



REGIONAL
DISTRICT
NORTH
OKANAGAN

STAFF REPORT

TO: Board of Directors
FROM: Planning Department
SUBJECT: Zoning Bylaw No. 3000, 2023

File No: 3060.03.17
Date: November 30, 2023

RECOMMENDATION:

That the Regional District of North Okanagan Zoning Bylaw No. 3000, 2023 be given Second Reading, as amended, and be forwarded to a Public Hearing; and further;

That the Public Hearing for Zoning Bylaw No. 3000 be delegated to the Electoral Area Advisory Committee under Section 231 of the *Local Government Act*.

BACKGROUND:

Zoning Bylaw No. 3000 proposes to replace the Regional District of North Okanagan Zoning Bylaw No. 1888, which was adopted in 2004. At the Regular Meeting of the Board of Directors held on March 22, 2023, the Board received the first draft of Zoning Bylaw No. 3000. After considering the draft Bylaw, the Board resolved to refer it to the Electoral Area Advisory Planning Commissions and to affected RDNO departments, organizations and provincial agencies for their review and comment.

At the Regular Meeting held on October 18, 2023, the Board considered changes proposed to the draft Zoning Bylaw in response to comments received from various provincial agencies. After considering the proposed changes, the Board give First Reading to Zoning Bylaw No. 3000 and resolved to forward the Bylaw to the Ministry of Agriculture (MOA) and Agricultural Land Commission (ALC) for further comment.

DISCUSSION:

Comments from the MOA and ALC

Attached to this report is a letter (dated November 20, 2023) received from the ALC in response to the referral of the revised Zoning Bylaw No. 3000. The letter states that "ALC staff are pleased to see the update of many sections in the Revised Zoning Bylaw based on comments sent by ALC staff on April 25, 2023. While the majority of the updates have been made within the Revised Zoning Bylaw, ALC staff wanted to take a moment to reiterate some outstanding notes." The notes in the letter relate to the ALCs previous recommendations that Bylaw No. 3000 include a dedicated "Agriculture" zone and regulations for buffering between agricultural and urban uses. The attached ALC letter reiterates these two recommendations. The letter does not state that these recommendations must be followed in order to make Bylaw No. 3000 consistent with the ALC Act. The Planning Department does not recommend any changes to Zoning Bylaw No. 3000 in response to the comments received from the ALC.

Attached to this report is also a letter (dated November 29, 2023) received from the MOA in response to the referral of the revised Zoning Bylaw No. 3000. The letter states that “Overall, proposed Bylaw 3000, 2023 at first reading is a significant improvement over the draft bylaw and is now substantially more consistent with provincial legislation.” The letter also reiterates the MOAs previous recommendations that Bylaw No. 3000 include a dedicated “Agriculture” zone. The letter does not state that this recommendation must be followed in order to make Bylaw No. 3000 consistent with the ALC Act. The Planning Department does not recommend any changes to Zoning Bylaw No. 3000 in response to the comments received from the MOA.

Recently Adopted In-Process Land Use Applications

Since Zoning Bylaw No. 3000 received First Reading, the Zoning Amendment Bylaws of two in-process land use application have been Adopted. At the Regular Meeting held on November 15, 2023, the Board of Directors Adopted Zoning Amendment Bylaw No. 2967 and Zoning Amendment Bylaw No. 2946, 2023. Zoning Amendment Bylaw No. 2967 rezoned the properties located at 6225 and 6235 Highway 97 from the Highway and Tourist Commercial (C.2) zone to the Light Industrial (I.1) zone. The applicant is proposing to develop an autobody repair shop. Zoning Amendment Bylaw No. 2946, 2023 rezoned the property located at 7810 Glenhayes Road, Electoral Area “C” from the Small Holding (S.H) zone to the Residential Apartment and Multi-Family (R.3) zone. The applicant proposes to subdivide the property into 10 lots when a connection to community sewer becomes available in the future. As Zoning Bylaw No. 3000 does not include the recently adopted Bylaws, it must also be amended. Staff recommend that the zoning reflected in Zoning Amendment Bylaw No. 2967 and Zoning Amendment Bylaw No. 2946, 2023 be incorporated into Zoning Bylaw No. 3000 and that Bylaw No. 3000 be given Second Reading as amended.

Public Hearing

The proposed new Zoning Bylaw includes a significant number of changes, including to the number of dwellings allowed per lot in the rural zones, and so it is recommended that the Bylaw be referred to a Public Hearing. The Board could also direct staff to conduct further public outreach regarding the proposed new Zoning Bylaw such as an Open House or Public Information Meeting.

AGRICULTURAL LAND COMMISSION ACT:

Section 46 of the *Agricultural Land Commission Act* states that a local government zoning bylaw that is inconsistent with this Act, the regulations or an order of the commission has, to the extent of the inconsistency, no force or effect. It also states that a local government bylaw is deemed to be inconsistent with this Act if it (a) allows a use of land in the agricultural land reserve that is not permitted under the ALC Act, or (b) contemplates a use of land that would impair or impede the intent of the ALC Act, the regulations or an order of the Commission.

TRANSPORTATION ACT:

Section 52 of the *Transportation Act* states that a zoning bylaw does not apply to land within 800 m of the intersection of a controlled access highway and any other highway unless the bylaw has been approved in writing by the Ministry of Transportation and Infrastructure. The proposed new Zoning Bylaw will need to be endorsed by the Ministry as it applies to properties that are within 800 m of a number of intersections of controlled access highways and other highways throughout the RDNO. In this regard, the Ministry has provided preliminary approval based on their initial review of the draft Zoning Bylaw.

IN-PROCESS LAND USE APPLICATIONS:

Replacing the current Zoning Bylaw No. 1888 with the proposed new Zoning Bylaw No. 3000 will impact the approval process for zoning amendment bylaws associated with in-process rezoning applications. Those that are adopted prior to Second Reading of Zoning Bylaw No. 3000 will need to be incorporated into the zoning map of the Bylaw. Zoning amendment bylaws could get adopted after Second Reading has been given and a Public Hearing has been held for Zoning Bylaw No. 3000, however, this would require that a second Public Hearing be held for Zoning Bylaw No. 3000.

After the adoption of Zoning Bylaw No. 3000, zoning amendment bylaws associated with Zoning Bylaw No. 1888 that are not yet adopted would no longer be relevant or have standing. New zoning amendment bylaws will need to be prepared in order to change the references from those applicable to Zoning Bylaw No. 1888 to references applicable to Zoning Bylaw No. 3000, and then run through the normal amendment procedure anew.

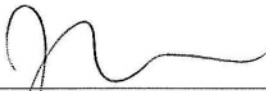
To help make the processing of the bylaws associated with in-process applications as seamless and efficient as possible and to avoid the need for a second Public Hearing for Zoning Bylaw No. 3000, the Planning Department has and will continue to inform persons that have or are planning to submit rezoning applications of the process involved in the transition from the current Zoning Bylaw to the proposed new one. Applicants are being encouraged to address any conditions of approval that the Board has resolved need to be addressed before Zoning Bylaw No. 3000 receives Second Reading as proposed at the December 20, 2023 Regular Meeting of the Board of Directors.

The attached Appendix A outlines the status of the 14 in-process (active) applications.

Attachments

- Appendix A – Status of the 14 in-process (active) applications.
- Appendix B – Letter from ALC dated November 20, 2023.
- Appendix C – Letter from MOA dated November 29, 2023.
- Zoning Bylaw No. 3000
- Schedule A – Zoning Maps of the Regional District of North Okanagan

Submitted by:




Jennifer Miles, RPP, MCIP
Planner II

Reviewed by:




Greg Routley
Deputy Planning Manager

Endorsed by:



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

Approved for Inclusion:



David Sewell
Chief Administrative Officer

1. Zoning Amendment Bylaw No. 2962, 2023
File No.: 22-0189-F-TA [Mabel Lake Holdings]
Address: 16900 Lumby Mabel Lake Road, Electoral Area “F”

The above noted application relates to a proposal to amend the CD.4 zone to permit the seasonal use of recreational vehicles and increase the maximum allowable number and size of accessory buildings on the subject property. If approved, the zoning would allow the owners of the property to potentially legalize the seasonal use of recreational vehicles on the property and to potentially obtain approval for buildings that have been constructed without Building Permits and in contravention of the existing zoning of the property.

At the Regular Meeting held on September 7, 2023, the Electoral Area Advisory Committee considered the application and deferred consideration of the proposal to a future meeting.

2. Zoning Amendment Bylaw No. 2959, 2023
File No.: 23-0033-C-RZ [1328278BC / Gudeit]
Address: Lytton Road & 5753 Ranch Road, Electoral Area “C”

The above noted application relates to a proposal to rezone two properties located at Lytton Road and 5753 Ranch 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 properties into four lots.

At the Regular Meeting held on April 19, 2023, the Board resolved to consider the associated Zoning Amendment Bylaw No. 2959, 2023 for First Reading at a future meeting date. The Board also resolved that Second Reading of Zoning Amendment Bylaw No. 2959, 2023 be withheld until:

1. the applicant has provided a hydrogeological report which gives due consideration to the findings of the Keddleston Groundwater Study dated January 31, 2020, and which demonstrates:
 - a. that groundwater sources would be available to service the full buildout potential of the subject property (four lots) in accordance with the provisions of the Regional District's Subdivision Servicing Bylaw No. 2600; and
 - b. that the use of the groundwater supplies would not have a negative impact on the use of existing wells that obtain water from Aquifer 350; and
 2. the applicant has provided plans prepared by a BC Land Surveyor or Professional Engineer which show building sites, sewage disposal areas, and driveways on the proposed lots and within Lytton Road, including the grades and the cuts and fill required to achieve those grades.
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3. File No.: 22-0948-D-OR [Postill]
Address: 5280 Highway 6, Electoral Area “D”

The above noted application relates to a proposal to amend the OCP land use designation of a portion of the subject property from Agricultural to Industrial and to rezone the same portion of the property from Non-Urban (N.U) to General Industrial (I.2). If approved, the applicant proposes to construct a service and repair facility on the property to be used for the applicant as part of their gravel operation.

At the Regular Meeting held on April 19, 2023, the Board resolved that the application be supported in principle and staff be directed to prepare an Official Community Plan Amendment Bylaw and Zoning Amendment Bylaw for First Reading only. The Board also resolved that Second Reading of the proposed Official Community Plan and Zoning Amendment Bylaws be withheld until:

1. the applicant has held a Public Information Meeting in accordance with the Public Information Meeting Guide and submitted a follow-up report to staff in accordance with the Regional District of North Okanagan Public Information Meeting Guide;
2. the applicant has provided confirmation in writing from a Professional Engineer that the subject property is safe for the intended use;
3. the applicant has submitted a hydrogeological study prepared by a Professional Engineer to determine the supply potential and impacts, if any, of the proposed development on the water supply of existing users in the surrounding area and the underlying aquifer and determines if a community water system is required by the authority having jurisdiction;
4. the applicant has submitted a report certified by a Professional Engineer to ensure that sewerage disposal, hazardous materials storage and handling procedures, facility design and operation associated with uses permitted in the General Industrial (I.2) zone will not compromise the integrity of the underlying aquifer; and
5. the applicant has submitted a study prepared by a Professional Engineer which evaluates the subject property and provides recommendations for potential on-site septic sewage disposal and storm water management associated with the proposed development; and further,

The Board further resolved that Final Adoption of the proposed Official Community Plan and Zoning Amendment Bylaws be withheld until:

1. the applicant has obtained approval from the Agricultural Land Commission for the use of the existing driveway within the panhandle portion of the subject property;
2. the applicant has obtained approval from the Canadian National Railway for a railway crossing; and
3. the applicant has registered a covenant which requires that the proposed 3 m wide buffer along the north side of the proposed access driveway be established on the property.

4. Zoning Amendment Bylaw No. 2944, 2022

File No.: 22-0659-B-RZ [Saric]

Address: 7710 Baker Hogg Road, Electoral Area "B"

The above noted application relates to a proposal to rezone the property located at 7710 Baker Hogg Road, Electoral Area "B" from the Country Residential (C.R) zone to the Residential Two Family (R.2) zone. If rezoned, the applicant proposes to subdivide the subject property into 10 lots when a connection to community sewer becomes available in the future.

At the Regular Meeting held on September 21, 2022, the Board resolved that notice be given in accordance with Section 467 of the *Local Government Act* that Zoning Amendment Bylaw No. 2944 will be considered for First Reading at a future meeting. The Board also resolved that Second Reading of Zoning Amendment Bylaw No. 2944 be withheld until:

1. the applicant provides a site plan prepared by a BC Land Surveyor which shows: the dimensions and area of the future proposed lots; the future proposed road with grades that meet the requirements of the Ministry of Transportation and Infrastructure; and the distances between proposed property lines and existing and proposed buildings; and
2. comments are received from the Parks Department.

The Board also resolved that Final Adoption of Zoning Amendment Bylaw No. 2944, 2022 be withheld until:

1. the applicant registers a covenant against the title of the property that would:
 - a. require the property to be connected to a community sewer system once the sewer lines associated with the system have been extended to the subject property;
 - b. require a buffer strip be established on the property consistent with the “Landscaped Buffer Specifications” established by the Agricultural Land Commission;
 - c. require the lots in the proposed Phase II subdivision to be less than 1 ha when subdivided and to generally conform with the proposed Phase II subdivision plan; and
 - d. state that subdivision approval of the proposed Phase II subdivision will not be granted until community water and sewer services are extended to the subject property; and
2. water servicing issues associated with the proposed development have been addressed to the satisfaction of the Regional District.

At the Regular Meeting held on June 21, 2023, the Board of Directors resolved to give First, Second and Third Readings to the associated Zoning Amendment Bylaw No. 2944, 2022. The Ministry of Transportation has also endorsed Bylaw No. 2946.

5. Zoning Amendment Bylaw No. 2943, 2022
File No.: 22-0569-F-OR [FLNRO / Splatsin]
Address: Enderby Mabel Lake Road, Electoral Area “F”

The above noted application relates to a proposal to amend the Electoral Area “F” Official Community Plan (OCP) land use designation and zoning for the property located at Enderby Mabel Lake Road in Electoral Area “F”. The applicant proposes to amend the OCP land use designation of the subject property from Future Park to Commercial and to change the zoning of the property from Non-Urban (N.U) to Recreation Commercial (C.5). If approved, the applicant proposes to develop the property as a 20 site campground and a 10 unit rental cabin accommodation development.

At the Regular Meeting of the Board of Directors held on August 17, 2022, the Board resolved that staff be directed to prepare an Official Community Plan Amendment Bylaw and a Zoning Amendment Bylaw for First Reading. The Board also resolved that Final Adoption of the Official Community Plan and Zoning Amendment Bylaws be withheld until:

1. A Commercial Development Permit has been issued by the Regional District for the proposed cabin accommodation development;
2. The Regional District has confirmed that the subject property has been connected to the Mabel Lake Water and Sewer Utility systems or guarantees which meet the requirements of the Small Utilities Department regarding their construction and installation are provided; and
3. The applicant has entered into an agreement with the Regional District of North Okanagan for public use of the existing trail located on the subject property.

On September 21, 2022, the Board gave First Reading to the associated Electoral Area “F” Official Community Plan Amendment Bylaw No. 2942, 2022 and Zoning Amendment Bylaw No. 2943, 2022. The Board gave Second Reading to Bylaw Nos. 2942 and 2943 on December 14, 2022 and forwarded the Bylaws to a delegated Public Hearing. A Public Hearing was held on February 2, 2023.

At the Regular Meeting held on Wednesday, February 15, 2023, the Board gave Third Reading to the associated Electoral Area “F” Official Community Plan Amendment Bylaw No. 2942, 2022 and Zoning Amendment Bylaw No. 2943, 2022. The Board further resolved that Final Adoption of Bylaw Nos. 2942 and 2943 be withheld until the Province has approved a Crown Land Tenure for commercial uses on the property.

6. Zoning Amendment Bylaw No. 2941, 2022
File No.: 22-0199-F-OR [Land First / Li]
Address: 150 Crossridge Road, Electoral Area “F”

The above noted application relates to a proposal to amend the Official Community Plan (OCP) land use designation and zoning of the property located at 150 Crossridge Road in Electoral Area “F” from Non-Urban to Country Residential. If approved, the applicant is proposing to subdivide the property into 15 lots.

At the Regular Meeting held on August 17, 2022, the Board of Directors considered the application and resolved that staff be directed to prepare an OCP Amendment Bylaw and a Zoning Amendment Bylaw for First Reading. The Board resolved that Second Reading of the proposed bylaws be withheld until:

1. comments have been received from: RDNO Community Services (Parks and Protective Services) Departments, Fire Department and First Nations;
2. the applicant has held a Public Information Meeting in accordance with the Public Information Meeting Guide;
3. the applicant has provided confirmation in writing from a qualified professional Geotechnical Engineer that the subject property is safe for the intended use;
4. a water supply study which takes into consideration the potential to service the proposed lots and the impact it could have on the water supply in the area;
5. plans prepared by a BC Land Surveyor or Professional Engineer which show the building sites and driveways on the proposed including their existing and proposed grades and the cuts and fill required to achieve those grades;
6. the applicant has submitted a study prepared by a professional Geotechnical Engineer which evaluates the subject property and provides recommendations for potential on-site septic sewage disposal associated with the proposed development; and,
7. the applicant has submitted a report prepared by a Registered Professional Forester which assesses the proposed development and provides recommendations to minimize the risk of wildfire hazard including recommendations related to vehicle access routes and FireSmart principles.

At the Regular Meeting held on September 21, 2022, the Board gave First Reading to Electoral Areas “F” Official Community Plan Amendment Bylaw No. 2940, 2022 and to Zoning Amendment Bylaw No. 2941, 2022. The Board gave Second Reading to Bylaw Nos. 2940 and 2941 on November 15, 2023, and forwarded the Bylaws to a delegated Public Hearing. The Board also resolved that Final Adoption of Bylaw No. 2940 and Bylaw No. 2941 be withheld until a covenant has been registered on the title of the property which:

1. requires a phased approach to development commencing with an initial phase of 8 lots while groundwater levels in multiple wells onsite continue to be monitored to develop a better understanding of seasonal groundwater fluctuations and aquifer recharge. The monitoring data would be used as the basis for a decision to allow future phases of development to proceed;
2. states that the property may not be subdivided until a professional hydrologist has verified that all wells proposed to service all new lots are proven to meet the quantity and quality standards of the Regional District Subdivision Servicing Bylaw and that the extraction of water from the wells will not negatively impact the water supply of neighbouring wells;
3. states that the observed drainages on the property must be maintained and protected as they may provide valuable recharge to the underlying bedrock Aquifer 107;

4. requires the property to be developed in accordance with the recommendations in the report from Landmark Solutions Ltd. dated March 15, 2023, including the requirement to construct a secondary emergency access route at the time of subdivision which connects to Helmcken Road and to register an easement over the route, and which saves harmless the Regional District in the event that damage to property may occur as a result of a wildfire; and
5. states that the property may not be subdivided unless a road reserve is registered on the title of the property in a location and alignment that would connect the future extension of Crossridge Road with the property located to the south in accordance with Ministry of Transportation and Infrastructure (MOTI) standards and to the satisfaction of the Regional District and the MOTI.

7. Zoning Amendment Bylaw No. 2927, 2022
File No.: 21-1055-B-OR [Okanagan Gondola]
Address: Highway 97, Electoral Area “B”

The above noted application relates to a proposal to change the Electoral Areas “B” and “C” Official Community Plan (OCP) land use designation and the zoning of a portion of a property located on the west side of Highway 97 near the intersection with Bailey Road, in Electoral Area “B”. The property is partially within the Agricultural Land Reserve (ALR) and the applicant proposes to change the OCP land use designation of the non-ALR portion of the property from Large Holding to Commercial and to change the zoning of the same portion of the property from Large Holding (L.H) to Recreation Commercial (C.5).

At the Regular Meeting of the Board of Directors held on April 20, 2022, the Board gave First Reading to Electoral Areas “B” and “C” Official Community Plan Amendment Bylaw No. 2926, 2022 and Zoning Amendment Bylaw No. 2927, 2022. On December 14, 2022, the Board of Directors resolved that the Bylaws be given Second Reading.

At the Regular Meeting of July 19, 2023, the Board resolved that the associated Electoral Areas “B” and “C” Official Community Plan Amendment Bylaw No. 2926, 2022 and Zoning Amendment Bylaw No. 2927, 2022 be forwarded to a Delegated Public Hearing to be held on October 5, 2023. The Board further resolved that Final Adoption of the Official Community Plan and Zoning Amendment Bylaws be withheld until:

1. the applicant has made suitable arrangements with the Regional District to secure a 5 m wide corridor on the property for a future public trail;
2. a Commercial, Environmentally Sensitive Lands, and Riparian and Swan Lake Development Permit associated with the proposed development has been approved for issuance; and
3. the applicant has obtained approval from the Agricultural Land Commission for any proposed non-farm use of those portions of the subject property within the Agricultural Land Reserve (ALR), any non-farm use of private roads in the ALR, and road construction in the ALR if applicable; and,
4. the applicant has registered a covenant against the title of the property legally described as The Fractional N 1/2 of Sec 36, Twp 14, ODYD, Except Plans B826, 37599 & H823 and located at Highway 97, Electoral Area “B” which would:
 - a. prohibit subdivision of the lands unless and until access to the subject property is provided by a public road other than Highway 97;
 - b. restrict the range of uses permitted on the subject property to the following: outdoor entertainment limited to outdoor light show areas, plazas, amphitheatres; amusement and recreation facilities limited to mountain biking and walking trails; tourist amusement facilities limited to gondolas, ziplines, mountain coasters, tree forts, playgrounds, souvenir shops; food services limited to the service of food and beverages that are prepared off-site; and accessory buildings and structures;

- c. allow the above described range of uses to be increased to include food services serve food and beverages that is are prepared on-site provided such uses and all of the other above described uses on the property are serviced with an on-site water supply that does not involve hauling water from off-site;
- d. require that the issuance of Building Permits for the proposed development be withheld until a Registered Professional Forester has confirmed that the recommendations for wildfire mitigation as outlined in the report prepared by Forsite Forest Management Specialists dated April 1, 2023 have been implemented, including the completion of a Wildfire Response Plan.

A Delegated Public Hearing was held on October 5, 2023. At the Regular Meeting held on Wednesday, October 18, 2023, the Board gave Third Reading to the associated Electoral Areas “B” and “C” Official Community Plan Amendment Bylaw No. 2926 and Zoning Amendment Bylaw No. 2927. The Bylaw has been forwarded to the Ministry of Transportation and Infrastructure for endorsement.

8. File No.: 21-0980-F-OR [Konge]

Address: 6402 Highway 97A

The above noted application relates to a proposal to amend the OCP land use designation of the property located at 6402 Highway 97A from Non-Urban to Industrial and to also rezone the property from the Non-Urban (N.U) zone to the Light Industrial (I.1). The applicants propose to construct a truck service and repair shop with a caretaker’s residence and a commercial storage facility including an 18 unit mini storage building and an outdoor space for storage of RVs and boats. The applicants plan to stage the development beginning with outdoor storage followed by construction of the repair shop and mini storage building.

At the Regular Meeting held on March 16, 2022, the Board of Directors considered the application and resolved that further consideration of the application to amend the Official Community Plan land use designation and the zoning of the property be withheld until a comprehensive plan which addresses how the proposed development of the subject property may form part of a larger area of existing and potential future industrial land use, including but not limited to consideration of the potential for public road access to be dedicated and/or upgraded to accommodate the potential development while protecting the safety and efficient function of Highway 97A.

9. Zoning Amendment Bylaw No. 2922, 2021

File No.: 21-1021-B-RZ [LCT / Dwell Design]

Address: 6295 Pleasant Valley Road, Electoral Area “B”

The above noted application relates to a proposal to rezone the property located at 6295 Pleasant Valley Road, Electoral Area “B”. The applicant is proposing to rezone the property to Light Industrial in order to use the property for sales of building supplies, with associated storage, administration and owner/operator accommodation.

At the Regular Meeting held on January 19, 2022, the Board resolved to consider the associated Zoning Amendment Bylaw No. 2922, 2021 for First Reading at a future meeting date. The Board also resolved that Final Adoption of Bylaw No. 2922 be withheld until:

1. The applicant registers a covenant against the title of the property that would prohibit fee-simple or bareland strata subdivision until a community sewer system is available; and

2. The applicant registers a covenant against the title of the property that would require the property to be connected to a community sewer system once the sewer lines associated with the system have been extended to the subject property; and
3. Water servicing issues associated with the proposed development have been addressed to the satisfaction of the Regional District; and
4. A Development Permit that satisfies the requirements of the Riparian and Swan Lake Development Permit Area and Industrial Development Permit Area under the Electoral Areas “B” and “C” Official Community Plan has been approved for the proposed development; and
5. A covenant is registered against the title of the property that would restrict all on-site septic sewage disposal to a total design flow maximum of 1400 litres per day, and that any permitted industrial or commercial use of the property that would exceed a design flow maximum of 1400 litres per day must be serviced by a holding tank designed and installed in compliance with Holding Tank Bylaw No. 671 until such time as the property is connected to a community sewage collection and disposal system. It is further recommended that such a covenant include, as an alternative to a holding tank, provision for the applicant to provide:
 - a hydrological assessment from a hydrological engineer that reviews the local groundwater and surface water conditions with consideration of possible contamination of Swan Lake or a tributary watercourse or ditch; and
 - a geotechnical evaluation from a geotechnical engineer that reviews local soil conditions with the identification of a primary and separate backup drainfield location which areas would be protected by a Covenant; and a design for a sewage disposal and stormwater management system prepared by a civil engineer.

At the Regular Meeting held on February 15, 2023 the Board of Directors gave the associated Zoning Amendment Bylaw No. 2922 First, Second and Third Readings. The Bylaw has been forwarded to the Ministry of Transportation for endorsement.

10. Zoning Amendment Bylaw No. 2903, 2021

File No.: 21-0252-C-RZ [M2MS Holdings / Black Stream / Griffin]

Address: Forsberg Road, Electoral Area “C”

The above noted application relates to a proposal to change the zoning of a property located off the south end of Forsberg Road from Large Holding to Country Residential. If successful in rezoning the property, the applicants propose to subdivide the property into 27 lots. Rezoning the property as proposed would potentially allow for the subdivision of up to 30 lots.

At the Regular Meeting held on August 18, 2021, the Board of Directors considered the application and gave First Reading to the associated Zoning Amendment Bylaw No. 2903. The Board resolved that Second Reading of the Bylaw be withheld until the applicant has provided a water study which takes into consideration the potential to service the full build-out potential of the subject property in accordance with the provisions of the Regional District Subdivision Servicing Bylaw and the impact the use of groundwater supplies could have on existing wells in the neighbourhood, any underlying aquifer, and neighbouring downslope aquifers to the west.

On December 14, 2022, the Board resolved that further consideration of the associated Zoning Amendment Bylaw No. 2903, 2021 be withheld until the applicants have submitted a hydrogeological report that provides an evaluation of how your proposal aligns with the findings and recommendations of the Keddleston Groundwater Study – Phase 2 and which demonstrates:

1. that groundwater sources would be available to service the full buildout potential of the subject property (30 lots) in accordance with the provisions of Subdivision Servicing Bylaw No. 2600; and

2. that the use of the groundwater supplies would not have a negative impact on the use of existing wells that obtain water from Aquifers 349 and 350.
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11. Zoning Amendment Bylaw No. 2850, 2019

File No.: 19-0906-C-RZ [Malyakin]

Address: 7500 McLennan Road, Electoral Area "C"

The above noted application relates to a proposal to change the zoning of the above noted property from Non-Urban to Country Residential. If successful in rezoning the property, the applicants propose to subdivide the property into 8 lots.

At the Regular Meeting held on December 11, 2019, the Board of Directors considered the application and gave First Reading to the associated Zoning Amendment Bylaw No. 2850. The Board resolved that Second Reading of the Bylaw be withheld until the Regional District undertakes and completes the Keddleston Groundwater Study and the study has confirmed the adequacy of water supply for the level of potential development in the study area.

At the Regular Meeting held on May 20, 2020, the Board again considered Bylaw No. 2850 and again resolved that further consideration of the Bylaw be withheld until a comprehensive review of the water supply in Aquifer 351 has been completed and the review has confirmed the adequacy of water supply for the level of potential development in the study area. At the Regular Meeting held on December 14, 2022, the Board resolved that further consideration of the associated Zoning Amendment Bylaw No. 2850, 2019 be withheld until you have submitted a hydrogeological report that provides an evaluation of how your proposal aligns with the findings and recommendations of the Keddleston Groundwater Study – Phase 2 and which demonstrates:

1. that groundwater sources would be available to service the full buildout potential of the subject property (8 lots) in accordance with the provisions of Subdivision Servicing Bylaw No. 2600; and
2. that the use of the groundwater supplies would not have a negative impact on the use of existing wells that obtain water from Aquifer 351.

At the Regular Meeting held on March 22, 2023, the Board resolved to give Second Reading to the associated Zoning Amendment Bylaw No. 2850, 2019 and resolved to refer the Bylaw to a Delegated Public Hearing.

At the Regular Meeting held on September 27, 2023, the Board resolved that Final Adoption of the associated Zoning Amendment Bylaw No. 2850 be withheld until you have registered a covenant against the title of the subject property which would:

1. prohibit subdivision of the property until a professional hydrologist has verified that all wells proposed to service all new lots are proven to meet the quantity and quality standards of the Regional District of North Okanagan Subdivision Servicing Bylaw No. 2600 and that the extraction of water from the wells will not negatively impact the water supply of neighbouring wells.
2. require that all wells proposed to service all new lots be pump tested for a minimum of 72 hours to confirm that they meet the quantity standards of Subdivision Servicing Bylaw No. 2600;
3. require that all wells proposed to service all new lots be located so that they are at least 50 m from each other and from neighbouring wells.
4. require as a condition of subdivision approval that at least one observation well be monitored during the pumping test for wells that would service new lots. The observation well must be located no more than 300 m from the wells that would service the new lots or a distance established by a professional hydrologist with technical justification for the distance.

The Delegated Public Hearing for Bylaw No. 2850 is scheduled for November 2, 2023. At the Regular Meeting held on Wednesday, November 15, 2023, the Board gave Third Reading to Bylaw No. 2850.

12. Zoning Amendment Bylaw No. 2838, 2019
File No.: 19-0350-C-RZ [Downs / Monashee]
Address: Wallace Road, Electoral Area “C”

The above noted application relates to a proposal to change the zoning of the above noted property from Non-Urban to Country Residential. If successful in rezoning the property, the applicant proposes to subdivide the property into 6 lots. Rezoning the property as proposed would potentially allow for the subdivision of up to 8 lots.

At the Regular Meeting held on September 18, 2019, the Board of Directors considered the application and gave First Reading to the associated Zoning Amendment Bylaw No. 2838. The Board resolved that Second Reading of the Bylaw be withheld until the applicant has provided a water study which takes into consideration the potential to service the full build-out potential of the subject property in accordance with the provisions of the Regional District Subdivision Servicing Bylaw and the impact the use of groundwater supplies could have on existing wells in the neighbourhood and the local aquifer.

At the Regular Meeting held on December 14, 2022, the Board resolved that further consideration of the associated Zoning Amendment Bylaw No. 2838, 2019 be withheld until you have submitted a hydrogeological report that provides an evaluation of how your proposal aligns with the findings and recommendations of the Keddleston Groundwater Study – Phase 2 and which demonstrates:

1. that groundwater sources would be available to service the full buildout potential of the subject property (8 lots) in accordance with the provisions of Subdivision Servicing Bylaw No. 2600; and
2. that the use of the groundwater supplies would not have a negative impact on the use of existing wells that obtain water from Aquifers 349 and 351.

At the Regular Meeting held on September 27, 2023, the Board resolved that the associated Zoning Amendment Bylaw No. 2838, 2019 be given Second Reading and be forwarded to a Delegated Public Hearing. The Board further resolved that Final Adoption of Bylaw No. 2838 be withheld until the applicant has:

1. registered a covenant against the title of the subject property which would prohibit subdivision of the property until a professional hydrologist has verified that all wells proposed to service all new lots are proven to meet the quantity and quality standards of the Regional District of North Okanagan Subdivision Servicing Bylaw No. 2600 and that the extraction of water from the wells will not negatively impact the water supply of neighbouring wells.
 2. made suitable arrangements with the Regional District to secure a corridor through the southwest corner of the subject property that would support the expansion of the BX Creek Trail.
-

13. Zoning Amendment Bylaw No. 2805, 2018
File No.: 18-0681-C-RZ [Ott]
Address: 7867 Wilson Jackson Road, Electoral Area “C”

The above noted application relates to a proposal to change the zoning of the above noted property from Non-Urban to Country Residential. If successful in rezoning the property, the applicants propose to subdivide the property into 4 lots.

At the Regular Meeting held on November 21, 2018, the Board of Directors considered the application and gave First Reading to the associated Zoning Amendment Bylaw No. 2805. The Board resolved that Second Reading of the Bylaw be withheld until the applicants submitted a water supply study which takes into consideration the potential to service the proposed lots and the impact it could have on the water supply in the area.

On May 8, 2019, the Board gave Second Reading to Bylaw No. 2805 and referred the Bylaw to a Public Hearing. The Board also resolved that Final Adoption of Bylaw No. 2805 be withheld until the applicant has registered a covenant against the title of the subject property which would prohibit subdivision of the property until a professional hydrologist has verified that all wells proposed to service all new lots are proven to meet the quantity and quality standards of the Regional District Subdivision Servicing Bylaw and that the extraction of water from the wells will not negatively impact the water supply of neighbouring wells.

A Public Hearing was held on June 5, 2019. At the Regular Meeting held on June 19, 2019, the Board resolved that further consideration of application be deferred until the feasibility of establishing a community water system in the Keddleston area is considered.

At the Regular Meeting held on May 20, 2020, the Board resolved that further consideration of the application be withheld until a comprehensive review of the water supply in Aquifer 351 has been completed and the review has confirmed the adequacy of water supply for the level of potential development in the study area. The Board further resolved that Bylaw No. 2805 be forwarded to a second Public Hearing after the review of the water supply in Aquifer 351 has been completed.

At the Regular Meeting held on December 14, 2022, the Board resolved that further consideration of the associated Zoning Amendment Bylaw No. 2805, 2018 be withheld until you have submitted a hydrogeological report that provides an evaluation of how your proposal aligns with the findings and recommendations of the Keddleston Groundwater Study – Phase 2 and which demonstrates:

1. that groundwater sources would be available to service the full buildout potential of the subject property (4 lots) in accordance with the provisions of Subdivision Servicing Bylaw No. 2600; and
2. that the use of the groundwater supplies would not have a negative impact on the use of existing wells that obtain water from Aquifers 349 and 351 and from alluvial deposits along BX Creek.

14. Zoning Amendment Bylaw No. 2762, 2017

File No.: 17-0101-B-OR [Nikolic / Shortt]

Address: 6303 Pleasant Valley Road, Electoral Area "B"

The above noted application relates to a proposal to amend the text of the Zoning Bylaw in order to allow an auto detailing business on the property located at 6303 Pleasant Valley Road.

At the Regular Meeting held on September 20, 2017, the Board resolved to not support an application to amend the Official Community Plan and Zoning Bylaws. The Board further resolved that staff be directed to prepare a Zoning Text Amendment Bylaw to amend Regional District of North Okanagan Zoning Bylaw No. 1888, 2003, for the property located at 6303 Pleasant Valley Road, Electoral Area "B" to be used for home occupation purposes as it is currently being used.

At the Regular Meeting held on November 15, 2017, the Board gave First and Second Readings to the associated Zoning Text Amendment Bylaw No. 2762, 2017 and forwarded the Bylaw to a Public Hearing. The Board also resolved that adoption of Bylaw No. 2762 be withheld until the following conditions have been satisfied:

1. a Building Permit be issued to address the change of occupancy of that portion of the single family dwelling proposed to be used for auto detailing purposes; and
2. confirmation be provided that an Approved Person, as defined by Interior Health, has filed a Record of Sewerage System and a Letter of Certification and maintenance plan with the Interior Health Authority in accordance with the Sewerage System Regulation (BC Reg 326/2004) for the on-site sewerage system serving the home occupation use; and
3. security be provided in an amount equal to 1.25 times the estimated cost of installing the paving, landscaping, and screening associated with the parking stalls, maneuvering aisles, outside storage areas, landscaped buffer areas and landscape screening required by Zoning Text Amendment Bylaw No. 2762. Estimates are to be prepared by qualified contractors.

A Public Hearing was held on February 7, 2018. At the Regular Meeting held on February 7, 2018, the Board gave Third Reading to Zoning Text Amendment Bylaw No. 2762, 2017. The Board further resolved that prior to Final Adoption of Zoning Text Amendment Bylaw No. 2762, 2017:

1. confirmation be provided from a qualified professional that no deleterious substances from the auto detailing business are discharged into the receiving environment including groundwater or watercourses.

The Ministry of Transportation has also endorsed Bylaw No. 2762.

A Development Variance Permit Application was considered by the Board of Directors at its Regular Meeting held on April 20, 2022. After considering the application, the Board of Directors authorized the issuance of a Development Variance Permit to allow variances to the following sections of the *Regional District of North Okanagan Zoning Bylaw No. 1888, 2003*:

1. Section 701.10.e.iii by reducing the requirement that off-street parking areas be paved with asphalt or concrete to being paved with a mix of asphalt and recycled asphalt;
2. Section 701.10.e.iv by reducing the requirement that parking and outside storage areas be screened with a solid 2.5 m high fence or an evergreen hedge not less than 2 m high to being partially screened with an existing cedar hedge along the portion of the property which fronts Pleasant Valley Road;
3. Section 701.10.e.v by reducing the requirement that a 3 m wide strip adjacent to Pleasant Valley Road be landscaped with a grass to shrubbery ratio of 6:4 to 8:2 to being landscaped with the existing landscaping, including the cedar hedge and four willow trees as shown on the provided site plan.

The Board further resolved that the Development Variance Permit be authorized for issuance subject to:

1. the dimensions and siting of the buildings to be used on the land be in general accordance with the site plan attached to the Planning Department Information Report dated March 15, 2022;
2. 20 recycled asphalt and asphalt parking spaces and associated maneuvering aisles be provided in accordance with the site plan attached to the Planning Department Information Report dated March 15, 2022;
3. a 3 m wide landscape buffer be provided along the portion of the property which fronts Pleasant Valley Road. The landscape buffer is to consist of existing landscaping, including a cedar hedge and four willow trees as shown on the site plan attached to the Planning Department Information Report dated March 15, 2022. A new landscape buffer must be provided in the event that all or a portion of the existing landscaping is removed. The new landscape buffer must be 3 m wide and consist of a grass to shrubbery ratio of 6:4 to 8:2;

4. a solid 1.83 m high fence be provided along the entire length of the north property line.

The Board further resolved that prior to issuance of the Development Variance Permit, security be provided in an amount equal to 1.25 times the estimated cost of installing the screening.

November 20, 2023

Reply to the attention of Claire Buchanan
ALC Planning Review: 46833Greg Routley
Deputy Planning Manager, RDNO
Greg.routley@rdno.ca**Re: Revised RDNO Zoning Bylaw Update, Bylaw No. 3000**

Thank you for forwarding a revised copy of the Regional District of North Okanagan (RDNO) Zoning Bylaw update (the “Revised Zoning Bylaw”) for review and comment by the Agricultural Land Commission (the “ALC” or “Commission”).

ALC Staff have reviewed the letter submitted by the RDNO on October 20, 2023 that summarized the revisions that have been made the Bylaw No. 3000 and the revised Bylaw No. 3000 document.

ALC staff are pleased to see the update of many sections in the Revised Zoning Bylaw based on the comments sent by ALC Staff on April 25, 2023. While the majority of the updates have been made within the Revised Zoning Bylaw, ALC Staff wanted to take a moment to reiterate some outstanding notes.

Agricultural Zone

In the April 2023 letter, ALC Staff noted that Bylaw No. 3000 does not include a dedicated “Agriculture” zone to reflect the ALR designation. ALC Staff appreciate the inclusion of an ALR Boundary overlay in the Revised Zoning Bylaw mapping; however, still strongly recommend the dedication of an “Agriculture” zone to provide greater clarity to landowners on what uses are permitted on their properties.

Buffering and Setbacks

Based on the RDNO letter dated October 20, 2023 that accompanied the Revised Zoning Bylaw, ALC Staff understand no buffering changes were undertaken in the Revised Zoning Bylaw. ALC Staff note that existing zoning bylaw (No. 1888) includes a buffer provision in Division Three- Basic Provisions, that has been removed in the Revised Zoning Bylaw. While ALC staff note that the OCP for the

Electoral Area contain Policies that considered at the time of rezoning to require a covenant related to providing buffering where a property borders a property within the ALR, ALC staff continue to recommend adopting urban-side buffering a setback requirements between agricultural and urban uses to promote urban/rural compatibility. Specifically, ALC staff recommend adopting the best practices set out in the Ministry of Agriculture's Guide to Edge Planning (2015).

The ALC strives to provide a detailed response to all referrals affecting the ALR; however, you are advised that the lack of a specific response by the ALC to any draft provisions cannot in any way be construed as confirmation regarding the consistency of the submission with the ALCA, the Regulations, or any decisions of the Commission.

This response does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

If you have any questions about the above comments, please contact the undersigned at 236-468-2034 or by e-mail at ALC.Referrals@gov.bc.ca.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION



Claire Buchanan, Regional Planner

Enclosure: Referral of Revised Zoning Bylaw

46833m2



November 29, 2023

File: 0280-30

Local Government File: BL-3000

Greg Routley
Deputy Planning Manager
Regional District of North Okanagan
Via Email: planning@rdos.bc.ca

Dear Greg Routley:

Re: Regional District of North Okanagan Zoning Bylaw No. 3000, 2023

Thank you for providing B.C. Ministry of Agriculture and Food (Ministry) staff the opportunity to review the revisions made to the proposed Regional District of North Okanagan Zoning Bylaw. We understand from your letter that the bylaw is now at first reading and a number of changes have been made since we reviewed the draft bylaw in May 2023.

Definitions – Agricultural Buildings, Intensive or Limited – Appreciate removal of the definition and the requirement for farm classification. Ministry staff noted that ‘restricted agricultural building’ is still being used in some zones, but this has been made clear that it doesn’t apply to ALR parcels, which is very much an improvement over the draft bylaw.

Agricultural Use, Intensive and Agricultural Use, Limited – Appreciate removal of these definitions of agriculture and the much-simplified definition of agricultural use that now encompasses all types of agriculture. Including restrictions on agricultural uses outside the ALR in regulations rather than definitions is much preferred.

Agricultural Waste Storage Facility and Solid Agricultural Waste – While not contrary to the *Agricultural Land Commission Act*, and not within the Ministry of Agriculture and Food’s jurisdiction, Ministry staff recommended reviewing any definitions and regulations within the bylaw that may not be consistent with the Code of Practice for Agricultural Environmental Management as significant changes have been made in the move from the Agricultural Waste Control Regulation under the *Environmental Management Act* to the new Code of Practice. The definitions as they stand now appear to be a copy of the old Agricultural Waste Control

Regulation definitions, so Ministry staff wished to highlight the change for RDNO staff.

Animal Unit – Appreciate that the definition has been changed to read “the total number of animals making up one agricultural unit” as suggested. Limited agricultural use is no longer used in the bylaw, so this appears now to only apply to restricted agricultural uses outside of the ALR .

Farmed Game – The revised definition that now references the Game Farm Regulation under the *Animal Health Act* addresses Ministry staff comments on this point.

Dedicated Zone for Agriculture – While we appreciate the mapping updates as requested by ALC staff, it is still a priority for Ministry staff to ensure that local governments are recognizing the primary agricultural use in the ALR under their jurisdiction. Many of the changes made to the bylaw since Ministry staff reviewed the draft go a long way toward addressing this. A final step would be to have agriculture in the zone names that cover the ALR. While we recognize that RDNO is not willing to make the change to a dedicated agriculture zone at this time, Ministry staff are motivated to work with the RD in the future to ensure that this is accomplished.

Farm Product Processing – The clarification of farm product processing as a permitted use in the ALR in the Agricultural Use section addresses Ministry staff concerns on this topic.

Intensive Agricultural Use – Ministry staff concerns regarding this section have been addressed through the removal of the definition and the new definition for agricultural use and the new Section 3.5.

3.6 - Restricted Agricultural Use – Ministry staff concerns have been addressed by providing clarification that this section applies only to parcels outside of the ALR.

3.7 - Laying Hens and 3.8 Hobby Beekeeping – These sections are now clear that these regulations are for non-ALR parcels and Ministry staff concerns have been addressed.

3.10 - Farm Retail Sales – We note that the update to reflect ALC staff comments also addresses Ministry staff points on this section.

3.22 - Temporary Residence During the Period of Construction of a New Residence – we note the update that eliminates the incorrect legislative references and mentions ALC approval is required. Please note that if the temporary residence is less than 90m² and the new residence is less than 500m², ALC approval may not be required. We recommend confirming this with ALC staff.

3.23 - Single Family Dwellings in the ALR , 3.24.1(c) - Secondary Dwellings in the ALR, 3.25(c) - Two Family Dwellings - We appreciate the updates in accordance with ALC and Ministry staff comments.

5.5.1(g) - Boundary Adjustment Subdivisions - The incorrect legislative reference noted previously by Ministry staff has been resolved through the text update.

7.1 - Agricultural Setbacks in Rural Zones - The reduction of the 60 m setback from residential zones to 30 m addresses Ministry staff concerns regarding these setbacks.

14.3 Agricultural Industrial Zone and Section 16 - Rural Zones - Permitted Uses - The addition of Section 3.4 provides clarity regarding uses in the ALR and addresses Ministry staff concerns regarding these sections.

Minimum Lot Sizes - Ministry staff note the change to minimum lot sizes for R.1, I.3, C.R., N.U., and LH zones in the ALR to 30.5 ha, as recommended by the ALC and note that this is substantially better for agriculture than the previous smaller lot sizes in some zones. While ALC staff recommended 30.5 ha and Ministry staff recommended at least 8.0 ha, Ministry staff do not see this as a conflict as larger minimum lot sizes tend to be better for agriculture and keeping agricultural land at a size that offers the greatest flexibility in terms of how the land can be used for agriculture. We commend the RDNO for the boldness of this change and taking steps to support agriculture within the Regional District in this regard.

Overall, proposed Bylaw 3000, 2023 at first reading is a significant improvement over the draft bylaw and is now substantially more consistent with provincial legislation. Ministry staff appreciate the substantial changes that have been made and now no longer consider the bylaw to be overly restrictive or prohibitive of agriculture. Ministry staff would, however, appreciate working with RDNO staff to develop and implement a bylaw with an Agriculture zone that covers the ALR for a future iteration of the zoning bylaw.

Sincerely,



Alison Fox, P.Ag.
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Ministry of Agriculture and
Food
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Email copy: Claire Buchanan, ALC Regional Planner, ALR.Referrals@gov.bc.ca
Lindsay Benbow, Regional Agrologist, Ministry of Agriculture and Food