



Development Variance Permit Application

Referral Form – RDCK File V2502J

Date: May 15, 2025

You are requested to comment on the attached DEVELOPMENT VARIANCE PERMIT for potential effect on your agency's interests. We would appreciate your response WITHIN 30 DAYS (PRIOR TO JUNE 15, 2025). If no response is received within that time, it will be assumed that your agency's interests are unaffected.

LEGAL DESCRIPTION & GENERAL LOCATION:

175 Hudu Creek Road, Ross Spur, Electoral Area 'J'

PARCEL A (SEE 149124I) SUBLOT 3 DISTRICT LOT 1237 KOOTENAY DISTRICT PLAN X72 EXCEPT PLANS 18187, EPP16603 AND EPP32055

PID: 010-359-362

PRESENT USE AND PURPOSE OF PERMIT REQUESTED:

The subject property is located approximately 9km north of the community of Fruitvale in Electoral Area J in the RDCK. It is 10 hectares in size, zoned Agriculture 2 (AG2) and is partially within the Agricultural Land Reserve (ALR). Hudu Creek runs through the subject property and Beaver Creek runs adjacent to the parcel.

The property has been partially cleared and is primarily used for residential purposes. It has been improved with a residence, storage shed, wood shed, barn, utility shed, pump house, wells and septic systems. Most of the existing development is near the northern portion of the parcel where the existing residence is.

The owners are proposing to build an accessory dwelling unit on the property near the southern property line and are requesting three variances to do so. The map and site plan included in this package show the area of existing development (where there are no changes proposed) and the area of proposed development, where the new residence is proposed to be sited. The additional development that is being proposed is in an area with an existing well and septic system.

This Development Variance Permit (DVP) seeks to vary Zoning Bylaw No. 1675 as follows:

Section 2801(3)

- **From:** The maximum Farm Residential Footprint shall be a maximum of 2000 square meters where one dwelling unit is permitted plus 500 square meters per additional permitted dwelling unit.
- **To:** The maximum Farm Residential Footprint shall be a maximum of 10,000 square meters for his property only.

Section 2801(4)

- **From:** The maximum depth of the Farm Residential Footprint shall not exceed 60.0 metres measured from the Front Lot Line or Exterior Side Lot Line.
- **To:** The maximum depth of the Farm Residential Footprint shall not exceed 110.0 metres measured from the Front Lot Line or Exterior Side Lot Line.

Section 623(4)

- **From:** An accessory dwelling unit is subject to the following regulations: The maximum gross floor area is 90.0 square metres.
- **From:** An accessory dwelling unit is subject to the following regulations: The maximum gross floor area is 97.0 square metres.

AREA OF PROPERTY AFFECTED 1.0ha of 10 ha parcel	ALR STATUS Yes, partial	ZONING Agriculture 2 (AG2) in RDCK Zoning Bylaw no. 1675, 2004	OCP Open Space (OS) in Kootenay-Columbia Rivers Official Community Plan Bylaw No. 1157, 1996
APPLICANT: Dustin McLean			
Please provide your response via email. If your agency's interests are 'Unaffected' no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this permit. If you are an RDCK commission member, do not respond via email. Your response is the commission's recommendation which staff will collect from the meeting minutes. SADIE CHEZENKO, PLANNER REGIONAL DISTRICT OF CENTRAL KOOTENAY			
☒ MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE ☒ HABITAT BRANCH (Environment) ☒ FRONTCOUNTER BC (MFLNRORD) ☒ AGRICULTURAL LAND COMMISSION ☒ REGIONAL AGROLOGIST ☐ ENERGY & MINES ☐ MUNICIPAL AFFAIRS & HOUSING ☒ INTERIOR HEALTH, HBE TEAM ☐ KOOTENAY LAKES PARTNERSHIP (FORESHORE DEVELOPMENT PERMITS) ☐ SCHOOL DISTRICT NO. ☐ WATER SYSTEM OR IRRIGATION DISTRICT ☒ UTILITIES (FORTIS, BC HYDRO, NELSON HYDRO, COLUMBIA POWER)	REGIONAL DISTRICT OF CENTRAL KOOTENAY DIRECTORS FOR: ☐ A ☐ B ☐ C ☐ D ☐ E ☐ F ☐ G ☐ H ☐ I ☒ J ☐ K ALTERNATIVE DIRECTORS FOR: ☐ A ☐ B ☐ C ☐ D ☐ E ☐ F ☐ G ☐ H ☐ I ☐ J ☐ K ☒ APHC AREA J ☒ RDCK FIRE SERVICES ☐ RDCK EMERGENCY SERVICES ☒ RDCK BUILDING SERVICES ☐ RDCK UTILITY SERVICES ☐ RDCK RESOURCE RECOVERY ☐ RDCK REGIONAL PARKS INSERT COMMENTS ON REVERSE . . .		

The personal information on this form is being collected pursuant to *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015* for the purpose of determining whether the application will affect the interests of other agencies or adjacent property owners. The collection, use and disclosure of personal information are subject to the provisions of FIPPA. Any submissions made are considered a public record for the purposes of this application. Only personal contact information will be removed. If you have any questions about the collection of your personal information, contact the Regional District Privacy Officer at 250.352.6665 (toll free 1.800.268.7325), info@rdck.bc.ca, or RDCK Privacy Officer, Box 590, 202 Lakeside Drive, Nelson, BC V1L 5R4.

RETURN TO: SADIE CHEZENKO, PLANNER
DEVELOPMENT AND COMMUNITY SUSTAINABILITY SERVICES
REGIONAL DISTRICT OF CENTRAL KOOTENAY
BOX 590, 202 LAKESIDE DRIVE
NELSON, BC V1L 5R4
Ph. 250-352-1585
Email: plandept@rdck.bc.ca

RDCK Map



Esri Canada, Esri,
TomTom, Garmin,
SafeGraph, METI/NASA,
USGS, EPA, NPS, USDA,
NRCan, Parks Canada,



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Box 590, 202 Lakeside Drive,
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Phone: 1-800-268-7325 www.rdck.bc.ca
maps@rdck.bc.ca

Legend

- RDCK Boundary
- Electoral Areas

Map Scale:

1:288,895

Date: April 4, 2024



The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.

RDCK Map



Esri Community Maps
Contributors, Esri Canada,
Esri, TomTom, Garmin,
SafeGraph,
GeoTechnologies, Inc,



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Legend

- Agriculture Land Reserve
- Building Footprints
- Electoral Areas
- RDCK Streets
- Cadastre
- Address Points

Map Scale:

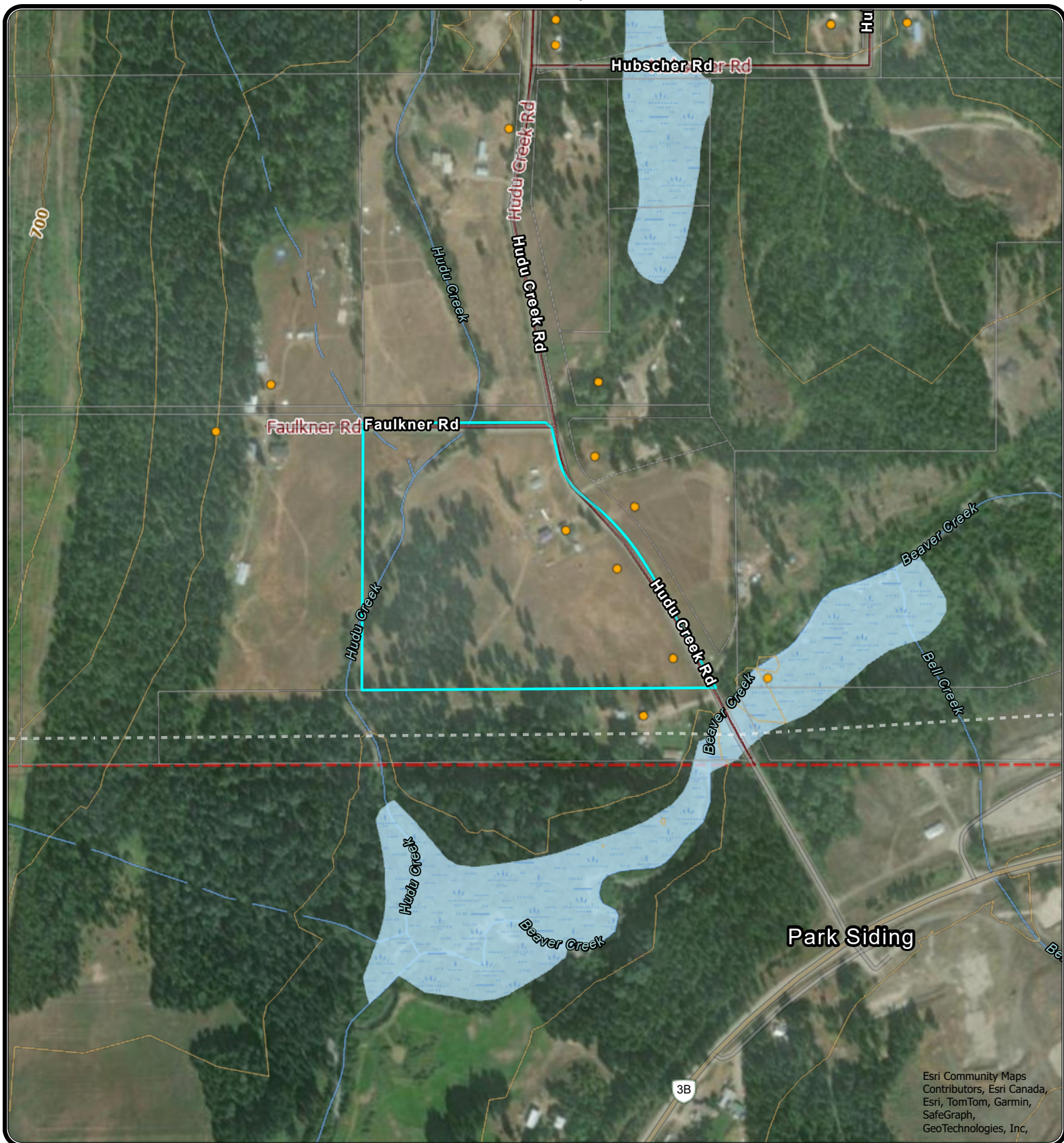
1:9,028

Date: April 4, 2024



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20 Meter Contours

- 20 meter
- 100 meter
- Wetlands

Legend

- Streams and Shorelines
- Electoral Areas
- RDCK Streets
- Cadastre
- Address Points

Map Scale:

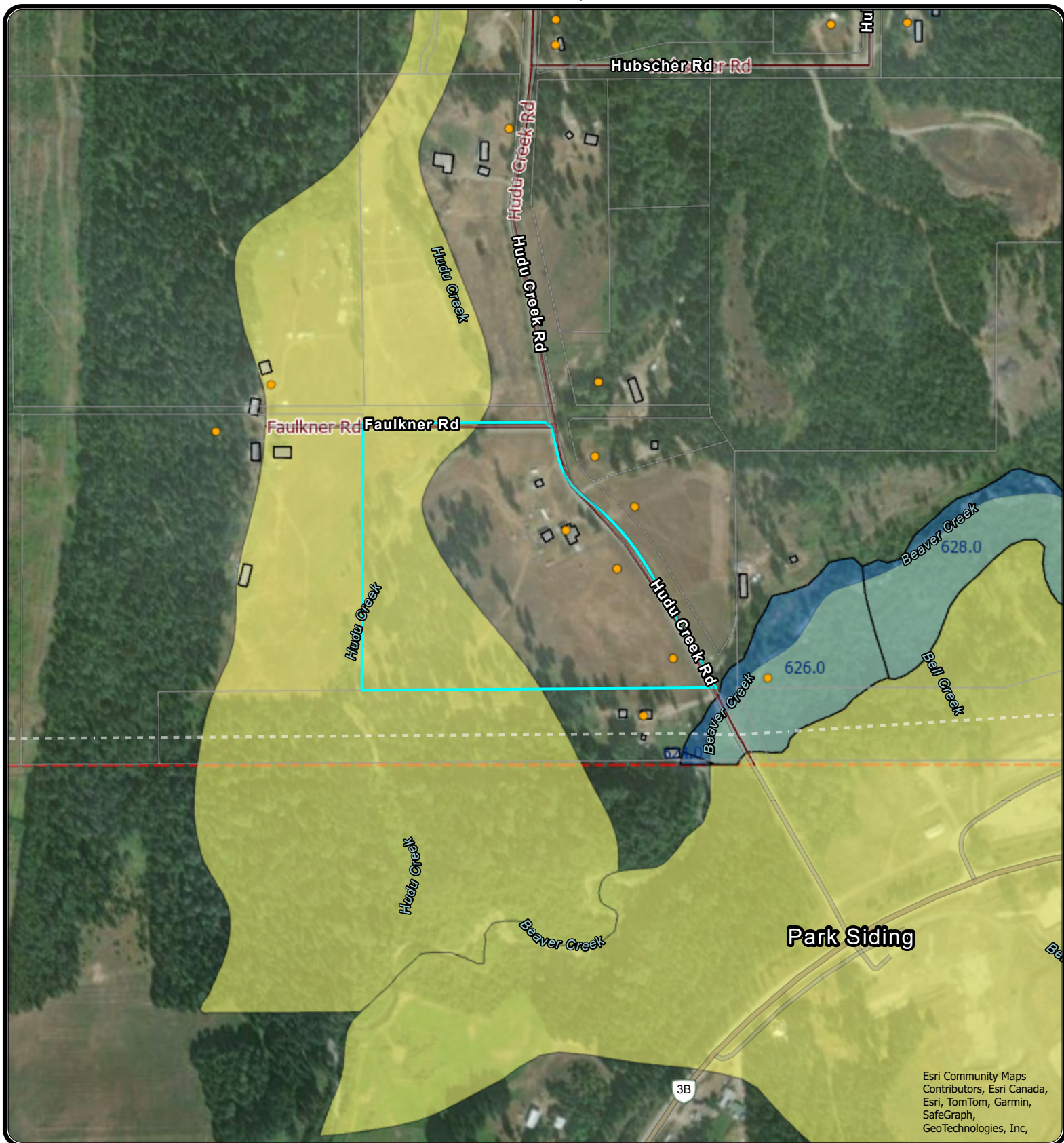
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Legend

- | | |
|------------------------------------|-----------------|
| Flood Construction Levels - 1990 | Electoral Areas |
| Non Standard Flooding Erosion Area | RDCK Streets |
| Building Footprints | Cadastre |
| | Address Points |

Map Scale:

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Legend

 Building Footprints

Zoning Class

 Agriculture

 Open Space

 Residential 4

 Electoral Areas

 RDCK Streets

 Cadastre

 Address Points

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Legend

- Electoral Areas
- RDCK Streets
- Cadastre
- Address Points
- Open Space
- Building Footprints

Official Community Plan

Map Scale:

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Date: April 4, 2024



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Legend

Fire Service Areas

- KOOTENAY-BDRY
- Electoral Areas
- RDCK Streets
- Cadastre
- Address Points

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DIVISION 28 AGRICULTURE 2 (AG2)

Permitted Uses

2800 Subject to the *British Columbia Agricultural Land Commission Act, Agricultural Land Reserve Use Regulation* and Orders, land, buildings and structures in the Agriculture 2 (AG2) zone shall be used for the following purposes only:

Agriculture

All activities designated as "Farm Use" as defined in the *Agricultural Land Commission Act* and Part 2 of the *Agricultural Land Reserve Use Regulation* as amended or replaced from time to time

Single Detached Housing

Kennel

Micro Cultivation, Cannabis

Micro Processing, Cannabis

Nursery, Cannabis

Standard Cultivation, Cannabis

Standard Processing, Cannabis

Veterinary Clinic (*may require ALC non-farm use approval*)

Accessory Uses:

- Accessory Buildings or Structures
- Accessory Dwelling Unit
- Accessory Tourist Accommodation
- Farm Product Processing of farm product from another parcel in the Regional District of Central Kootenay (*may require ALC non-farm use approval*)
- Home Based Business
- Portable Sawmills for processing of material harvested on site only
- Temporary Farm Worker Housing (*may require ALC non adhering residential use approval*)

Development Regulations

2801

1. The minimum lot size shall be 8.0 hectares in the Agricultural Land Reserve and 4.0 hectares outside the Agricultural Land Reserve.

- 1B. The maximum density is 2 Dwelling Units.
2. The maximum site coverage permitted shall be 35 percent of the lot area unless an area not larger than 60 percent of the lot is covered with greenhouses.
3. The maximum Farm Residential Footprint shall be a maximum of 2000 square meters where one dwelling unit is permitted plus 500 square meters per additional permitted dwelling unit.
4. The maximum depth of the Farm Residential Footprint shall not exceed 60.0 metres measured from the Front Lot Line or Exterior Side Lot Line.
5. The Maximum Gross Floor Area of Single Detached Housing is 300.0 square metres.
6. *Deleted by Bylaw 2958.*
7. Temporary Farmworker Housing is permitted on a lot provided that all of the following apply:
 - a. the lot is classified as a farm under the Assessment Act;
 - b. the lot is larger than 1.2 hectares;
 - c. the minimum setback is 6.0 metres from the Front Lot Line and Exterior Lot Line and 15.0 metres from other lot lines; and
 - d. the minimum setback from the nearest exterior wall of a dwelling unit on another lot is 30.0 metres, or where a landscape screen comprised of a thick hedge of hardy shrubs or evergreen trees not less than 1.8 metres in height and 1.5 metres in width and maintained in a healthy growing condition is provided, the minimum setback from the nearest exterior wall of a dwelling unit shall not be required.
8. No building, structures or enclosures used for housing farm animals; no drinking or feeding troughs and no manure piles may be located within 5.0 metres of a lot line.
9. Section 2801(8) does not apply to fences adjacent to lot lines that are used for enclosures for the grazing of farm animals.
10. Farm Product processing that involves processing livestock:
 - a. must be located on a minimum 2.0 hectare site

- a. be provided with screening in the form of a fence not less than 1.5 metre in height or by a hedge not less than 1.5 metre in height at the time of planting where adjacent to a lot in any Residential zone; such screening shall be planted or installed so that no person shall be able to see through it;
 - b. be separated from any directly abutting lot in any Residential zone and from any adjoining highway other than a lane, by a fully and suitably landscaped and properly maintained strip not less than 1.5 metres in width.
- 4 Where any lot is used for commercial, industrial and institutional purposes, any part of such lot that is not used for buildings, exterior display areas, parking or loading facilities shall be maintained as a landscaped area, or as undisturbed forest.
- 5 Where any off-street parking area for four (4) or more vehicles is located within 4.5 metres of a front or exterior side lot line, it shall be screened by an evergreen hedge not less than 1.5 metre in height at the time of planting. The minimum width of soil area for the hedge shall be 0.75 metres. The hedge shall be planted one (1) metre from curbs or wheel stops.
- 6 The design, installation and maintenance of any landscaping area or screen should be in conformity with the current specifications of the 'British Columbia Landscape Standard' prepared by the B.C. Society of Landscape Architects and the B.C. Nursery Trades Association.
- 7 In the Quarry zone, a landscape screen or a continuous three (3) metre high opaque fence shall be maintained within the 100 metre setback required for any processing operation.

Development Permit Variances

- 622 Pursuant to Section 489 of the *Local Government Act*, setback and height variances may be approved by the Regional District on a Development Permit where community plan objectives for the form and character of commercial, industrial and multi-unit housing developments can be achieved provided that no siting variances cross a property line.

Accessory Dwelling Units

- 623 An accessory dwelling unit is subject to the following regulations:

- 1 The maximum number of accessory dwelling units per lot is one.
- 2 The minimum lot size for an accessory dwelling unit shall be 1.0 hectare.
- 3 Notwithstanding section 623(b) secondary suites are permitted on all lots.
- 4 The maximum gross floor area is 90.0 square metres.
- 5 The maximum height is 8.0 metres.

- 6 The maximum number of storeys is 2.
- 7 An accessory dwelling unit must be serviced by an on-site sewerage disposal system in accordance with the Sewerage System Regulations of the Public Health Act and it must be demonstrated that there is a suitable back up field area on the parcel unless a community sewer system is available in which case connection to the community sewer system is required.
- 8 An accessory dwelling unit is not permitted to be used as accessory tourist accommodation or a short term rental.
- 9 The accessory dwelling unit shall not be a recreational vehicle or other vehicle.
- 10 A secondary suite shall not be connected to a single detached house by a breezeway or carport.

Site Plan



RDCK Map



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Legend

- Electoral Areas
- RDCK Streets
- Cadastre - Property Lines
- Address Points

Map Scale:

1:4,514

Date: May 20, 2025



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Variance permit application

My name is Dustin McLean and I am looking to apply for 3 variance permits under division 28, AG2, 3. The maximum farm residential shall be a maximum of 2000 square metres where one dwelling unit is permitted plus 500 square metres per additional permitted dwelling unit.

4. The maximum depth of the farm residential footprint shall not exceed 60.0 metres measured from the front lot line or exterior side lot line.

Accessory dwelling units 623 #4 The maximum gross floor area is 90 square metres.

These are the three that I am applying for.

The reason for this is that in 2021 me and my father were starting the process to get the subdivision going back into ALR which was a lengthy process that was ultimately denied, we had a back up plan which was if that didn't work then we would just subdivide the 5.2 acres that was not in ALR as the zoning at the time was minimum 5 acres which we didn't know was changed in 2023 to minimum 10 acres. Work on the property was going on since 2021, everything is already completed, well, power, septic, addresses were issued in 2022 and a modular home has already been purchased. I have put all of my money into this as I thought it would be subdivided so this is why I am looking for these permits, for a second dwelling on the property. This has been extremely costly and I am not sure if I'd be able to recover financially if this is not approved. There would be little to no effects to neighbours as it is mostly acreage around. The water line is under ground running 2 feet off of the driveway to the back of the pump house as is the electrical but approximately 6 feet away from water line trench. (6 feet underground in separate ditches)