wells (*Recommendation 3*). This is despite the Planning Department knowing there is insufficient groundwater.

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Further consideration of Bylaw 2850 (7500 McLennan Road, the within Application) is withheld until the applicant submits a hydrogeological report that provides an evaluation of how the proposal aligns with the findings and recommendations of the Keddleston Groundwater Study which states that there are groundwater sources available to the **8 lots** and the use of groundwater supplies would not have a negative impact on the existing wells (*Recommendation 4*). This is despite the Planning Department knowing there is insufficient groundwater.

Further consideration of Bylaw 2903 (Forsberg Road) is withheld until the applicant submits a hydrogeological report that provides an evaluation of how the proposal aligns with the findings and recommendations of the Keddleston Groundwater Study which states that there are groundwater sources available to the **30 lots** and the use of groundwater supplies would not have a negative impact on the existing wells (*Recommendation 5*). This is despite the Planning Department knowing there is insufficient groundwater.

The Keddleston/McLennan Road area is in a High and Very High Conservation Area (according to the Official Community Plan, Schedule C) with insufficient groundwater, yet the Board is contemplating zoning changes and **80 lots**. This is negligent.

The RDNO's stewardship of these environmentally sensitive lands is negligent.

The Hydrogeologists and or the RDNO have failed to provide the current well owners a contingency plan should the groundwater be insufficient, and the current wells are adversely affected.

Staff Report to the Electoral Area Advisory Committee dated November 25, 2022

There was feedback received in opposition to Bylaw 2930 which was brought to the attention of the RDNO.

One anonymous hydrogeologist with Western Water Associates (expert retained in Bylaw 2771, 2772) stated the following:

"Hello, I am a hydrogeologist with Western Water based in Vernon and have reviewed the proposed amendments to the RDNO subdivision servicing Bylaw in Electoral Area C. My partner Doug Geller previously provided technical comments on the proposed changes that I am in agreement with. I won't repeat those here in detail but in brief, those included issues with testing wells in the dry part of the year and expecting full recovery when recharge is not occurring, and complications with assessing well interference when running multiple wells at the same time.

Under the proposed changes to the Bylaw, I think the bar for proof of water is being raised to a point where it is no longer going to be possible, from logistical, technical and cost standpoints, for additional subdivisions to occur, other than perhaps the occasional one or two lot subdivision. I would estimate the cost of completing a subdivision proof of water study for say a three lot subdivision would triple or more from the current costs incurred by a proponent. There are several issues with the proposed change requiring all wells to be pumped simultaneously. As mentioned, it will be nearly impossible to adequately discern and characterize well interference effects. In the case of monitoring offsite wells in the area, if interference effects are observed, we could not determine whether the interference was a result of pumping all the wells or just one of the wells. Further, it is logistically challenging to pump more than three wells at the same time. Well pump contractors are not set up for that. In my career, I have not been involved in a project where more than two wells have been purposely pumped simultaneously for a controlled

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pumping test.

Lastly, I have issues with the proposed certification document. This particular certification stops short of requiring me to certify with my seal that a given well will meet the Bylaw quantity requirement in perpetuity (which I have seen in other local government bylaws and which I will not sign). I provided this proposed RDNO document to our insurance provider for comment. It was recommended to me that I not sign certification documents like this until our insurance underwriter was given opportunity to review and approve.

As a professional of record, it is unlikely I could design and execute a proof water program that would fully satisfy the proposed Bylaw requirements for anything more than a two lot subdivision. Rather than take on a project I knew I would not be able to adequately complete, I would likely decline future opportunities in this area".

How are all the developments going to simultaneously conduct a pump test to ensure the existing wells aren't adversely impacted?

Obviously, the current applications for development are highly controversial and it would behoove the RDNO to seek further legal advice on whether these developments should proceed.

Breach of Section 71 of the Water Sustainability Act [SBC 2014] Chapter 15

I have not received, nor do I know of any resident in the area that has received notice under the Water Sustainability Act, which states:

Notice to affected persons

71 (1) This section applies if the responsible person for a water sustainability plan becomes aware that the plan may contain recommendations that, if implemented, would likely

(a) detrimentally affect the rights of any of the following:

- (i) an authorization holder;
- (ii) a change approval holder;
- (iii) a drilling authorization holder;
- (iv) an applicant for an authorization, change approval or drilling authorization;
- (v) a riparian owner;
- (vi) a person holding a right in relation to the use of land or resources, or
- (b) physically affect the land of a land owner.

(2) In the circumstances referred to in subsection (1), the responsible person must, as soon as reasonably possible after the circumstances arise, give notice, in accordance with section 117 [*delivery and publication of documents and information*] or the regulations, to the person whose rights or land would likely be affected that a water sustainability plan is proposed to be prepared, or is being prepared, as applicable, and that the person's rights may be detrimentally affected, or the person's land may be physically affected, as the case may be.

(3) A person who is given notice under subsection (2) may deliver to the responsible person within the period specified in the notice any concerns the person has with the proposed recommendations.

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Breach of the *Water Sustainability Act, Water Sustainability Regulation, Last amended February 10, 2023, by B.C. Reg. 32/2023*

The RDNO and the hydrogeologists owe a duty of care to the existing wells and will be in breach of the following:

Protection of other water users

50 - An authorized person who, under this Part, diverts or uses water from a stream or an aquifer must ensure that the water supply and works of persons who are lawfully diverting or using water under the Act are not adversely affected.

Official Community Plan Bylaw 2626, 2014 – Community Water System

Residential development within the Growth Area as defined by the Regional Growth Strategy Bylaw 2500, 2011 shall require a connection to a community water system.

The RDNO states that the subject properties are not in a Growth Area as defined by the Regional Growth Strategy. They are in a Rural Protection Area.

However, since Bylaw 2771 and 2772 (Nodding hill) has been granted zoning amendments and the Township of Spallumcheen at the end of McLennan Road has also changed their zoning, the density and characteristics of the area is changing. Just because the RDNO hasn't passed a Bylaw yet doesn't mean that this area is not growing. The need for a community water system needs to be considered if the RDNO wants to continue pushing these applications through a high and very high conservation area.

Additionally, the east side of Mr. Bonnough's property abuts properties that are connected to City of Vernon water and sewer. Why is there no feasibility study investigating running services up to Mr. Bonnough's proposed subdivision?

Summary

We cannot understand why the RDNO continues to move these Developments forward when they know or ought to know that the Keddleston area groundwater is insufficient. The RDNO has paid \$869,224.00 for an unbiased opinion yet continues to accept the Developers' hydrogeologist's opinion. Why is this?

The RDNO also fails to require the Developers to complete the Planning Department's recommendations pursuant to OCP, the recommendations from the Ministry of Forests, the Bylaws, and the various applicable statues and regulations of British Columbia.

There is significant liability exposure which has been contemplated by the Planning Department in their request for a legal opinion dated April 7, 2020. Without requiring a surety posted by the Developers to protect the existing property owners, there is no other recourse but to seek damages against the RDNO, its members, the applicants and the hydrogeologists should these developments proceed and our wells are adversely impacted.

Respectfully submitted,


Wendy Hoffman
Keddleston/McLennan Road Alliance

6/16

To: 'Bolton, Mark' <mark.bolton@wsp.com>
Cc: Alec Busby <alec.busby@rdno.ca>; Rob Smailes <rob.smailes@rdno.ca>
Subject: RE: Keddleston- CO#4

Hi Mark,

I was just talking to Rob and he would really like the Noddinghill (Western Water) report sent to you reviewed by next Wednesday as they have a public open house at EAAC on Thursday. Planning has reviewed the report and didn't see any red flags but of course they are not hydrogeos so really looking to get your input. They would really like to know if there are any red flags they should be aware of.

17-0350-C-OR – 7505, 7601 and 7605 McLennan Road (Nodding Hill)

Report dated October 2021 by Western Water Associates Ltd:
<https://www.rdno.ca/sites/default/files/2022-12/WWAL19-049-02%20Nodding%20Hill%20Groundwater%20Assessm.pdf>

Report dated June 13, 2022 by Western Water Associates Ltd:
<https://www.rdno.ca/sites/default/files/2022-12/WWAL%2017-049-02%20Nodding%20Hill%20June%202022%20Water%20Le.pdf>

Their next priority is the is:

19-0906-C-RZ – 7500 McLennan Road [REDACTED]

This will be likely going to an open house in April, so comment by mid-March would be good.

The subdivision input is the last priority but still would like to get a time frame on when that can be done soon.

Can you please confirm you can take a look at the western water reports by next Wednesday and let us know if you want to set up a zoom meeting with Rob and Greg next week to discuss. Thanks.

Regards,

Zee Marcolin, P.Eng.
General Manager, Utilities
Phone: 250-550-3660

From: Alec Busby
Sent: March 1, 2023 2:17 PM
To: 'Bolton, Mark' <mark.bolton@wsp.com>
Cc: Zee Marcolin <zee.marcolin@rdno.ca>
Subject: Keddleston- CO#4

Hey Mark,

Sorry for the delay. Let's go ahead with the bare-bones, no additional options scope at this point (the \$34,900 scope). At this point we have Community Works funds for continuing with (and

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November 12, 2019

File: 2019079
Your File: 19-09060C-RZ

Regional District of North Okanagan
9848 Aberdeen Road
Coldstream BC V1B 2K9

Attention: Lynda Fraser, Planning & Building Assistant

Re: Rezoning application for the property legally described as Lot 1, Sec 25, Twp 8, ODYD, Plan 2558, Except Plan 37038 and Plan EPP74629 and located at McLennan Road, Electoral Area "F"

The Ecosystems Section of the Ministry of Forests, Lands, Natural Resource Operations and Rural Development provides the following response to the above noted referral.

Under the Riparian Areas Regulation (RAR) (and its update, the Riparian Areas Protection Regulation (RAPR) which came into force November 1, 2019), it is not permitted to create lots that will force development into the SPEA. If there is any danger of this being the case with subdivision as proposed, we recommend requiring preliminary RAR calculations to show the RAR-defined SPEAs (streamside protection and enhancement areas) for the two streams traversing the property before approving the rezoning request. The proponent should be able to demonstrate that there are suitable building sites outside the SPEAs in each new lot if subdivided as proposed.

Furthermore, we recommend that subsequent development of individual lots be contingent upon an environmental assessment if the total area of disturbance will be greater than 0.5 ha.

Please do not hesitate to contact the undersigned at Jamie.Leathem@gov.bc.ca or 250-490-8294 with any questions you may have.

Yours truly,

Ministry of
Forests, Lands, Natural
Resource Operations and
Rural Development

Resource Management
Thompson Okanagan Region
102 Industrial Place
Penticton, BC V2A 7C8

Telephone: (250) 490-8200
Facsimile: (250) 490-2231

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REGIONAL DISTRICT NORTH OKANAGAN

MEMBER MUNICIPALITIES:

CITY OF ARMSTRONG VILLAGE OF LUMBY
CITY OF ENDERBY CITY OF VERNON
DISTRICT OF COLDSTREAM TOWNSHIP OF SPALLUMCHEEN

ELECTORAL AREAS:

"B" – SWAN LAKE "E" – CHERRYVILLE
"C" – BX DISTRICT "F" – ENDERBY (RURAL)
"D" – LUMBY (RURAL)

OFFICE OF : PLANNING DEPARTMENT

OUR FILE No.: 3063.01

April 7, 2020

Lui Carvello
Carvello Law Corporation
203-1005 Broad Street
Victoria, BC V8W 2A1

Dear Mr. Carvello:

Re: Request for Legal Opinion

We respectfully request your opinion regarding the questions submitted below. The information which follows and the attachments included with this letter should provide the background you need to respond however if you should have any questions, please do not hesitate to contact the undersigned.

QUESTIONS:

Given that the Keddleston Groundwater Study was considered by the Board of Directors on February 19, 2020:

- 1) Is a second Public Hearing required, or recommended, for the Nodding Hill and/or [redacted] bylaws recognizing that the Board of Directors had discussed the need for a water supply study as a result of concerns expressed at the Public Hearings held for these two applications?
- 2) Is a second Public Hearing required, or recommended, for the [redacted] and/or [redacted]-Shortt bylaws recognizing that the need for a water supply study addressing the Keddleston area, was *not* discussed by the Board of Directors during their consideration of these two applications?

BACKGROUND:

"Keddleston" is an area within the foothills of Silver Star mountain within Electoral Area "C" of the Regional District of North Okanagan. Recent applications for Official Community Plan (OCP) and/or Zoning Bylaw amendments have generated some concerns among area residents particularly with respect to the impacts which additional development may have on groundwater supplied by private, domestic wells. At the June 5, 2019 Public Hearing for a rezoning application by [redacted], concerns were raised regarding potential impacts the proposed development could have on groundwater supplies. Following the Public Hearing, the Board of Directors resolved to defer further consideration of the [redacted] Zoning Amendment Bylaw No. 2805 until the feasibility of establishing a community water system in the Keddleston area is considered.

A second application in the Keddleston area, "Nodding Hill", went to a Public Hearing on August 21, 2019. The Nodding Hill application proposes to amend the OCP and rezone three properties to the Small Holding (S.H) zone to facilitate a subdivision which proposes to create 13 additional

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lots (16 lots total). The development is proposed to be serviced by individual, domestic groundwater wells and on-site septic disposal. At the Public Hearing, among other comments, concerns were expressed regarding the potential impact the proposed Nodding Hill development could have on groundwater supplies serving existing properties in the Keddleston area.

Following the close of the Public Hearing, at the Regular Meeting of August 21, 2019, the Board resolved to defer further consideration of Nodding Hill Bylaws 2771 and 2772 pending receipt of an estimated timeline to undertake a technical feasibility study to provide a community water system in the broader Keddleston area.

At the Regular Meeting of September 18, 2019, the Chief Administrative Officer advised the Board of Directors that the Regional District would undertake an aquifer assessment study relating to the feasibility of establishing a community water system in the Keddleston area with an estimated completion time of January 2020.

The aquifer assessment study was prepared by Golder Associates Ltd. and completed on January 31, 2020. Known as The Keddleston Groundwater Study, the report is intended to provide the Regional District of North Okanagan (RDNO) with a better understanding of the current groundwater resources in the Keddleston area (specifically, provincially-mapped Aquifers 349, 350, and 351) and the groundwater development potential of the three aquifers.

The Keddleston Groundwater Study along with a staff report was considered by the Board of Directors at the Regular Meeting held on February 19, 2020.

As explained in the Keddleston Groundwater Study, if water is withdrawn at the rate required to demonstrate proof of water (6.55 m³ per day/per lot) as required under RDNO Subdivision Servicing Bylaw No. 2600, a net negative water balance would result in Aquifers 350 and 351 (withdrawal of water would be greater than the rate of recharge to the aquifers). However, at the same rate of water withdrawal, it was estimated that Aquifer 349 would have a net positive water balance (withdrawal of water would be less than recharge of water to the aquifer).

At the Regular Meeting held on February 19, 2020, after considering the Keddleston Groundwater Study and the accompanying staff report, the Board passed the following resolution (emphasis added):

That the current planning and development process be maintained for properties within, and obtaining water from, Aquifer 349; and further,

That the "Keddleston Groundwater Study" by Golder Associates Ltd. be forwarded to the Ministry of Transportation and Infrastructure for consideration in their role as the agency responsible for subdivision approval; and further,

That staff be directed to develop a work plan and cost estimate to undertake a comprehensive review of the water supply in Aquifers 350 and 351; and further,

That further consideration of in-stream Zoning and Official Community Plan amendment applications within Aquifers 350 or 351 be deferred to a special Electoral Area Advisory Committee meeting; and further,

That applications for new Zoning and Official Community Plan amendments that could result in increased density on all properties within, and obtaining water from Aquifers 350 or 351, be considered with the findings of the comprehensive review of water supply in Aquifers 350 and 351.

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Whereas, the Keddleston Groundwater Study was initiated as an outcome of the Board of Directors' consideration of the [redacted] and Nodding Hill applications, staff recognize that there are other in-stream applications that may be impacted by the timing of the Board's consideration of the Study. Two other applications related to properties within the Groundwater Study area, [redacted] and [redacted]-Shortt, had Public Hearings prior to the Board's consideration of the Groundwater Study in February 2020, but have not yet had Final Adoption of their associated bylaws pending the fulfillment of park-related requirements.

The table below provides the dates of the Public Hearings for each of the four above noted applications:

APPLICATION	BYLAW(S)	PUBLIC HEARING DATE
[redacted]	Rezoning Bylaw 2805	June 5, 2019
Nodding Hill	OCP Bylaw 2771, Rezoning Bylaw 2772	August 21, 2019
[redacted]	OCP Bylaw 2855, Rezoning Bylaw 2856	January 22, 2020
[redacted]-Shortt	Rezoning Bylaw 2741	December 6, 2018

In-stream Zoning and OCP amendment applications within Aquifers 349, 350 or 351

At the time the Keddleston Groundwater Study was undertaken, there were a total of 11 active applications in the Keddleston area within the mapped area of Aquifers 349, 350, and 351 as shown below on *Figure 1*. Three of the applications (#9, #10 and #11) are subdivisions applications which propose a combined total of three (3) new lots. These applications will be considered by the Provincial Approving Officer. The remaining eight applications (#1 to 8) are either rezoning or OCP/rezoning applications, which if approved, would potentially result in the creation of ~38 new lots in the Keddleston area through the approval of subdivision applications.

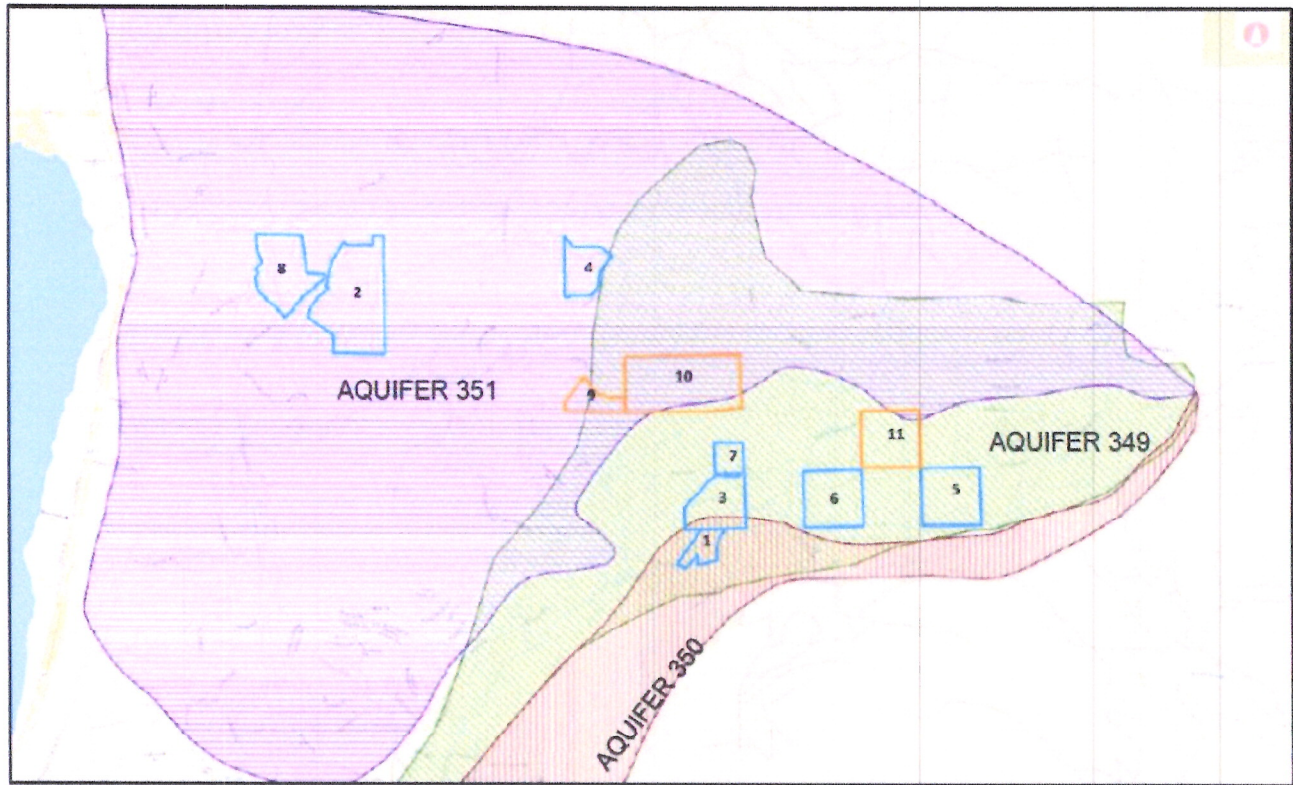
Dacron (#8), [redacted] (#5), Down's Enterprises (#6) and [redacted] (#7) have not yet been to Public Hearing.

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FIGURE 1



The following three applications are within the area of provincially mapped **Aquifer 351**:

- (#2) Nodding Hill Developments Ltd. [REDACTED] (17-0076-C-OR) - McLennan Road;
- (#4) [REDACTED] (18-0681-RZ) – Wilson Jackson Road; and
- (#8) Dacron Enterprises Ltd. c/o [REDACTED] (19-0906-C-RZ) – McLennan Road.

The following five applications are within the area of provincially mapped **Aquifer 349**:

- (#1) [REDACTED] (12-0023-C-OR);
- (#3) [REDACTED] and 572737 BC Ltd c/o Jason Shortt (17-0152C-OR);
- (#5) [REDACTED] (18-0888-C-RZ);
- (#6) Down's Enterprises Ltd. c/o Monashee Surveying (19-0350-RZ); and
- (#7) [REDACTED] (19-0774-C-RZ).

Tables 1 to 4, below, provide a summary of the Board resolutions provided at each Reading of the Bylaws associated with the four applications which have had Public Hearings. For reference, staff reports and the complete text of the Board resolutions, Public Hearing Minutes, and the Bylaws for each of the four applications are attached.

TABLE 1 - [REDACTED] – File No. 18-0681-C-RZ	
Zoning Amendment Bylaw No. 2805	
Board Resolutions (summarized)	
1 st Reading Nov. 21/18	That Zoning Amendment Bylaw 2805 be given 1st Reading; and,

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	<p>That 2nd Reading be withheld until the applicant submits site plans, and a water supply study that takes into consideration the potential to service the proposed lots and the impact it could have on the water supply in the area; and</p> <p>That Bylaw 2805 not be Adopted until the applicants have demonstrated that a portable building on the property is compliant with RDNO Zoning and Building Bylaws.</p>
2 nd Reading May 8/19	<p>That Zoning Amendment Bylaw 2805 be given 2nd Reading and referred to a Public Hearing; and</p> <p>That Final Adoption of Bylaw 2805 be withheld until the applicant has registered a covenant which would prohibit subdivision until a professional hydrologist has verified that all wells proposed to service all new lots are proven to meet the standards of the Subdivision Servicing Bylaw and that extraction of water from the wells will not negatively impact the water supply of neighbouring wells; and</p> <p>That the Public Hearing be delegated to the EAAC.</p>
Public Hearing Jun. 5/19	Completed, closed.
3 rd Reading	TBA (Not given 3 rd Reading)

TABLE 2 - Nodding Hill [REDACTED] – File No. 17-0076-C-OR	
OCP Amendment Bylaw No. 2771 & Zoning Amendment Bylaw No. 2772	
Board Resolutions (summarized)	
1 st Reading Mar. 28/18	<p>That Bylaw 2771 and Bylaw 2772 be given 1st Reading; and,</p> <p>That 2nd Reading of the bylaws be withheld until: 1) the applicant has held a Public Information Meeting, 2) a Traffic Impact Analysis has been prepared, 3) the Regional District has received comments from the Fire Dept., 4) Bylaw 2771 has been considered in conjunction with the RDNO Financial Plan and Solid Waste Mgt. Plan, and 5) comments have been received from Parks; and,</p> <p>That Final Adoption of Bylaws 2771 & 2772 be withheld until: 1) the applicant has obtained approval from Greater Vernon Water to include the subject properties within the GVW service area, 2) a Parkland Transfer Agreement has been registered on title, and 3) a road reserve covenant has been registered on the title.</p>
2 nd Reading Jul. 17/19	<p>That Bylaws 2771 and 2772 be given 2nd Reading and be forwarded to a Public Hearing; and,</p> <p>That Final Adoption not be considered until 1) a covenant has been registered ... that would limit subdivision to a max. of 13 new (additional) lots and the covenant is to contain a clause to authorize it to be discharged if the Regional District receives a report from a P. Eng. that states there is sufficient groundwater supply to service full build-out potential and the use of groundwater would not have a negative impact on existing wells using the local aquifer, and 2) a covenant has been registered ...re. Parkland Transfer Agreement, and 3) a covenant has been registered including recommendations of a RPF re wildfire.</p>
Public Hearing Aug. 21/19	Completed, closed.
Regular Meeting Aug. 21/19	That the matter of Bylaws 2771 & 2772 be deferred pending receipt of an estimated timeline to undertake a technical feasibility study to provide a community water system in the broader Keddleston area.

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Letter to: Lui Carvello
 From: Rob Smailes
 Subject: Request for Legal Opinion

File No.: 3063.01
 Dated: April 7, 2020
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<p>3rd Reading Sept. 18/19</p>	<p>That the motion adopted at the July 17, 2019 meeting of the Board be amended by deleting the requirement for a covenant limiting subdivision to a max. of 13 new lots, and replacing it with a condition that prior to Final Adoption of Bylaws 2771 & 2772 a covenant be registered that would limit subdivision of the properties until the RDNO undertakes and completes an aquifer assessment that confirms the adequacy of water supply for the level of potential development in the area of aquifer 351 outside of the GVW Utility's boundary, at the RDNO's sole discretion; and</p> <p>That Bylaws 2771 and 2772 be given 3rd Reading; and</p> <p>That Final Adoption not be considered until 1) a covenant has been registered that would limit subdivision until RDNO undertakes and completes an aquifer assessment that confirms the adequacy of water supply for the level of potential development in the area of aquifer 351 outside of the GVW Utility's boundary, at the RDNO's sole discretion, and 2) a covenant has been registered which includes provisions of a Parkland Transfer Agreement, and 3) a covenant has been registered that incorporates the recommendations of a Registered Professional Forester (re wildfire).</p>
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TABLE 3 - [REDACTED] – File No. 12-0023-C-OR	
OCP Amendment Bylaw No. 2855 and Zoning Amendment Bylaw No. 2856	
Board Resolutions (summarized)	
<p>1st & 2nd Readings Dec. 11/19</p>	<p>That OCP Amendment Bylaw 2855 be given 1st Reading; and, That Bylaw 2855 be given 2nd Reading and be referred to a Public Hearing; and, That Zoning Amendment Bylaw 2856 be given 1st & 2nd Readings and be referred to a Public Hearing; and, That Final Adoption of Bylaws 2855 & 2856 be withheld until a covenant has been registered ... that includes the provisions of a Parkland Transfer Agreement; and, That the Public Hearings be delegated to the Electoral Area Advisory Committee (EAAC).</p>
<p>Public Hearing Jan. 22/20</p>	<p>Completed, closed.</p>
<p>3rd Reading Jan. 22/20</p>	<p>That Bylaws 2855 and 2856 be given 3rd Reading.</p>

TABLE 4 - [REDACTED] c/o Jason Shortt – File No. 17-0152-C-OR	
Zoning Amendment Bylaw No. 2741	
Board Resolutions (summarized)	
<p>1st Reading Aug. 16/17</p>	<p>That Zoning Amendment Bylaw 2741 be given 1st Reading; and, That 2nd Reading be withheld until the applicant has submitted a water supply study which takes into consideration the potential to service the proposed lots and the impact the use of the water supplies could have on the water supply in the area; and, That Final Adoption of Bylaw 2741 be withheld until the applicant has registered a covenant that would prohibit subdivision of the land until proposed Lot G is dedicated as Park.</p>
<p>2nd Reading Sept. 5/18</p>	<p>That Bylaw 2741 be amended by excluding the proposal to rezone a portion of ... from N.U to S.3; and,</p>

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	That Bylaw 2741 be given 2nd Reading, as amended, and referred to a Public Hearing; and, That Final Adoption of Bylaw 2741 be withheld until the applicant has registered a SRW for parkland purposes in place of a covenant to dedicate land as Park.
Public Hearing Dec. 6/18	Completed, closed.
3 rd Reading Dec. 12/18	That Bylaw 2741 be given 3rd Reading.

Overview of Keddleston Groundwater Study

The study area for the Keddleston Groundwater Study covers the provincially-mapped Aquifers 349, 350, and 351. The study indicates that groundwater flow in the area is inferred to be to the west – southwest, from the bedrock dominated upland areas east of the study area towards Swan Lake in the valley bottom.

Aquifer 349 is described as a confined sand and gravel aquifer which covers an area of approximately 25.5 km² extending from the east boundary of the study area to the south end of Swan Lake generally following the BX Creek valley. Aquifer 349 overlays the Aquifers 350 and 351. Aquifer 350 is described as a fractured sedimentary rock aquifer covering an area of approximately 7 km² extending from the south boundary of the study area and generally along the south side of BX Creek. Aquifer 351 is described as a confined bedrock aquifer which covers an area of approximately 21.8 km² extending from the north, west and central boundaries of the study area.

The groundwater study explored “lower-bound” and “upper-bound” estimates of water extraction. Lower-bound estimates were based on an average water use of 0.675 m³/per person/per day consisting of indoor residential use of 0.15 m³/day and outdoor residential landscaping use of 0.525 m³/day/person. Assuming an average of 2.6 persons per household, the lower-bound rate of groundwater extraction, was estimated to be 1.76 m³/day per household. Upper-bound estimates were based on RDNO’s proof of water requirement of 6.55 m³ per day/per lot (applicable to subdivision in Electoral Areas “B”, “C” and “F”). Under the lower-bound estimate, a comparison of groundwater withdrawn from each aquifer relative to the estimated recharge to each aquifer results in a net positive water balance (withdrawal of water is less than recharge of water to the aquifers). Under the upper-bound scenarios, a net negative water balance is obtained for Aquifers 350 and 351 (withdrawal of water is greater than recharge).

Based on hydrogeological information and water balance estimates described in the Golder study, it is inferred that within the study area, Aquifer 350 has the least capacity for further development, followed by Aquifer 351, and to a lesser extent, Aquifer 349. The study determined that Aquifer 350 has a high risk with respect to groundwater availability under both the lower-bound and upper-bound estimates. Aquifer 351 has a medium to high risk and Aquifer 349 has a low to medium risk with respect to groundwater availability.

SUMMARY:

The Keddleston Groundwater Study, prepared by Golder Associates Ltd., was initiated in response to water supply concerns expressed at the Public Hearings for the proposed Nodding Hill and ■■■ development applications. The Groundwater Study was completed at the end of January 2020 and presented to the Board of Directors at their Regular Meeting held on February

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19th. In follow-up to the Board's direction, Planning staff are now preparing to bring reports back to the Board of Directors regarding each of the eight OCP and/or rezoning applications that pertain to lands within the Keddleston Groundwater Study area.

This legal opinion has been requested to help ensure proper procedure is followed following the close of Public Hearings associated with four active applications involving properties within the Keddleston Groundwater Study area.

Should you have any questions or wish to discuss this matter, please do not hesitate to contact the undersigned.

Sincerely,

Rob Smailes
General Manager Planning and Building

/mjs

Attachment:

- Staff reports, bylaws, Public Hearing Minutes, Board resolutions

16/16

Archived: Thursday, November 2, 2023 11:18:38 AM

From: [Bruce Acton](#)

Sent: Thursday, November 2, 2023 9:18:08 AM

To: [RDNO Public Hearing](#)

Subject: 19-0906-c-rz Support for development with Comments

Sensitivity: Normal

*** External Email - Use Caution***

I'm in favor of this application proceeding however could RDNO ask for an easement or similar function to provide an accessible access to Grey Canal? The current accesses to this segment doesn't allow for wheelchair or similar mobility access. The GRWD didn't do a very good job of access to the trail when they put the new reservoir in.

Second, I believe the CR zoning is the wrong zoning for this property. Applying this zoning effectively allows for 16 dwelling structures to be built. Aside from two properties, all of the 5 acre CR properties on Baker Hogg Road only have one structure and are run over by invasive weeds, due in part to the poor bylaw enforcement. As well, this designation basically sterilizes the surrounding land around the structure from productive use. As the land has limited agricultural value I think the region would be better served by increasing density. It would first make it easier for the owners to maintain the smaller lots in conformance to the existing bylaws and the region needs more residential properties in the region.

As the CR designation allows for a second dwelling, why not just densify now? It would allow for more lots and better planning for the future. I suggest minimum of 16 lots but higher would be preferable.

Being in the interface zone, can RDNO have a restriction that all of the buildings in the future, including these ones, are constructed and landscaped to a FireSmart standard to reduce the risk to the development and the existing neighbours.

Kind regards
Bruce Acton
7697 Baker Hogg Road
V1B 3S3