



REGIONAL
DISTRICT
NORTH
OKANAGAN

PLANNING DEPARTMENT INFORMATION REPORT

REZONING APPLICATION

DATE: June 20, 2022

FILE NO.: 22-0508-E-RZ

OWNER/APPLICANT: Guy Kelly c/o Roxanne Kelly

LEGAL DESCRIPTION: Lot 3, Sec 30, Twp 57, ODYD, Plan 28392

P.I.D.#: 004-561-147

CIVIC ADDRESS: 1150 Highway 6

PROPERTY SIZE: 11.26 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 notice be given in accordance with Section 467 of the *Local Government Act* that Zoning Amendment Bylaw No. 2937, 2022 which proposes to rezone the property legally described as Lot 3, Sec 30, Twp 57, ODYD, Plan 28392, Except Plans 32411 & KAP84366 and located at 1150 Highway 6, 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; and further,

That Adoption of Zoning Amendment Bylaw No. 2937, 2022 be withheld until the applicant provides a site plan prepared by a BC Land Surveyor which shows: the dimensions and area of the proposed lots; the proposed driveway grades; the location of existing buildings; and the distances between proposed property lines and existing buildings.

SUMMARY:

This report relates to an application to rezone the property located at 1150 Highway 6 from the Non-Urban (N.U) zone to the Country Residential (C.R) zone. If successful in rezoning the property, the owner plans to submit a subdivision application which requests the approval to subdivide the property into three lots. Access to the three lots is proposed to be gained from either a new public road or a strata road that would connect to Highway 6.

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:

Previous Applications

In 2006, the owner applied to rezone a 2 ha portion of the subject property from the Non-Urban (N.U) zone to the Country Residential (C.R) zone to facilitate a one lot subdivision. The rezoning was approved and the subsequent subdivision was completed in 2007.

Site Context and Proposal

The subject property is located on the south side of Highway 6. A driveway connects the property to Highway 6 via a 25 m wide panhandle portion of the lot. A modular home, mobile home, and several accessory residential buildings are located the property. The modular home was constructed in approximately 1995. There is no Building Permit record of the mobile home. The property slopes up from Highway 6 and other than the north half of the property which contains the driveway and building sites, the property is treed.

As shown on the attached site plan, the applicant proposes to rezone the subject property from the Non-Urban (N.U) zone to the Country Residential (C.R) zone. If the rezoning is successful, the applicant seeks to subdivide the property into two 2 ha lots and one ± 6 ha remainder lot. The remainder lot would contain the existing modular home and would be serviced by an existing well and septic system. Proposed Lot 1 would contain the existing mobile home and would be serviced by an existing well and septic system. Proposed Lot 2 would be vacant.

The proposed lots would be accessed from a proposed new public road or strata road. The road would be created using the existing driveway access which extends to Highway 6 and would include a cul-de-sac turn around area. While the remainder lot would retain a portion of the existing driveway, the proposed new lots would be serviced by new driveways from the proposed new road.

The attached maps show the location, zoning and OCP designation of the subject and surrounding properties. The attached orthophoto was taken in 2016.

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 property 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. There are several lots around the area which are zoned and subdivided to the Country Residential minimum lot size standard of 2 ha. The proposed rezoning represents an extension of this zoning cluster and therefore the proposal should not undermine the existing character of the local area.

Staff note that the attached site plan does not include the grade of the proposed strata road, driveways, and building sites or setbacks of existing buildings to proposed property lines. Staff recommend a site plan prepared by a BC Land Surveyor be provided by the applicant to identify any potential bylaw variances or exemptions that may be needed prior to or after the Adoption of the Zoning Amendment 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. 2937 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.

Should the Board of Directors wish to hold a Public Hearing for Bylaw No. 2937, a resolution could be passed to give 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 Section 466 of the *Local Government Act* and the Hearing would be held prior to considering Third Reading.

ZONING BYLAW:

The subject property is 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, the 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 property 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.

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.

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.

The subdivision of parcels within Electoral Area “E” may be approved without the provision of BC Hydro Servicing.

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. **Ministry of Transportation and Infrastructure**

Submitted by:



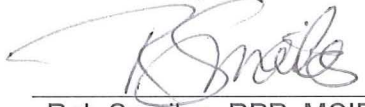
Jennifer Miles, RPP, MCIP
Planner II

Reviewed by:




Greg Routley
Deputy Planning Manager

Endorsed by:



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

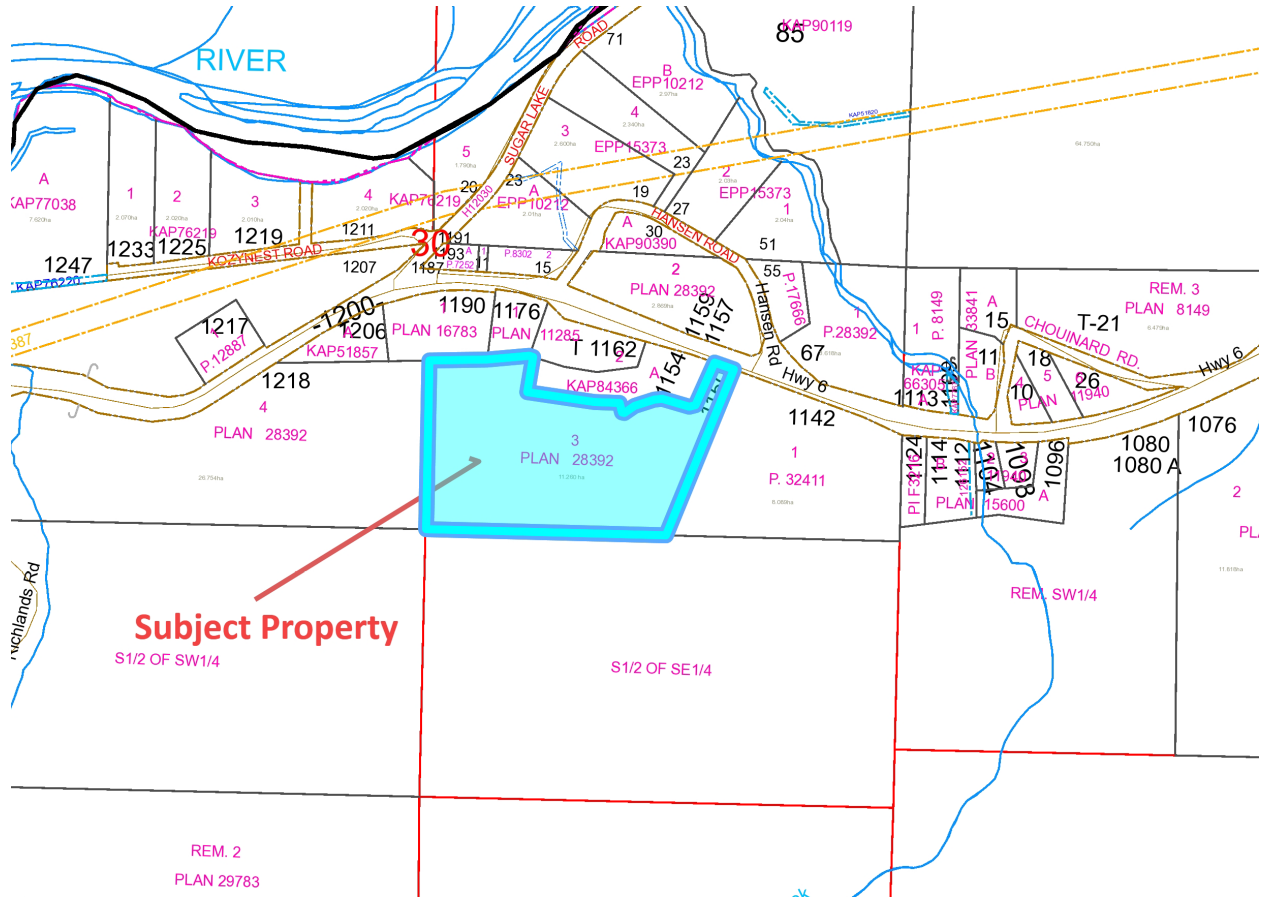
Approved for Inclusion:



David Sewell
Chief Administrative Officer

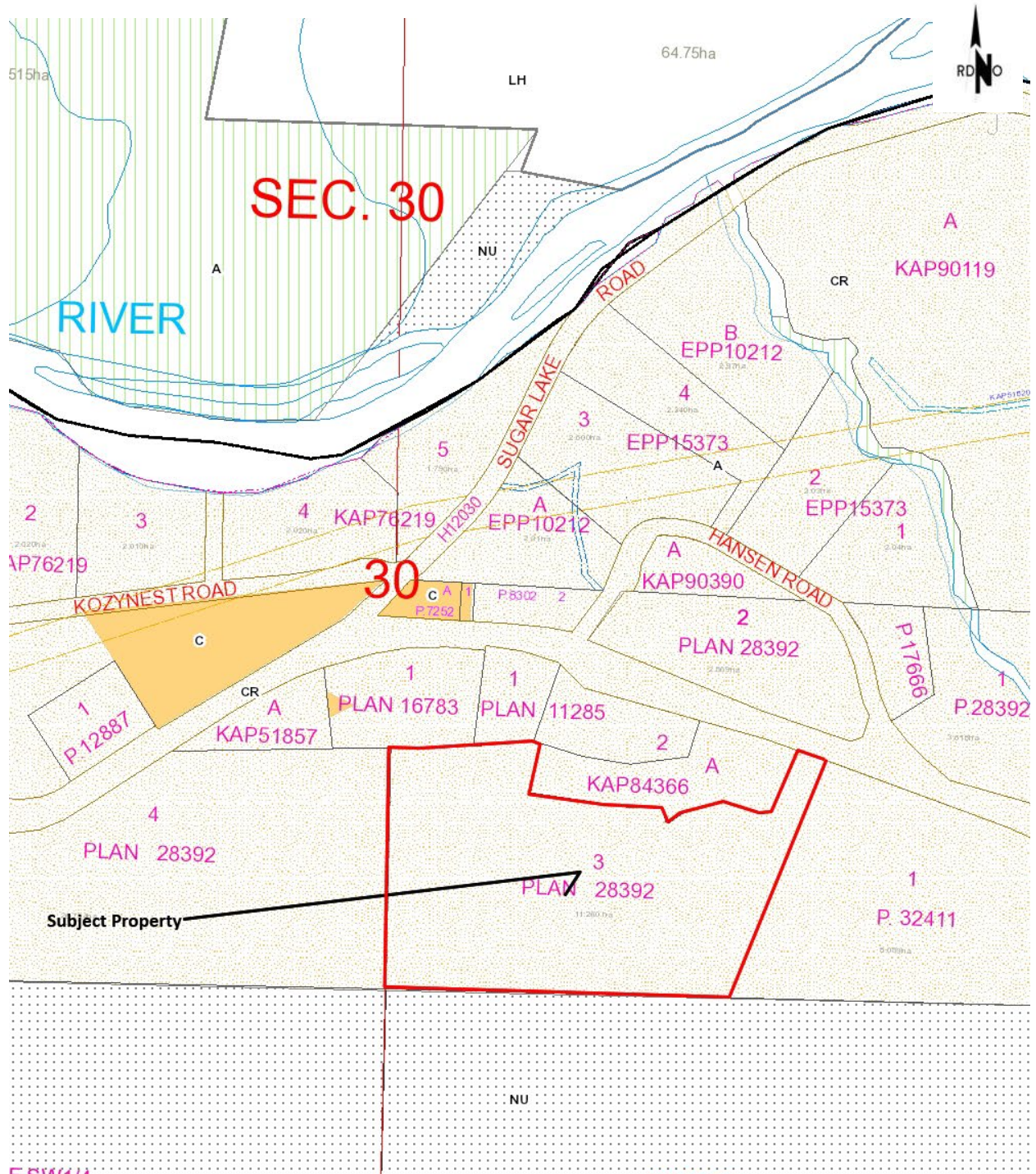
SUBJECT PROPERTY MAP REZONING

File: 22-0508-E-RZ
Location: 1150 Highway 6



SUBJECT PROPERTY MAP REZONING OCP DESIGNATION MAP

File: 22-0508-E-RZ
Location: 1150 Highway 6



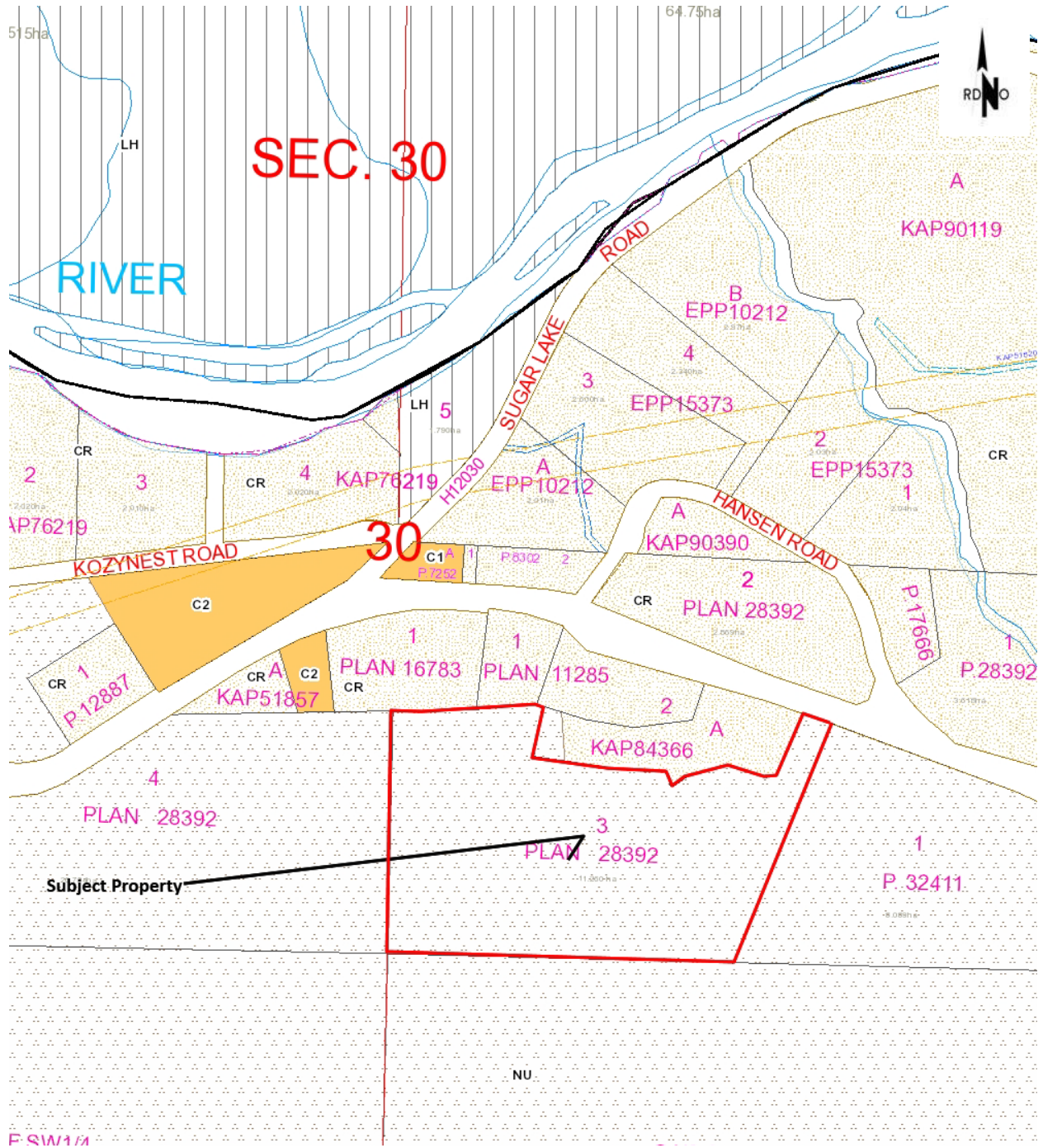
SUBJECT PROPERTY MAP REZONING ORTHOPHOTO

File: 22-0508-E-RZ
Location: 1150 Highway 6



SUBJECT PROPERTY MAP REZONING ZONING MAP

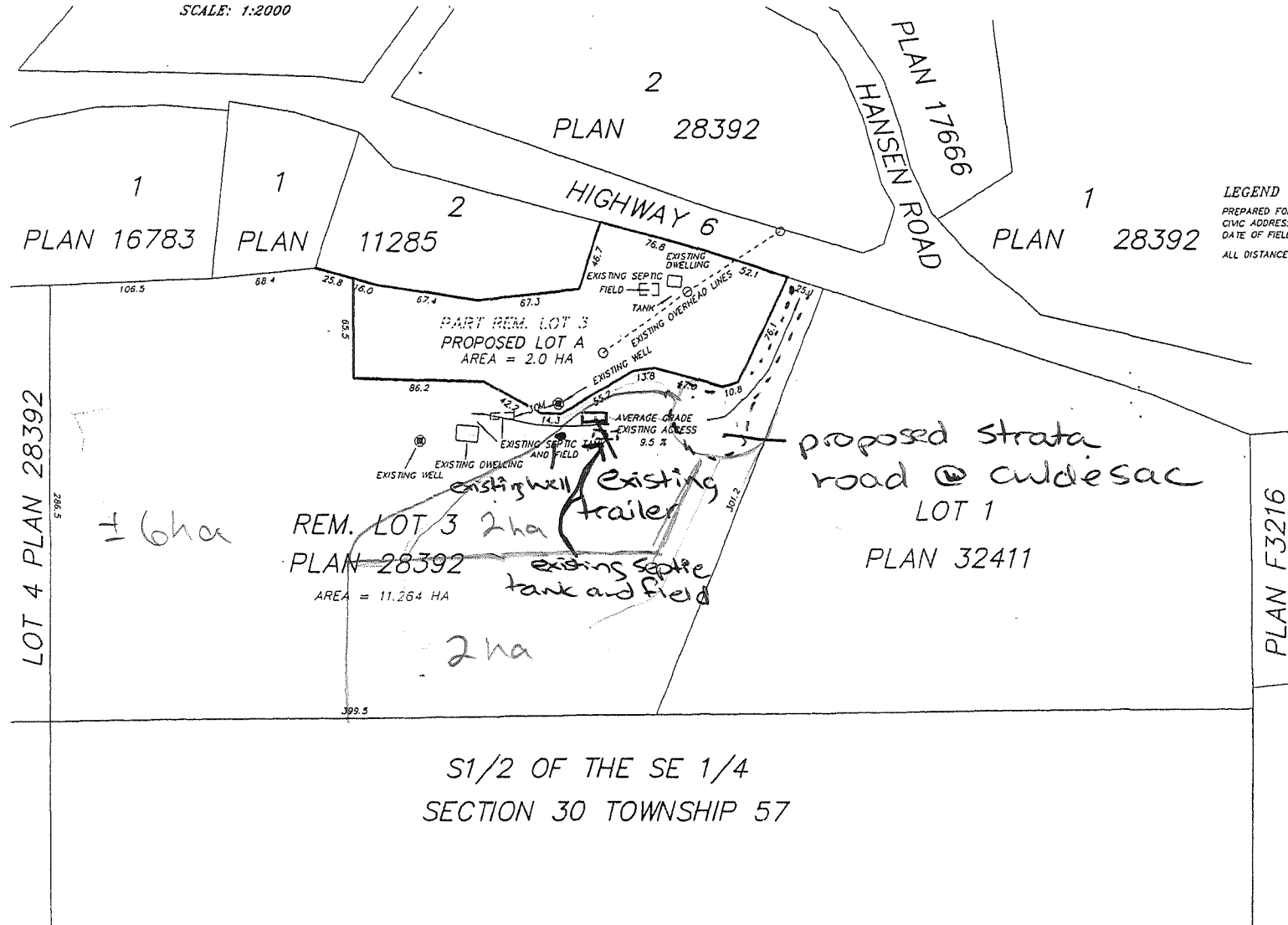
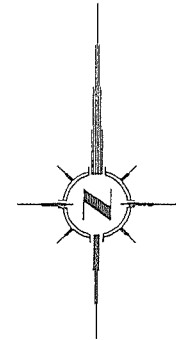
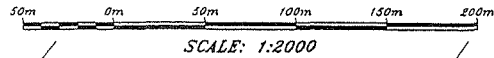
File: 22-0508-E-RZ
Location: 1150 Highway 6



SKETCH PLAN OF PROPOSED SUBDIVISION OF PART OF LOT 3 SECTION 30 TOWNSHIP 57
 OSOYOOS DIVISION YALE DISTRICT PLAN 28392 EXCEPT PLAN 32411

TO ACCOMPANY SUBDIVISION APPLICATION

B.C.G.S. # 82L.027



LEGEND
 PREPARED FOR MR. GUY KELLY
 CIVIC ADDRESS: 1150 HIGHWAY 6
 DATE OF FIELD SURVEY: MAY 17 AND NOVEMBER 30, 2006
 ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF.

S1/2 OF THE SE 1/4
 SECTION 30 TOWNSHIP 57

REGIONAL DISTRICT OF NORTH OKANAGAN

BYLAW No. 2937

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. 2937, 2022**”.

AMENDMENTS

2. The zoning of the property legally described as Lot 3, Sec 30, Twp 57, ODYD, Plan 28392, Except Plans 32411 & KAP84366 and located at 1150 Highway 6, 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
--	------	--------	--------

Approved by Minister of Transportation and Infrastructure (<i>Transportation Act s. 52(3)</i>)	this	day of	, 2022
--	------	--------	--------

ADOPTED

this

day of

, 2022

Chair

Deputy Corporate Officer