



REGIONAL
DISTRICT
NORTH
OKANAGAN

PLANNING DEPARTMENT INFORMATION REPORT

REZONING APPLICATION

DATE: August 24, 2022

FILE NO.: 22-0743-F-RZ

OWNER/APPLICANT: Blaine & Wendy Gordon

LEGAL DESCRIPTION: Lot 3, Sec 28, Twp 18, R7, W6M, KDYD, Plan 34117, Except Plan EPP52118

P.I.D.#: 001-757-091

CIVIC ADDRESS: 23 Carver Road

PROPERTY SIZE: 4.5 ha

SERVICING: On-site septic sewage disposal and domestic groundwater well

PRESENT ZONING: Non-Urban (N.U)

PROPOSED ZONING: Country Residential (C.R)

O.C.P. DESIGNATION: Country Residential

PROPOSAL: Two (2) lot subdivision

PLANNING DEPARTMENT RECOMMENDATION:

That notice be given in accordance with Section 467 of the *Local Government Act* that Zoning Amendment Bylaw No. 2945, 2022 which proposes to rezone the property legally described as Lot 3, Sec 28, Twp 18, R7, W6M, KDYD, Plan 34117, Except Plan EPP52118 and located at 23 Carver Road, Electoral Area "F" from the Non-Urban (N.U) zone to the Country Residential (C.R) zone will be considered for First Reading at a future meeting; and further,

That Second Reading of Zoning Amendment Bylaw No. 2945, 2022 be withheld until the applicant has submitted a report provided by a professional engineer, a groundwater geologist, or a hydrogeologist verifying that water of sufficient quantity is available year round to service the permitted uses associated with the full build out potential of the subject property and that the extraction of water from the proposed water supplies will not deplete the water supply of neighbouring wells.

SUMMARY:

The subject application proposes to rezone a 4.5 ha property located at 23 Carver Road from the Non-Urban (N.U) zone to the Country Residential (C.R) zone. If successful in rezoning the property, the applicant is proposing to subdivide the property into a 2.34 ha lot and a 2.16 ha lot. The Planning Department recommends that the proposal be given favourable consideration as it is consistent with the Official Community Plan (OCP) land use designation of the property and with the Rural Land Policies of the OCP. Staff also recommend that Second Reading of Zoning Amendment Bylaw 2945 be withheld until the applicant has submitted a water supply study which takes into consideration the potential to service the full build-out potential of the subject property and the impact such groundwater usage could have on existing wells in the surrounding area.

BACKGROUND:

Previous Applications

In 2014, the owner applied for a road severance subdivision to subdivide along Carver Road to create the 4.5 ha subject property and a 1.94 ha lot. A riparian area protection covenant related to the unnamed creek located on the subject property was registered on the property's title as part of this subdivision process. This subdivision was completed in 2016.

Site Context and Proposal

The subject property is located on the north side of Carver Road and Garland Road. An unnamed creek runs through the middle of the property in a north to south direction. A dwelling and several accessory buildings are located on the east half of the property. A driveway connects the dwelling and accessory buildings to Carver Road on the east half of the property. The property is primarily treed and slopes up from Carver Road. Carver Road and Garland Road are gravel roads.

The applicant proposes to rezone the subject property from the Non-Urban (N.U) zone to the Country Residential (C.R) zone to potentially allow the property to be subdivided into an approximately 2.34 ha lot and a 2.16 ha lot. The existing dwelling and accessory buildings would be located on the proposed 2.16 ha lot. The proposed 2.16 ha lot would also contain the existing driveway, well and septic system. The proposed 2.34 ha lot would be vacant and would be serviced by a new driveway, well and septic system. Access to the lot would be gained from Garland Road.

The attached maps show the location, zoning and OCP designation of the subject and surrounding properties. The attached orthophoto was taken in 2013.

PLANNING ANALYSIS:

The Planning Department recommends that the proposal be given favourable consideration as it represents a rural residential land use that is consistent with the Electoral Area "F" land use designation of the subject property and complies with the Rural Land Policies in that the proposed lots would:

- a. not be subject to flooding, high water table or terrain instability;
- b. not be subject to excessive public expenditures for services such as roads, utilities, and school busing as such services already exist;

- c. have the potential to accommodate suitable building sites and private driveways meeting the standards of the Zoning Bylaw;
- d. have the potential to be and are currently serviced with on-site sewage disposal systems as each proposed lot would be 2 ha larger and the terrain would be suitable for such services;
- e. have access to a public road system which meets the standards of the Ministry of Transportation and Infrastructure and would not require the extension or construction of new roads;
- f. require the approval of a Development Permit to protect the unnamed creek which crosses through the property and to give consideration to fire protection with respect to wildfire interface.

With respect to water supply, the OCP includes policies which suggest that a study of the subsurface groundwater resource should be undertaken to verify the land use designations as a prerequisite to rezoning. In this regard, the applicant has not provided confirmation that the maximum potential number of lots created by rezoning could be serviced with an adequate on-site water supply.

To address the water supply policies of the OCP, it is recommended that prior to considering the Zoning Amendment Bylaw for Second Reading, the applicant be required to demonstrate that the maximum build-out potential of the subject property, resulting from the proposed rezoning to Country Residential (C.R), could be serviced with domestic water supplies meeting the quantity and quality standards specified in the Regional District Subdivision Servicing Bylaw.

Public Hearing

At the Regular Meeting held on April 22, 2020 and in accordance with the provisions outlined in the *Local Government Act*, the Board of Directors resolved to waive the holding of Public Hearings on zoning amendment bylaws if the bylaws are consistent with an applicable official community plan. Under such circumstances, notice was required to be given that the Public Hearing was being waived and such notice was required to be provided after First Reading and before Third Reading of an applicable zoning amendment bylaw.

On November 25, 2021, Bill 26 received Royal Assent. This brought changes to the *Local Government Act* which states that:

- a local government is not required to hold a Public Hearing on a zoning amendment bylaw if the bylaw is consistent with an official community plan; and
- if a local government decides not to hold a Public Hearing, it must provide notice of the proposed date of the First Reading of the applicable zoning amendment bylaw.

In keeping with the above and as the subject bylaw is consistent with the policies and land use designation of the Electoral Areas "F" Official Community Plan, a notice will be posted in accordance with the new provisions of Section 467 of the *Local Government Act* to advise the public that the Board of Directors will consider giving First Reading to Zoning Amendment Bylaw No. 2945 at a future meeting once the applicant has posted a development notice sign in accordance with Section 6.1.7 of Development Application Procedures and Administrative Fees Bylaw No. 2677.

Should the Board of Directors wish to hold a Public Hearing for Bylaw No. 2945, a resolution could be passed to give First Reading. After any conditions of Second Reading have been met, a resolution could be passed to forward the Bylaw to a Public Hearing. Notice of the Public Hearing would be provided in accordance with the provisions of Section 466 of the *Local Government Act* and the Hearing would be held prior to considering Third Reading.

ZONING BYLAW:

The subject property is zoned Non-Urban (N.U). The minimum parcel size in the N.U zone is 7.2 ha. The uses permitted in the N.U zone include single and two family dwellings, manufactured homes, ancillary single family dwellings, secondary suites, bed and breakfast uses, boarding house use, community care facilities, home occupations, agricultural uses, public parks and playgrounds, resource uses, veterinary clinics, and wineries and cideries.

Under the N.U zone, the subject property would be permitted to have one two family dwelling; or one single family dwelling which may contain a suite; or one single family dwelling or one manufactured home and one ancillary single family dwelling or detached suite.

The applicant proposes to rezone the subject property to the Country Residential (C.R) zone. The minimum parcel size for a lot created by subdivision in the C.R zone is 2 ha. The uses permitted in the C.R zone include ancillary single family dwellings, bed and breakfast uses, boarding house uses, community care facilities, detached suites, home occupation uses, agricultural uses, limited resource uses, manufactured homes, public parks and playgrounds, single family dwellings, two family dwellings, veterinary clinics, wineries and cideries, and secondary suites.

Under the C.R zone, lots larger than 2.0 ha would be permitted to have: one two family dwelling; or one single family dwelling which may contain a suite; or one single family dwelling or one manufactured home plus an ancillary dwelling or detached suite.

Building Sites and Lot Frontage:

Section 310 of the Zoning Bylaw requires that all lots created within the C.R zone contain a contiguous area of land 2,000 m² or larger in size to service as a suitable building site. A building site must be less than 30% natural slope and must be accessible from a public highway via a private access driveway meeting the width and slope standards of Section 310. Lots are also required to have frontage not less than one-tenth of the perimeter of the lot.

OFFICIAL COMMUNITY PLAN:

The Official Community Plan designates the land use of the subject property as Country Residential. The following Rural Lands OCP Policies are applicable to the application:

1. Regardless of whether a proposed rezoning is in accordance with the Official Community Plan designation, there is no assurance that a rezoning will be approved by the Regional District;
2. Rural lands may have the potential for resource extraction and may not be suitable for development due to limitations of elevation, slope, water, accessibility, disruption of existing resource or agricultural uses, or interference with watershed conservation;
3. Upon receipt of an OCP Amendment and/or Rezoning application for any Rural development, the Board of Directors will give consideration to the fire protection issues in the local area with particular respect to wildfire interface areas;

4. Subdivision of rural residential lands shall be in a manner that will conform to the site characteristics and retain a sense of rural identity and community;
5. OCP and Zoning amendment applications should include maps showing how the area can be developed under the proposed zoning including (as applicable) the location of any new roads, environmental protection measures, lot layouts, and any community amenities;
6. The following information and considerations are necessary to guide a review of any rezoning application which may or may not be approved by the Board of Directors:
 - a. Because of the importance of an adequate water supply in rural areas and the uncertainty about water supply in some areas, in conjunction with a rezoning application assurance about the proposed water supply (quality and quantity) should be provided and the Board of Directors may request that a hydrogeological study be provided to determine impacts, if any, of the proposed development on the water supply of existing users in the surrounding area and the underlying aquifer.
 - b. Property proposed for development should not be subject to flooding, high water table, or terrain instability.
 - c. All proposed development should not require excessive public expenditures for services such as roads, utilities, and school busing.
 - d. Terrain should be suitable for development whereby each new lot would have a building site and driveway access in compliance with the Zoning Bylaw.
 - e. Each new lot shall have area suitable for on-site sewerage disposal including area for a reserve on-site sewage disposal area.
 - f. Each new lot shall have access to a public road system meeting Ministry of Transportation and Infrastructure standards in which emergency egress must be considered.
 - g. Access via no-thru roads in excess of 150 m in length and/or no-thru roads without an adequate turnaround is not supported.
 - h. Natural features or other sensitive environmental attributes should not be negatively impacted by a proposed development.
 - i. Information other than cited in this Section may be necessary in order to adequately evaluate Official Community Plan and Zoning amendment applications.
 - j. Notwithstanding the policies of this Section, the Regional District will be guided by all relevant community goals, objectives, and policies cited in this Plan as may be appropriate in the consideration of this application.

Potable Water Supply Policies

1. All new development that provides for the construction of only one single family dwelling per lot should be serviced with potable water through a water supply system or domestic water system. A water supply system and domestic water system may use groundwater or surface water as the source of potable water and shall meet the following requirements:
 - a. The quality of the water must meet the standards contained in the *Drinking Water Protection Act* and the *Drinking Water Protection Regulation*; and
 - b. The quantity of water required shall be as specified in the Regional District Subdivision Servicing Bylaw in force from time to time which will include both domestic and fire flow standards where required; and
 - c. Subject to the provisions of the Subdivision Servicing Bylaw, all groundwater and surface water supplies should be subject to certification by qualified professionals (Professional Engineers and Professional Geoscientists with competency in hydrogeology or geotechnical engineering) or by a qualified well driller and/or well pump installer as defined in the Provincial Ground Water Protection Regulation.

2. Notwithstanding the provision listed above, where a residential or rural zone provides for the construction of more than one single family dwelling per lot, or provides for the construction of two family dwellings, then new development may be permitted without the provision of a water supply system provided a covenant is registered on the title of the subject property to:
 - a. require that each additional dwelling unit be provided with its own groundwater well meeting the requirements of the Regional District subdivision servicing bylaw in force from time to time, and the *Drinking Water Protection Regulation*; OR
 - b. restrict development on any lot to only one single family dwelling unless and until a water supply system is constructed meeting the standards contained in the *Drinking Water Protection Act* and the *Drinking Water Protection Regulations*.
3. The use of surface and sub-surface water supplies for domestic purposes must be sustainable with respect to fish and wildlife habitat protection in which many waterbodies are already fully subscribed or oversubscribed which has an adverse effect on the fisheries resource.

Development Permit Areas

The OCP designates portions of the subject property as being located within a Development Permit Area for the protection of development from hazardous (wildfire) conditions. The approval of a Development Permit would be required prior to the subdivision of the property.

The OCP also designates the property as being located within a Development Permit Area for the protection of the natural environment as an unnamed Creek runs through the property. The approval of a Development Permit would be required prior to the subdivision of the property.


REFERRAL COMMENTS:

The application was referred for comments to the following:

1. **Ministry of Transportation and Infrastructure**
2. **Parks Department**
3. **Community Services Department**
4. **Protective Services Department**
5. **Building Inspection Department**

The Building Inspector indicated no concerns from a building perspective.

Submitted by:



Jennifer Miles, RPP, MCIP
Planner II

Reviewed by:



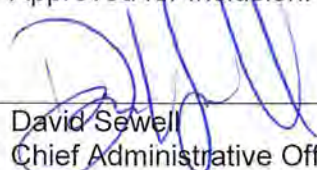
Greg Routley
Deputy Planning Manager

Endorsed by:



Rob Smailes, RPP, MCIP
General Manager, Planning and Building

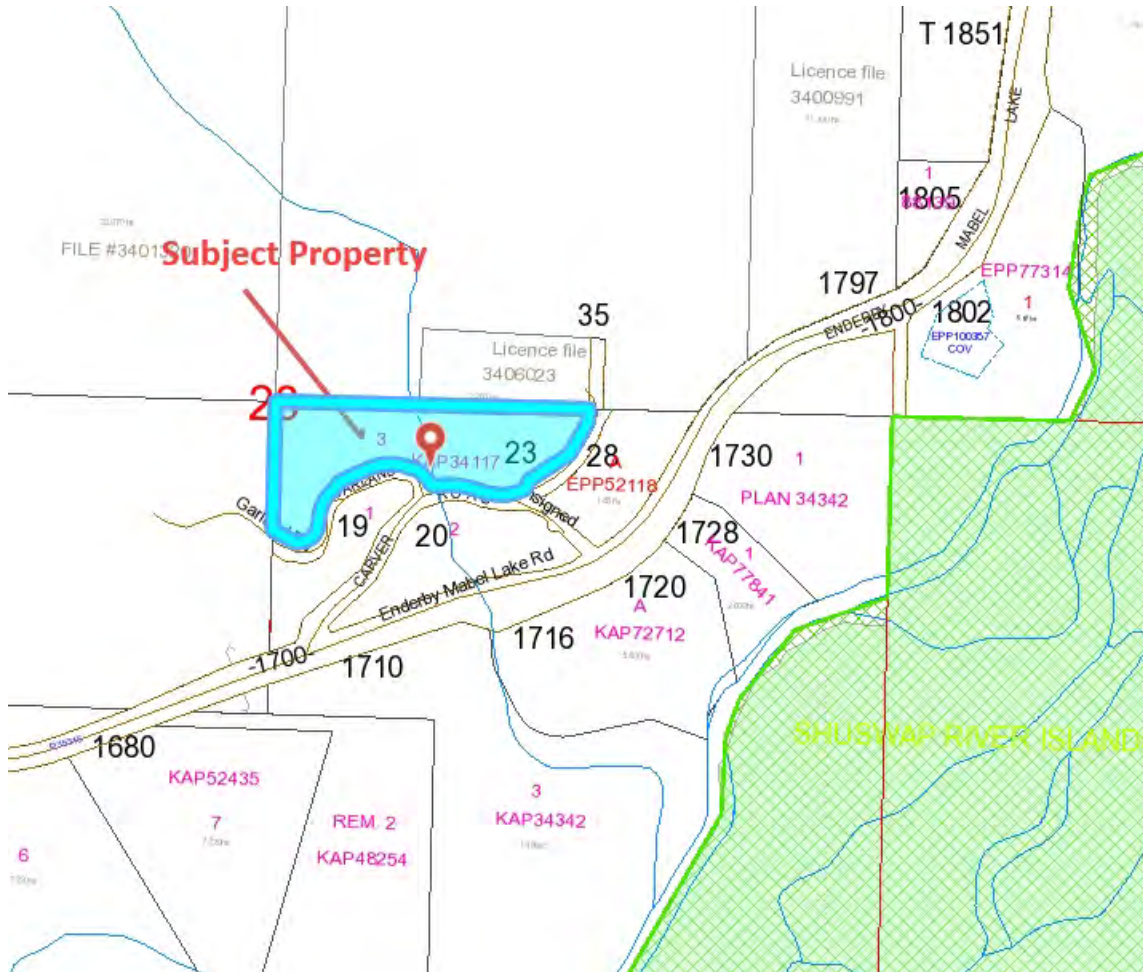
Approved for Inclusion:



David Sewell
Chief Administrative Officer

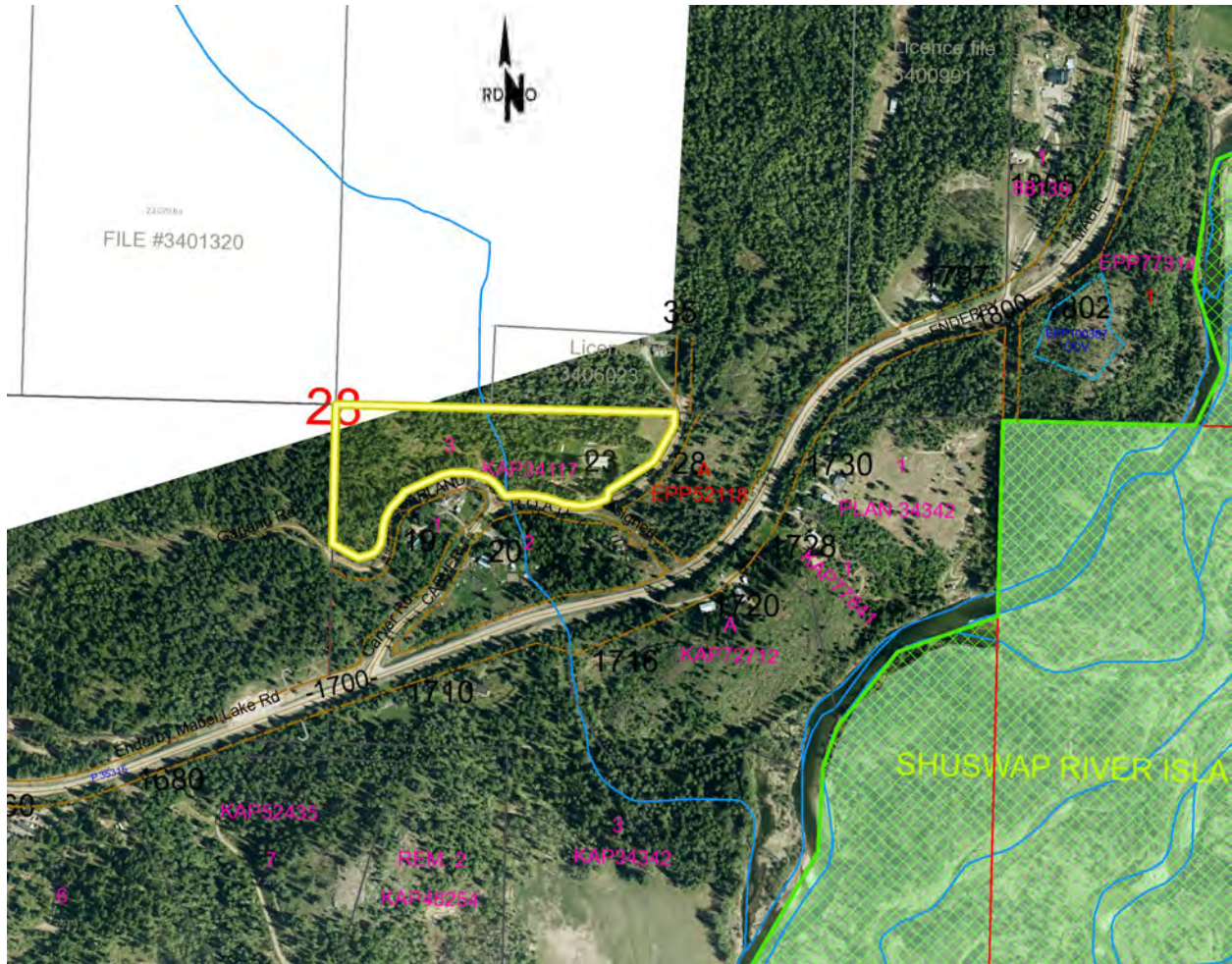
SUBJECT PROPERTY MAP REZONING

File: 22-0743-F-RZ
Location: 23 Carver Road



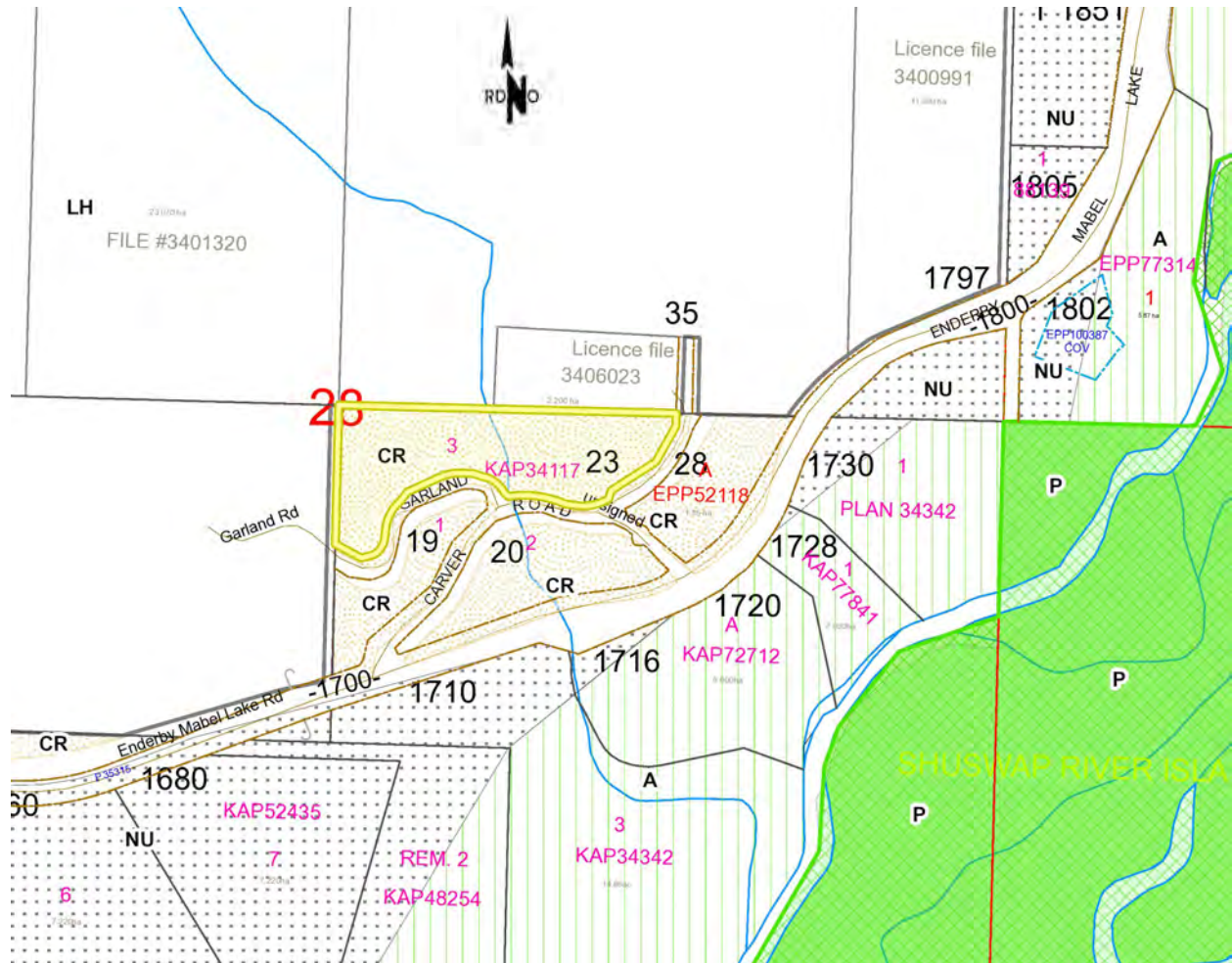
SUBJECT PROPERTY MAP REZONING ORTHOPHOTO

File: 22-0743-F-RZ
Location: 23 Carver Road



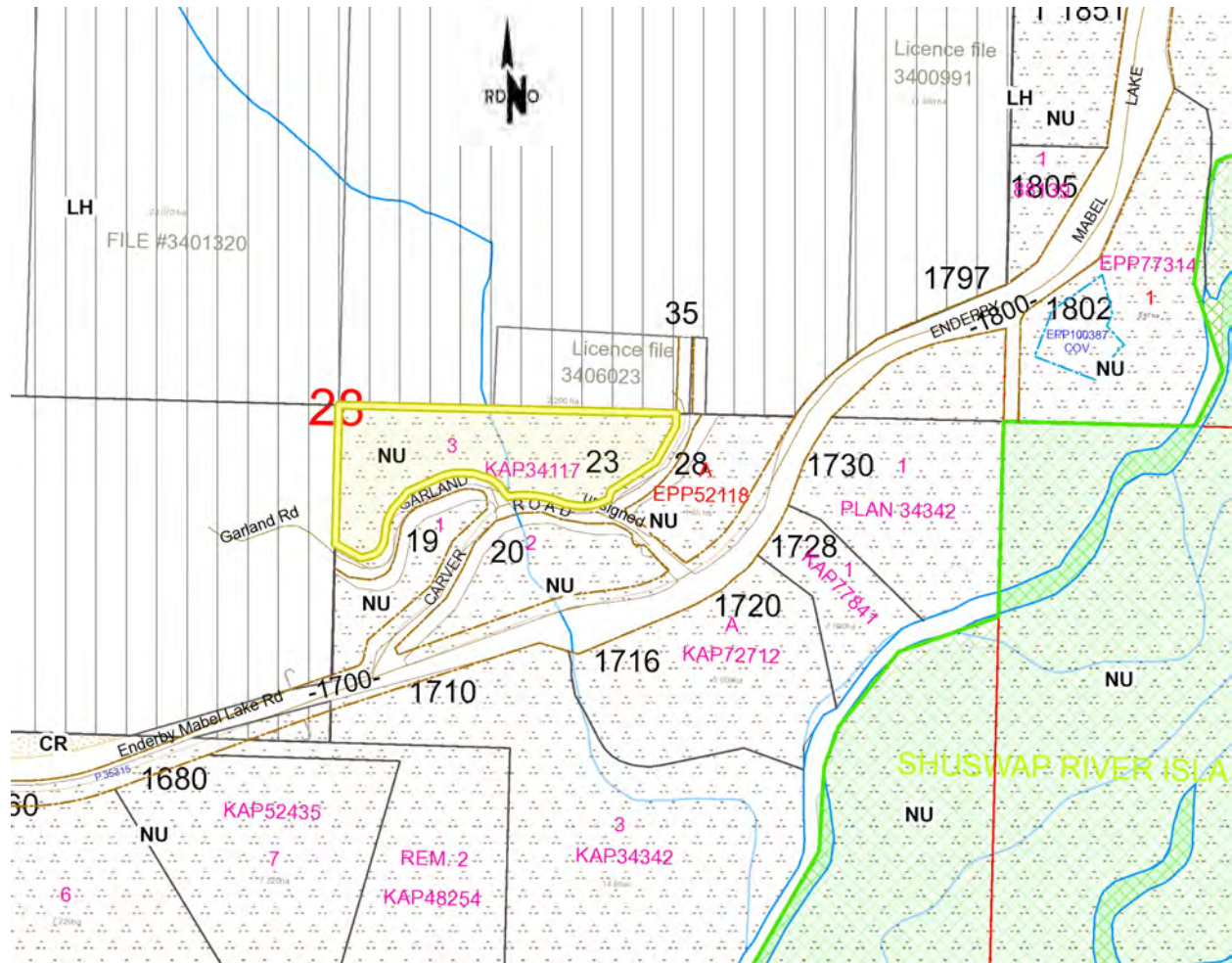
SUBJECT PROPERTY MAP REZONING OCP DESIGNATIONS

File: 22-0743-F-RZ
Location: 23 Carver Road



SUBJECT PROPERTY MAP REZONING ZONING

File: 22-0743-F-RZ
Location: 23 Carver Road





Licence file
3406023

2.200 ha

28

creek

Lot 2 (5.34 acres)

Lot 1

3

23 house

KAP34117

driveway

28A

(5.78 acres)

GARLAND ROAD

EPP52118

1.85 ha

ROAD

unimproved

19¹

20²

CARVER

172

1:1,501

76.3 0 38.13 76.3 Meters

REGIONAL DISTRICT OF NORTH OKANAGAN

BYLAW No. 2945

A bylaw to rezone lands and amend the Zoning Map attached to the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 to change a zone designation

WHEREAS pursuant to Section 479 [Zoning bylaws] of the *Local Government Act*, the Board of the Regional District of North Okanagan may, by Bylaw, divide the whole or part of the Regional District into zones, name each zone, establish boundaries for the zones and regulate uses within those zones;

AND WHEREAS the Board has created zones, named each zone, established boundaries for these zones and regulated uses within those zones by Bylaw No. 1888, being the "*Regional District of North Okanagan Zoning Bylaw No. 1888, 2003*" as amended;

AND WHEREAS, pursuant to Section 460 [*Development approval procedures*] of the *Local Government Act*, the Board must, by bylaw, define procedures under which an owner of land may apply for an amendment to a Zoning Bylaw and must consider every application for an amendment to the bylaw;

AND WHEREAS the Board has enacted the "*Regional District of North Okanagan Development Application Procedures and Administrative Fees Bylaw No. 2677, 2018*" as amended to establish procedures to amend an Official Community Plan, a Zoning Bylaw, or a Rural Land Use Bylaw, or to issue a Permit:

AND WHEREAS the Board has received an application to rezone property;

NOW THEREFORE, the Board of the Regional District of North Okanagan in open meeting assembled, hereby **ENACTS AS FOLLOWS**:

CITATION

1. This Bylaw may be cited as "**Zoning Amendment Bylaw No. 2945, 2022**".

AMENDMENTS

2. The zoning of the property legally described as Lot 3, Sec 28, Twp 18, R7, W6M, KDYD, Plan 34117, Except Plan EPP52118 and located at 23 Carver Road, Electoral Area "F" is hereby changed on Schedule "A" of the *Regional District of North Okanagan Zoning Bylaw No. 1888, 2003* from the Non-Urban (N.U) zone to the Country Residential (C.R).

Read a First Time	this	day of	, 2022
Read a Second Time	this	day of	, 2022
Advertised on	this	day of	, 2022
	this	day of	, 2022
Public Hearing held	this	day of	, 2022
Read a Third Time	this	day of	, 2022

ADOPTED

this

day of

, 2022

Chair

Deputy Corporate Officer