



PLANNING DEPARTMENT INFORMATION REPORT

REZONING APPLICATION

DATE:	August 23, 2019
FILE NO.:	19-0350-C-RZ
OWNER/APPLICANT:	Down's Enterprises Ltd. c/o Monashee Surveying
LEGAL DESCRIPTION:	The NE ¼ of the SE ¼ of Sec 20, Twp 5, ODYD
P.I.D.#:	013-569-368
CIVIC ADDRESS:	Wallace Road
PROPERTY SIZE:	16.19 ha (40 ac)
SERVICING:	On-site wells and septic systems
PRESENT ZONING:	Non-Urban (N.U)
PROPOSED ZONING:	Country Residential (C.R)
O.C.P. DESIGNATION:	Country Residential
PROPOSAL:	Six (6) lot subdivision

PLANNING DEPARTMENT RECOMMENDATION:

That Zoning Amendment Bylaw No. 2838, 2019 which proposes to rezone the property legally described as The NE ¼ of the SE ¼ of Sec 20, Twp 5, ODYD and located at Wallace Road, Electoral Area "C" from the Non-Urban (N.U) zone to the Country Residential (C.R) zone be given First Reading; and further

That Second Reading of Zoning Amendment Bylaw No. 2838, 2019 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 (7 – 8 lots) in accordance with the provisions of the Regional District of North Okanagan Subdivision Servicing Bylaw No. 2600, 2013 and the impact the use of groundwater supplies could have on existing wells in the neighbourhood and the local aquifer.

BACKGROUND:

This report relates to an application to rezone the property located at the east end of Wallace Road from the Non-Urban (N.U) Zone to the Country Residential (C.R) Zone. If successful in rezoning the property, the applicant is proposing a six (6) lot subdivision.

Site Context

The property is accessed from the east end of Wallace Road and is currently undeveloped and therefore has not been assigned a civic address. The Ministry of Transportation and Infrastructure's road inventory indicates that an undedicated portion of Wallace Road extends through the subject property to a point approximately 50 m east of the subject property within the neighbouring property to the east.

A 10 m (33 ft) wide strip of land abutting the north boundary of the lot situated immediately east of the subject property is visible on the attached Subject Property map and, while it may appear to be a portion of unconstructed road right-of-way, it is a privately owned lot.

The subject property is well treed and includes gentle to steep slopes which descend from north to south / southwest. BX Creek flows in a westerly direction to the south of the property. Topographic maps indicate a draw or gully passes through the property from northeast to southwest with increasingly steep side walls and descent as it approaches BX Creek. Steep slopes traverse the southwest portion of the property, in proximity to, and generally parallel to BX Creek. The Regional District's mapping indicates no streams or ponds within the property.

The following orthophoto of the subject and surrounding properties was taken in 2018.



The subject property is designated Country Residential in the Electoral Areas "B" and "C" Official Community Plan and is zoned Non-Urban (N.U). The subject and surrounding properties are not within the Agricultural Land Reserve. The attached maps show the OCP land use designation and the zoning of the subject and surrounding properties.

Surrounding properties to the north and east are designated Country Residential in the OCP and are zoned Non-Urban (N.U). Property to the west is designated Country Residential and zoned Country Residential (C.R). A 2.2 ha parcel of Crown land situated between the south boundary of the subject property and BX Creek is designated Park and is zoned Community Park and Public Use (S.3). On the south side of BX Creek, properties are designated Small Holding and are zoned Small Holding (S.H).

The Proposal

The applicant is proposing to rezone the subject property from the Non-Urban (N.U) zone to the Country Residential (C.R) zone. If successful, the property owner intends to apply to create a six (6) lot subdivision generally as shown on the attached site plan. The proposed lots would range in size from 2.1 ha to 2.8 ha. It is proposed that Wallace Road would be dedicated with a width of 20 m along the existing undedicated, travelled route of Wallace Road where it passes through the subject property in a curving, east/west alignment. Two of the proposed lots would have frontage on the north side of the proposed road while four lots would have frontage on the south side.

There are no existing wells on the subject property and the applicant proposes that water would be provided by individual drilled wells on each proposed lot. No additional information regarding the potential to use groundwater to service the proposed development has been provided at this time. The applicant is also proposing individual on-site sewage disposal systems for each lot.

ZONING BYLAW:

The subject property is proposed to be rezoned from the Non-Urban (N.U) zone to the Country Residential (C.R) zone. Uses permitted in the C.R zone include ancillary single family dwellings, bed and breakfast use, boarding house use, community care facilities, detached suites, home occupation use, limited agricultural use, limited resource use, manufactured homes, packing houses, public parks and playgrounds, single family dwellings, two family dwellings, veterinary clinics, wineries and cideries, work force housing units, and secondary suites.

The maximum number of dwellings permitted on 2.0 ha parcels in the C.R zone is one single family dwelling which may contain a secondary suite, or one manufactured home, or one two-family dwelling. One ancillary single family dwelling or one detached suite is also permitted provided it is ancillary to a single family dwelling which does not contain a secondary suite.

The minimum lot size standard of the C.R and N.U zones are 2.0 ha and 7.2 ha respectively.

Section 310 - Building Site and Driveways

All lots created within the Country Residential (C.R) zone must contain a contiguous area of land 2,000 m² or larger in size to serve as a suitable building site. Building sites must be less than 30% natural slope and be accessible from a highway in accordance with the following standards:

- Commencing at the edge of the finished road surface, private access driveways must be as close to right angles as practicable to the finished road surface for a minimum distance of 6 m, and have a minimum width of 5.5 m for the distance specified above and 4 m minimum width thereafter, and have a maximum slope of 2% from the ditch line for a minimum distance of 10 m and a maximum slope of 15% thereafter.

OFFICIAL COMMUNITY PLAN:

The Electoral Areas “B” and “C” Official Community Plan designates the land use of the subject property as Country Residential. The following OCP Policies are applicable to the application:

Rural Lands Policies

- 5.1.4 Developers on Rural Lands will be encouraged to consult with the Ministry of Forests Lands and Natural Resource Operations with regard to subdivision design, layout of roads, selection of building sites and the clearing of trees with regard to protection of the proposed development from wildfire hazard.
- 5.1.5 Because of the importance of water supplies for new development and the uncertainty about water supply for some Rural Lands, assurance about water supply should be provided with a rezoning application or an application to amend this Plan and as appropriate, hydrogeological studies should be undertaken to determine impacts, if any, on existing wells in the neighbourhood and the local aquifer.
- 5.1.6 Some lands in this Official Community Plan area are designated as *Country Residential*; however, this designation does not ensure that the land would be rezoned as *Country Residential* and the following information and considerations are necessary to guide a review of any rezoning application which may or may not be approved:
- a. maps should be submitted showing how the rezoning area can developed into the *Country Residential* standard including the location of any new streets, environmental protection measures, lot layouts and any community amenities;
 - b. the area should not be subject to flooding, high water table or terrain instability;
 - c. the development of the area should not require excessive expenditures for community services such as roads, utility services and school busing;
 - d. the terrain should be suitable for development whereby each new lot would have a building site and driveway access in compliance with the “*Zoning Bylaw*”;
 - e. each new lot shall have an area that is adequate for on-site sewage disposal with a reserve site for on-site sewage;
 - f. information should be provided to show how development can be supplied with an adequate water supply as outlined in Policy 5.1.5 of this Plan;
 - g. sensitive environmental attributes should not be negatively impacted by a higher density of land use and in this regard, the Regional District may request that an environmental impact analysis be undertaken;
 - h. other submissions other than those cited herein may be necessary in order to adequately evaluate an application; and
 - i. notwithstanding these specific considerations, the Regional District will be guided by community goals and objectives cited in this Plan and other policies in this Plan as may be appropriate in the consideration of any application.
- 5.1.9 Pursuant to Section 482 of the “Local Government Act”, the Regional District may apply a bonus density to a maximum of 20% for Country Residential developments. Where an application proposes to amend the “Zoning Bylaw” with no lots less than 1 ha in size with a minimum of 10% of land to be dedicated for community or site amenities as follows:

- a. the dedication of parks or trails as outlined in this Plan;
- b. the long-term security of a Natural Area as outlined in this Plan or other significant environmental or habitat feature;
- c. the maintenance of substantial buffer zones adjacent to a Major Road as defined in this Plan; or
- d. the conservation or provision of any other amenity as proposed by the property owner.

Natural Area Policies

- 11.2.1 Land within the Environmentally Sensitive Land, Development Permit Areas as designated on Schedule 'C' shall not be altered or developed, or subdivision approval granted, unless a Development Permit is issued in accordance with the guidelines in this plan.
- 11.2.3 All development within the Regional District shall be undertaken in compliance with the provincial *Riparian Areas Regulation*.
- 11.2.6 Encourage the voluntary protection of natural features.
- 11.2.7 Encourage the protection, preservation, enhancement and management of sensitive ecosystems or land contiguous to sensitive ecosystems of private lands through the following methods:
 - a. Donation of areas to the Regional District or provincial government;
 - b. Donation of areas to a Land Trust or conservation organization;
 - c. Creation of conservation covenants in favour of municipal, provincial government, private conservation organizations;
 - d. Establishment of statutory right of ways under the *Land Title Act* for affected areas;
 - e. Establishment of long-term leases for sensitive areas;
 - f. Land stewardship and participation in conservation initiatives by the private landowner;
 - g. Consideration of alternative development standards, such as clustering.

Steep Slope Policies

- 11.3.1 Development on slopes greater than 30% carry inherent geotechnical risks, access and safety concerns and therefore it is recommended that if possible development is accommodated elsewhere on the site and steep slopes are encouraged to be left as natural or open spaces.
- 11.3.2 The Regional District may require a geotechnical site evaluation for development on steep slopes. The assessment should take into consideration site design as it relates to substrates, natural contours, natural gradients and ensure site stability for the subject and neighbouring properties. The recommendations of this evaluation may be required to be incorporated into a Section 219 Restrictive Covenant.

Trails Policies

- 12.1.10 The Regional District supports the expansion of the BX Trail as outlined in Schedule 'E'.

- 12.1.12 The Regional District recognizes the need to develop local trails within Electoral Areas “B” & “C” to enhance the connectivity between Sub-Regional trails, any future Sub-Regional parks and local park space. Relevant trails are outlined in the Ribbons of Green Trails Plan 2013-2033 (Schedule G) with the exception of a trail linkage which should be considered between the Foothills Neighbourhood and Cools Pond.
- 12.1.13 The Regional District recognizes the need to develop priorities and an implementation strategy for the acquisition and development of new trails in the Electoral Areas; however, it is also recognized that when opportunities arise for the acquisition of a new trail segment as identified in the “Ribbons of Green Trail Plan 2013-2033” then prompt action is often necessary despite the priorities in the implementation strategy.

Community Safety, Police and Fire Protection Policies

- 14.1.21 Support and encourage the application of Fire Smart principles for existing and new development.

Transportation Policies

- 15.1.5 Where the Regional District is involved in planning for future roads and subdivisions or plans for improvements to existing roads, consideration will be given to the needs of public transit, school buses, pedestrian walkways and bicycle routes.
- 15.1.7 The Regional District requests the Ministry of Transportation and Infrastructure (MoTI) approving officer consider the needs of pedestrians and cyclists when approving subdivisions, the creation of new roads or upgrading existing roads. New road designs should accommodate for alternative transportation options with the addition of wider shoulders for pedestrian travel or a wider paved travel surface that can become a designated bicycle route.

Riparian and Swan Lake Development Permit Area

The Regional District considers that all streams, as defined under the Riparian Areas Regulation (RAR) are within the Riparian and Swan Lake Development Permit Area. Under RAR, a stream is defined as any of the following that provide fish habitat:

- a) a watercourse whether it usually contains water or not;
- b) a pond, lake, river, creek, or brook;
- c) a ditch, spring or wetland that is connected by surface flow to something referred to above in section a) or b).

The primary objective of the Riparian and Swan Lake Development Permit designation is to regulate development activities in watercourses and their riparian areas in order to preserve natural features, functions and conditions that support natural processes. Given the proximity of the subject property to BX Creek, and a draw / gully that may serve as a seasonal drainage corridor through the central portion of the property, the proposed development will require a Riparian and Swan Lake Development Permit prior to subdivision approval unless an exemption applies.

Environmentally Sensitive Lands Development Permit Area

The Electoral Areas “B” and “C” Official Community Plan designates the subject property as a Development Permit Area for the protection of environmentally sensitive lands. The primary objective of the Environmentally Sensitive Lands Development Permit Area is to regulate development activities in areas of High and Very High conservation value to protect rare and fragile terrestrial ecosystems and habitat for endangered species, or native rare vegetation or wildlife.

The majority of the subject property is within an area of Moderate conservation value. A draw / gully descending from northeast to southwest through the property and the southerly portion of the property, adjacent to BX Creek, is identified as being within an area of High conservation value which transitions to an area of Very High conservation value closer to the creek itself. In this regard, unless an exemption applies, an Environmentally Sensitive Lands Development Permit would be required to be approved prior to subdivision approval.

Hazardous Conditions (Wildfire Interface) Development Permit Area

The subject property is designated as a Wildfire Interface Development Permit Area as the property is located within the interface area as identified on Schedule ‘D’ of the Official Community Plan. The primary objective of the Wildfire Interface Development Permit Area designation is to ensure that particular development and maintenance measures are implemented to protect persons and property from wildfire hazard, and to ensure that property owners are aware of the wildfire hazard. In this regard, unless an exemption applies, a Wildfire Interface Development Permit will be required to be approved prior to subdivision approval.

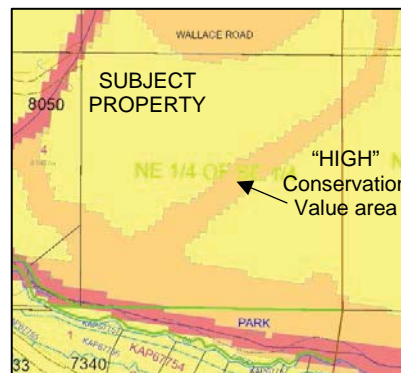
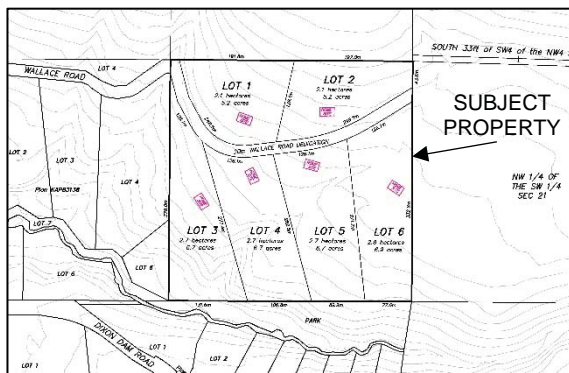
PLANNING ANALYSIS:

The Planning Department recommends that the proposal be given favourable consideration as it represents a rural residential land use that is consistent with the Electoral Areas “B” and “C” Official Community Plan land use designation of the subject property and complies with the previously noted OCP Policies as follows:

- a) The applicant has submitted a site plan which shows how the property could be developed under the Country Residential (C.R) zone.
- b) The proposed lots would contain building sites that would not be subject to flooding, high water table or terrain instability.
- c) The proposed lots would not require excessive expenditures for community services such as roads, utility service and school busing, as such services already exist.
- d) Subject to confirmation by a Registered On-Site Wastewater Practitioner prior to issuance of any Building Permit for the proposed lots, it is anticipated that the size and topography of the proposed lots should allow for on-site septic sewerage disposal.
- e) Prior to final subdivision approval, unless an exemption applies, a Development Permit will be required which assesses the impact of development activities on riparian areas, terrestrial environmentally sensitive areas, and which includes measures to protect development from wildfire.

The proposal has been reviewed against OCP Policies that require a domestic water source for the proposed lots. In this regard, it is recommended that a hydrogeological assessment be provided to demonstrate that a water source would be available for the proposed development based on the Subdivision Servicing Bylaw No. 2600, 2013 standards for a private domestic well and to determine impacts, if any, of groundwater extraction to service the full build-out potential of the property, on existing wells in the neighbourhood and the local aquifer. Based on the 16.19 ha size of the property and the 2.0 ha minimum lot size provisions of the Country Residential (C.R) zone, full build-out potential would be 7 - 8 lots.

As noted previously in this report, an area identified as having High conservation value traverses the property from NE to SW. This area is shown in light orange on the figure to the right below. Development Permit guidelines suggest that subdivisions should be designed to protect environmentally sensitive areas and wildlife habitat and a report by a Qualified Environmental Professional may be required. The proposed site plan, shown on the figure to the left below, indicates that the road extension and proposed building sites would, largely, avoid the High ranked area however it is anticipated a driveway connecting the building site on proposed Lot 6 to the Wallace Road extension, would cross the High ranked area. The proposed dedication of Wallace Road through the subject property would follow the existing, undedicated travelled route which appears to cross the High ranked area within the adjacent property to the east.



The Official Community Plan includes policies which support the expansion of the BX Creek Trail and the need to develop local trails to enhance connectivity between existing and future parks and to other trails. With respect to this application, each proposed lot would be a minimum of 2 hectares in size, and in this regard a requirement to dedicate land, or to provide payment in lieu of land, for park purposes would not be triggered by Section 510 of the *Local Government Act*. In this regard, the applicant is encouraged to contact the RDNO Parks Manager directly to discuss the Parks Manager's referral response regarding park dedication.

SUMMARY:

The subject application proposes to rezone the property located at the east end of Wallace Road from the Non-Urban (N.U) zone to the Country Residential (C.R) zone. If successful in rezoning the property, the applicant is proposing a six (6) lot subdivision. The Planning Department recommends that the proposal be given favourable consideration as the proposed subdivision is generally consistent with relevant Policies of the Electoral Areas "B" and "C" Official Community Plan. Recommendations have also been provided to facilitate informed decision-making with respect to water supply. In the event this rezoning application is successful, the Development

Permit process would address wildfire hazard, and protection of riparian and terrestrial environmentally sensitive areas.

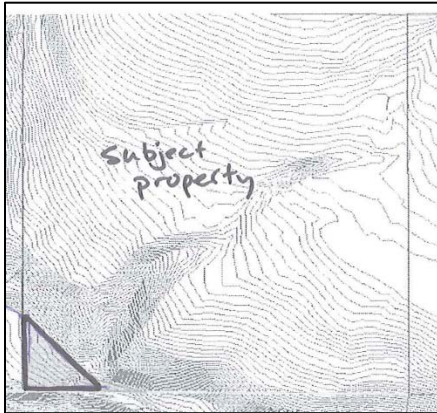
REFERRAL COMMENTS:

The application was referred for comments to the following:

1. Building Inspection Department

2. RDNO Community Services Department (Parks and Protective Services)

Parks requirements for the rezoning and future subdivision: Dedication of parkland as shown on attached map consistent with Sub-Regional Open Space and Trail Policy No. PRK001, Ribbons of Green Trails Plan 2013-2033, and Electoral Areas B and C OCP. Payment of Parks DCCs per newly created lot at the time of subdivision.



3. BX – Swan Lake Fire Department

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.

5. Ministry of Transportation and Infrastructure

Preliminary Approval is granted for the rezoning for one year pursuant to section 52(3)(a) of the *Transportation Act*. This approval does not imply approval of any future subdivision. A full review of the legislation, regulations and policies regarding subdivision will be carried out upon receipt of a subdivision application. Please forward a copy of the bylaw, to MoTI for endorsement, after third reading.

6. Ministry of Environment / Ministry of Natural Resource Operations

7. Ministry of Forests, Lands, and Natural Resource Operations

The Ecosystems Section of Ministry provided the following comments:

According to our records, the proposed development area contains the following sensitive values: high conservation ranking; riparian habitat adjacent to BX Creek; high potential for species at risk presence. As such, we have assessed this referral to be a known and potential risk to wildlife, fish or their habitats based on the information available.

We recommend that the proponent retain a qualified professional (QP) to conduct an assessment of the site prior to development in order to evaluate the environmental values present, determine the potential for adverse effects to environmental values as a result of development, and develop value-specific mitigation measures to avoid or limit adverse effects.

Submitted by:



Marnie Skobalski, MCIP, RPP
Planner II

Endorsed by:



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

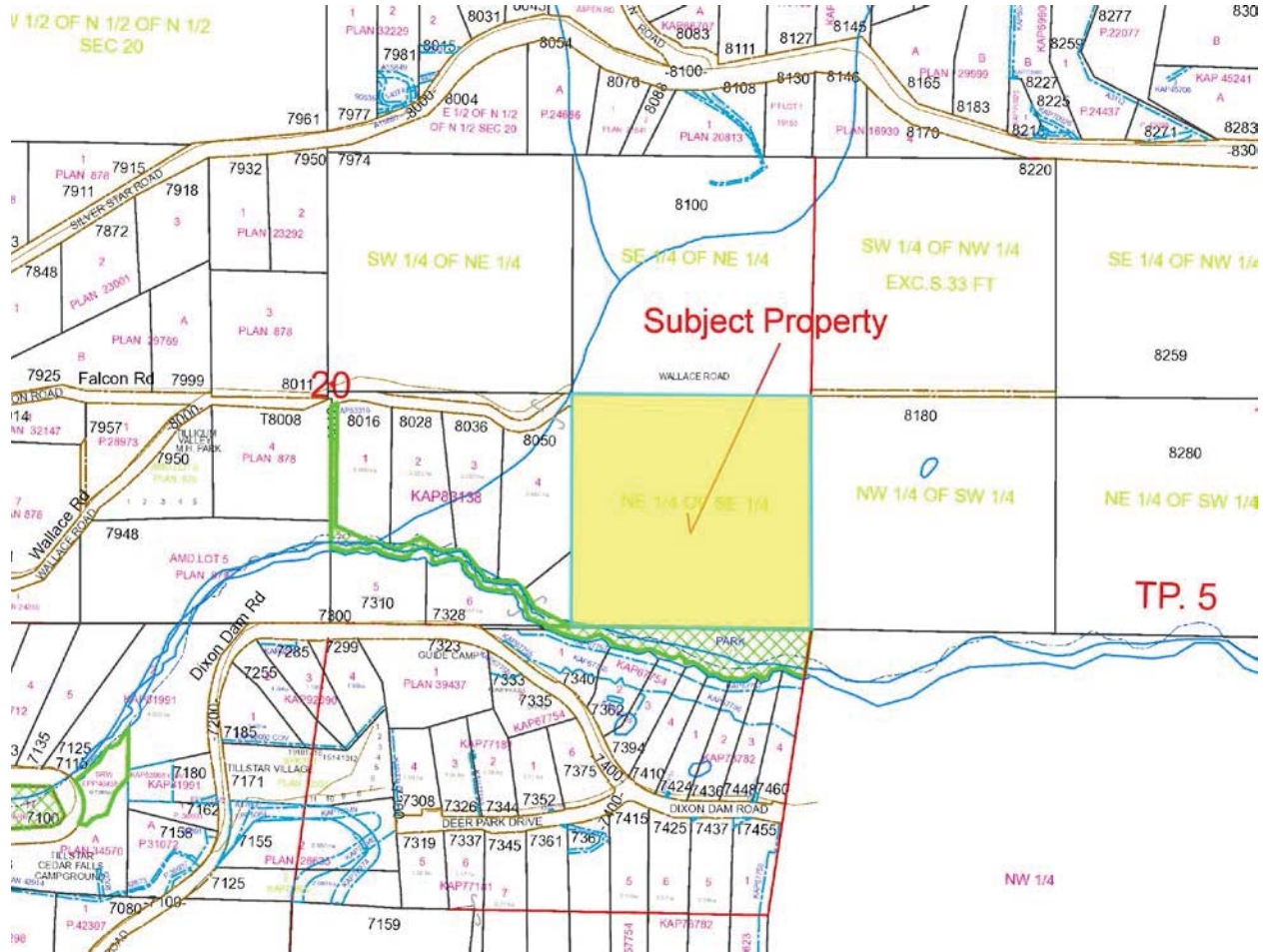
Approved for Inclusion:



David Sewell
Chief Administrative Officer

SUBJECT PROPERTY MAP

File: 19-0350-C-RZ
Owner/Applicant: Down's Enterprises c/o Monashee Surveying
Location: Wallace Road



SUBJECT PROPERTY MAP ZONING BOUNDARIES

File: 19-0350-C-RZ
 Owner/Applicant: Down's Enterprises c/o Monashee Surveying
 Location: Wallace Road



- C.5 – Recreation Commercial
- C.R. – Country Residential
- N.U – Non-Urban
- R.3 – Residential Apartment and Multi-Family
- S.3 – Community Park and Public Use
- S.H – Small Holding



**SKETCH PLAN TO
ACCOMPANY
REZONING
APPLICATION FOR-**

THE NORTH EAST 1/4 OF THE SOUTH EAST 1/4
OF SECTION 20 TOWNSHIP 5 0307005
DIVISION TALE DISTRICT

SCALE 1:2500

ALL DISTANCES ARE IN METERS.
CONTOURS ARE FROM MAPPING AND ARE
AT 5m INTERVALS

THIS PLAN WAS PREPARED FOR THE
EXCLUSIVE USE OF DOWN'S ENTERPRISES LTD.
THIS DOCUMENT SHALL NOT BE USED TO
DEFINE PROPERTY LINES OR PROPERTY
CORNERS.

MONASHEE SURVEYING AND GEOMATICS, 2018
ALL RIGHTS RESERVED.

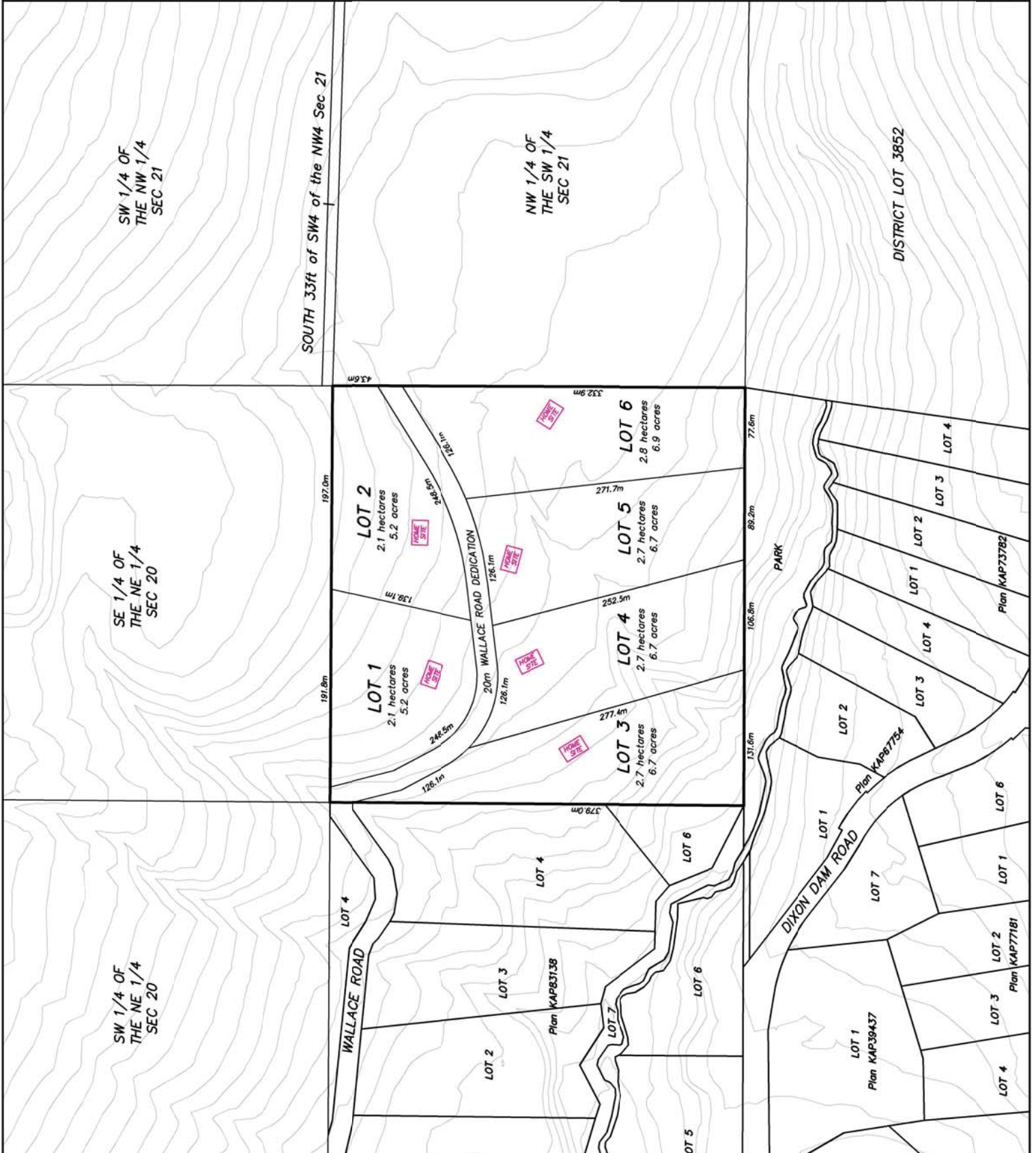
MONASHEE SURVEYING AND GEOMATICS
ACCEPTS NO RESPONSIBILITY FOR AND
HEREBY DISCLAIMS ALL OBLIGATIONS AND
LIABILITIES FOR DAMAGES INCLUDING, BUT
NOT LIMITED TO, DAMAGES ARISING OUT
OF OR IN CONNECTION WITH ANY DIRECT OR
INDIRECT USE OR RELIANCE UPON THE PLAN
BEYOND ITS INTENDED USE.

DATED: SEPTEMBER 6 2018

DRAWING: 6932 SITE PLAN.dwg



9710A 28th Street Vernon, B.C. V1T 8G2
Tel: (250) 545 8990 Fax: (250) 545 8912



SW 1/4 OF
THE NW 1/4
SEC 21

SOUTH 33ft of SW4 of the NW4 Sec 21

NW 1/4 OF
THE SW 1/4
SEC 21

DISTRICT LOT 3852

SE 1/4 OF
THE NE 1/4
SEC 20

SW 1/4 OF
THE NE 1/4
SEC 20

LOT 1
2.1 hectares
5.2 acres

LOT 2
2.1 hectares
5.2 acres

LOT 3
2.7 hectares
6.7 acres

LOT 4
2.7 hectares
6.7 acres

LOT 5
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6.7 acres

LOT 6
2.8 hectares
6.9 acres

LOT 1
Plan KAP39437

LOT 2
LOT 3
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Plan KAP77181

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Plan KAP73782

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Plan KAP87754

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Plan KAP73782

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REGIONAL DISTRICT OF NORTH OKANAGAN

BYLAW No. 2838

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. 2838, 2019**".

AMENDMENTS

2. That the property legally described as The NE ¼ of the SE ¼ of Sec 20, Twp 5, ODYD and located at Wallace Road, Electoral Area "C" be rezoned from the **Non-Urban [N.U] Zone** to the **Country Residential [C.R] Zone**.
3. That the Zoning Map, being Schedule "A" to *Zoning Bylaw No. 1888, 2003* be amended accordingly.

Read a First Time	this	day of	, 2019
Read a Second Time	this	day of	, 2019
Advertised on	this	day of	, 2019
	this	day of	, 2019
Public Hearing held	this	day of	, 2019

Read a Third Time this day of , 2019

Approved by Minister of Transportation and Infrastructure this day of , 2019
(Transportation Act s. 52(3))

ADOPTED this day of , 2019

Chair

Corporate Officer