

## ADMINISTRATIVE REPORT



**TO:** Board of Directors

**FROM:** B. Newell, Chief Administrative Officer

**DATE:** October 21, 2021

**RE:** Official Community Plan (OCP) & Zoning Bylaw Amendment – Electoral Area “D” (D2021.016-ZONE)

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### Administrative Recommendation:

**THAT** Bylaw No. 2603.21, 2021, a bylaw to amend the Electoral Area “D” Official Community Plan to facilitate a land donation to a conservation organization at 4899 Eastside Road be read a first and second time and proceed to public hearing; and,

**THAT** Bylaw No. 2455.47, 2021, a bylaw to amend the Electoral Area “D” Zoning Bylaw be read a first and second time and proceed to public hearing; and,

**THAT** the Board of Directors considers the process, as outlined in this report from the Chief Administrative Officer dated October 21, 2021, to be appropriate consultation for the purpose of Section 475 of the *Local Government Act*; and,

**THAT**, in accordance with Section 477 of the *Local Government Act*, the Board of Directors has considered Amendment Bylaw No. 2603.21, 2021, in conjunction with its Financial and applicable Waste Management Plans; and,

**THAT** the holding of a public hearing be scheduled for the Regional District Board meeting of November 18, 2021; and,

**THAT** staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.

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Purpose: To facilitate a land donation to a conservation organization. Folio: D-06809.010

Civic: 4899 Eastside Road Legal: Lot 1, Plan KAP35151, Sublot 38, DL 2710, SDYD

OCP: part Resource Area (RA); and Proposed OCP: part Large Holdings (LH); and  
part Tourist Commercial (CT) part Conservation Area (CA)

Zone: part Resource Area (RA); and Proposed Zoning: part Large Holdings Two (LH2)  
part Tourist Commercial One (CT1) part Conservation Area (CA); and  
part Tourist Commercial Site Specific (CT1s)

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### Proposed Development:

To amend the zoning of the subject property in order to facilitate a subdivision on the property and create a new 17.4 ha remainder lot and consolidate the remaining 29.2 ha with the adjoining Nature Trust lot to the south.

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In order to accomplish this, the following land use bylaw amendments are being proposed by the applicant:

- amend the land use designation under Schedule 'B' (OCP Map) of the Electoral Area "D" Official Community Plan (OCP) Bylaw No. 2603, 2013, from part Resource Area (RA), part Tourist Commercial (CT), to part Tourist Commercial (CT); Part Large Holdings (LH); and Part Conservation Area (CA).
- amend the zoning under Schedule '2' (Zoning Map) of the Electoral Area "D" Zoning Bylaw No. 2455, 2008, from part Resource Area (RA); part Tourist Commercial One (CT1), to Part Large Holdings Two (LH2); part conservation Area (CA); and part Site Specific Tourist Commercial One (CT1s).

In support of the rezoning, the applicant has stated that "the current RA zoned area would support two, 20 ha lots. The proposed land use bylaw amendments provide for 29.2 ha of conservation land and a 17 ha rural lot that maintains the very rural, low impact character of this part of Area "D" as well as addressing bylaw non-conformity of a well established tourist accommodation use."

**Site Context:**

The subject property is approximately 46.59 ha in area and is situated on the east side of Eastside Road approximately 71 m from the municipal boundary with the City of Penticton. It is understood that the parcel is comprised of God's Mountain B&B, two accessory dwellings, a pool, agriculture and vacant resource area land.

The surrounding pattern of development is generally characterised by crown land and conservation land with Skaha Lake to the west.

**Background:**

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on December 24, 1984, while available Regional District records indicate that a building permits for a swimming pool (1990) and an addition to a single family dwelling (1991) have previously been issued for this property.

Under the Electoral Area "D" Official Community Plan (OCP) Bylaw No. 2603, 2013, the subject property is currently designated part Resource Area (RA) part Tourist Commercial (CT), and is the subject of an Environmentally Sensitive Development Permit (ESDP) and Hillside Development Permit (HDP) Area designations.

Under the Electoral Area "D" Zoning Bylaw No. 2455, 2008, the property is currently zoned part Resource Area (RA) part Tourist Commercial One (CT1) which establishes a minimum parcel size of 20.0 ha (RA) and 1000 m<sup>2</sup> (CT1) for subdivision

Under Section 8.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property is within the floodplain associated with Skaha Lake.

The property is also within the G.G. Runka Geological Hazard Zone with the north western portion of the property holding a Soil Stability rating for hazards of materials sliding of slumping and hazard of slumps and slide, site specific engineering investigations recommended where high density development is anticipated.

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BC Assessment has classified the property as part “Residential” (Class 01), part “Business and Other” (Class 06) and part “Farm” (Class 09).

On August 18, 2021, the Ministry of Transportation and Infrastructure (MoTI) referred a proposed boundary adjustment involving the subject property to the Regional District for compliance with any applicable RDOS land use bylaws.

**Referrals:**

Pursuant to Section 476 of the *Local Government Act*, the Regional District must consult with the relevant School District when proposing to amend an OCP for an area that includes the whole or any part of that School District. In this instance, School District No. 67 have been made aware of the proposed amendment bylaw.

Pursuant to Section 477 of the *Local Government Act*, after first reading the Regional Board must consider the proposed OCP amendment in conjunction with Regional District's current financial and waste management plans. The proposed OCP amendment has been reviewed by the Public Works Department and Finance Department, and it has been determined that the proposed bylaw is consistent with RDOS's current waste management plan and financial plan.

**Public Process:**

On October 13, 2021, a Public Information Meeting (PIM) was held via Webex. A verbal update of the number of attendees will be provided will be provided to the Board at its meeting of October 21, 2021.

At its meeting of September 14, 2021, the Electoral Area “D” Advisory Planning Commission (APC) resolved to recommend to the RDOS Board that the subject development application be approved.

Administration recommends that the written notification of affected property owners, the public meetings as well as formal referral to the agencies listed at Attachment No. 1, should be considered appropriate consultation for the purpose of Section 475 of the *Local Government Act*. As such, the consultation process undertaken is seen to be sufficiently early and does not need to further ongoing.

All comments received to date in relation to this application are included as a separate item on the Board Agenda.

**Analysis:**

The proposed amendments will permit the landowner to convey land to Natures Trust of BC, which is generally consistent with the intent of the Plan to protect environmentally sensitive areas.

Specifically, the OCP speaks to encouraging the protection, preservation, enhancement and management of sensitive ecosystem through the introduction of conservation area designation and encourages conservation organizations, such as Natures Trust, to acquire land for conservation purposes (Section 17.3.2.7(c) and Section 17.4).

Moreover, the OCP also directs that the Regional District encourage the protection, enhancement and management of sensitive ecosystem through the creation of conservation covenants in favour of private conservation organizations (Section 17.3.2.7(d)).

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Importantly, the proposal is not proposing to create any additional parcels and providing a site specific CT1 zoning will allow currently non-conforming structures to be brought into compliance with the zoning bylaw.

For the western 16.8 ha, LH2 is seen to be an appropriate alternative to the current RA zoning as it features many similarities in terms of permitted uses with the LH zone being only slightly less permissive. The rural holdings zoning is seen to be generally compatible with the surrounding rural character.

In considering the designation change from RA to LH2, Administration notes that the minimum lot size in the LH2 zone is 8.0 ha which would allow the property owner to subdivide the property further in the future. However, the area is constrained by steep slopes, environmentally sensitive ecosystems, and a lack of sanitary sewer infrastructure which would make future subdivision and development difficult.

Alternative:

Conversely, Administration recognises that it is not generally considered good planning practice to allow “spot zoning” as these are generally divorced from broader strategic land use objectives. In such instances, spot zonings grant privileges to a single parcel which are not granted or extended to other parcels in the vicinity, and which individually may seem harmless, but could incrementally establish a pattern of development that will erode an area’s existing rural character.

In this instance, the introduction of a Large Holdings (LH) designation and zoning would be inconsistent with surrounding land use designations, which are predominantly Resource Area (RA) and would allow for the possible subdivision of the LH zoned area into two new 8.0 ha parcels.

Alternatively, a site specific regulation could be applied in order to maintain the current RA zoning and limit the potential for additional parcels to be created.

Summary:

The property could be subdivided into a maximum of two new parcels under the current RA zoning and the introduction of the LH2 Zone merely preserves this development potential while allowing the owner to donate a substantial part of the property for conservation purposes.

**Alternatives:**

1. THAT Bylaw No. 2603.21, 2021, Electoral Area “D” Official Community Plan Amendment Bylaw and Bylaw No. 2455.47, 2021, Electoral Area “D” Zoning Amendment Bylaw be read a first and second time and proceed to public hearing;

AND THAT the Board of Directors considers the process, as outlined in the report from the Chief Administrative Officer dated October 21, 2021, to be appropriate consultation for the purpose of Section 475 of the *Local Government Act*;

AND THAT, in accordance with Section 477 of the *Local Government Act*, the Board of Directors has considered Amendment Bylaw No. 2603.21, 2021, in conjunction with its Financial and applicable Waste Management Plans;

AND THAT the holding of the public hearing be delegated to Director Obirek;

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AND THAT staff schedule the date, time, and place of the public hearing in consultation with Director Obirek;

AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.

**Respectfully submitted:**

*Fiona Titley*

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Fiona Titley, Planner I

**Endorsed By:**

*CG*

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C. Garrish, Planning Manager

Attachments: No. 1 – Agency Referral List

No. 2 – Applicant’s Site Plan

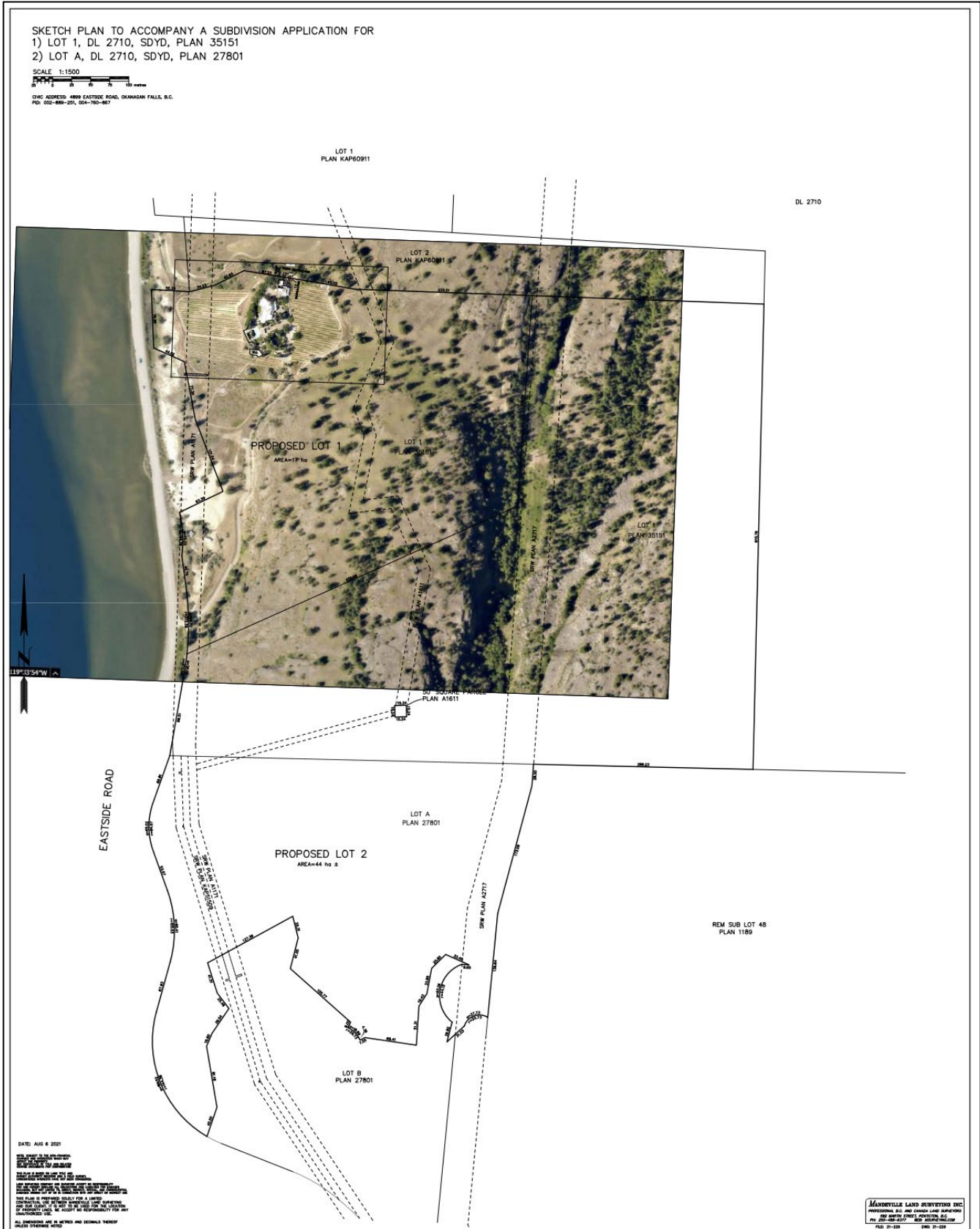
No. 3 – Site Photo

Attachment No. 1 – Agency Referral List

Referrals to be sent to the following agencies as highlighted with a , prior to the Board considering first reading of Amendment Bylaws No. 2455.47, 2021 and 2603.21, 2021.

<input type="checkbox"/>	Agricultural Land Commission (ALC)	<input checked="" type="checkbox"/>	Fortis
<input checked="" type="checkbox"/>	Interior Health Authority (IHA)	<input checked="" type="checkbox"/>	City of Penticton
<input type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	District of Summerland
<input type="checkbox"/>	Ministry of Energy, Mines & Petroleum Resources	<input type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Municipal Affairs & Housing	<input type="checkbox"/>	Town of Osoyoos
<input type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Ecosystem Section)	<input type="checkbox"/>	Town of Princeton
<input checked="" type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Archaeology Branch)	<input type="checkbox"/>	Village of Keremeos
<input type="checkbox"/>	Ministry of Jobs, Trade & Technology	<input type="checkbox"/>	Okanagan Nation Alliance (ONA)
<input type="checkbox"/>	Ministry of Transportation and Infrastructure	<input type="checkbox"/>	Penticton Indian Band (PIB)
<input type="checkbox"/>	Integrated Land Management Bureau	<input type="checkbox"/>	Osoyoos Indian Band (OIB)
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Upper Similkameen Indian Band (USIB)
<input type="checkbox"/>	School District #53 (Areas A, B, C, D & G)	<input type="checkbox"/>	Lower Similkameen Indian Band (LSIB)
<input type="checkbox"/>	School District #58 (Area H)	<input type="checkbox"/>	Environment Canada
<input checked="" type="checkbox"/>	School District #67 (Areas D, E, F, I)	<input type="checkbox"/>	Fisheries and Oceans Canada
<input type="checkbox"/>	Central Okanagan Regional District	<input type="checkbox"/>	Canadian Wildlife Services
	Kootenay Boundary Regional District	<input type="checkbox"/>	OK Falls Irrigation District
<input type="checkbox"/>	Thompson Nicola Regional District	<input type="checkbox"/>	Kaleden Irrigation District
<input type="checkbox"/>	Fraser Valley Regional District	<input type="checkbox"/>	X Irrigation District / improvement Districts / etc.
<input type="checkbox"/>	XXX Fire Department		

# Attachment No. 2 – Applicant’s Site Plan



Attachment No. 3 – Site Photo

