



Bylaw Amendment Application

Date: April 21, 2017
 File: P 716 117
 Bylaws No. 2738 & 2739

Applicant: 0819038 BC Ltd. and Jon Knauf
Agent: Haworth Development Consulting (Richard Haworth)
Location: 2473 and 2485 Lizard Creek Road, south of the City of Fernie
Legal: Lot A, DL 4130, KD, Plan 9663 and Lot 1, DL 4130, KD, Plan 16926

Proposal: To amend the OCP designations of two properties from LH, Large Holdings to SH, Small Holdings and to amend the zoning designations of the same properties from RR-8, Rural Residential (Country) Zone and RR-2, Rural Residential (Small Holding) Zone to RR-1, Rural Residential (Estate) Zone to permit a strata subdivision.

Development Agreement: None

- Options:**
1. a) THAT Bylaw No. 2738 cited as "Regional District of East Kootenay – Elk Valley Official Community Plan Bylaw No. 2532, 2014 – Amendment Bylaw No. 4, 2016 (Lizard Creek / 0819038 BC Ltd. & Knauf)" be introduced;
 and further, that the Board is satisfied that the OCP consultation identified in the April 21, 2017 staff report is appropriate.
 - b) THAT Bylaw No. 2739 cited as "Regional District of East Kootenay – Elk Valley Zoning Bylaw No. 829, 1990 – Amendment Bylaw No. 83, 2016 (Lizard Creek / 0819038 BC Ltd. & Knauf)" be introduced.
 2. a) THAT Bylaw No. 2738 cited as "Regional District of East Kootenay – Elk Valley Official Community Plan Bylaw No. 2532, 2014 – Amendment Bylaw No. 4, 2016 (Lizard Creek / 0819038 BC Ltd. & Knauf)" not proceed.
 - b) THAT Bylaw No. 2739 cited as "Regional District of East Kootenay – Elk Valley Zoning Bylaw No. 829, 1990 – Amendment Bylaw No. 83, 2016 (Lizard Creek / 0819038 BC Ltd. & Knauf)" not proceed.

Recommendation: **Option #2**
 The subject properties are not within an identified development node and the proposal is not consistent with Elk Valley OCP policies, specifically the Lizard Creek subarea policies. It is an example of leapfrog development which leads to difficulty with future servicing and infrastructure needs as densification continues and the City grows. Development of the subject land as proposed may preclude one possible option for the location a proposed urban collector road (shown conceptually in various locations in this vicinity over the years). This future road is intended to connect the City of Fernie to Fernie Alpine

**Recommendation:
cont'd**

Resort. Additionally, there are numerous properties already zoned for residential subdivision within both the RDEK and the City. Examples of these within the RDEK include Timber Landing at Fernie Alpine Resort (zoned to permit up to 50 new residential lots with a minimum lot size of 555 m²), and the eastern ½ of DL 12753 on Kmiecik Road (zoned to permit up to 35 new residential lots with minimum lot sizes ranging from 555 m² to 1670 m²). Examples of new developments within the City of Fernie include: The Cedars, Montane, the Turcasso and Shoemith subdivisions, and further subdivision in the Riverside area.

**Property
Information:**

Current OCP Designation: LH, Large Holdings

Proposed OCP Designation: SH, Small Holdings

OCP Goals:

- The rural character of the plan area is maintained by directing high density and multifamily development to municipalities and existing resort areas. A variety of residential development opportunities in identified development nodes will provide a range of ownership options. Enhanced utilization of land in the rural area will be encouraged by supporting rural subdivision that does not interfere with the future development and expansion of municipalities. Potential rural sprawl will be reduced by directing growth to these development nodes.
- Defined future expansion areas for the City of Fernie, Fernie Alpine Resort and Island Lake Lodge will provide certainty to the residents, owners and businesses located on this land.

OCP policies - general:

- Maintain minimum parcel sizes that reflect the rural lifestyle and character of the area.
- Maintain the rural and agricultural nature of the plan area by only considering new residential proposals if they are appropriately located and compatible with adjacent land uses so as not to compromise environmental and agricultural values.

OCP policies related to the Lizard Creek Road Subarea:

- The following policies are intended to retain the important characteristics of the Lizard Creek Subarea while providing limited opportunities for subdivision:
 - a) In order to protect agricultural capability and suitability, parcels in the Lizard Creek Subarea located east of Highway 3 are generally not supported for subdivision.
 - b) Maintaining the agricultural character, which contributes to the economy of the Lizard Creek Subarea, is supported.
 - c) Rezoning applications in the Lizard Creek Subarea will be reviewed in consideration of the potential impact of the proposal on traffic congestion and safety along Highway 3.
 - d) If existing parcels are rezoned to accommodate residential subdivision, development is strongly encouraged to occur in

**Property
Information: cont'd**

such a manner so as not to impede annexation by the City of Fernie, future infill development opportunities or infrastructure and servicing upgrades.

OCP policies related to Open Space, Recreation & Trails:

The property is in an area supported for trail development; therefore, the following policies are applicable.

- The development of intercommunity trail connections linking the rural area to municipalities for daily foot and cycle commuting is supported.
- The development of a trail connecting Mt. Fernie Park Road and Fernie Alpine Resort that is not adjacent to the highway is supported. The trail is intended to provide an aesthetic walking and biking access route from the south end of Anderson Road to Fernie Alpine Resort. At the time of drafting of this plan, the route of this trail, which has yet to be specifically identified, would first cross a parcel on the south side of Anderson Road located within the City of Fernie boundaries. Existing development plans for this parcel incorporate the trail.

OCP policies related to Development Constraints:

Lizard Creek flows along the western boundary of the property and there's some steep challenging terrain; therefore, the following policies are applicable.

- Rezoning applications for any parcels containing an alluvial or debris flow fan identified in Schedules F1-F2 must incorporate strategies that ensure the development will not be impacted by the hazards. Examples of suitable strategies include:
 - a) completion of a qualified professional engineer's report identifying potential hazards and appropriate hazard mitigation measures;
 - b) registration of a covenant which establishes the entire alluvial or debris flow fan identified in Schedules F1-F2 as a "no-build" area which may be removed following the implementation of recommendation in a report by a qualified professional engineer; and
 - c) registration of a covenant which designates building envelopes outside of the entire alluvial or debris flow fan identified in Schedules F1-F2.
- In accordance with the Elk Valley Zoning Bylaw, development on land with slope equal to or greater than 15%, susceptible to erosion and landslip is discouraged. Land susceptible to erosion and landslip should be used for open space and passive recreation purposes. Any development on lands with slope equal to or greater than 15% is subject to the development variance permit process.

Current Zoning:

RR-8, Rural Residential (Country) Zone (minimum parcel size: 8 ha) and RR-2, Rural Residential (Small Holdings) Zone (minimum parcel size: 8 ha)

**Property
Information: cont'd**

Proposed Zoning:

RR-1, Rural Residential (Estate) Zone (minimum parcel size: 1.0 ha).

Parcel Size: Total area under application: 12 ha (29.6 acres)

Density:

Existing: One single family dwelling with outbuildings on Lot 1, Plan 16926. There is an old mobile home on the northerly lot which is not connected to a water source and will be removed.

Proposed: approximately 8 new strata lots plus 2 fee simple remainder lots, one with the existing home. The second proposed fee simple lot is intended to remain vacant.

Potential:

The maximum number of lots that may be possible within the proposed RR-1 zone is twelve (12). (This calculation is based on total area only and does not consider topography or access requirements).

ALR Status: Not within

Interface Fire Hazard Rating: Ranges from moderate to high; within the Fernie rural fire protection area.

BC Assessment:

Lot A, Plan 9663: Residential (manufactured home)

Lot 1, Plan 16926: Residential (single family dwelling)

Flood Hazard Rating: Lizard Creek flows along the western boundary of the properties and a portion of the properties have a special flood hazard rating of "G". Habitable areas are discouraged in these areas subject to the completion of a detailed hazard assessment by a suitably qualified professional. This rating was used to identify areas suspected to have hazards similar to those described for hazard description "E" (which says "damage to habitable areas and occupants from exposure to deep water, high velocity flows, and/or debris impact possible"). In most instances, detailed site inspections were not undertaken to assess and confirm the hazard or to accurately define area boundaries. Boundaries for these geological features were determined by interpretation of aerial photography or some other general means.

Water and Sewer Services: The existing single family home on the southerly lot is serviced by an onsite well and sewerage disposal system. The mobile home is not connected to a water source and will be removed.

**Professional
Studies:**

None.

**Additional
Information:**

- It is generally recognized by both the City of Fernie and the Ministry of Transportation and Infrastructure (MoTI) that a secondary road connecting the ski hill to the City is required. The location of a future road is unknown at this time and no studies have been completed to determine the most suitable location.

**Additional
Information: cont'd**

- The City of Fernie OCP 'Schedule E – 'Transportation Network' shows a proposed urban collector road in the vicinity of the subject lands. The proposed road, which would connect the City of Fernie to Fernie Alpine Resort has already been dedicated to the southern-most boundary of The Cedars development which is less than 800 metres to the north of the subject lands.
- The MoTI's Fernie Major Street Network Plan (1981) shows a similar proposed road passing directly through the subject lands. An Access Management Plan Report (2007) prepared for the MoTI shows a collector road as well and its conceptual location is not within the subject lands.
- The owners are supportive of trails and although they don't think the subject lands are the right location for a connector trail from 'The Cedars' development to the ski hill (due to topography and a required crossing of Lizard Creek), they support a secondary trail looping through their land. No formal offer for this secondary trail has been mapped.
- The Interior Health Authority guidelines state that 1.0 ha is the preferred minimum area for onsite servicing.

Consultation:

Section 879 of the *Local Government Act* requires that local government consider the depth and breadth of consultation to be undertaken with persons or organizations that it considers may be affected by the proposed OCP amendment. Consultation completed to date for this amendment includes referral of the bylaw to the following organizations. In addition, there will be opportunity for discussion with the public prior to the commencement of the public hearing.

Advisory Commissions:

APC Area A: Application not supported as presented (application reviewed February 2017).

Referral Agencies (Note: These referral responses were received prior to a recent application amendment to propose 1.0 ha minimum lot sizes instead of a 0.4 ha minimum).

- **Interior Health Authority:** The proposed zone allows for a minimum lot size of 0.4 ha in the absence of community water or sewer servicing. The Ministry of Community, Sport and Cultural Development has proposed a minimum lot size of one hectare as sustainable in the long term when needing to be independent for onsite water and sewer servicing. Interior Health supports and recommends this minimum parcel size. As such, this office does not recommend this application for approval. Please note that should this application be approved and reach subdivision stage, the applicant will be required to demonstrate suitable primary and reserve type 1 trench sewerage dispersal areas on each proposed lot and these areas must meet all required criteria from BC Sewerage SPM V.3.

- Consultation: cont'd**
- **Transportation & Infrastructure:** Interests unaffected at this time. Long range development plans for the highway corridor between Lizard Creek and the City of Fernie could include an increase in the number of lanes, with substantial effect on Lizard Creek frontage road and access for the proposed development to the highway. In addition, upon application for subdivision, the Ministry could require a Traffic Impact Assessment to determine the possible effects of the development on the highway.
 - **Environmental Protection:** No response
 - **Water Stewardship:** No response
 - **Environmental Stewardship:** No response
 - **Ktunaxa Nation Council:** No response
 - **School District No. 5:** Interests unaffected
 - **Telus:** No response
 - **City of Fernie:** Not supported

**Documents
Attached:**

- Bylaws
- Location Map
- Land Use Map
- City of Fernie OCP Schedule E (2014)
- Part of MoTI's Access Management Plan Report (2007)
- Part of MoTI's Fernie Major Street Network Plan (1981)
- Elk Valley OCP Schedule F1
- Proposed Subdivision Plan

**RDEK
Contact:**

Tracy Van de Wiel, Planning Technician
Phone: 250-489-0306
Email: tvandewiel@rdek.bc.ca

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2738

A bylaw to amend Bylaw No. 2532 cited as "Regional District of East Kootenay – Elk Valley Official Community Plan Bylaw No. 2532, 2014."

WHEREAS the Board of the Regional District of East Kootenay has received an application to amend Bylaw No. 2532;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Regional District of East Kootenay – Elk Valley Official Community Plan Bylaw No. 2532, 2014 – Amendment Bylaw No. 4, 2016 (Lizard Creek / 0819038 BC Ltd. & Knauf)."
2. The designation of Lot 1, District Lot 4130, Kootenay District, Plan 16926 and Lot A, District Lot 4130, Kootenay District, Plan 9663, outlined on the attached Schedule A, which is incorporated in and forms part of this Bylaw, is amended from LH, Large Holdings to SH, Small Holdings.

READ A FIRST TIME the day of , 2017.

READ A SECOND TIME the day of , 2017.

READ A THIRD TIME the day of , 2017.

ADOPTED the day of , 2017.

CHAIR

CORPORATE OFFICER

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2739

A bylaw to amend Bylaw No. 829 cited as "Regional District of East Kootenay – Elk Valley Zoning Bylaw No. 829, 1990."

WHEREAS the Board of the Regional District of East Kootenay has received an application to amend Bylaw No. 829;

AND WHEREAS the Board deems it desirable to make this amendment as aforementioned;

NOW THEREFORE, the Board of the Regional District of East Kootenay in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Regional District of East Kootenay – Elk Valley Zoning Bylaw No. 829, 1990 – Amendment Bylaw No. 83, 2016 (Lizard Creek / 0819038 BC Ltd. & Knauf)."
2. The designation of Lot 1, District Lot 4130, Kootenay District, Plan 16926 and Lot A, District Lot 4130, Kootenay District, Plan 9663, outlined on the attached Schedule A, which is incorporated in and forms part of this Bylaw, is amended from RR-2, Rural Residential (Small Holding) Zone and RR-8, Rural Residential (Country) Zone to RR-1, Rural Residential (Estate) Zone.

READ A FIRST TIME the day of , 2017.

READ A SECOND TIME the day of , 2017.

READ A THIRD TIME the day of , 2017.

APPROVED by the Ministry of Transportation and Infrastructure the day of , 2017.

Signature: _____

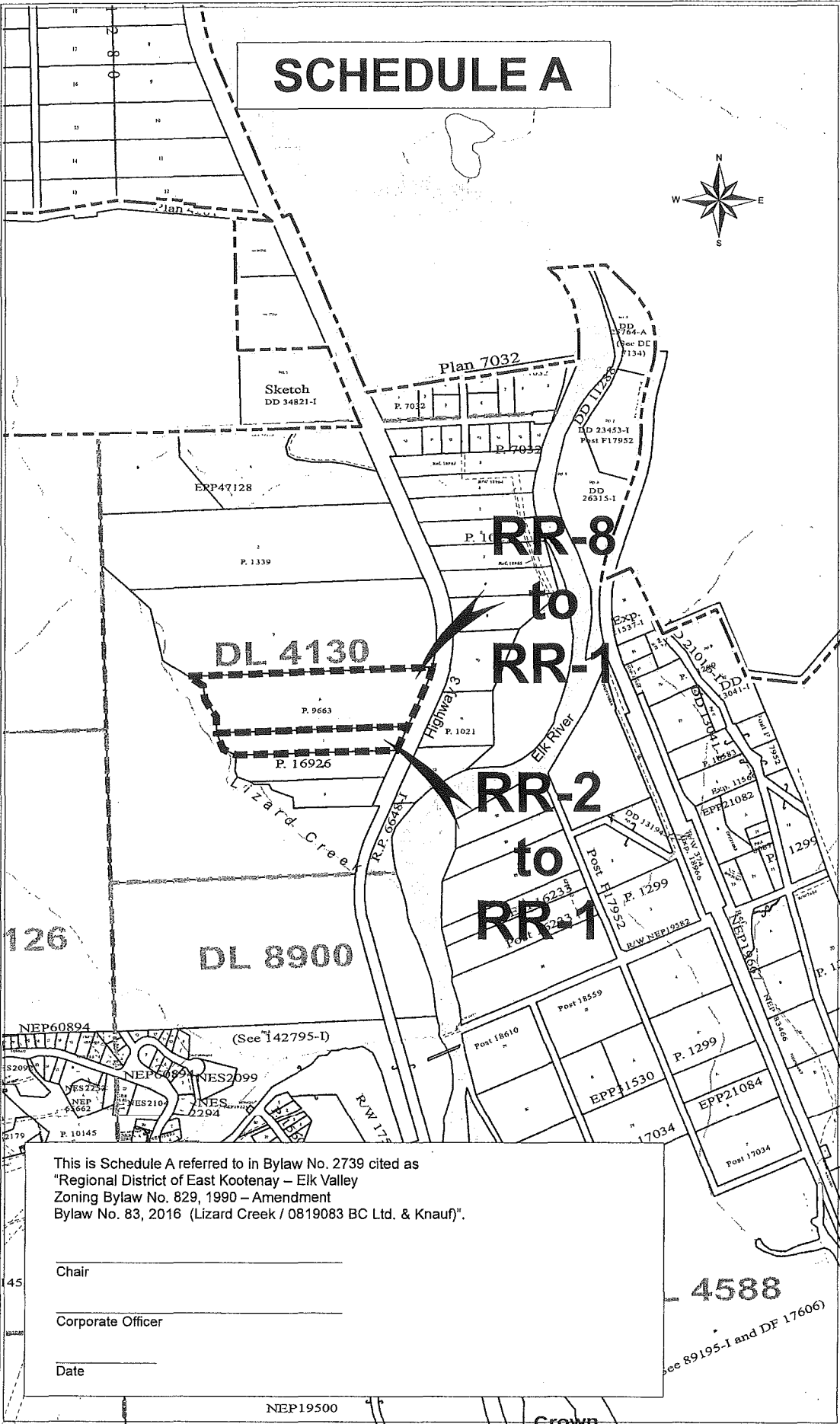
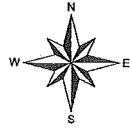
Print Name: _____

ADOPTED the day of , 2017.

CHAIR

CORPORATE OFFICER

SCHEDULE A



This is Schedule A referred to in Bylaw No. 2739 cited as
 "Regional District of East Kootenay – Elk Valley
 Zoning Bylaw No. 829, 1990 – Amendment
 Bylaw No. 83, 2016 (Lizard Creek / 0819083 BC Ltd. & Knauf)".

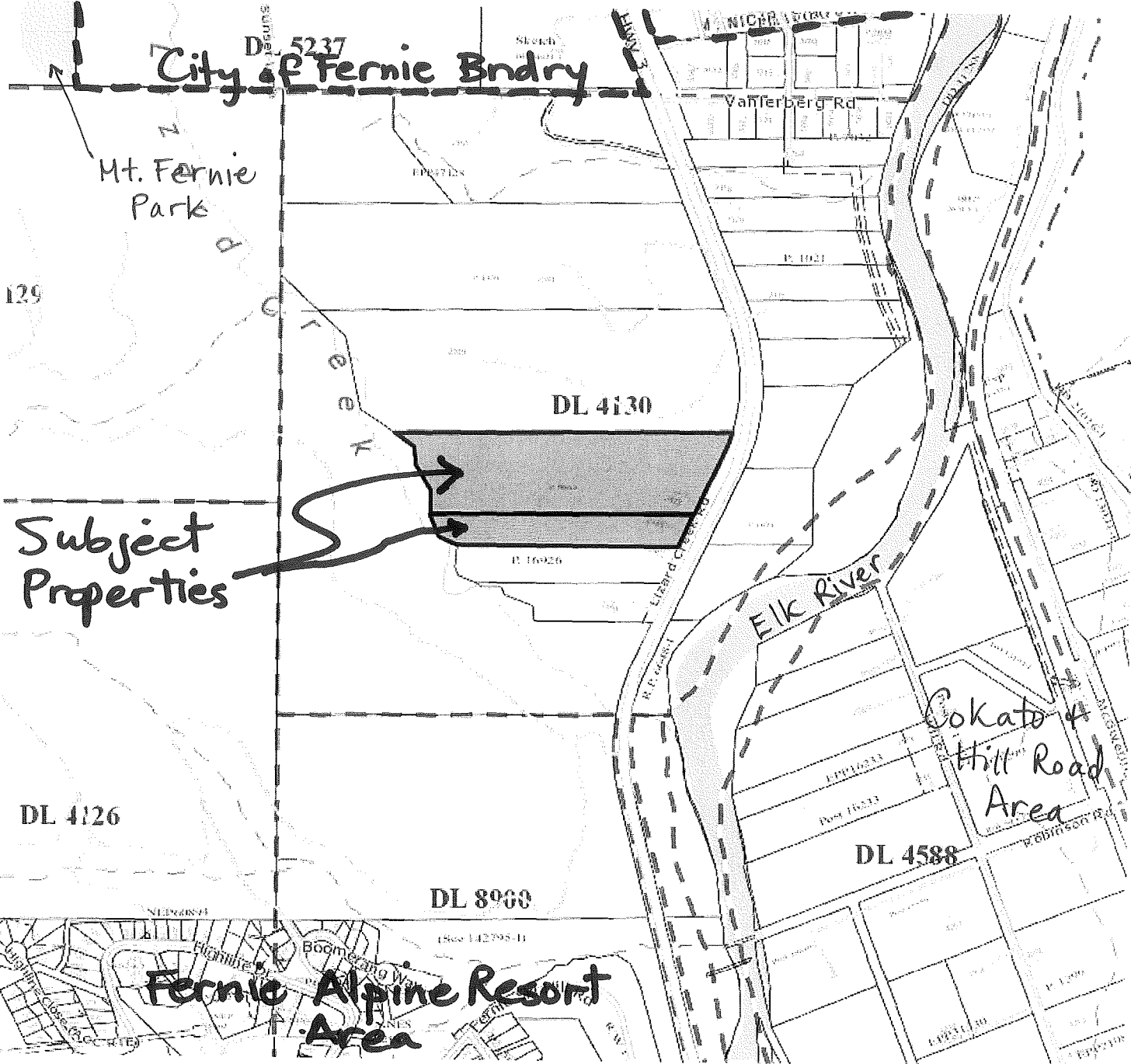
Chair _____

Corporate Officer _____

Date _____

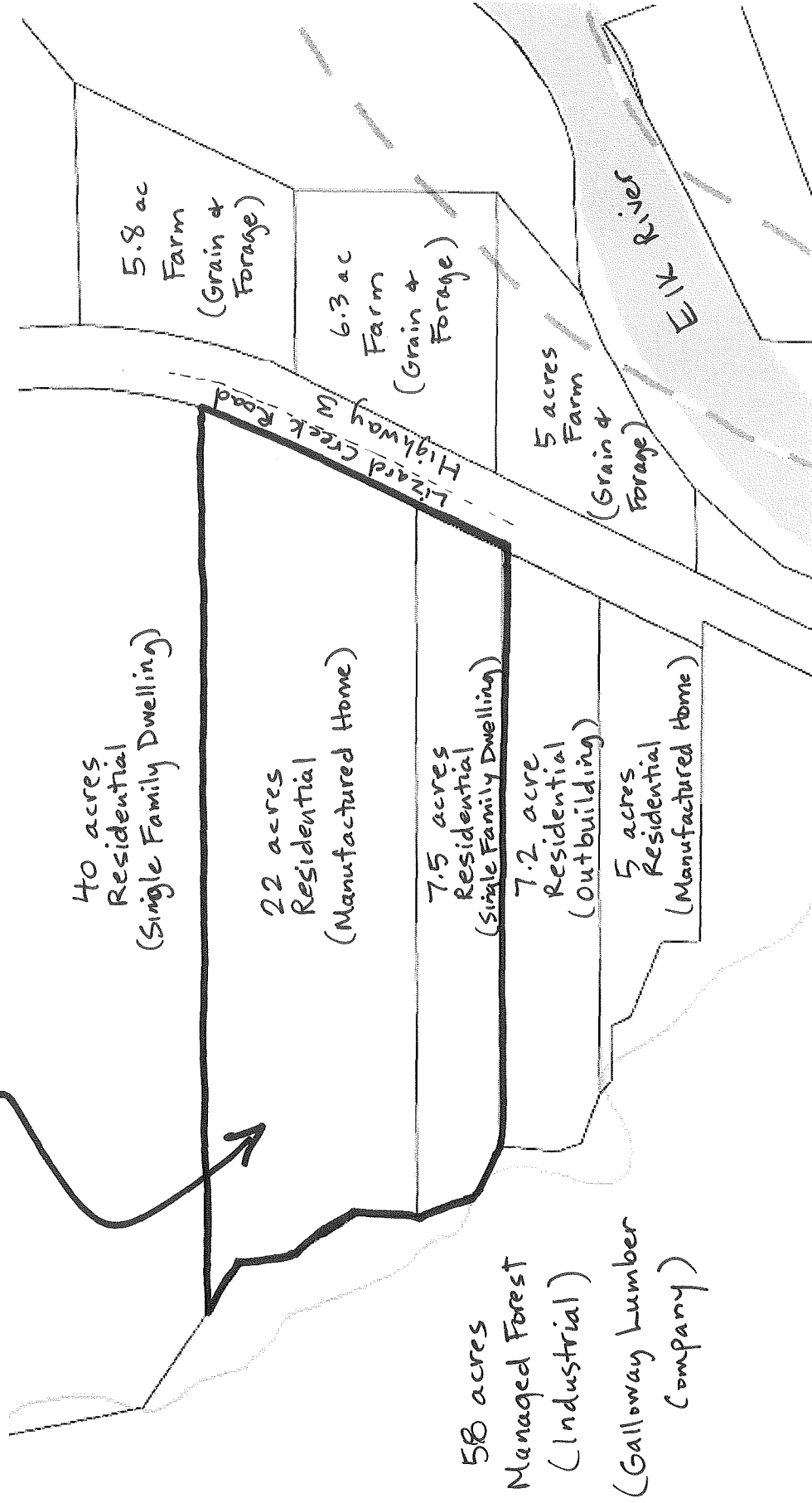
4588
 see 89195-1 and DF 17600

Location Map



Land Use Map

Subject Properties



Fernie OCP (Schedule E)



**SCHEDULE E
TRANSPORTATION NETWORK
MAY 06 2014**
225000 SCALE ON ILLUST

- Highway 3
- Local Streets
- Historic Main Street
- Downtown Gateway Streets
- Business Access Streets
- Resource / Recreation
- Proposed Road (Actual Alignments to be Determined)

**Future Road
through subject
Property**

FERNIE



2007 - MOTI Access Management Plan

EXHIBIT 2
RECOMMENDED FERNIE TRANSPORTATION NETWORK

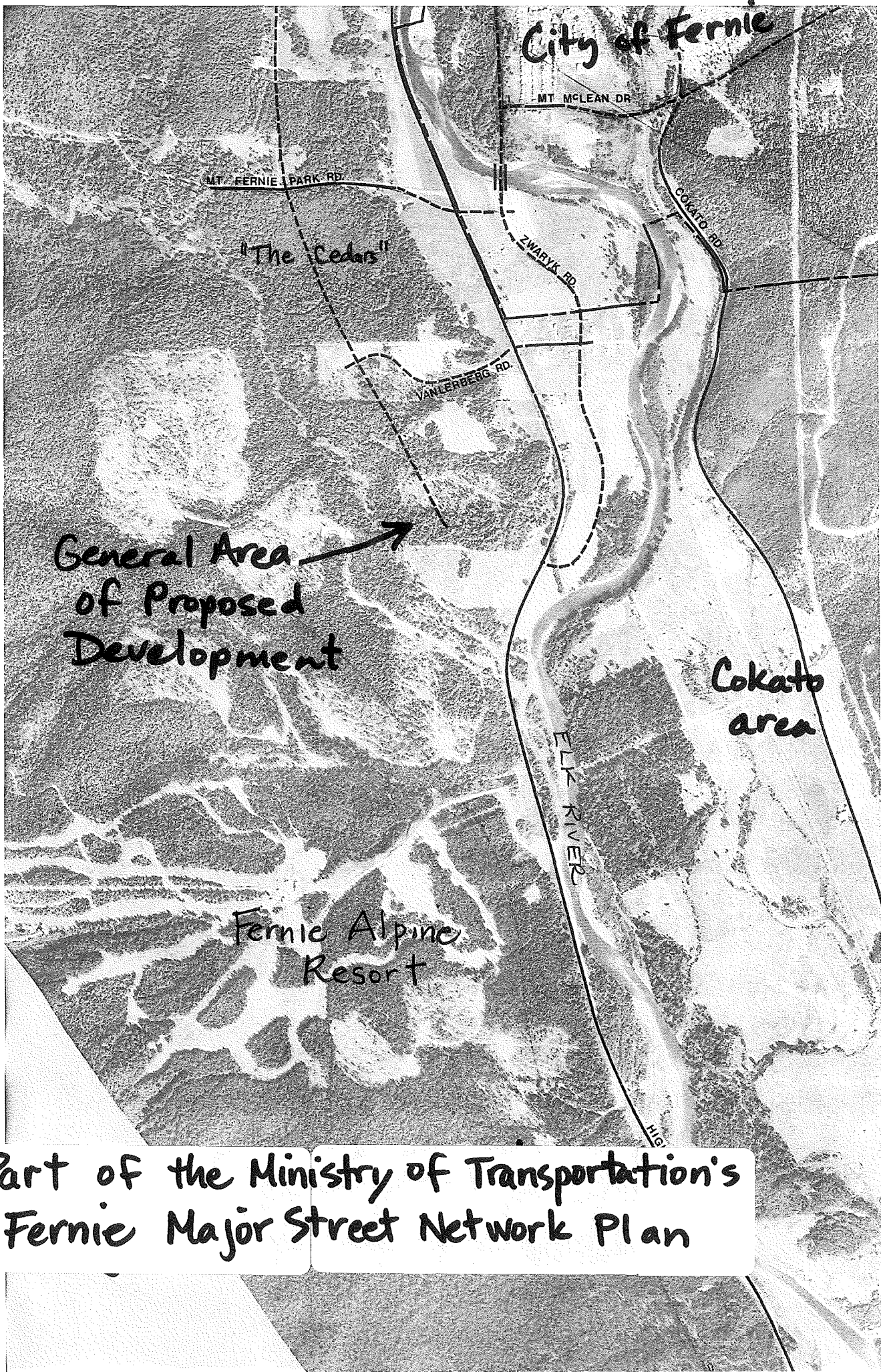


Conceptual Road
Subject Properties

(The Cedars)

LEGEND	
Major Road	Proposed
Current*	Existing Road
Highway	Future Road

* Based on Schedule "H" of City of Fernie Official Community Plan (Rev. July 24, 2007)



City of Fernie

MT MCLEAN DR

MT FERNIE PARK RD

"The Cedars"

ZIVARYK RD

VANLERBERG RD

COKATO RD

General Area
of Proposed
Development

Cokato
area

Fernie Alpine
Resort

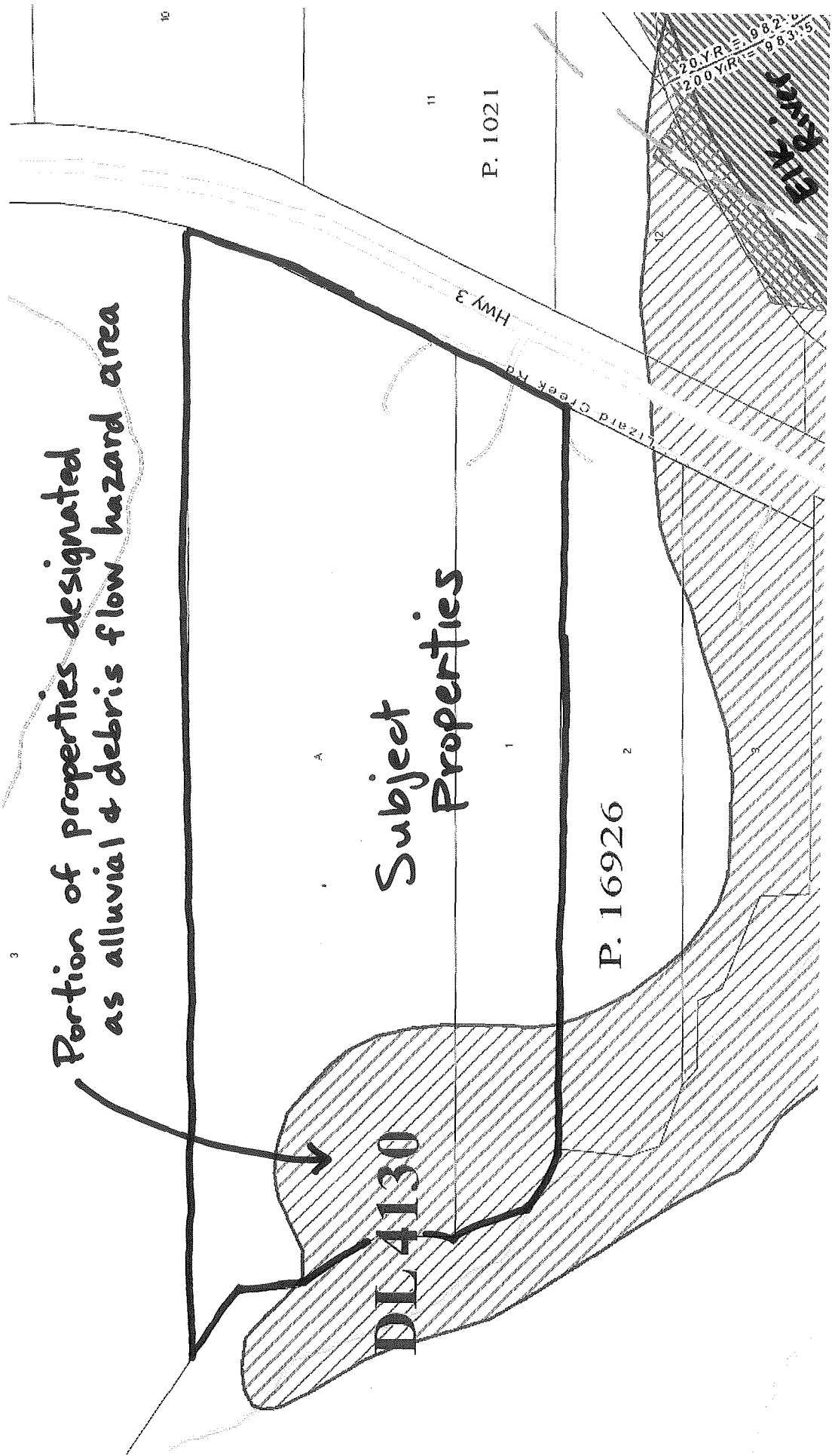
FERNIE RIVER

HIGHWAY

Part of the Ministry of Transportation's
Fernie Major Street Network Plan

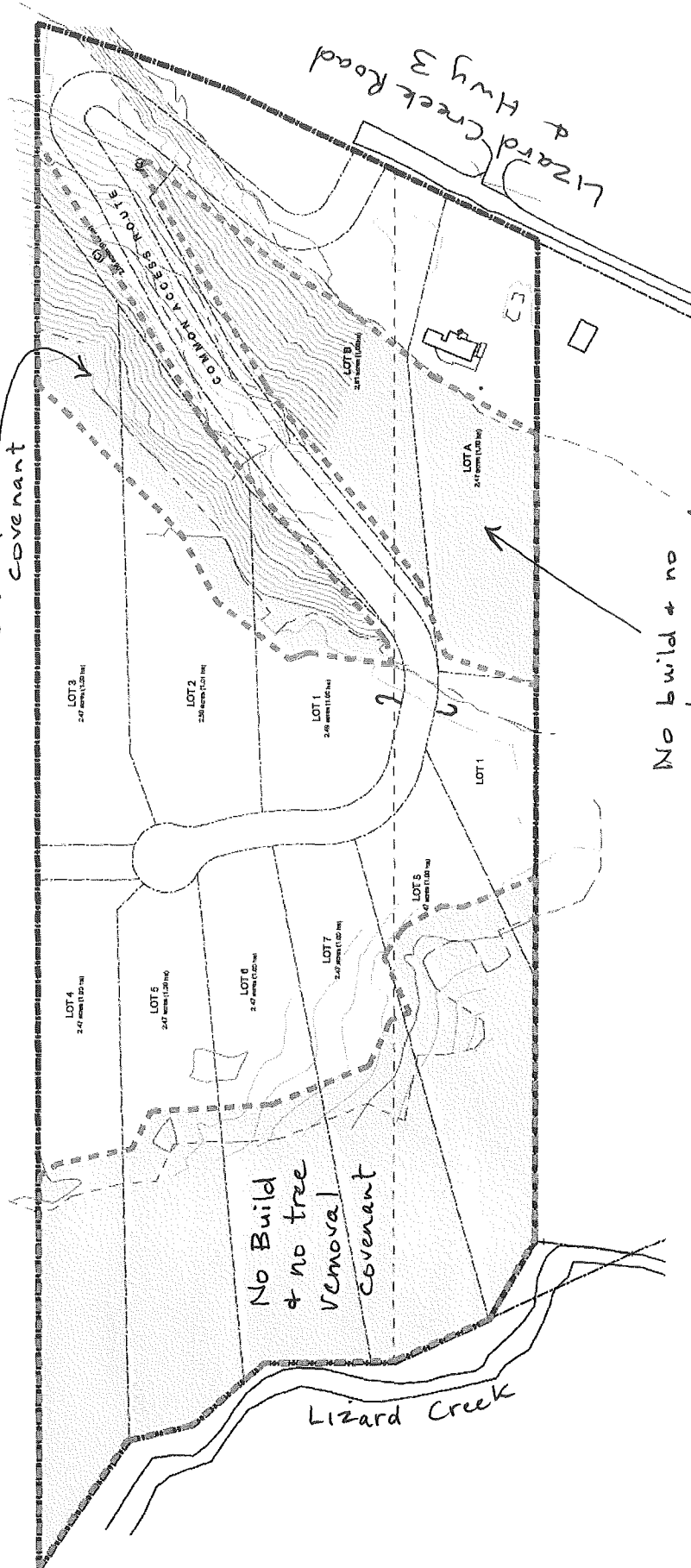
Alluvial & Debris Flow (Flood) Map

Part of OCP Schedule F1



Conceptual Subdivision

No build + no tree removal covenant



No Build + no tree removal covenant

No build + no tree removal covenant