

APC REPORT

TO: APC 'B'

FROM: Candice Benner
Development Services Assistant

File No:	LC2530B PL20160201
Date:	March 7, 2017

SUBJECT: Agricultural Land Commission (ALC) application
Section 20(3) Non-Farm Use
James and Lee-Ann Kramer

SHORT SUMMARY:

The subject property is located in the south of the City of Revelstoke in Electoral Area 'B' and is zoned SH – Small Holdings. This non-farm use application is to address two uses currently being operated on the property:

1. Vacation Rental -The owners are currently operating a vacation rental out of a second dwelling they built on the property. After receiving notice from the CSR D that a vacation rental use is not permitted, the owners started the process of bringing the use into compliance, starting with this ALR application for non-farm use.
2. Second Dwelling Unit -This application is also a review of the second dwelling itself (from which the vacation rental is being operated) on the property; a second dwelling may be a permitted use in the Small Holdings zone if it meets zoning requirements. The ALC requires a non-farm use application for secondary dwelling units.

BACKGROUND:

PROPERTY OWNER: James and Lee-Ann Kramer

AGENT: Lee-Ann Kramer

ELECTORAL AREA: 'B'

CIVIC ADDRESS: 4496 Airport Way

LEGAL DESCRIPTION: Lot 1, Section 31, Township 22, Range 1, W6M, Kootenay District, Plan NEP73271 (PID: 025-639-064)

SIZE OF PROPERTY: 4.31 ha

DESIGNATION: SH – Small Holdings

ZONE: SH – Small Holdings

ALR: Yes, approximately 65%

CURRENT USE: residential and vacation rental

PROPOSED USE: residential and vacation rental

SURROUNDING LAND**USE PATTERN:**

North: rural, residential

South: Crown

East: Crown

West: Airport Way, rural, residential, Crown

SITE COMMENTS: The subject parcel is located south of the City of Revelstoke on the east side of Airport Way. There are two single family dwellings located on the parcel with one shared access driveway. The parcel is a mix of flat to moderate slopes with mostly dense forest coverage. Currently, no agricultural activity is being done on the property.

SOILS CAPABILITY:

The subject parcel is approximately 65% within the ALR. The Canada Land Inventory indicates that:

7 3
5 | - 2 T

The portion of the parcel within the ALR is 70% Class 5 and 30% Class 2 soils with topography and inundation by streams or lakes as limiting factors. These soils are not improvable.

7 T
R

The portion of the property outside of the ALR has Class 7 soils with topography and bedrock as limiting factors. These soils are not improvable.

HISTORY:

There have been a few ALC applications made in the area. See ALR History Map.

- 1321 (1977): 3 lot subdivision refused, permitted subdivision along ALR boundary
- 1323 (1977): permitted subdivision for consolidation
- 1628 (1980): ALR exclusion approved, refused 3 acre inclusion
- 1867 (1982): subject parcel (previous owner) –mobile home for specific family member permitted, in 1998 owner was required to remove the mobile home as the family member was no longer in residence
- 2087 (2002): subject parcel (previous owner) - 2 lot subdivision approved
- LC2180 (1995): non-farm use helicopter attack base approved
- LC2272 (2002): subdivision approved
- LC2486B (2014): temporary commercial lodging and helicopter staging area permitted, 2 extensions granted
- LC2499B (2015): request for permanent vacation rental; initially denied by ALC, currently going through appeal process

CSRD POLICY:**Rural Revelstoke Official Community Plan Bylaw No. 850****2.1 Growth Patterns**South Revelstoke

At present the South Revelstoke area has a rural character that is highly valued by the residents. The area contains a mixture of lot sizes from small half acre parcels to large agricultural acreages. There is

abundant forested upland area framing the valley and providing context for the proposed ski resort.

The settled area contains a mixture of housing types and sizes but the majority of development is single family residential. There are some properties that are designated as agricultural and are within the Agricultural Land Reserve but there is little active farming taking place.

4.1 Residential

Small Holdings Designation

4.3.20 The principal use shall be residential or agricultural.

4.3.22 One primary dwelling and one accessory dwelling unit shall be permitted per parcel.

4.3.23 The minimum parcel size for subdivision of Small Holdings land shall be 4 ha.

Vacation Rental

4.3.34 Vacation Rentals allow the use of temporary accommodation in residential areas on a commercial basis and are regulated either by a temporary use permit or through the zoning bylaw. Vacations Rentals shall:

- a. first be considered on a three year trial basis by the use of a temporary use permit (refer to Section 14);
- b. not create an unacceptable level of negative impact on surrounding residential uses;
- c. comply with all applicable regulations of the Provincial Agricultural Land Commission when located within the Agricultural Land Reserve; and
- d. be subject to local health authority requirements.
- e. be subject to all Ministry of Transportation and Infrastructure Access Permit requirements.

South Revelstoke

4.4.9 The Regional District recognizes the development pressure currently being experienced on the ALR lands below the Revelstoke Mountain Resort; however the ALC has indicated that it does not support a review of these lands for exclusion from the ALR. The ALC has indicated that it would only consider a review under the following conditions.

- specific information is provided as to the capacity of non ALR land in the City of Revelstoke to accommodate growth (i.e. more land is required to service growth pressures); and
- the land is proposed for incorporation into the City of Revelstoke.

Recognizing the current ALR status, lands within the ALR south of Revelstoke are to be designated Small Holdings (SH).

10.1 Agriculture

Agricultural lands in Electoral Area 'B' are primarily located in the Arrow Lakes Valley. The Regional District recognizes that some lands in the Electoral Area 'B', particularly in South Revelstoke may have limitations for agriculture, however, the ALC is not supportive of ALR exclusions at this time.

Although there is limited evidence of existing agricultural activity in the plan area there is a history of agriculture, particularly in the river valleys. The CSRD recognizes this history and the role of the ALC and the plan is supportive of agriculture, particularly where agriculture can contribute to sustainability and local food production.

10.2 Objectives

10.2.1 To support the preservation of the agricultural land base where lands have continuing value for agriculture.

10.2.2 To promote options for the production and marketing of locally grown foods.

10.2.3 To minimize conflicts between agriculture and other land uses.

10.3 Policies

10.3.1 The Regional District supports the preservation, maintenance and enhancement of lands for agricultural use within the Agricultural Land Reserve. Current Agricultural Land Reserve designations are inventoried in Schedule C.

10.3.3 Agriculture, including but not limited to agricultural food production, forage crops, livestock operations and accessory commercial uses, is permitted in the Rural Resource, Small Holdings, and Rural Residential 2 designations.

Electoral Area 'B' Zoning Bylaw No. 851

1.0 Definitions

BED AND BREAKFAST is the use of not more than three (3) bedrooms within a principal single family dwelling to provide temporary accommodation to the traveling public, and includes food service to guests

HOTEL is the use of land, buildings and structures to provide accommodation on a temporary basis to the travelling public, within a building, and may also contain meeting rooms & restaurant

LODGE is a building which complies with the definition of a "hotel" except that a lodge does not include a restaurant and areas used for public retail and public entertainment purposes

VACATION RENTAL is the use of a residential dwelling unit or secondary dwelling unit for temporary accommodation on a commercial basis

3.6 Agricultural Land Reserve

In addition to the regulations established in this Bylaw, all lands within the Agricultural Land Reserve are also subject to the provisions of the Agricultural Land Commission Act, regulations and orders of the Agricultural Land Commission (thereby not permitting the subdivision of land or the development of non-farm uses unless approved by the Agricultural Land Commission).

3.7 Provisions for a Second Single Family Dwelling within the ALR

Despite any other provisions in this Bylaw, one secondary single family dwelling is permitted on a parcel located within the ALR, provided that the following criteria are met:

- (1) The secondary single family dwelling is located on a parcel not less than 2 ha;
- (2) The secondary single family dwelling shall be occupied by a full-time employee engaged in agriculture on the parcel;
- (3) The secondary single family dwelling shall be located on parcel that is classified as "farm" under the BC Assessment Act;
- (4) The secondary single family dwelling shall be sited not less than: - 5 m from any property line; - 5 m from the principal dwelling or any building accessory thereto;

- (5) The secondary single family dwelling shall not be anchored to a permanent foundation; and
(6) The owner of the said land shall execute a covenant under Section 219 of the Land Titles Act in favour of the CSRD indicating that the secondary single family dwelling will be removed upon termination of the conditions specified in Section 3.7 (1-3).

3.15 Secondary Dwelling Unit

- (1) A secondary dwelling unit must:
- (a) have a floor area not more than 60% of the habitable floor area of the principal dwelling unit unless otherwise specified by this Bylaw;
 - (b) be located on a parcel 2 ha or larger if the secondary dwelling unit is an independent structure (detached);
 - (c) have a door direct to the outdoors without passing through any part of the principal dwelling unit;
 - (d) be constructed in compliance with the latest edition of the BC Building Code;
 - (e) meet all provincial and Interior Health requirements regarding water and sewer servicing;
 - (f) not be used as a vacation rental unless otherwise specified by this Bylaw;
 - (g) not be closer than 4 m to any building containing a dwelling unit or 2 m from an accessory building not containing a dwelling unit if the secondary dwelling unit is an independent structure (detached);
 - (h) have all parking associated with secondary dwelling unit be on-site. Two (2) parking spaces shall be provided:
 - (i) per secondary dwelling unit;
 - (ii) in compliance with the dimensions and access requirements as set out in Part 4 of this Bylaw;
 - (i) only be permitted on lands within the ALR if the conditions of Section 3.7 of this Bylaw have been met; and
 - (j) only be permitted as accessory to a single family dwelling.

- (2) A secondary dwelling unit may: (a) have a its own cooking, sleeping and bathing facilities

3.21 Vacation Rental

- (1) A vacation rental may be permitted in both the single family dwelling and the secondary dwelling unit. Residential campsites, camping units, and park models shall not be used for vacation rental unless otherwise permitted in this Bylaw;
- (2) Where a vacation rental is permitted, a maximum of five (5) bedrooms per parcel may be used for a vacation rental and no more than ten (10) guests are permitted in a vacation rental at any one time;
- (3) A vacation rental located in a detached secondary dwelling unit is only permitted on a parcel 2 ha in size or larger;
- (4) A vacation rental shall not be operated in conjunction with a bed and breakfast;
- (5) A vacation rental shall not include ancillary uses typical of a hotel, motel, lodge or inn. These uses include, but are not limited to: meeting rooms, restaurant, concierge, and retail sales;
- (6) A vacation rental shall not produce a nuisance for surrounding residents, including but not limited to noise, light or traffic that is disruptive to surrounding residents quiet and enjoyment of their property;
- (7) A vacation rental must not alter the residential character of the dwelling unit or property in which it is operated;
- (8) One (1) on-site parking space shall be provided for each bedroom used for vacation rental;
- (9) Total signage (excluding framing) used for the purpose of advertising the vacation rental on each parcel shall not exceed 0.5 m² in area and 2 m in height if free standing. Signs shall have a minimum setback of 1 m from parcel lines; and
- (10) A vacation rental must be sited in accordance with setback regulations and meet all provincial and Interior Health requirements regarding water and sewer servicing.

5.5 Small Holdings (SH) Zone

Principal Uses

(1) The uses stated in this subsection and no others are permitted in the Small Holdings zone as principal uses, except as stated in Part 3: General Regulations:

- (a) agriculture
- (b) day care
- (c) horticulture
- (d) single family dwelling
- (e) standalone residential campsite
- (f) timber harvesting

Secondary Uses

(2) The uses stated in this subsection and no others are permitted in the Small Holdings zone as secondary uses, except as stated in Part 3: General Regulations:

- (a) accessory use
- (b) bed and breakfast
- (c) home occupation
- (d) small-scale sawmill
- (e) residential campsite
- (f) secondary dwelling unit

Regulations

- (c) Maximum parcel coverage: 25%
- (d) Maximum number of single family dwellings per parcel: One
- (e) Maximum number of secondary dwelling units per parcel: One

5.15 Vacation Rental (VR) Zone

Principal Uses

(1) The uses stated in this subsection and no others are permitted in the Vacation Rental zone as principal uses, except as stated in Part 3: General Regulations:

- (a) single family dwelling
- (b) horticulture
- (c) vacation rental

Secondary Uses

(2) The uses stated in this subsection and no others are permitted in the Vacation Rental zone as secondary uses, except as stated in Part 3: General Regulations:

- (a) accessory use
- (b) home occupation
- (c) secondary dwelling unit

Regulations

- (c) Maximum parcel coverage: 20%
- (d) Maximum number of single family dwellings per parcel: One
- (e) Maximum number of secondary dwelling units per parcel: One

Agricultural Land Commission

Agricultural Land Commission Act

Section 6 Purposes of the commission

The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest;
- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

Agricultural Land Reserve Use, Subdivision and Procedure Regulation 171/2002

Vacation rental is not listed as permitted uses in Regulation 171/2002. The owners also constructed a second purpose built dwelling for vacation rental use; therefore an application for non-farm use to the ALC is required.

SERVICING:

The two dwellings share a well but each has its own septic system.

KEY ISSUES/CONCEPTS:

The owners have been operating the second dwelling as a vacation rental for about two years, unaware that the vacation rental use was not permitted in the SH-Small Holdings zone or in ALC regulation. The CSRD notified the owners that in order to continue operating the vacation rental use, the owners would need to apply for a CSRD bylaw amendment or temporary use permit. Prior to submitting the required CSRD application however, the owners must go through ALC application process as they require permission from the ALC for non-farm use for a purpose built vacation rental dwelling.

The previous owners placed a mobile home on the property for care of a family member (ALC file #1867), in 1998 the ALC advised the owners that the mobile home must be removed as that family member was no longer in residence. The current owners constructed the second dwelling on the old building site of the mobile home and connected to existing water and septic services. The current owners did not obtain permission from the ALC to construct this second dwelling and, therefore, is included in this application for non-farm use.

CSRD zoning permits a second dwelling unit in the SH zone, however, Section 3.15(f) of the General Regulations in Bylaw No. 851 specifically states that a vacation rental must not be operated out of a second dwelling unit. If this application for non-farm use for vacation rental and second dwelling unit is successful with the ALC, the owners may continue with either a bylaw amendment or temporary use permit process with the CSRD to bring the vacation rental use in a second dwelling unit into compliance.

The owners call the rental dwelling a "chalet"; it is a 20' x 20' lofted one bedroom building that sleeps four people. The owners live on site in the primary residence.

IMPLEMENTATION:

If the ALC approves this application, the owners will be able to continue with the bylaw amendment or temporary use permit process.

LIST OF REPORT(S) / DOCUMENT(S):

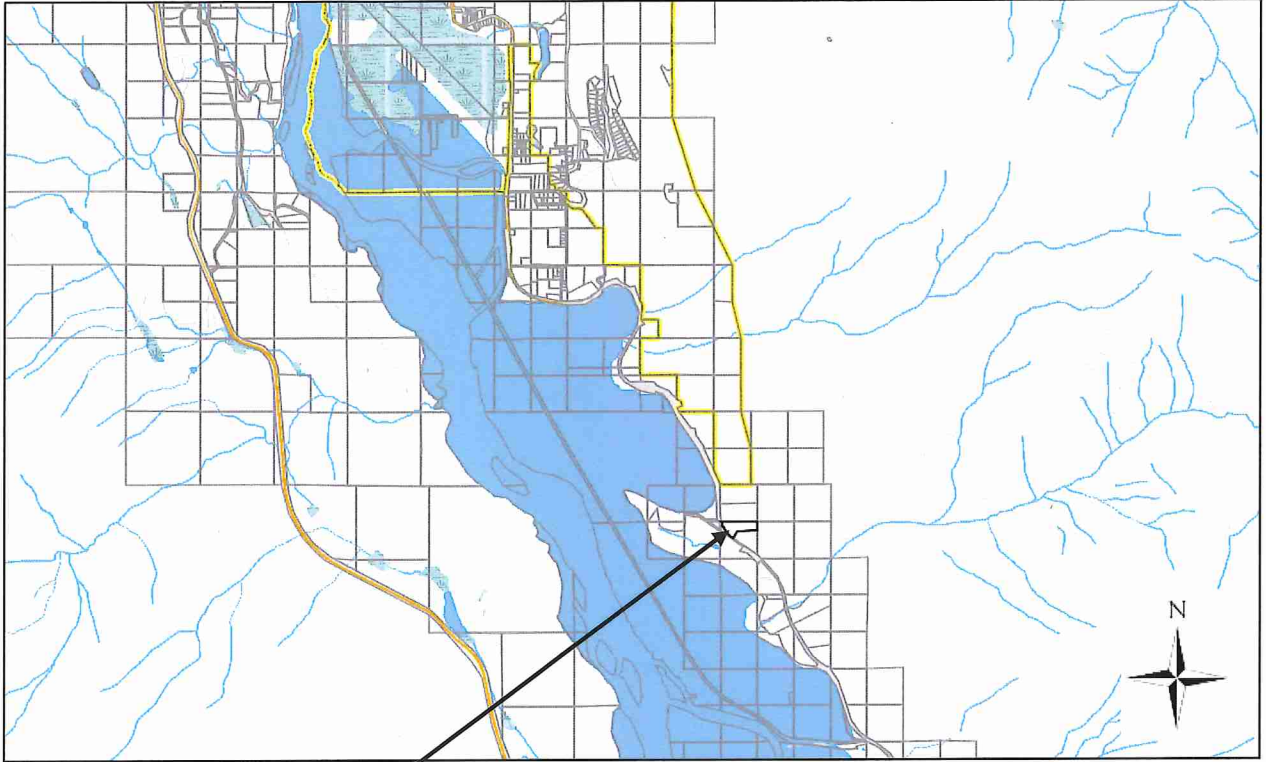
1. Maps: Location, ALR History, Soils, Orthophoto	Attached to Report: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
2. Site Plan	Attached to Report <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
3. Photos	Attached to Report <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
4. Application	Attached to Report: <input type="checkbox"/>	Available from Staff: <input checked="" type="checkbox"/>

Respectfully submitted,

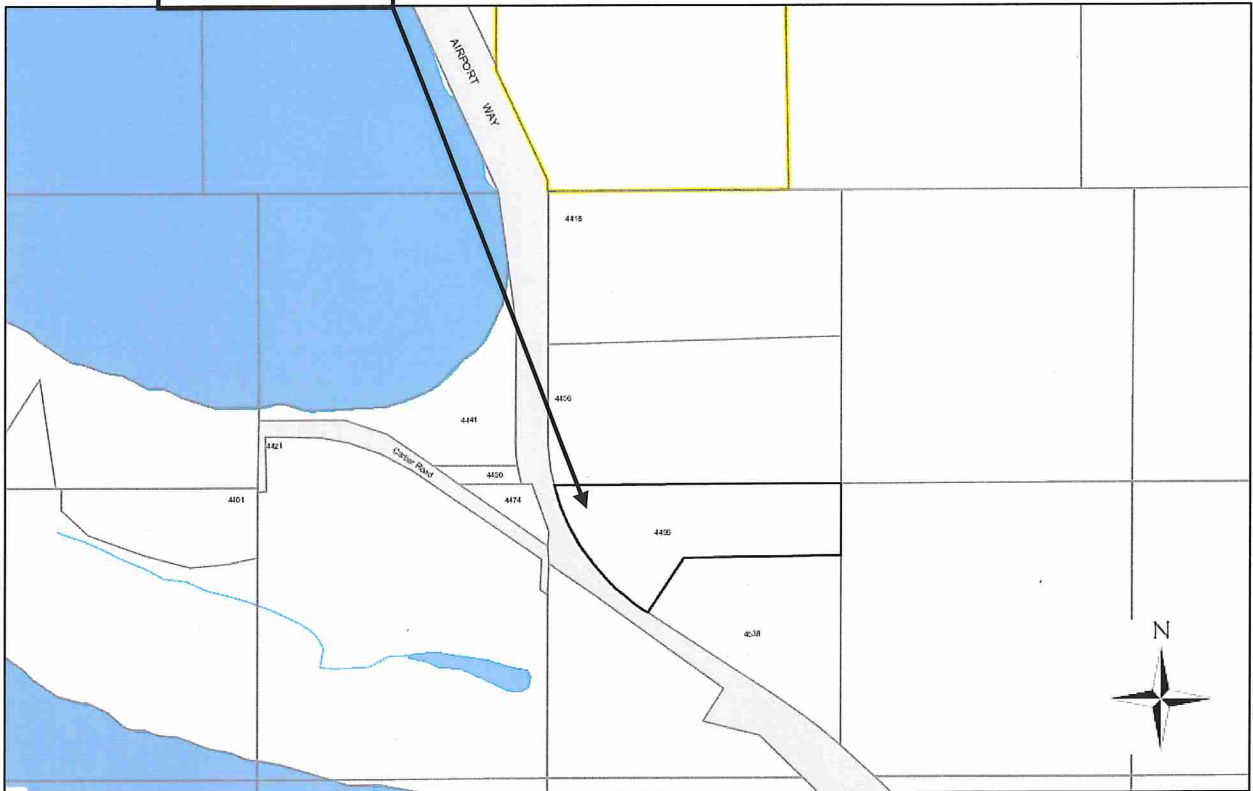


Candice Benner
Development Services Assistant

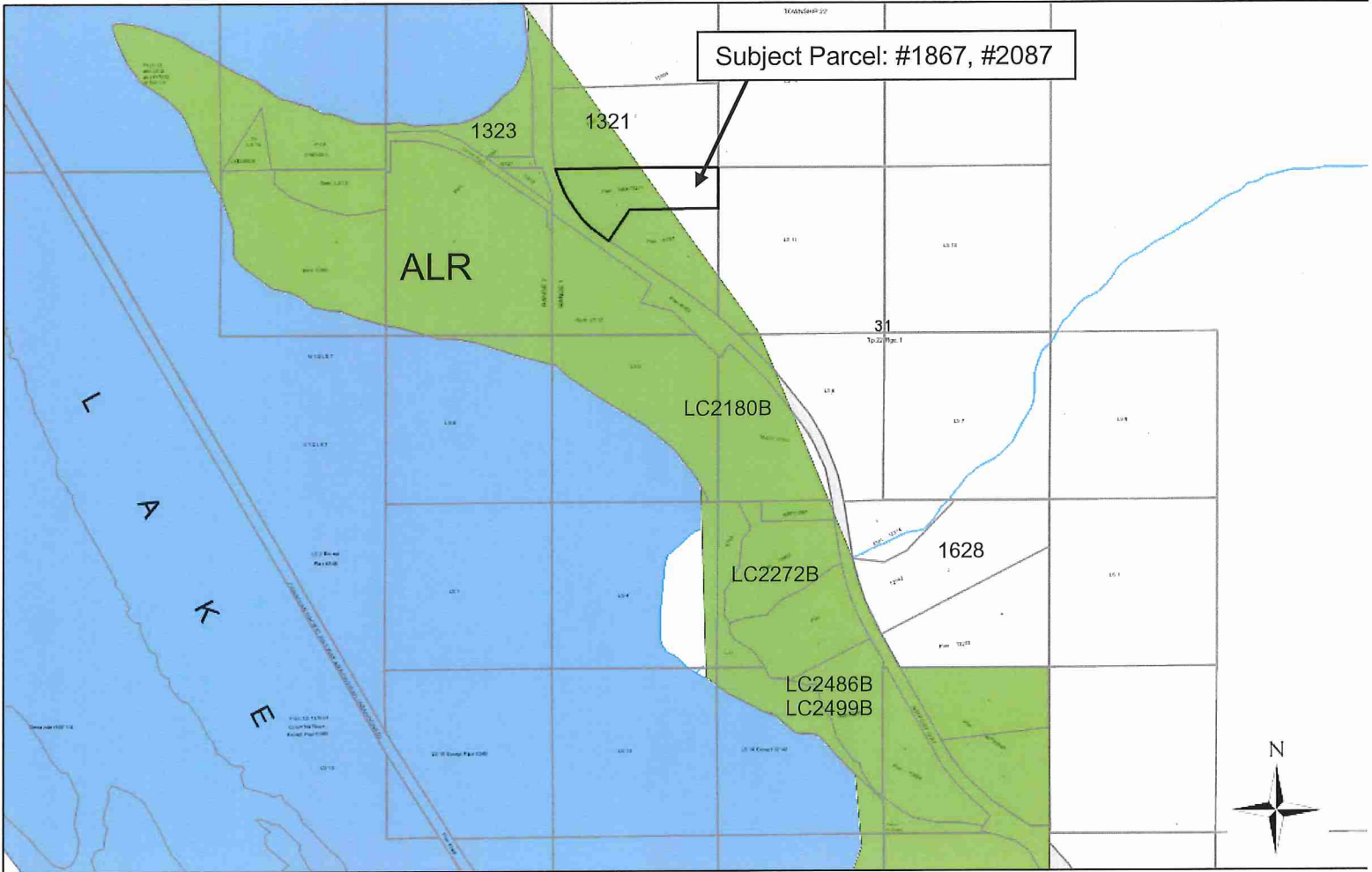
Location Map



Subject Property



ALR History



Soils

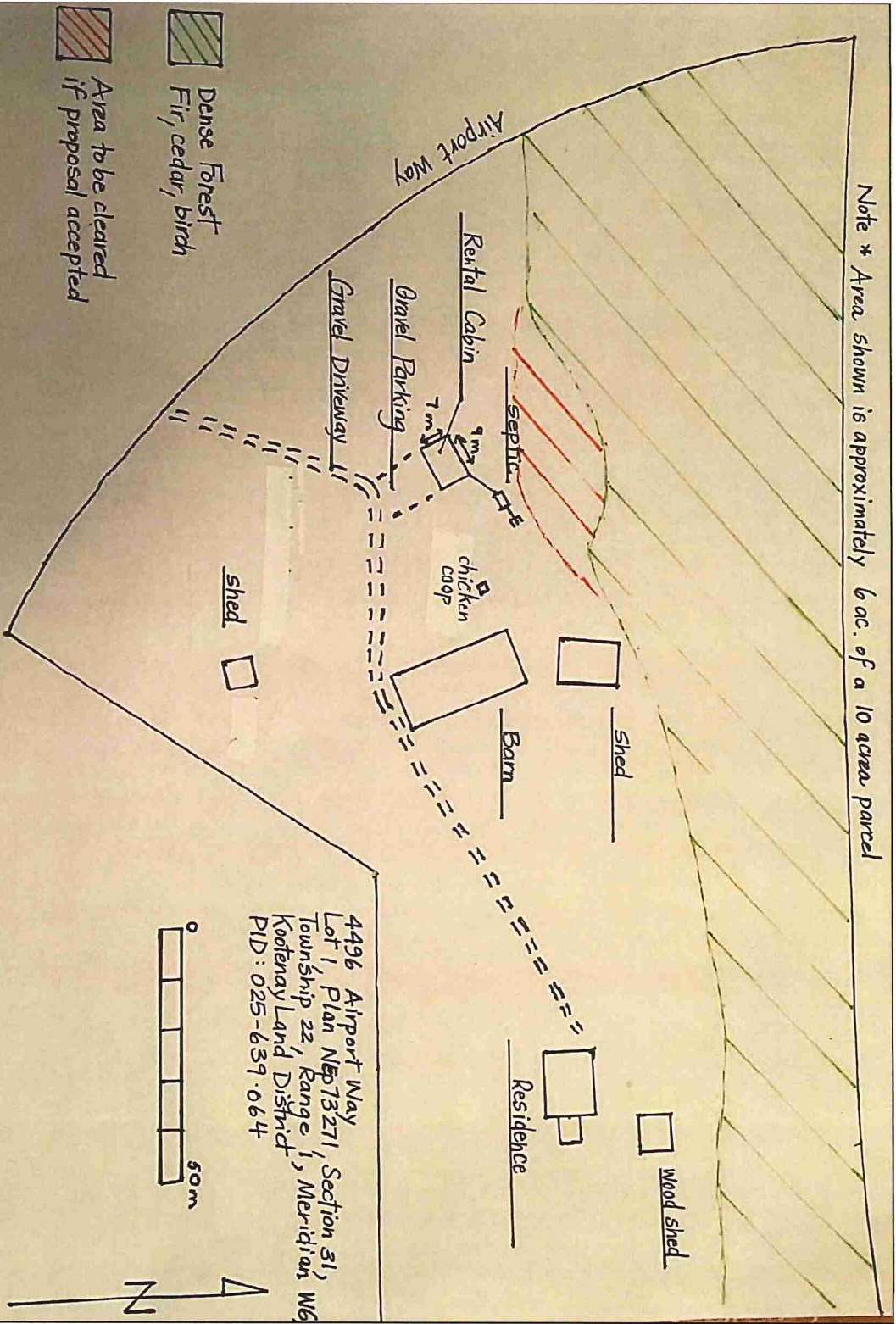


Orthophoto



Site Plan

Note * Area shown is approximately 6 ac. of a 10 acre parcel



4496 Airport Way
 Lot 1, Plan NB073271, Section 31,
 Township 22, Range 1, Meridian W6,
 Kootenay Land District
 PID: 025-639-064

Nov. 16, 2016

Photos



Second dwelling unit/vacation rental