



PLANNING DEPARTMENT INFORMATION REPORT

REZONING APPLICATION

DATE: February 10, 2022

FILE NO.: 21-1135-E-RZ

OWNER/APPLICANT: Hank Cameron

LEGAL DESCRIPTION: Lot E, Sec 24, Twp 57, ODYD, Plan 21346 / Lot A, Sec 24, Twp 57, ODYD, Plan 30167

P.I.D.#: 007-546-921 / 004-039-891

CIVIC ADDRESS: 92 / 100 Begbie Road

PROPERTY SIZE: 2.37 ha / 4.25 ha

PRESENT ZONING: Non-Urban (N.U)

PROPOSED ZONING: Country Residential (C.R)

O.C.P. DESIGNATION: Country Residential

PROPOSAL: Three lot subdivision

PLANNING DEPARTMENT RECOMMENDATION:

That in accordance with the changes to the *Local Government Act* which were brought into effect by the granting of Royal Assent to Bill 26, notice be given in accordance with Section 467 of the *Local Government Act* that Zoning Amendment Bylaw No. 2924, 2022 which proposes to rezone the properties legally described as Lot E, Sec 24, Twp 57, ODYD, Plan 21346 & Lot A, Sec 24, Twp 57, ODYD, Plan 30167 and located at 92 & 100 Begbie Road, Electoral Area "E", from the Non-Urban (N.U) zone to the Country Residential (C.R) zone will be considered for First Reading at a future meeting.

SUMMARY:

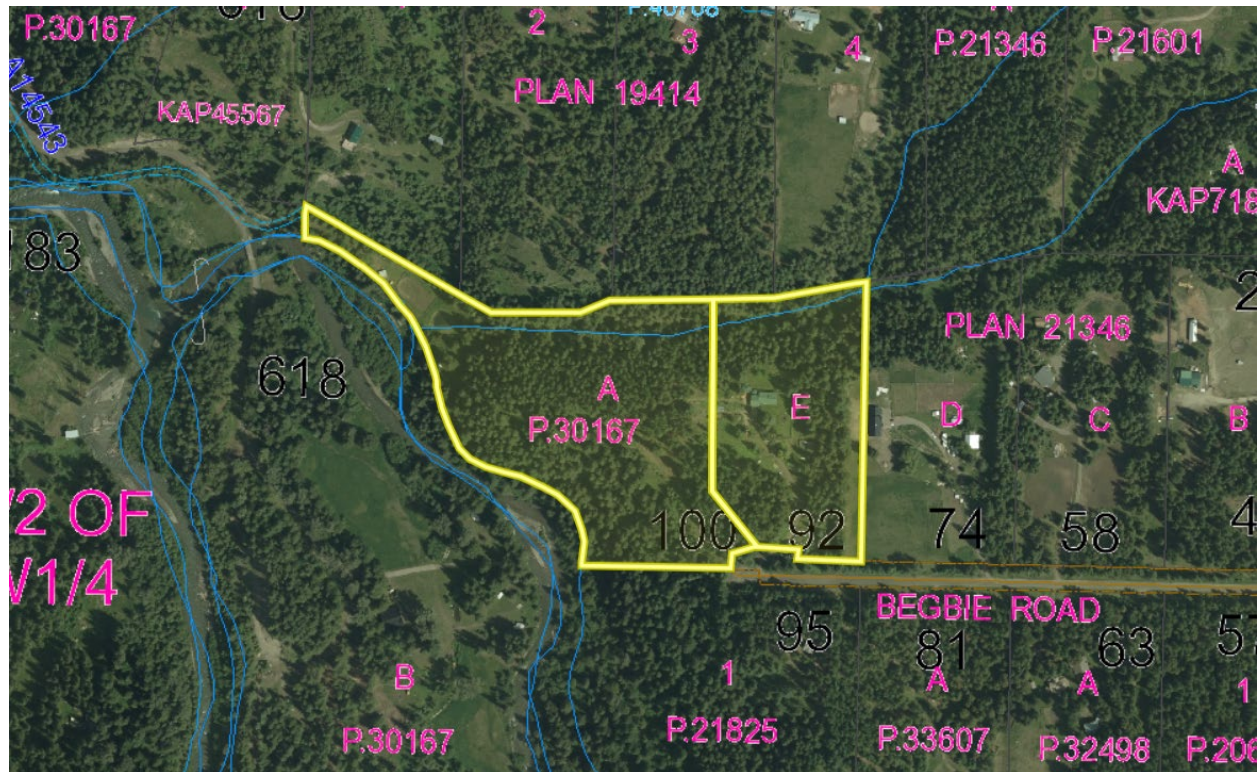
This report relates to an application to rezone the properties located at 92 & 100 Begbie Road from the Non-Urban (N.U) zone to the Country Residential (C.R) zone. If successful in rezoning the properties, the owner plans to submit a subdivision application which requests the approval to subdivide the lots into three lots. One of the proposed lots is proposed to be subdivided for a family member under the provisions of Section 514 of the *Local Government Act*. Access to the three lots is proposed to be gained from Begbie Road. One of the lots is proposed to be connected to Begbie Road via a private access easement through the proposed remainder lot.

The Planning Department recommends the application receive favourable consideration as the proposed rural residential land use is consistent with the Electoral Areas “D” and “E” Official Community Plan (OCP) designation of the property, and complies with the relevant OCP Policies.

BACKGROUND:

Site Context

The following orthophoto of the subject and surrounding properties was taken in 2016:



The subject properties are located on the north side of the terminus of Begbie Road. There is an existing dwelling and several accessory buildings on Lot E (the easternmost parcel), and there is an existing accessory building and well house on Lot A. Lot E is 2.37 ha and Lot A is 4.25 ha.

The western boundary of Lot A is formed by Cherry Creek, and there is another watercourse (George Creek) that runs east to west near the northern lot line of both parcels. Lot E is largely flat, except towards the northern lot line where the property slopes down towards the north where George Creek lies. Lot A also slopes away to George Creek towards the northern lot line, and to the west towards Cherry Creek with approximately the eastern third of the lot contained within an area of flatter elevated land above Cherry Creek.

The buildings on Lot E are accessed via an existing driveway off of the north side of Begbie Road. Lot A has road frontage at the very end of Begbie Road but no formed access. There is also a private access easement that connects Lot A with North Fork Road to the north-west.

The subject properties and the adjacent property to the south are designated Country Residential in the Electoral Area “D” and “E” OCP. Properties to the east along Begbie Road are designated Agricultural. To the west of Cherry Creek, properties are designated Large Holdings. To the north-west properties, are designated Non Urban. Properties to the north and east lie within the Agricultural Land Reserve (ALR), with land surrounding Cherry and Monashee Creeks to the north-west, south and west, outside of the ALR.

The subject and nearby properties along Begbie Road are zoned Non Urban (N.U). The property west of Cherry Creek is zoned Large Holdings (L.H).

The Proposal

As shown on the attached site plan, the applicant proposes to rezone the subject properties from N.U to C.R. If the rezoning is successful, the applicant seeks to subdivide Lots E and A into a 1.0 ha lot (proposed Lot 1) for a family member, a 2.0 ha lot (proposed Lot 2), and a 3.64 ha lot (proposed remainder lot) which would contain the existing dwelling on the property.

Proposed Lot 1 and the remainder lot would both have frontage on Begbie Road in excess of 20 m in length, with the latter also retaining the existing easement to the north-west to North Fork Road. Proposed Lot 2 is not indicated to have direct road frontage, instead gaining access to Begbie Road via a new private access easement over the proposed remainder lot. The lots would be serviced by on-site sewage disposal and water wells, with the remainder lot also retaining a water licence for George Creek.

PLANNING ANALYSIS:

The Planning Department recommends that the proposal be given favourable consideration as it represents a land use that is consistent with the Electoral Areas “D” and “E” OCP designation of the properties and complies with the rural residential policies in that the proposed lots would:

- be outside the ALR;
- not be in an area with excessive slopes, flooding, high water table or identified as having a high capability for other uses such as gravel extraction, mining, or forest development;
- not be subject to excessive expenditures for services such as roads, or other services, as such services already exist;
- have the potential to contain suitable building sites which could be serviced with sewage disposal areas and be located outside of riparian and floodplain setback areas;
- likely have the potential to produce adequate water supplies. The Regional District Subdivision Servicing Bylaw states that the subdivision of parcels within Electoral Area “E” may be approved without the provision of a potable water supply;
- not detrimentally affect important habitat for fish and wildlife;
- not undermine the character of existing lots in the surrounding area.

The proposed lot sizes are generally consistent with the character of the surrounding area. While proposed Lots 1 and 2 are slightly smaller than other lots to the south and east along Begbie Road, it is noted that the subject properties along with the adjoining property to the south are the only parcels of land that are outside of the ALR, and therefore designated Country Residential. The proposed rezoning represents a small cluster at the end of Begbie Road, therefore the rezoning should not undermine the existing character of the local area.

The properties adjoin Cherry Creek, with all proposed lots sharing a boundary with Cherry Creek. As part of a subdivision, a Development Permit will be required to address any impact of the proposed development on Cherry Creek, or any other watercourses or waterbodies and wetlands on the property. As shown on the proposed site plan, each lot contains an elevated area within which a dwelling could be located away from Cherry Creek, with driveways also avoiding the need to go near the Creek, or to utilise the access easement to the north-west. This should ensure that future development can occur outside of the riparian area, and any potential flood prone areas.

Proposed Lot 2 will have no road frontage, and is proposed to gain access to Begbie Road over the existing driveway at 92 Begbie Road (Lot E). This will require the Regional District's approval of a lot frontage waiver, and the approval of the Provincial Approving Officer to provide for this form of alternative access. If necessary, the lots could be reconfigured so that they all have sufficient frontage on Begbie Road to allow for building sites and driveways that meet the requirements of the Zoning Bylaw.

The proposal has also been reviewed against the OCP policy that requires rezoning applications to be considered in relation to the fire protection issues in the local area. In this regard, the OCP Fire Protection Policy suggests that residents acknowledge and accept that fire protection services are not provided in this area and that residents are encouraged to apply Fire Smart principles for new and existing development.

Public Hearing

At the Regular Meeting held on April 22, 2020 and in accordance with the provisions outlined in the *Local Government Act*, the Board of Directors resolved to waive the holding of Public Hearings on zoning amendment bylaws if the bylaws are consistent with an applicable official community plan. Under such circumstances, notice was required to be given that the Public Hearing was being waived and such notice was required to be provided after First Reading and before Third Reading of an applicable zoning amendment bylaw.

On November 25, 2021, Bill 26 received Royal Assent. This brought changes to the *Local Government Act* which states that:

- a local government is not required to hold a Public Hearing on a zoning amendment bylaw if the bylaw is consistent with an official community plan; and
- if a local government decides not to hold a Public Hearing, it must provide notice of the proposed date of the First Reading of the applicable zoning amendment bylaw.

In keeping with the above and as the subject bylaw is consistent with the policies and land use designation of the Electoral Areas "D" and "E" Official Community Plan, a notice will be posted in accordance with the new provisions of Section 467 of the *Local Government Act* to advise the public that the Board of Directors will consider giving First Reading to Zoning Amendment Bylaw No. 2924 at a future meeting once the applicant has posted a development notice sign in accordance with Section 6.1.7 of Development Application Procedures and Administrative Fees Bylaw No. 2677. At this meeting, the bylaw may also be considered for Second and Third Readings and Adoption.

Should the Board of Directors wish to hold a Public Hearing for Bylaw No. 2924, a resolution could be passed to give the First and Second Reading to the Bylaw and to forward the Bylaw to a Public Hearing. Notice of the Public Hearing would be provided in accordance with the provisions of 466 of the Local Government Act and the Hearing would be held prior to considering Third Reading.

ZONING BYLAW:

The subject properties are zoned Non-Urban (N.U). The minimum parcel size in the N.U zone is 7.2 ha. The uses permitted in the N.U zone include single and two family dwellings, manufactured homes, ancillary single family dwellings, secondary suites, detached suites, bed and breakfast uses, boarding house use, community care facilities, home occupations, agricultural uses, public parks and playgrounds, resource uses, and wineries and cideries.

Under the N.U zone, each existing property would be permitted to have:

- one two family dwelling; or
- one single family dwelling with a secondary suite; or
- one single family dwelling or one manufactured home plus an ancillary dwelling or detached suite.

The applicant proposes to rezone the subject properties to the Country Residential (C.R) zone. The minimum parcel size for a lot created by subdivision in the C.R zone is 2 ha. The uses permitted in the C.R zone include ancillary single family dwellings, bed and breakfast uses, boarding house uses, community care facilities, detached suites, home occupation uses, agricultural uses, limited resource uses, manufactured homes, public parks and playgrounds, single family dwellings, two family dwellings, wineries and cideries, and secondary suites.

Under the C.R zone, lots 2.0 ha and larger would be permitted to have:

- one two family dwelling; or
- one single family dwelling with a secondary suite; or
- one single family dwelling or one manufactured home plus an ancillary dwelling or detached suite.

Lots smaller than 2.0 ha would be permitted to have:

- one two family dwelling; or
- one single family dwelling which may contain a suite; or
- one manufactured home.

Building Sites and Lot Frontage

Section 310 of the Zoning Bylaw requires that all lots created within the C.R and N.U zones contain a contiguous area of land 2,000 m² or larger in size to service as a suitable building site. A building site must be less than 30% natural slope, and must be accessible from a public highway via a private access driveway with a slope no greater than 15%.

Lots proposed to be subdivided in the C.R and N.U zones are required to have road frontage not less than one-tenth of the perimeter of the lot.

At the Regular Meeting of the Board of Directors held on August 15, 2012, the Board adopted Policy No. LU053 – Applications for Waivers of Lot Frontage which states that upon receipt of an application by a land owner, where the property is zoned Country Residential, Non-Urban or Large Holding and the proposed parcels (including remainder) provide at least 20 metres of lot frontage, the building site requirements of the Zoning Bylaw have been met and no variances are being requested, the application will be forwarded directly to the Electoral Area Advisory Committee for consideration without the need for a staff report.

Section 405 – Minimum Lot Area for Subdivision to Provide Residence for a Relative

Section 514 of the *Local Government Act (RSBC 2015)* (previously Section 946 of the *Local Government Act (RSBC 1996)*) allows for the creation of smaller lots for the purposes of providing a separate residence for an immediate relative.

The minimum parcel size that may be subdivided under this section in the C.R zone is 3.5 ha, with any parcel created to be at least 1 ha. This is only provided for properties located outside of the ALR.

Floodplain Setbacks

Section 1701.3.b defines building floodplain setbacks to the natural boundary of watercourses. In this instance a 30 m setback is required to the natural boundary of Cherry Creek, and 15 m to George Creek. 15 m is also required from the natural boundary of any other lake, marsh, or pond.

SUBDIVISION SERVICING BYLAW:

Where connection to a community water system is not required, the subdivision of parcels within Electoral Area “E” may be approved without the provision of a potable water supply.

LAND TITLE ACT REGULATION:

Where a parcel is being created that does not connect with a highway, approval may be sought under the Land Title Act Regulation (B.C. Reg.B.C. Reg.34/79) as follows:

- 9 An approving officer may grant relief from compliance with section 75 (1) (a) (i) of the Act if a subdivision creates a single parcel that does not abut a highway and the subdivider
 - (a) proposes to grant, appurtenant to the new parcel, an easement of access to a highway or, where there is no established system of highways, a private road or way, and
 - (b) submits to the approving officer a subdivision plan that shows the new parcel and outlines in a manner that complies with the rules made by the Association of British Columbia Land Surveyors or, in the case of an electronic plan, that complies with Part 10.1 of the *Land Title Act*
 - (i) the easement area, or
 - (ii) the private road or way.

LOCAL GOVERNMENT ACT:

Section 514 of the Local Government Act states that an approving officer may approve the subdivision of a parcel of land that would otherwise be prevented from subdivision by a provision of a bylaw that establishes a minimum parcel size. An application for subdivision of a parcel under this section may be made only if all the following requirements are met:

- the person making the application has owned the parcel for at least 5 years before making the application;
- the application is made for the purpose of providing a separate residence for (i) the owner, (ii) a parent of the owner or of the owner's spouse, (iii) the owner's child or the spouse of the owner's child, or (iv) the owner's grandchild.

An approving officer must not approve a subdivision under this section if the following circumstances apply: (i) the parcel proposed to be subdivided is classified as farm land for assessment and taxation purposes, and (ii) after creation of the parcel subdivided for the purpose of providing a residence as stated the remainder of the parcel proposed to be subdivided would be less than 2 ha; (iii) the parcel proposed to be subdivided is not within the agricultural land reserve and was created by subdivision under this section, (iv) the parcel proposed to be subdivided is within the ALR and was within the previous 5 years created by subdivision under this section. Any parcel created by subdivision under this section must be at least 1 ha unless a smaller area, in no case less than 2 500 m², is approved by the medical health officer.

OFFICIAL COMMUNITY PLAN:

The Official Community Plan designates the land use of the subject property as Country Residential. The following OCP Policies are applicable to the application:

Rural Residential

- 5.2.1 Rural Residential lands are intended to provide an alternate to urban living with lots 1.0 hectare or larger. These lots emphasize attachment to the lands and utilization of rural and agricultural uses, but with lesser services and greater distances to community facilities and shopping. Lands that may be suitable for rezoning to accommodate Rural Residential land use are shown on the OCP map schedules as Country Residential (C.R) and Small Holdings (S.H). The minimum parcel size for C.R is 2 ha and for S.H is 1 ha.
- 5.2.2 Rural Residential lands should conform to the following requirements
- a. outside the Agricultural Land Reserve;
 - b. not in an area with excessive slopes;
 - c. not in an area that has high capacity for other uses such as gravel extraction, mining, or forest development;
 - d. not subject to flooding or in an area with a high water table;
 - e. not subject to excessive expenditures for services such as roads, power and bussing;
 - f. contains suitable building sites;
 - g. contains sewage disposal areas;
 - h. contains adequate water supplies as specified in the Subdivision Servicing Bylaw;
 - i. does not destroy or alienate important habitat for fish and wildlife; and
 - j. does not detrimentally affect neighbouring properties and the community as a whole.

- 5.2.4 Upon receipt of a rezoning application for Rural Residential developments, the Regional Board will give consideration to the fire protection issues in the local area.
- 5.2.9 Rural Residential land development that proposes to create more than 2 new lots shall not be considered for rezoning until a comprehensive plan consistent with the rural residential policies is provided, and until the roads and services adequate for the development are either in place or financial guarantees regarding their installation are provided.
- 5.2.10 Due to the importance of an adequate water supply in Rural Residential areas and the uncertainty about water supply in some areas, assurances about the water supply as specified in the Subdivision Servicing Bylaw shall be provided prior to the zoning of land for Rural Residential Use.

Police and Fire Protection

- 9.5.1 Continue to recognize the plan area as a rural area where residents acknowledge and accept that beyond a very limited area close to the Village of Lumby fire protection services are not provided by either the Regional District through local volunteer fire departments. The only fire department with the plan area is located in Lumby and it does service a limited part of Area D. The Regional District will continue to provide emergency services throughout the plan area as part of a region-wide service delivery model.
- 9.5.2 Support and encourage the use of Fire Smart principles for existing and new development.

REFERRAL COMMENTS:

The application was referred for comments to the following:

- 1. Building Inspection Department**
- 2. Community Services Manager**
- 3. RDNO Chief Administrative Officer**
- 4. Interior Health Authority**

“An initial review has been completed and no health impacts associated with this proposal have been identified. As such, our interests are unaffected by this proposal. Please note that this response does not automatically confer Interior Health support for a future subdivision. Additional information will be required at the subdivision stage in order for Interior Health to meaningfully comment on the water and sewerage servicing capability of the land and long-term sustainability”

- 5. Ministry of Transportation and Infrastructure**

“As this parcel is beyond 800 metres from a controlled access highway (Hwy no. 6), the Ministry’s approval is not required for the rezoning. Any comments regarding the proposed subdivision will be addressed in the subdivision process.”

- 6. Ministry of Environment**

7. Ministry of Forests

"When the subdivision occurs, recommendation that Present Natural Boundary (PNB) be done by a registered BC Land Surveyor to delineated PNB on Cherry Creek and George Creek. The survey should include elevations and description of how PNB was determined. If proponents are planning on development that would include "works in and about a stream" (eg erosion control, bridge etc), photos of the survey stakes are recommended as these will be requested when the proponents submit the required Water Sustainability Act (WSA) application(s). It appears that Lot A will require some type of creek crossing, again requiring a WSA application. Fencing and or erosion protection on eg Cherry Creek should only occur on the private land side of the PNB.

It is not clearly defined whether proponents have Easements in place for Lot 1, Lot 2, Lot A. It appears on pdf page 5 [the site plan] that a northwest easement is either in place or proposed. This would mean traffic is directed southeast towards and or over George Creek. WSA application(s) would be required for any work in and about the stream.

Lot A has a well defined waterbody (eg. pond/wetland) – any work in and about this (and other waterbodies) require WSA applications or, if in conjunction with Water Licences, permission under the Licence."

Submitted by:



Heather Shannon
Planner

Endorsed by:



Rob Smailes, MCIP, RPP
General Manager, Planning and Building

Reviewed by:



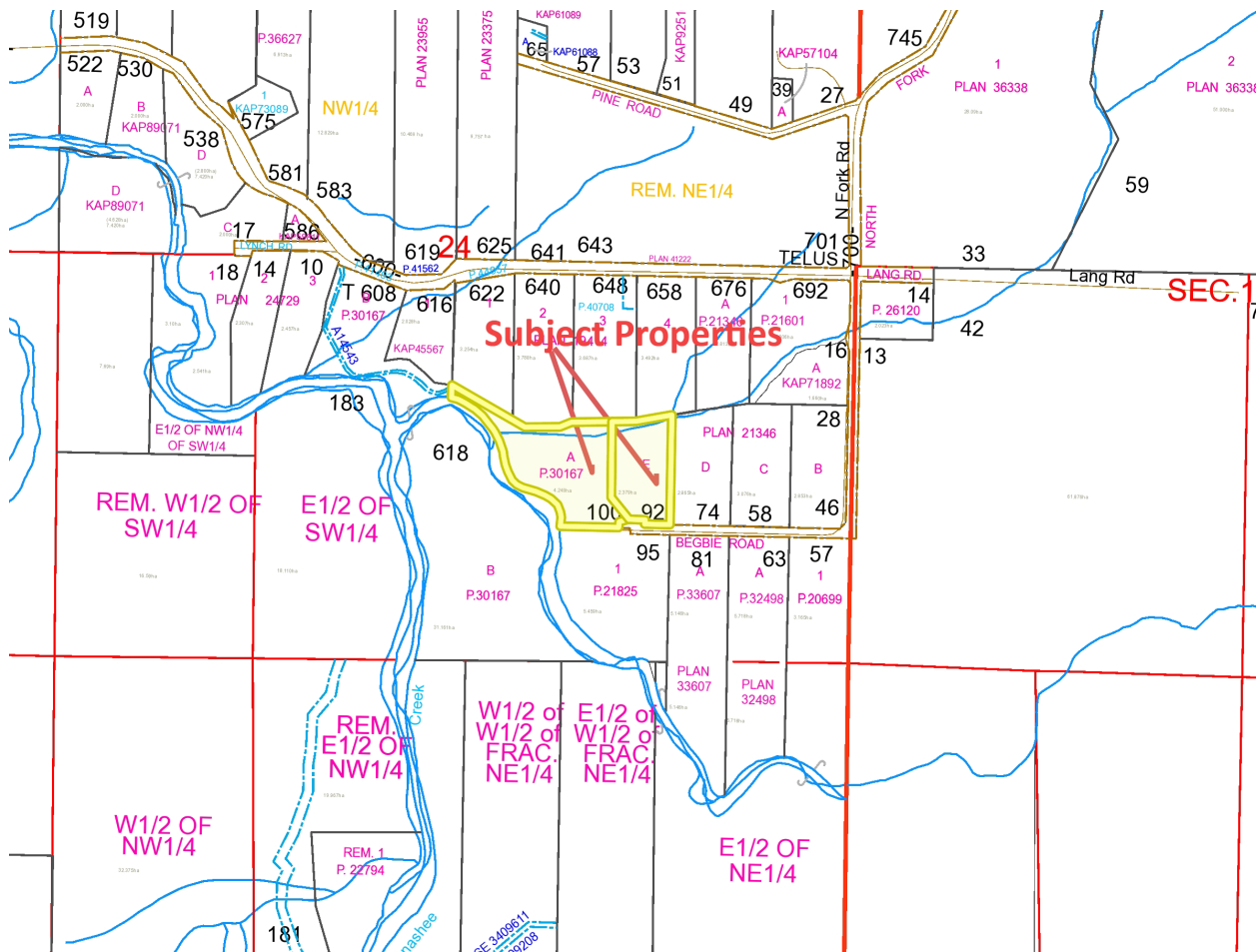
Greg Routley
Deputy Planning Manager

Approved for Inclusion:



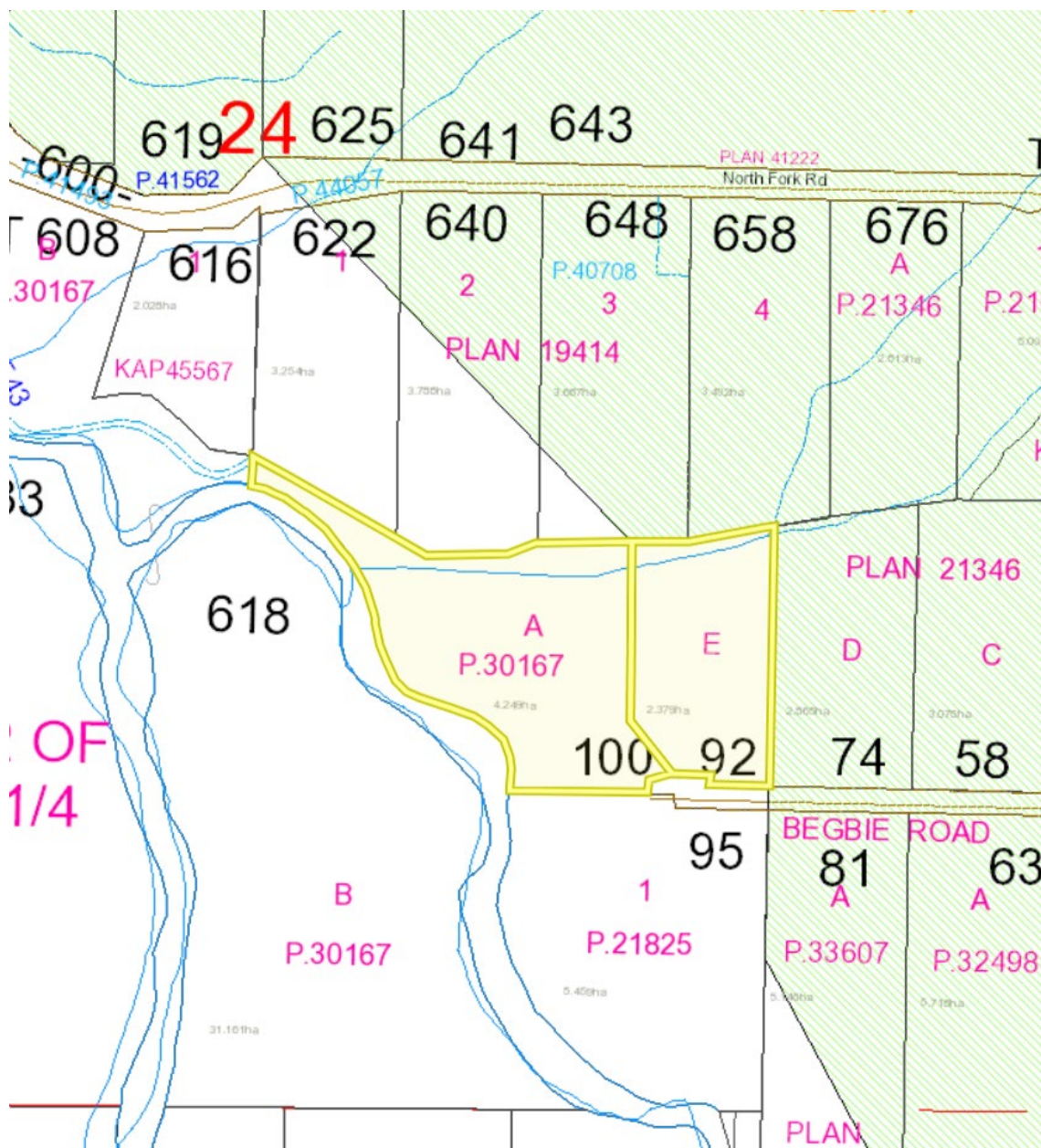
David Sewell
Chief Administrative Officer

File: 21-1135-E-RZ
Location: 92 & 100 Begbie Road
Applicant: Hank Cameron



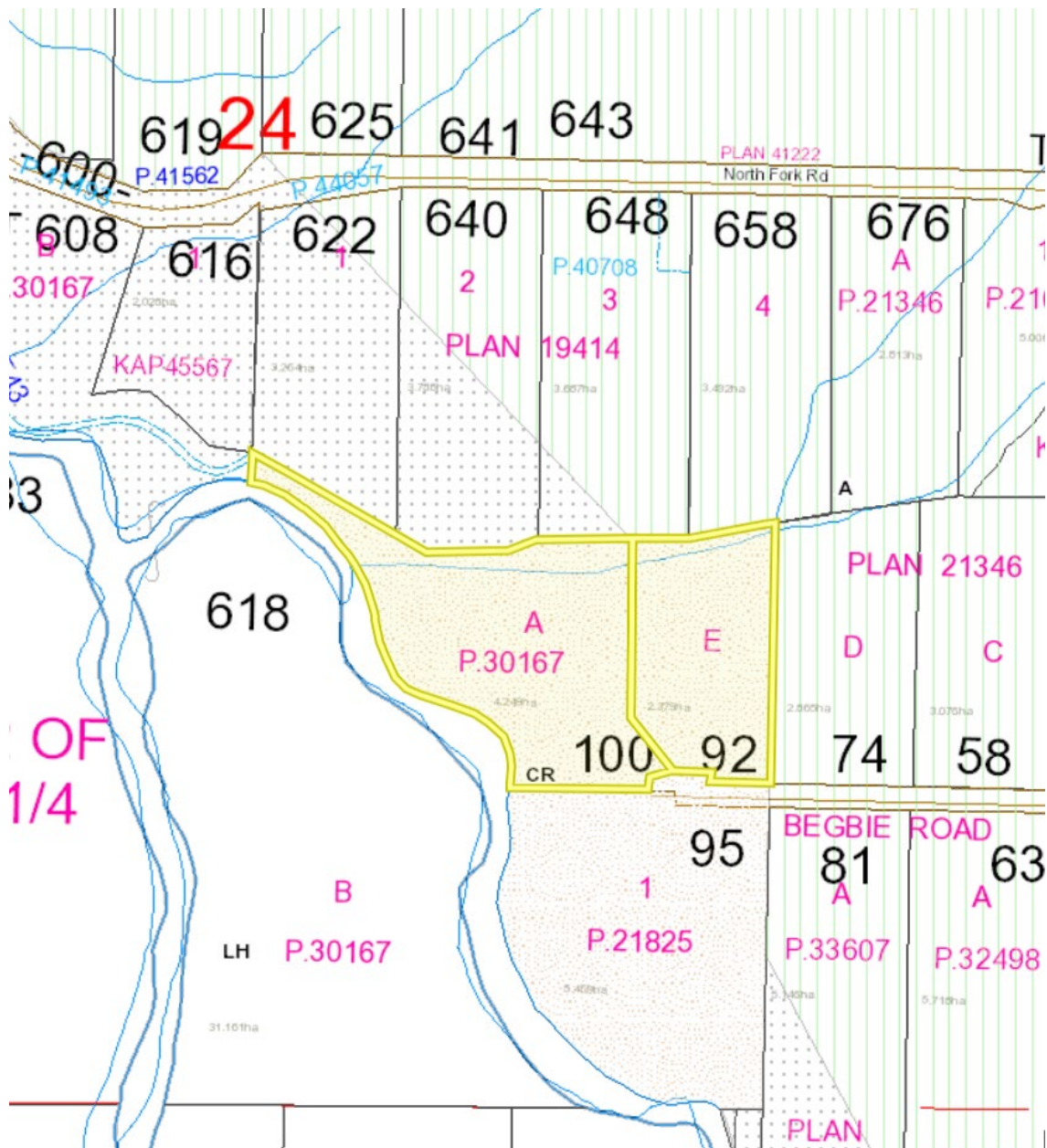
SUBJECT PROPERTY MAP REZONING ALR MAP

File: 21-1135-E-RZ
Location: 92 & 100 Begbie Road
Applicant: Hank Cameron



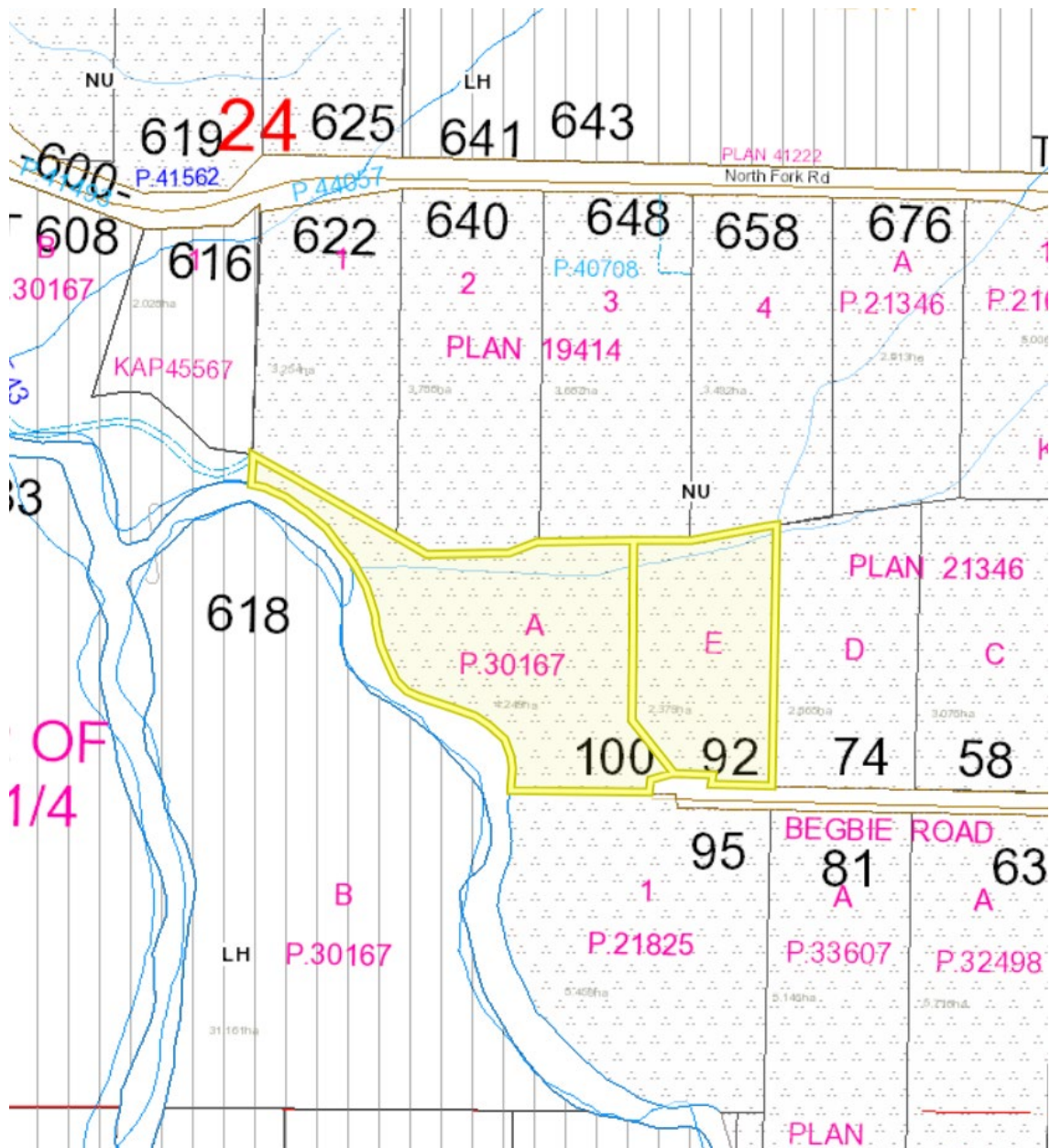
SUBJECT PROPERTY MAP REZONING OCP DESIGNATION

File: 21-1135-E-RZ
Location: 92 & 100 Begbie Road
Applicant: Hank Cameron



SUBJECT PROPERTY MAP REZONING ZONING BOUNDARIES

File: 21-1135-E-RZ
Location: 92 & 100 Begbie Road
Applicant: Hank Cameron



SITE PLAN
LOT E PLAN 21346
LOT A PLAN PLAN KAP 30167
SEC 24 TWP 57 0070



Scale 1:200

EASEMENT

APPROX. 3.64 HA.
PROPOSED
(EXISTING LOT A) REMAINDER LOT (EXISTING LOT E)

SHED

WELL HOUSE

WELL

PROPOSED LOT 2
2 HA

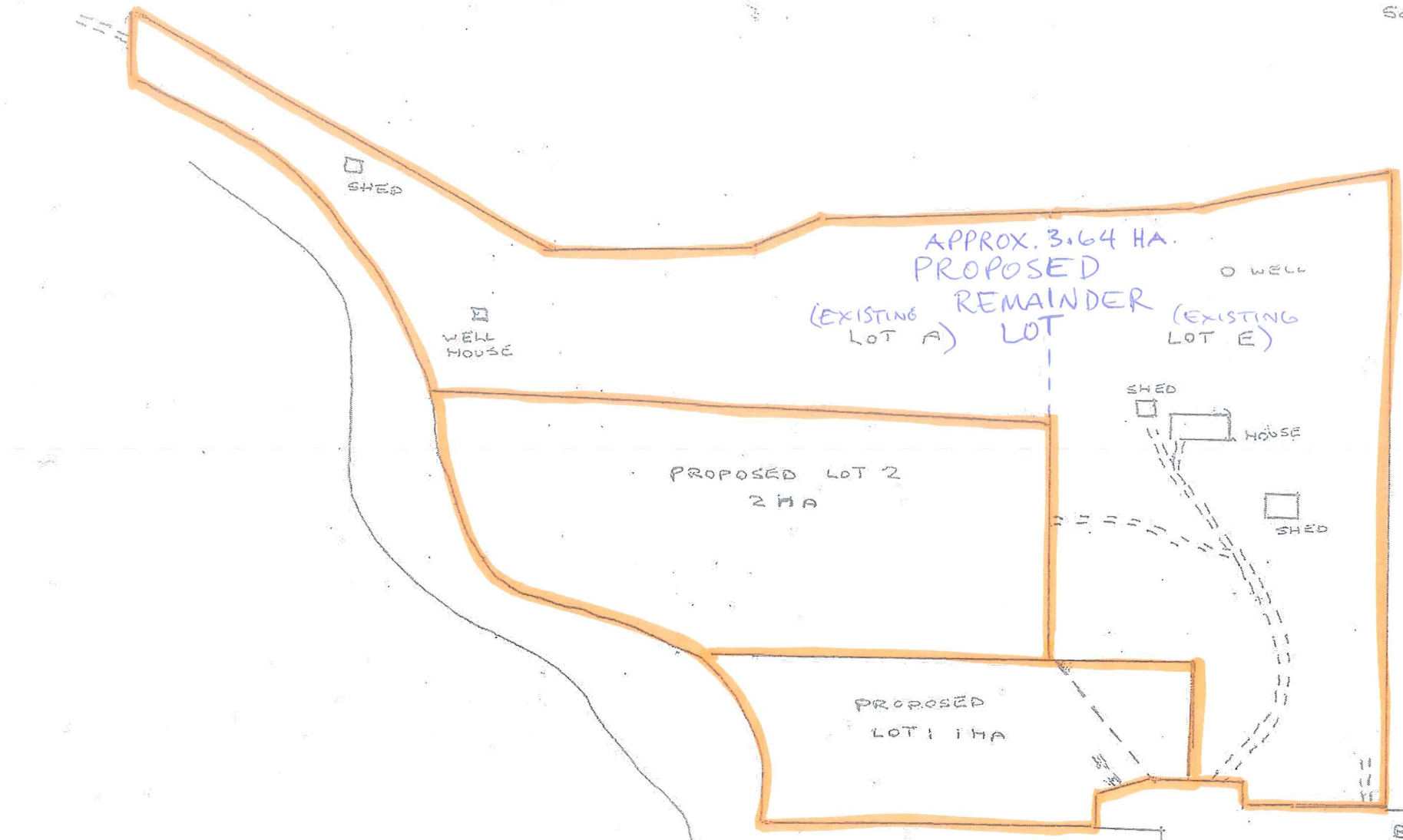
PROPOSED LOT 1 1 HA

SHED

HOUSE

SHED

BEGGIE RD.



REGIONAL DISTRICT OF NORTH OKANAGAN

BYLAW No. 2924

A bylaw to rezone lands and amend the Zoning Map attached to the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 to change a zone designation

WHEREAS pursuant to Section 479 [Zoning bylaws] of the *Local Government Act*, the Board of the Regional District of North Okanagan may, by Bylaw, divide the whole or part of the Regional District into zones, name each zone, establish boundaries for the zones and regulate uses within those zones;

AND WHEREAS the Board has created zones, named each zone, established boundaries for these zones and regulated uses within those zones by Bylaw No. 1888, being the "*Regional District of North Okanagan Zoning Bylaw No. 1888, 2003*" as amended;

AND WHEREAS, pursuant to Section 460 [Development approval procedures] of the *Local Government Act*, the Board must, by bylaw, define procedures under which an owner of land may apply for an amendment to a Zoning Bylaw and must consider every application for an amendment to the bylaw;

AND WHEREAS the Board has enacted the "*Regional District of North Okanagan Development Application Procedures and Administrative Fees Bylaw No. 2677, 2018*" as amended to establish procedures to amend an Official Community Plan, a Zoning Bylaw, or a Rural Land Use Bylaw, or to issue a Permit:

AND WHEREAS the Board has received an application to rezone property;

NOW THEREFORE, the Board of the Regional District of North Okanagan in open meeting assembled, hereby **ENACTS AS FOLLOWS**:

CITATION

1. This Bylaw may be cited as "***Zoning Amendment Bylaw No. 2924, 2022***".

AMENDMENTS

2. The zoning of the properties legally described as Lot E, Sec 24, Twp 57, ODYD, Plan 21346 & Lot A, Sec 24, Twp 57, ODYD, Plan 30167 and located at 92 & 100 Begbie Road, Electoral Area "E" is hereby changed on Schedule "A" of the *Regional District of North Okanagan Zoning Bylaw No. 1888, 2003* from the ***Non-Urban [N.U] zone*** to the ***Country Residential [C.R] zone***.

Advertised on	this	day of	, 2022
	this	day of	, 2022
Read a First, Second and Third Time	this	day of	, 2022

ADOPTED

this

day of

, 2022

Chair

Deputy Corporate Officer