



BOARD REPORT

- TO:** Chair and Directors
- SUBJECT:** Electoral Area B: Electoral Area B Official Community Plan Amendment Bylaw No. 850-21 and Electoral Area B Zoning Amendment Bylaw No. 851-32
- DESCRIPTION:** Report from Christine LeFloch, Planner III, dated April 2, 2024. Fish River Road, Beaton.
- RECOMMENDATION #1:** THAT: "Electoral Area B Official Community Plan Amendment Bylaw No. 850-21" be read a first time, this 21st day of March, 2024.
Stakeholder Vote Unweighted (LGA Part 14) Majority
- RECOMMENDATION #2:** THAT: "Electoral Area B Zoning Amendment Bylaw No. 851-32" be read a first time this 21st day of March, 2024.
Stakeholder Vote Unweighted (LGA Part 14) Majority
- RECOMMENDATION #3:** THAT: the Board utilize the simple consultation process for "Electoral Area B Official Community Plan Amendment Bylaw No. 850-21" and "Electoral Area B Zoning Amendment Bylaw No. 851-32" and the bylaws be referred to the following agencies and First Nations:
- CSRD Financial Services;
 - CSRD Community and Protective Services;
 - CSRD Environmental and Utility Services;
 - Interior Health Authority;
 - Ministry of Transportation & Infrastructure;
 - Ministry of Forests - Archaeology Branch;
 - Ministry of Land, Water and Resource Stewardship – Lands Branch
 - All applicable First Nations and Bands.
- Stakeholder Vote Unweighted (LGA Part 14) Majority*

SUMMARY:

The applicant is proposing to change the Official Community Plan land use designation and the zoning designation for a portion of the subject property from RSC Rural and Resource to SH Small Holdings. The applicant has applied for subdivision of the subject property to create three new lots of 4.5, 4.1, and 23.7 ha each, leaving a remainder of 71.36 ha. The area comprised of the three new lots is proposed to be redesignated and rezoned to SH Small Holdings, and the remainder is proposed to remain designated and zoned RSC Rural and Resource. Staff are recommending that the amending bylaws be read a first time, a referral sent to agencies and First Nations, and that the simple consultation process be used for this application.

BACKGROUND:

ELECTORAL AREA:
B

LEGAL DESCRIPTION:

District Lot 7959, Kootenay District, Except: (1) Parcel 1 (Reference Plan 5828I) (2) Plan 1321

PID:

014-046-482

CIVIC ADDRESS:

No address, Fish River Road, Beaton

SURROUNDING LAND USE PATTERN:

North: Crown Land

South: Crown Land

East: Crown Land

West: Small Holdings, community of Beaton

CURRENT USE:

Vacant

PROPOSED USE:

4 lot subdivision

PARCEL SIZE:

103.66 ha

PROPOSED PARCEL SIZES:

Lot A – 4.5 ha

Lot B – 4.1 ha

Lot C – 23.7 ha

Remainder – 71.36 ha

DESIGNATION:

[Electoral Area B Official Community Plan Bylaw No. 850](#)

RSC Rural and Resource

PROPOSED DESIGNATION:

SH Small Holdings (Proposed Lots A, B and C)

RSC Rural and Resource (Proposed Remainder)

ZONE:

[Electoral Area B Zoning Bylaw No. 851](#)

RSC Rural and Resource

PROPOSED ZONE:

SH Small Holdings (Proposed Lots A, B and C)

RSC Rural and Resource (Proposed Remainder)

AGRICULTURAL LAND RESERVE:

0%

SITE COMMENTS:

The subject property is located near the community of Beaton, at the end of the Northeast Arm of Arrow Lake. The Incomappleux River flows through the property to the confluence at Arrow Lake. According to CSRD's mapping, portions of the property are at times inundated by lake water. This is due to dams located on the Arrow Lake system. The drawings prepared by Brian Sansom, BCLS for the proposed rezoning and subdivision do not include these inundated areas as it is assumed that they will be returned to Crown through the subdivision process. Bylaw amendment maps are based on the current parcel boundaries. Zoning maps may be updated accordingly following subdivision approval, if required.

Thompson Creek also flows through the southern portion of the property. The property can be accessed from Fish River Road and Gunterman Road. There is a bridge further up Fish River Road that crosses the Incomappleux and provides access to the portion of the property north of the river. Slopes on the property range from gentle on the western valley bottom to very steep on the eastern side of the property. The mouth of Thompson Creek is identified as a low-risk steep creek hazard area in the Geohazard Risk Prioritization mapping completed in 2020. 2023 orthoimagery indicates that the property is well treed, with much of the vegetation being second growth, and there is a logging road through the property accessing Crown lands to the east.

BYLAW ENFORCEMENT:

There is no bylaw enforcement related to this file.

POLICY:

Please see "BL850-21_BL851-32_Excerpts_BL850_BL851.pdf" attached for all applicable policies and regulations.

[Electoral Area B Official Community Plan Bylaw No. 850](#)

- 2.1 – Growth Patterns (Upper Arrow Lake – Galena Bay, Beaton, Shelter Bay, Halcyon North & Arrowhead)
- 3.0 Rural Resource
- 4.3 Land Use & Density Policies (4.3.20, 4.3.24, 4.3.26)
- 4.4 Community Specific Policies (Upper Arrow Lake – Galena Bay, Beaton, Shelter Bay, Halcyon North & Arrowhead)
- 12.6 Riparian Areas Regulation Development Permit Area

[Electoral Area B Zoning Bylaw No. 851](#)

- 1.0 Definitions
- 3.0 Uses and Buildings Permitted in Each Zone
- 3.8 Establishment of Floodplains
- 3.10 Application of Floodplains
- 5.3 Rural and Resource Zone
- 5.5 Small Holdings Zone

FINANCIAL:

If the amending bylaws are given first reading, the CSRD Financial Services Department will review the OCP amendment bylaw in conjunction with the CSRD's Financial Plan and the Environmental and Utility Services Department will review the OCP amendment bylaw in conjunction with the CSRD's Waste Management Plans as per Section 477 of the Local Government Act.

KEY ISSUES/CONCEPTS:Proposal

The applicant is proposing to amend the OCP designation and zoning for 32.3 ha of the subject property from RSC Rural and Resource to SH Small Holdings. The intent is to facilitate subdivision of the property into three new parcels with a minimum lot size of 4 ha plus a Remainder. The portion of the property to be rezoned to Small Holdings is the portion that is proposed to be subdivided into the three new parcels with the Remainder to remain designated and zoned Rural and Resource.

Electoral Area B Official Community Plan Bylaw No. 850

The Official Community Plan (OCP) designates the subject property as RSC Rural and Resource. Rural Resource lands represent most of the land in Electoral Area B. These lands are generally publicly owned Crown resource lands but also include large private holdings. The RSC designation has a minimum parcel size of 60 ha for new subdivision. Among other things, policies related to the RSC designation note that for subdivisions within or adjacent to Rural Resource areas, routes to access forest roads, backcountry trail parking areas, and controlled access facilities (gates, signage etc.) should be provided.

The applicant is proposing to redesignate a portion of the subject property to Small Holdings. Policies related to the SH designation indicate that the principal use shall be residential or agricultural; one primary and one secondary dwelling unit shall be permitted per parcel and the minimum parcel size for subdivision shall be 4 ha.

Riparian Areas Regulation (RAR) Development Permit Area

The OCP includes a Riparian Areas Regulation (RAR) Development Permit Area, which applies to lands located within 30 m of all watercourses. This means that no land development activities including tree/vegetation clearing, land alteration, construction, or placement of buildings, is permitted within 30 m of the natural boundary of a watercourse without issuance of a Development Permit. A RAR assessment may reduce the Riparian Assessment Area (RAA) to a Streamside Protection and Enhancement Area (SPEA) where no development activities are permitted. One of the activities that triggers the requirement for a RAR Development Permit is subdivision. Other triggers include land alteration (including clearing) and construction of buildings and structures within the 30 m riparian assessment area. One of the CSRD's conditions for the proposed subdivision is issuance of a RAR Development Permit. The applicant will need to obtain the services of a Qualified Environmental Professional (QEP) to complete an assessment of the proposed development and submit their report to the Province for review. Once the report is approved by the Province the CSRD would then be able to issue the development permit. Conditions of the development permit are based on the recommendations of the QEP in their assessment report and must be followed by the property owners.

Lakes 100 m Development Permit Area

The OCP also includes a Lakes 100 m Development Permit Area, which applies to all lands located within 100 m of area lakes, including Upper Arrow Lake. A portion of the subject property share a boundary with Upper Arrow Lake, and this development permit will be applicable if any of the following are proposed to occur within 100 m of the lake:

- Any residential, commercial, or industrial development which exceeds the following:
 - Removal, alteration, disruption, or destruction of vegetation involving more than 30% of the parcel area; or

- Construction or erection of buildings and structures (including decks, stairs, and balconies), and non-structural impervious surfaces (e.g. paved driveway) with a sum total footprint (measured from the outermost portion of the buildings or structures) in excess of 450 m².
- Installation, alteration, or replacement of (or a portion of) a sewerage system.

Where a development proposal involves multiple buildings, structures or phases, calculation of the size of the development shall include the entire build-out of the development. Applications for this type of development permit requires submission of a hydrogeology report from a qualified professional providing information regarding the suitability of site soils to accept stormwater infiltration, potential lake impacts, and recommendations and mitigative measures.

Environmentally Hazardous Areas

Section 12.5 of the OCP outlines the requirements regarding environmentally hazardous areas. It notes that the susceptibility of an area to mud flows, debris flows, debris torrents, erosion, land slip, rock falls, subsidence, or avalanche may be assessed at the time of development application. Policies indicate that a geotechnical assessment may be required prior to a rezoning or subdivision approval. This is discussed further in the analysis below.

Provincial 2004 floodplain mapping indicates portions of the subject property located at the mouth of the Incomappleux River and Thompson Creek lie within high hazard areas for flooding. 2020 flood risk mapping completed by BGC Engineering for the CSRD identifies the alluvial fan at the mouth of Thompson Creek as a steep creek hazard with a rating of "low". In Electoral Area E the BGC mapping has been used as the basis for a Geohazard Development Permit Area as part of the Electoral Area E Official Community Plan. Similar development permit areas are currently being developed for the other OCP areas including Area B. The associated bylaw amendments to implement these new development permit areas are expected to be on a Board agenda for first reading in the first half of 2024. It is not expected that the new development permit areas will be in effect in time for implementation with this project. While there is currently no geohazard DP required, the Provincial Approving Officer can choose to require geohazard assessments as part of their review/approval of a subdivision application.

Electoral Area B Zoning Bylaw No. 851

The property is currently zoned RSC Rural and Resource, likely due to its large size and previous forestry activities undertaken on the property and surrounding Crown lands by previous owners Pope & Talbot. There is also a legal notation on title indicating that the property may be affected by the Forest Land Reserve Act. This Act was repealed in 2003 and is no longer in effect but the notation on title indicates that the property was previously subject to the Act due to the lands being managed forest. Permitted uses in the Rural and Resource Zone include a wide range of rural uses including uses appropriate to more remote properties such as backcountry recreation, guest ranch, forestry, resource extraction and timber harvesting, in addition to rural residential uses such as single-family dwelling, secondary dwelling unit, home occupation and residential campsite. The minimum parcel size for new subdivision in this zone is 60 ha.

The applicant would like to change the zoning for the portion of the property proposed to be subdivided into three new parcels to SH Small Holdings. The Small Holdings Zone permits a more limited range of rural residential uses including agriculture, day care, horticulture, single-family dwelling, secondary dwelling unit, residential campsite, timber harvesting, small-scale sawmill, home occupation, bed and breakfast and accessory use. The minimum parcel size for new subdivisions in this zone is 4 ha.

Bylaw No. 851 also includes floodplain regulations applicable to construction of buildings and structures that include both setbacks and flood construction levels for specified watercourses which will be applicable to property development. See the attached "BL850-21_BL851-32_Excerpts_BL850_BL851.pdf" for all permitted uses and regulations in these zones along with the applicable floodplain regulations. Compliance with these floodplain regulations would be required prior to the issuance of a building permit.

Access

The subject property is currently accessed from Gunterman Road and from Fish River Road. Fish River Road has not been formally dedicated but is maintained to the edge of the traveled road by the Ministry of Transportation and Infrastructure (MOTI). Dedication of Fish River Road through to the eastern property boundary is a requirement of subdivision approval as described in the Subdivision section below. Gunterman Road is also to be dedicated to MOTI standards. The portion of the property lying north of the river is accessed via a bridge located further east on Fish River Road that crosses the Incomappleux and provides access to a forest service road constructed through Proposed Lot C.

For subdivision purposes, Proposed Lots A, B and C will be accessed from Fish River Road. The Proposed Remainder has frontage on Fish River Road but also has access from a road right of way lying between Lots 1 and 2 of Plan 1321. The Proposed Subdivision Plan indicates that the Remainder is to be accessed from this road. It is noted that the road is labeled as a panhandle on the drawing, but the surveyor has confirmed that he has since received confirmation from the Province that it is in fact road. CSRD mapping shows this as road as well. Details regarding access will need to be finalized through the subdivision application process. A 20-metre wide access to the Incomappleux River is also required as part of the subdivision process pursuant to Section 75(1)(c) & (d) of the Land Title Act (access to water).

Subdivision

The owners have made application for subdivision to the Ministry of Transportation and Infrastructure and the CSRD. The Ministry has issued a Preliminary Layout Review letter outlining what is required for the subdivision to be approved. Conditions include completion of the CSRD's requirements, one of which is successful rezoning of the property. The Ministry is also requiring geotechnical studies to determine the extent of hazards related to flooding and steep slopes, along with road dedication and confirmation of servicing. The geotechnical reporting will need to include a flood assurance statement and a landslide assurance statement from the Qualified Professional who prepares the report. Dedication of Gunterman and Fish River Roads are requirements of subdivision approval as well.

Servicing

The applicant has indicated that the proposed new parcels will be serviced with surface water from Upper Arrow Lake and Thompson Creek. Water licenses from the Province will be required. As part of the subdivision process a report from a Qualified Professional will be required describing how the lots will be serviced and providing a water quality analysis and recommendations for treatment. A Section 219 water quality covenant will need to be registered on title advising current and future property owners regarding their responsibilities for ongoing potability testing of source water and maintenance of water treatment systems. All proposed parcels are larger than 4 ha in size and therefore are exempt from proof of adequate sewage disposal as per Part 7 of Subdivision Servicing Bylaw No. 680. However, MOTI has asked for confirmation of adequate sewage disposal as a condition of subdivision in their Preliminary Layout Review.

Analysis

OCP policies for residential development, which includes Small Holdings indicate that development needs to be sustainable, with appropriate infrastructure (water and sewer) and utilities (telephone and power) and not costly to maintain and support. Policies also encourage concentration of new development into existing developed areas, and support maintenance of the rural character, ensuring that environmental integrity is addressed.

The proposed development would create three new lots ranging in size between 4.1 and 23.7 ha, along with a 73.6 ha Remainder. From a development perspective the proposed lots are considered relatively large parcels. They are proposed to be serviced with nearby surface water and due to the parcel sizes, there should be adequate area for sewage disposal on each lot. Mapping indicates that power and telephone transmission lines do not cover Beaton and surrounding area. The owners intend to use the proposed new parcels recreationally, while leaving the Remainder in the Managed Forest Program so the availability of utility infrastructure may not be necessary to support the use. Beaton is a small historic townsite with lots subdivided in the early 1900's and more recent subdivision activity between 2005 and 2009. It is very rural in character with a mix of smaller and larger parcels surrounded by Crown Lands. The proposed development would not disrupt the current development pattern.

The subject property has potentially hazardous conditions including flooding and steep slopes. The area also has high environmental values due to its riparian areas, floodplains, and natural areas. The property has been historically logged and now supports second growth vegetation. Logging roads through the property provide access to neighbouring Crown lands. These lands have value for forestry, recreation, wildlife, and ecosystems.

The OCP suggests that where geohazards exist, reporting from a qualified professional certifying that the land is safe for the use intended should be required as part of the rezoning process. In this case the applicant has already made application for subdivision and geohazard reporting addressing flooding, erosion, steep slopes/landslip, and avalanche needs to be done for MOTI as part of the subdivision approval process. A Section 219 flood covenant will also be required by the Ministry as part of subdivision approval. Staff suggest that as the applicant will already need to have these reports completed, that copies of the reports be provided to the CSRD to assist in the OCP and zoning amendment review process. Depending on the results of the reporting, additional covenants may be required specific to identified hazards.

Rationale for recommendation:

The applicant would like to change the OCP land use designation for a portion of the subject property from RSC Rural and Resource to SH Small Holdings and rezone the same portion of the subject property from RSC to SH to allow for subdivision of 3 new lots plus a remainder. Staff are recommending that the proposed amending bylaws be read a first time and that referrals be sent to applicable agencies and First Nations for the following reasons:

- The proposal meets the OCP policies regarding Small Holdings and the proposed subdivision meets the minimum parcel size for the Small Holdings designation and zone.
- Hazardous conditions present on the property are being addressed by the Ministry of Transportation and Infrastructure through their requirements for subdivision approval and it is recommended that a copy of the applicable reports also be provided to the CSRD.
- Reading the amending bylaws a first time will provide the opportunity to solicit referral comments from applicable agencies and First Nations to find out if there are any related issues that may need to be considered through the bylaw amendment process.

IMPLEMENTATION:

Neighbourhood residents will first become aware of this application when a notice of application sign is posted on the property. The notice of application sign is required to be posted on the subject property no more than 30 days after the Board has given the amending bylaws first reading, in accordance with Development Services Procedures Bylaw No. 4001, as amended. One sign is required for every 400 m of street frontage. The property has over a kilometre of street frontage, including Fish Creek Road and Gunterman Road therefore 2 signs are required. It is recommended that one sign be placed on the north side of Gunterman Road where it abuts the subject property and the other be placed on the south side of Fish Creek Road halfway between the junction with Gunterman Road and the eastern boundary of the subject property.

COMMUNICATIONS:

Consultation Process:

In accordance with CSRD Policy P-18 regarding Consultation Processes – Bylaws, the complex consultation process is normally recommended where an application includes both a zoning bylaw amendment and an OCP amendment. This process includes the requirement for a public information meeting, hosted by the applicant, where the applicant is to present their proposal and listen to feedback from members of the public. The complex consultation process also includes the requirement for a public hearing which is a formal meeting run by the CSRD in accordance with Section 464 of the Local Government Act to solicit public comments regarding the application for consideration of the Board.

In this case, due to the remote location of the property in an area with very low population, and due to the low intensity of the proposed development staff recommend that the public information meeting not be required, and instead the simple consultation process be used as it still includes a public hearing. The public hearing will provide interested members of the public with the opportunity to provide their comments on the proposed development. Details regarding the statutory requirements for a public hearing will be provided if the amending bylaws are advanced to second reading.

Referrals:

If the Board gives Bylaw Nos. 850-21 and 851-32 first reading, the bylaws will be sent out to referral agencies and First Nations. Referral response will be provided to the Board with a future Board report, prior to consideration of second reading.

The following list of referral agencies is recommended:

- CSRD Financial Services;
- CSRD Community and Protective Services;
- CSRD Environmental and Utility Services;
- Interior Health Authority;
- Ministry of Transportation & Infrastructure;
- Ministry of Forests - Archaeology Branch;
- Ministry of Land, Water and Resource Stewardship – Lands Branch
- Adams Lake Indian Band;
- Akisqnuq First Nation;
- Ktunaxa Nation Council;
- Lower Kootenay Band;
- Lower Similkameen Band;
- Neskonlith Indian Band;
- Okanagan Indian Band;
- Okanagan Nation Alliance;

- Penticton Indian Band;
- Shuswap Indian Band;
- Simpcw First Nation;
- Skw'lax te Secwepemcú'ecw
- Splotsin First Nation;
- Upper Nicola Band.

DESIRED OUTCOMES:

That the Board endorse the staff recommendations.

BOARD'S OPTIONS:

1. *Endorse the Recommendations.*
2. *Deny the Recommendations.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

Report Approval Details

Document Title:	2024-04-18_Board_DS_BL850-21_BL851-32_First.docx
Attachments:	- BL850-21_First.pdf - BL851-32_First.pdf - BL850-21_851-32_Excerpts_BL850_BL851.pdf - BL850-21_BL851-32_Maps_Plans_Photos.pdf
Final Approval Date:	Apr 10, 2024

This report and all of its attachments were approved and signed as outlined below:



Gerald Christie



Jennifer Sham



John MacLean