

Rezoning / OCP Information Package

File Number: 3360-20/20180027

Subject: Cariboo Regional District Lac La Hache Area Official Community Plan Amendment Bylaw No. 5160, 2018 and Cariboo Regional District South Cariboo Zoning Amendment Bylaw No. 5161, 2018

Electoral Area: G

Date of Referral:

Date of Application: July 9, 2018

Property Owner's Name(s): 0972514 BC LTD.

Applicant's Name: Marty Fletcher

SECTION 1: Property Summary

Legal Description(s): Parcel A (38046E) Plan B6004 of District Lot 5037, Lillooet District, Except Plans 6847 and 20135 & KAP77955

Property Size: +/- 6.04 ha (14.92 ac)

Area of Application:

Location: 4435 Fircrest Road

Current Designation:

Fir Crest Resort Comprehensive Development Area

Min. Lot Size Permitted:

N/A

Proposed Designation:

Fir Crest Resort Comprehensive Development Area

Min. Lot Size Permitted:

N/A

Current Zoning:

Comprehensive Development 2 (CD-2) zone - Fir Crest Resort

Min. Lot Size Permitted:

N/A

Proposed Zoning:

Comprehensive Development 2 (CD-2) zone - Fir Crest Resort

Min. Lot Size Permitted:

N/A

Proposed Use: Seasonal Campground

No. and size of Proposed Lots:

Name and type of existing road system: Fircrest Road

Services Available: Hydro, Sewage, Well

Within the influence of a Controlled Access Highway: Yes

Within the confines of the Agricultural Land Reserve: No

Required to comply with the Shoreland Management Policy or Development Permit Areas:

Yes

Name of Lake/Contributing River and Lake Classification: Lac La Hache Lake

Required to comply with other Development Permit Areas:

Name of Development Permit:

Adjoining Properties: (Source: B.C.A.A.)

	Actual Use Code:	Lot Sizes:
(a)	000 – Single Family Dwelling	0.24 ha (0.59 ac) – 0.485 ha (1.2 ac)
North	060 – Acreage 2 Acres or More – Single Family Dwelling, Duplex	4.50 ha (11.14 ac)
	061 – Acreage 2 Acres or More – Vacant	4.04 ha (10.0 ac)
(b)	<i>Lac La Hache</i>	0.34 ha (0.84 ac) – 0.49 ha (1.23 ac)
South	<i>000 – Single Family Dwelling</i>	
(c)	063 – Acreage 2 Acres or More –	1.54 ha (3.82 ac) – 4.06 ha (10.03 ac)
East	Manufactured Home	
(d)		
West	Lac La Hache	

SECTION 2: Planning Rationale

As there is no change in the land use and a zoning bylaw cannot regulate the tenure of lands, planning staff recommends that the application be approved.

Recommendation:

#1

That the Cariboo Regional District Lac La Hache Area Official Community Plan (OCP) Amendment Bylaw No. 5160, 2018 be approved.

#2

That the South Cariboo Area Zoning Amendment Bylaw No. 5161, 2018 be approved subject to the following condition(s):

- 1) Registration of covenant to replace the two existing covenants CA3078039 and CA3078041 including any additional conditions required by the Cariboo Regional District;
- 2) Discharge of covenants CA3078039 and CA3078041 from Parcel A (38046E and Plan B6004) of District Lot 5037, Lillooet District, Except Plans 6847, 20135 and KAP77955.

SECTION 3: Referral Comments

Health Authority: -

Ministry of Transportation and Infrastructure: -

Advisory Planning Commission:

Ministry of Environment: -

CRD Environmental Services Department: -

SECTION 4: Board Action

Date of Meeting:

ATTACHMENTS

Appendix A: Bylaw No. 5160 & 5161

Appendix B: General Map

Appendix C: Specific Map

Appendix D: Orthographic Map

Appendix E: Orthographic Map - Proposed Comprehensive Development Area

Other: Applicant's supporting documentation
 Fircrest Proposed Site Plan 1
 Fircrest Proposed Site Plan 2
 Letter to Cariboo Regional District dated April 27, 2018
 Letter to Cariboo Regional District dated May 20, 2018
 Planning Comments from 2009



CARIBOO REGIONAL DISTRICT

BYLAW NO. 5160

A bylaw of the Cariboo Regional District, in the Province of British Columbia, to amend Bylaw No. 3200, being the "Lac La Hache Area Official Community Plan Bylaw No. 3200, 1996".

WHEREAS the Cariboo Regional District Board (the "Board") may amend by bylaw an official community plan;

AND WHEREAS the Board has in its consideration of this bylaw had due regard to the consideration and requirements of the *Local Government Act*;

NOW THEREFORE the Board in open meeting assembled enacts as follows:

1. CITATION

This bylaw may be cited as the "Cariboo Regional District Lac La Hache Area Official Community Plan Amendment Bylaw No. 5160, 2018".

2. AMENDMENT

Section 18.1 of Schedule "A" of Bylaw No. 3200 of the Cariboo Regional District is amended as follows:

A. In the second sentence,

1. deleting the words "bareland strata" and inserting the word "use" after the word "Cabin" and before the word "that; and
2. deleting the words "the ownership of individual strata sites in addition to" after the word "for" and before the word "a" .

B. In the third sentence, deleting the word “were” and inserting the word “where” after the word “vegetation” and before the word “possible”.

READ A FIRST TIME THIS _____ DAY OF _____, 2018.

READ A SECOND TIME THIS _____ DAY OF _____, 2018.

A PUBLIC HEARING WAS HELD ON THE _____ DAY OF _____, 2018.

READ A THIRD TIME THIS _____ DAY OF _____, 2018.

APPROVED BY THE MINISTER OF COMMUNITY, SPORT AND CULTURAL
DEVELOPMENT THIS _____ DAY OF _____, 2018.

ADOPTED THIS _____ DAY OF _____, 2018.

Chair

Corporate Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 5160, cited as the "Cariboo Regional District Lac La Hache Area Official Community Plan Amendment Bylaw No. 5160, 2018", as adopted by the Cariboo Regional District Board on the day of _____, 2018.

Corporate Officer



CARIBOO REGIONAL DISTRICT

BYLAW NO. 5161

A bylaw of the Cariboo Regional District, in the Province of British Columbia, to amend Bylaw No. 3501, being the "South Cariboo Area Zoning Bylaw No. 3501, 1999".

WHEREAS the *Local Government Act* authorizes the Regional Board to amend a Zoning bylaw after a public hearing and upon the affirmative vote of the Directors in accordance with Section 791(1) of the *Local Government Act*; and

WHEREAS an application has been received to rezone property; and

WHEREAS the Board of Directors of the Cariboo Regional District deems it expedient to rezone the property;

NOW, THEREFORE, the Board of Directors of the Cariboo Regional District, duly assembled, enacts as follows:

1. CITATION

- a) This bylaw may be cited for all purposes as the "Cariboo Regional District South Cariboo Area Zoning Amendment Bylaw No. 5161, 2018".

2. AMENDMENT

- a) Bylaw No. 3501 of the Cariboo Regional District is amended by:
 - i) Amending the first sentence of Section 5.24 by deleting the words "allows for the ownership of individual strata sites where each strata site is designed and used to" after the word "that" and before the word "accommodate", and adding a "s" to the word "accommodate";

- ii) Deleting the second sentence of Section 5.24;
- iii) Deleting the fourth sentence of Section 5.24;
- iv) Deleting the fifth sentence of Section 5.24;
- v) Deleting Section 5.24.1(1)(a);
- vi) Deleting Section 5.24.1(1)(b);
- vii) Renumbering current Section 5.24.1(1)(c) to “Section 5.24(1)(a);
- viii) Amending Section 5.24.1(2)(c) by deleting the words “, a Strata Recreation Vehicle or a Strata Cabin” after the word “Unit” and before “;”;
- ix) Deleting Section 5.24.2(a) ss. (2)-(3) and (5)-(6) and renumbering the remaining sections accordingly;
- x) Deleting Section 5.24.2(b) and renumbering the remaining sections accordingly;
- xi) Amending Section 5.24.2(c) by deleting the words “Strata Cabin” after the word “a” and before the word “Accessory Dwelling Unit”, deleting the word “and” after the word “Unit,” and before the word “Ancillary”, and inserting the word “or” after the word “Unit” and before the word “Ancillary”;
- xii) Deleting Section 5.24.2(d)(1)(a)-(e) and renumbering the remaining sections accordingly;
- xiii) Amending Section 5.24.2(f) by deleting the words “on Strata Sites” after the word “Buildings” and before the word “the”, deleting the words “Site Line” after the word “a” and before “.”, and inserting the words “Parcel Line” after the word “a” and before “.”;
- xiv) Amending Section 5.24.2(f)(1)(d) by deleting the words “and Cabin Strata” after the word “Vehicle” and before the word “development”;
- xv) Amending the DEFINITIONS under Section 5.24 to delete the following words:

- a. ““COMMON AREA” means an area of the parcel used for any purpose other than a Strata Site.”;
- b. ““SITE LINE” means the boundary of a Strata Site.”;
- c. ““STRATA CABIN” means one or more rooms with self-contained sleeping, living, and sanitary facilities containing not more than one set of cooking facilities, used or intended for use as a temporary residence for property owners or the traveling public.”;
- d. ““STRATA CABIN SITE” means an area of the parcel used for the accommodation of property owners or the traveling public in Strata Cabins.”;
- e. ““STRATA RECREATIONAL VEHICLE” means a recreational vehicle, such as; trailers, campers, motor homes, or park models used for the accommodation of property owners or the traveling public.”;
- f. ““STRATA RECREATIONAL VEHICLE DECK” means a platform with the top of the floor no more than 0.6 m (2 feet) above landscape grade without a roof or walls. The platform must not be attached to the Recreational Vehicle and can be a maximum area of 15 square metres (160 square feet).”; and
- g. ““STRATA RECREATIONAL VEHICLE SITE” means an area of the parcel used for the accommodation of property owners or the traveling public in recreation vehicles.”

READ A FIRST TIME THIS _____ DAY OF _____, 2018.

READ A SECOND TIME THIS _____ DAY OF _____, 2018.

A PUBLIC HEARING WAS HELD ON THE _____ DAY OF _____, 2018.

READ A THIRD TIME THIS _____ DAY OF _____, 2018.

APPROVED UNDER THE "TRANSPORTATION ACT" THIS _____ DAY OF _____, 2013.

ADOPTED THIS ____ DAY OF _____, 2018.

Chair

Corporate Officer

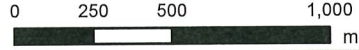
I hereby certify the foregoing to be a true and correct copy of Bylaw No. 5161, cited as the "Cariboo Regional District South Cariboo Area Zoning Amendment Bylaw No. 5161, 2018", as adopted by the Cariboo Regional District Board on the _____ day of _____, 2018.

Corporate Officer

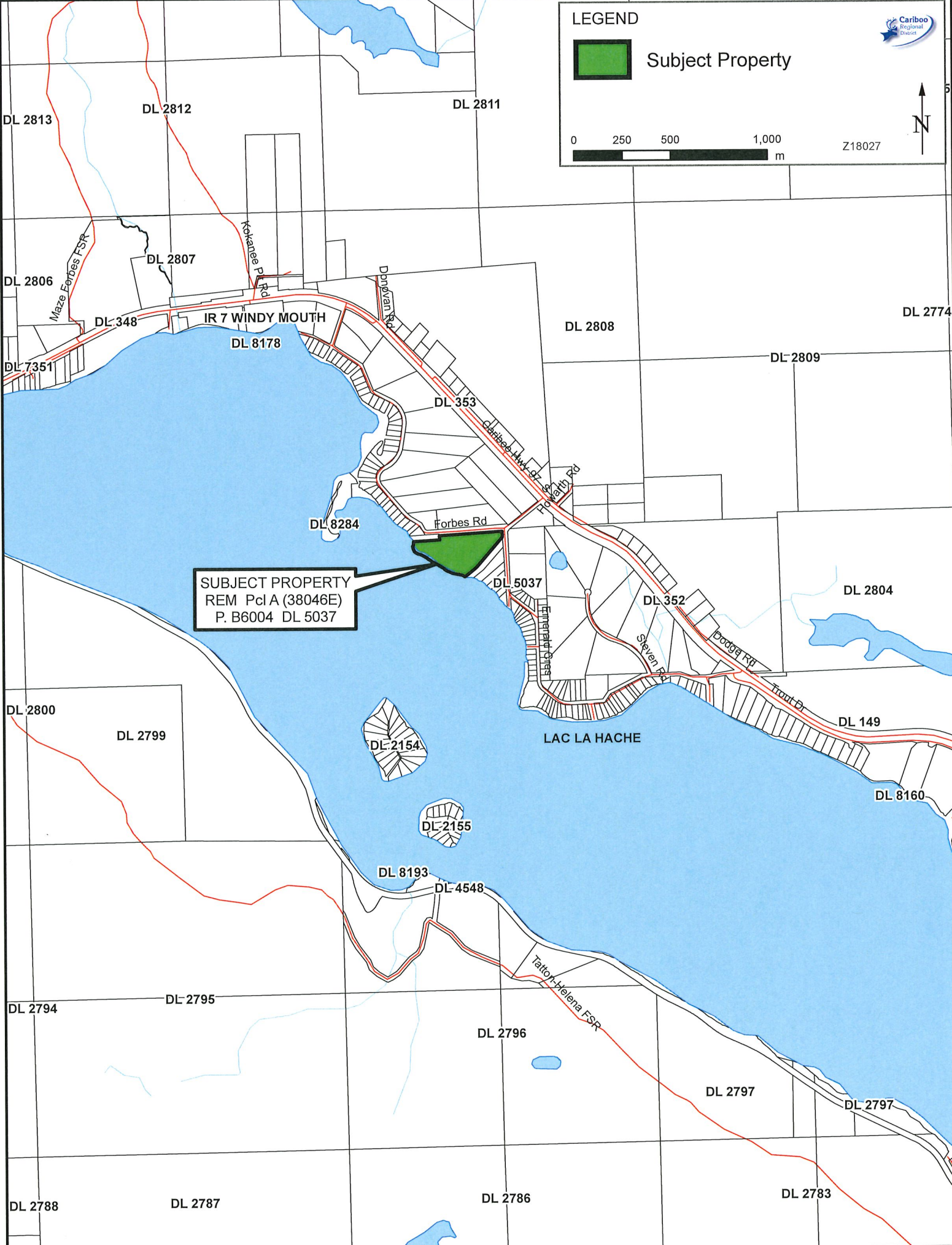
LEGEND



Subject Property



Z18027

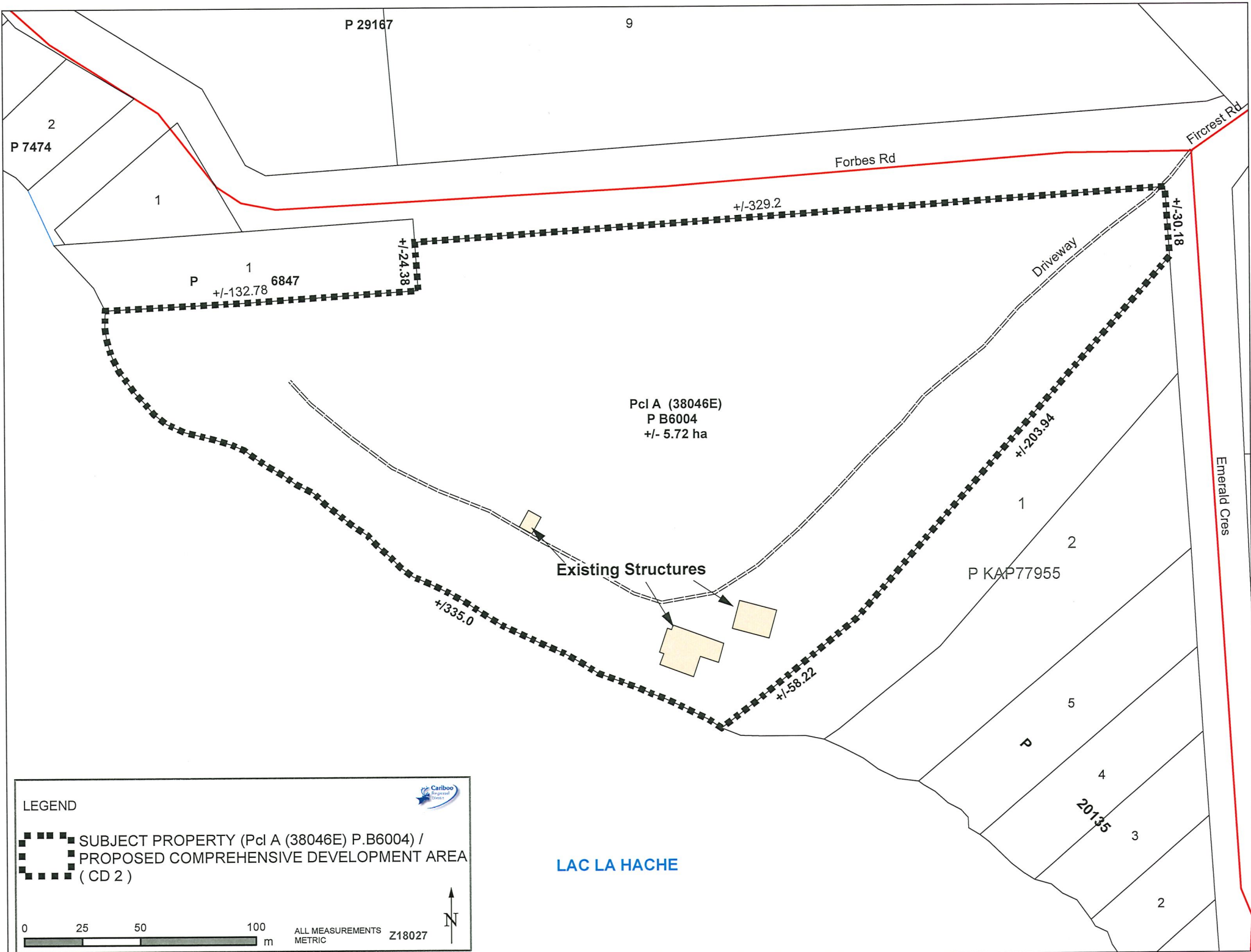


SUBJECT PROPERTY
REM Pcl A (38046E)
P. B6004 DL 5037




DL 2813 DL 2812 DL 2811 DL 2807 DL 2806 DL 348 DL 8178 DL 7351 DL 2808 DL 2774 DL 2809 DL 353 DL 8284 Forbes Rd DL 5037 DL 352 DL 2804 DL 2800 DL 2799 DL 2154 LAC LA HACHE DL 149 DL 8160 DL 2155 DL 8193 DL 4548 DL 2794 DL 2795 DL 2796 DL 2797 DL 2788 DL 2787 DL 2786 DL 2783


Maze Forbes FSR Kekanee Pl Rd Donivan Rd Caribee Hwy DL 5037 Emerald Crest Steven Rd Dodge Rd Trout D Taylor-Helena FSR


IR 7 WINDY MOUTH



LEGEND

 SUBJECT PROPERTY (Pcl A (38046E) P.B6004) /
 PROPOSED COMPREHENSIVE DEVELOPMENT AREA
 (CD 2)

 0 25 50 100 m
 ALL MEASUREMENTS METRIC Z18027

 N

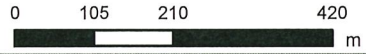


LAC LA HACHE

LEGEND



Subject Property

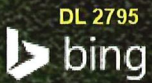


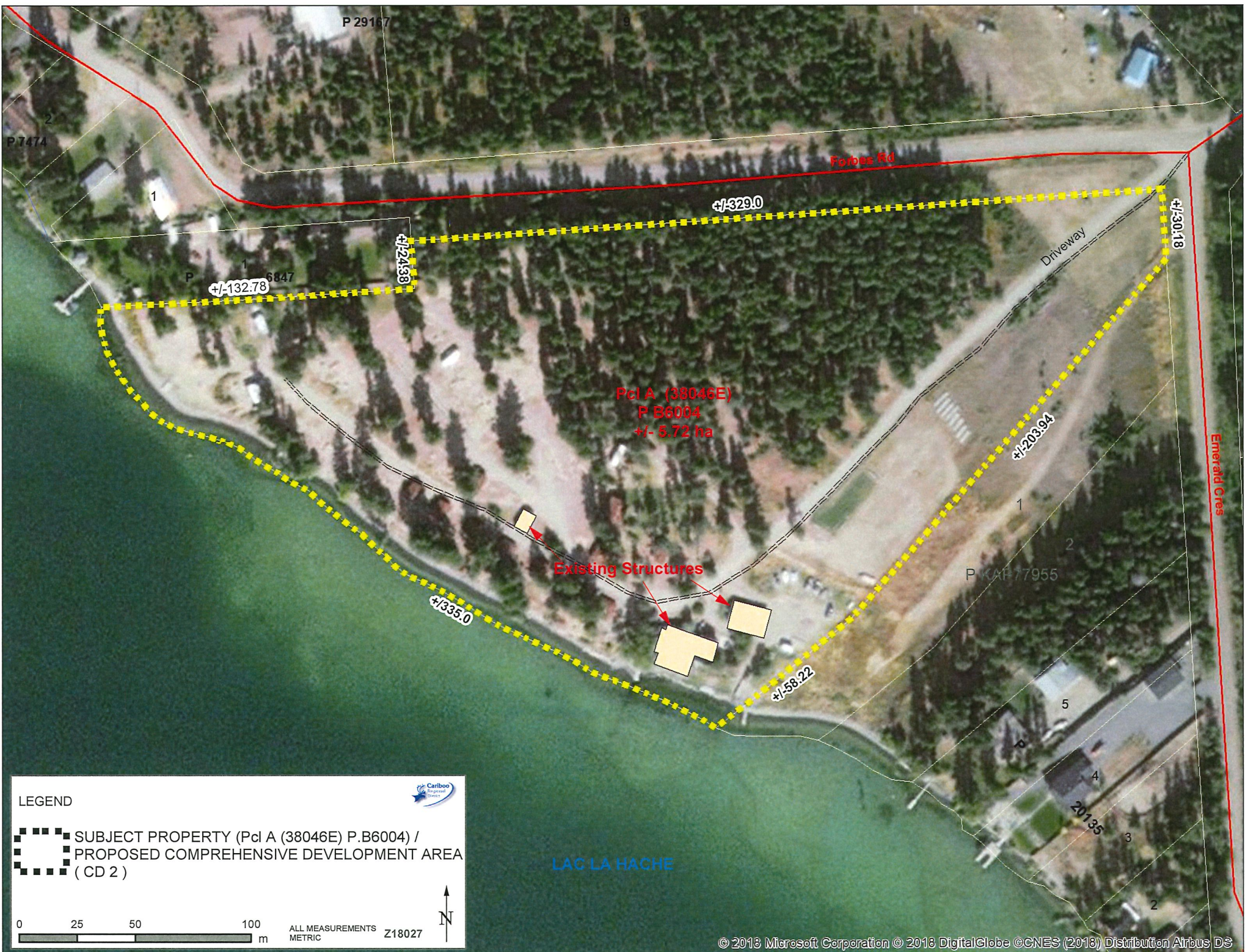
Z18027



SUBJECT PROPERTY
REM Pcl A (38046E)
P. B6004 DL 5037

LAC LA HACHE

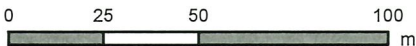




LEGEND



- SUBJECT PROPERTY (Pcl A (38046E) P.B6004) /
- PROPOSED COMPREHENSIVE DEVELOPMENT AREA (CD 2)



ALL MEASUREMENTS METRIC Z18027



Describe the existing use of the subject property and all buildings: was a seasonal
campground for many years

Describe the proposed use of the subject property and all buildings: to be used (still) as a campground (land use is not
changing, offering long-term ownership)

Describe the reasons in support for the application: land use is not
changing at all, just need wording changes to
reflect new ownership model

Provide a general description of vegetation cover (i.e. treed, grassland, forage crop etc.): well treed with vacant areas, (was a seasonal
campground for many years)

Provide general geographical information (i.e. existing lakes, streams, physical features etc.): on Laska Hache

Services Currently Existing or Readily Available to the Property (check applicable area)

* Readily Available means existing services can be easily extended to the subject property.

Services	Currently Existing?		Readily Available?*	
	Yes	No	Yes	No
Hydro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Telephone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Community Water System	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Community Sewer System	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sewage Disposal System	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Well	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



- COMMON PROPERTY ACCESS ROAD
RIGHT OF WAY AREA (15,400 Sq.m)
- COMMON AREA INCLUDES
TRAVELLER'S CAMPSITES &
SEPTIC AREA (17,261 Sq.m)
- PHASE 1 DEVELOPMENT (7,021 Sq.m)
- PHASE 2 DEVELOPMENT (3,061 Sq.m)
- PHASE 3 DEVELOPMENT (4,128 Sq.m)
- PHASE 4 DEVELOPMENT (3,630 Sq.m)
- PHASE 5 DEVELOPMENT (3,857 Sq.m)
- PHASE 6 DEVELOPMENT (3,470 Sq.m)

TOTAL AREA: 57,728 Sq.m (5.8 Ha)

- PHASE 1**
-30 RECREATIONAL LOTS
- PHASE 2**
-15 RECREATIONAL LOTS
- PHASE 3**
-8 RECREATIONAL LOTS
-7 CABIN LOTS
- PHASE 4**
-12 CABIN LOTS
- PHASE 5**
-16 RECREATIONAL LOTS
- PHASE 6**
-15 RECREATIONAL LOTS

- NOTES:
- 1) TRAVELLER'S CAMPSITES #104-113 ARE NOT PROPOSED LOTS BUT ARE A PART OF THE COMMON PROPERTY STRATA
 - 2) THERE IS A TOTAL OF 19 PROPOSED CABIN LOTS
 - 3) THERE IS A TOTAL OF 84 PROPOSED RECREATIONAL LOTS

LEGEND

- SUBJECT BOUNDARY
- 15m NO BUILD SETBACK AREA
- PROPOSED SEPTIC FIELD AND RESERVE AREA

LEGAL DESCRIPTION

PARCEL A
DL 5037
LILLOOET DISTRICT
EXCEPT PLANS 6847,
20135 AND KAP77955
PID: 013-397-478

FIRCREST RESORT

NO.	DATE	REVISION	DR.

L&M
ENGINEERING LIMITED

1210 FOURTH AVENUE
PRINCE GEORGE, B.C.
V2L 3J4
TEL: (250) 562-1977
FAX: (250) 562-1957
lmeng@lmengineering.bc.ca

DRAWN	LB
CHECKED	DVB
ENGINEER	DVB
SURVEY FILE	SITE PLAN
DRAWING FILE	SIX PHASE LAYOUT WARCH
CORRESPONDENCE	
DATE	FEB 14, 2014
SCALE	AS SHOWN

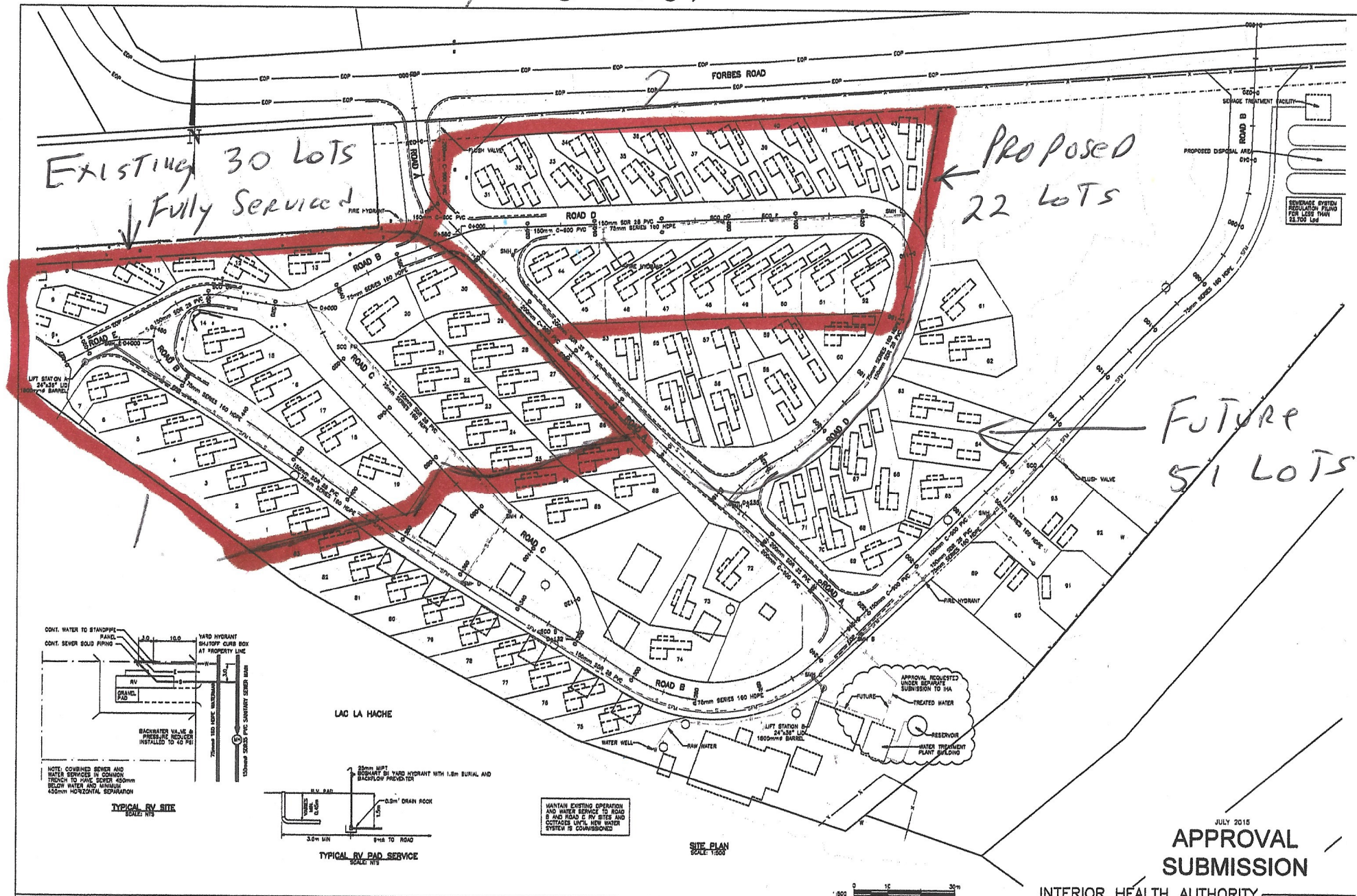
PROPOSED PHASED
DEVELOPMENT
MARTY FLETCHER
PROPOSED SITE PLAN

CONSULTANTS PROJECT No.
1469-01-00
DRAWING No.
001

SHEET No. 1 of 5	REV. No. 0
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0 40
SCALE 1:1250

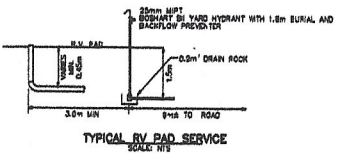
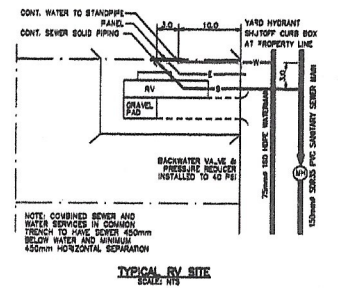
103 LOTS 88 R.V. Sites 15 CABINS



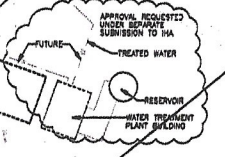
Existing 30 Lots
Fully Serviced

Proposed
22 Lots

Future
51 Lots



MAINTAIN EXISTING OPERATION AND WATER SERVICE TO ROAD B AND ROAD E RV SITES AND COTTAGES UNTIL NEW WATER SYSTEM IS COMMISSIONED



JULY 2015
APPROVAL SUBMISSION

INTERIOR HEALTH AUTHORITY

THE LOCATION AND ELEVATION OF EXISTING UNDERGROUND SERVICES ON THIS DRAWING MAY NOT BE ACCURATE OR COMPLETE. THE EXISTING HORIZONTAL AND VERTICAL LOCATIONS MUST BE CONFIRMED BY UTILITY COMPANIES AND THE CONTRACTOR PRIOR TO THE START OF ANY EXCAVATIONS

LEGEND	
WATER	W
SEWER	S
DRAIN	D
EDGE PAVE.	EOP
GULCHLINE	G
PERGOLA	P
FREE	F
TREE	T
PERGOLA	P
WATER	W
SEWER	S
DRAIN	D
EDGE PAVE.	EOP
GULCHLINE	G
PERGOLA	P
FREE	F
TREE	T
WATER	W
SEWER	S
DRAIN	D
EDGE PAVE.	EOP
GULCHLINE	G
PERGOLA	P
FREE	F
TREE	T

ISSUED	
1.	APPLICATION FOR IHA PERMIT 13/07/20
No.	DESCRIPTION DATE SIGN

DESIGNED	BY	PROJECT
DRAWN	BY	
CHECKED	BY	
APPROVING AUTHORITY	BY	
DATE	DATE	
SCALE	SCALE	

FIR CREST DEVELOPMENT
RV RESORT
OVERALL SITE PLAN

MSR SOLUTIONS INC.
ENGINEERING DESIGN SOLUTIONS.
181 - 4078 VIEWSHED AVENUE
WATERLOO, ONT. N2V 2B8
OFFICE: 506-8475-6464
FAX: 506-8475-1818
info@msrsolutions.ca
www.msrsolutions.ca

SHEET SIZE: A1 (841mmx594mm)	
MSR SOLUTIONS PROJECT No.	18-217
REGIONAL DESIGN FILE No.	
SHEET	2 OF 3
MSR SOLUTIONS DRAWING No.	CD1

Managing Lawyer: Christopher J. Bettencourt
E-Mail: cbettencourt@mcquarrie.com
Direct Line: (604) 580 - 7031
Legal Administrative Assistant: Lisa Atamanchuk
E-Mail: latamanchuk@mcquarrie.com
Direct Line: 604.580.7082

Our File No.: 180552

May 30, 2018

Via Email: hsurat@cariboo.ca

Havan Surat
Cariboo Regional District
Manager of Development Services
Suite D, 180 North 3rd Avenue
Williams Lake, BC V2G 2A4

Re: Fir Crest Resort development (the “Development”) to be constructed by 0972514 BC Ltd. (the “Developer”) on real property with a legal description of Parcel A (38046E and Plan B6004) of District Lot 5037, Lillooet District, Except Plans 6847, 20135 and KAP 77955 (the “Lands”)

We write further to our letter dated April 27, 2018 and our teleconference May 3, 2018. After our teleconference we continued our discussions with Wendy Holtom, the Provincial Approving Officer, in order to obtain approval under section 8 of the *Real Estate Development Marketing Act* (“**REDMA**”). She later took the position that the proposed development was not a “shared interest in land,” as that phrase is defined in *REDMA* but rather a “cooperative interest.” She further asserted that her approval was not necessary under *REDMA*, and that the only approval necessary is to be obtained from the approving authority, which is the Cariboo Regional District (the “**CRD**”). Upon further review of the *Act*, we agree with her position. As set out below, this means that the Developer simply needs to ensure that it obtains all necessary building permits from the CRD. Accordingly, Ms. Holtom has closed her file.

During our teleconference we discussed a manner of proceeding that we think would still be a reasonable way forward notwithstanding our new understanding of the required approvals. We accordingly request that we proceed on the basis discussed during the May 3, 2018 teleconference, namely:

1. the Layout RC and the Shoreland RC, as those terms are hereinafter defined, be discharged and replaced with a new RC incorporating their key terms set out in Schedule “A” into the CRD’s template RC format; and
2. the Developer proceed with the development of the Lands in a manner consistent with CD-2 Zoning, with the language in the zoning to be revised at a later date to delete all references to the Development as a “strata site.”

The Relevant provisions of REDMA

Under *REDMA*, a “cooperative interest” is defined as an interest that includes both:

“(a) a right

(i) of ownership, directly or indirectly, of one or more shares in the cooperative association, or

(ii) to be a partner or member, directly or indirectly, in the cooperative association, and

(b) as a result of the right described in paragraph (a), a right to use or occupy a part of the land in which a cooperative association has an interest.”

The definition of a “cooperative association” includes “a corporation, as defined in the *Business Corporations Act*.”

The Developer intends on selling shares in a corporation that holds title to the Lands, which will entitle those shareholders to the use of a portion of the Lands. Accordingly, we are of the opinion that this definition applies.

Section 6(1) of *REDMA* sets out the marketing requirements for cooperative associations, namely:

“6 (1) A developer must not market a cooperative interest that includes a right of use or occupation of a building unless the appropriate municipal or other government authority has issued a building permit in relation to the land that is to be subject to the cooperative interest.”

Accordingly the Developer must either obtain building permits from the approving authority, or proceed in accordance with Policy Statement 5 prior to marketing its development.

As our client does not intend to construct any strata cabins or other buildings, we do not think any building permits are required to complete the Development. The Developer would be happy to discuss the particulars of its plans with the CRD.

Restrictive Covenant Requirements

During our teleconference we discussed replacing the two restrictive covenants (“**RC**”) that were registered on title to the Lands on April 15, 2013 under registration numbers CA3078039 (the “**Shoreland RC**”) and CA3078041 (the “**Layout RC**”). My understanding from the meeting was that the parties agreed that the Shoreland RC and Layout RC would be discharged, and the provisions in section 1 of the RCs along with the Regional District’s boilerplate RC provisions would be incorporated into a new replacement RC. All references to the development as a “strata site” would not be incorporated into the replacement RC in light of the CRD’s lack of authority to regulate tenure rather than use (see Schedule “C”). Attached as Schedule “A” are the “non-boilerplate” provision that would be incorporated into the replacement RC.

Note that the Layout RC contains a schedule that sets out the proposed site plan for the Development, a copy of which is attached as Schedule "B," but unfortunately due to a poor quality scan it is not possible to read. We propose replacing this layout with a replacement sketch plan that is consistent with the zoning requirements and the Layout RC.

Zoning Requirements

The April 27, 2018 letter set out the particulars of the zoning of the Lands, and we have attached the relevant section of that letter as Schedule "C" for your convenience. The language in the zoning bylaw suggests that only a strata subdivision is permitted on the Lands. In retrospect the term "strata" should not have been used as such language suggests the regulation of tenure which is not permitted as set out in the relevant case law. While our client is confident that its plans are consistent with CD-2 Zoning, we want to ensure that the CRD is in agreement with our proposal in order to proceed in a cooperative and constructive manner. Accordingly, we propose that we proceed with the proposal made during the teleconference, as set out at the beginning of this letter.

It is important to note that the Preliminary Layout Approval provided by the Provincial Approving Officer was only prepared in respect of a strata subdivision of the site. Now that the Developer is no longer developing the site as a strata titled development, that document is no longer pertinent.

Our client is keen to develop the Lands, but the delays in obtaining the necessary to date are impacting the feasibility of the Development. We are now confident as to which approvals are necessary to develop the Lands, and the Developer will do all it can to satisfy those requirements to the satisfaction of the CRD. Our client is certain that the Development will be of great benefit to the residents and businesses to the CRD, and would be glad to discuss the particulars of the plans with you upon request.

Yours truly,

MCQUARRIE HUNTER LLP



CHRISTOPHER J. BETTENCOURT*

Partner

*CJB Law Corporation

CJB/la

cc: Client

Schedule "A"
Terms to be incorporated into Replacement RC

Requirements under Restrictive Covenant CA3078041

1. The Grantor hereby covenants and agrees with the Regional District, as a covenant in favour of the Regional District pursuant to Section 219 of the Land Title Act, it being the intention and agreement of the Grantor that the provisions hereof be annexed to, and run with and be a charge upon the Lands, that the Lands shall be used, built and built on only in strict compliance with the terms and conditions of this Agreement and:
 - 1.1 that a minimum of 10 sites are provided for the Traveller's Campground, with each site permitted to be occupied continuously by one party for a maximum of 14 days, with a minimum separation of 7 days between;
 - 1.2 that mobile or modular homes defined as Z-240MH or A-277 by the Canadian Standards Association are prohibited;
 - 1.3 that shelters that cover the recreational vehicle(s) are prohibited. Only factory manufactures fabric canopies or awnings designed to attach to the side of the recreational vehicle are permitted;
 - 1.4 that one boat dock for the benefit and use of the Lands with a total length of 80 linear meters will be maintained by the Grantor at the Grantor's expense and permitted at the lake shoreline of the Lands;
 - 1.5 that the location on the Lands of cabin lots, campsites, recreational vehicles and RV storage sites will be in substantial compliance with the site plan attached hereto as Schedule "A";
 - 1.6 that fences between interior lots must not exceed a maximum height of 4 feet;

Requirements under Restrictive Covenant CA3078039

1. The Grantor hereby covenants and agrees with the Regional District, as a covenant in favour of the Regional District pursuant to Section 219 of the Land Title Act, it being the intention and agreement of the Grantor that the provisions hereof be annexed to, and run with and be a charge upon the Lands, that the Lands shall be used, built and built on only in strict compliance with the terms and conditions of this Agreement and:
 - 1.1 That the Grantor will comply with the provisions of the Cariboo Regional District Shoreland Management Policy 2004 with respect to on-site effluent disposal, and will not subdivide or further subdivide the Lands until an application for an adequate sewerage system to be located on the Lands has been approved either by the Authority administering the *Health Act* [RSBC 1996] c.179, or the *Environmental Management Act* [SBC 2003] c.53.
 - 1.2 The Grantor will comply with the Cariboo Regional District Shoreland Management Policy 2004 with respect to riparian buffer protection and will provide a riparian corridor within a horizontal distance of 15 metres from the natural boundary of a lake and 15 metres from the natural boundary of a watercourse, where no more than 25% of native vegetation shall be disturbed, removed or degraded, nor shall any development occur which will preclude growth of native vegetation. Existing improvements, including clearing for a walkway or beach access, thinning of trees and underbrush, and clearing for utilities shall count towards the 25% removal of native vegetation.

Schedule “C”
Excerpt of April 27, 2018 Letter relating to Zoning

The Development

The proposed Development is to be a 113 unit recreational vehicle resort containing cabins, recreational vehicle sites, and a campground. The Lands are approximately 60 km southeast of Williams Lake on the west side of Highway 97 on the shore of Lac La Hache. The Lands were rezoned to “Comprehensive Development 2 (CD 2) Zone – Fir Crest Resort,” Zoning Bylaw 3501, 1999 (“**CD-2 Zoning**”). Two restrictive covenants were registered on title to the Lands on April 15, 2013 under registration numbers CA3078039 (the “**Shoreland RC**”) and CA3078041 (the “**Layout RC**”). The CD-2 Zoning was achieved by one of the Developer’s predecessors in title, who had originally intended to stratify the Lands, and the language in the CD-2 Zoning, the Shoreland RC, and the Layout RC all reflect this.

The Developer is of the opinion that developing the Lands as a strata corporation is not feasible from an economic or marketing perspective. The Developer instead proposes to sell shares in the registered owner of the Lands, with each share being associated with a licence to use a specific site and the common areas and facilities. The shareholders of the registered owner will elect directors to manage the Development and the common areas. All shareholders will also be parties to a Co-Ownership Agreement that will require the shareholders to abide by the registered owner’s articles and bylaws. Practically speaking, this structure will in many ways be similar to a strata development, but is more consistent with the standard in the industry. Our client can provide you with any additional details you require in respect of this structure, as well as provide you with materials on its other projects that have been similarly developed.

Zoning and Charges on Title

While it is clear that the rezoning approval contemplated a strata development, it is important to note the limitations on the CRD and the Ministry’s statutory authority. Section 479 of the *Local Government Act* sets out that a local government zoning bylaw may regulate “the use of land.” This provision does not entitle a municipality to regulate how an interest in land is held or sold. This is affirmed in the decision of *Vernon (City) v. Okanagan Excavating (1993)* BCJ No. 1897 which states that the entitlement to regulate the “use of land, building and structures” cannot empower a municipality “through a bylaw pertaining to the use of land, to prohibit an owner from selling her/his land or an interest in that land.” Accordingly, we do not believe that a Court would support a restriction on the sale of shares in a registered owner of land on the basis that municipal bylaws required that Lands be stratified and sold as individual strata lots.

Additionally, it should be noted that while the CD-2 Zoning bylaw uses the term “strata” it never defines that term as a strata corporation. The bylaw also does not refer to strata lots, rather, it uses the term “strata cabin site”, which is defined as a portion of the Lands rather than as a distinct strata lot. It also allows the following primary uses:

- Strata Cabin, which is defined as “one or more rooms with self-contained sleeping, living, and sanitary facilities containing not more than one set of cooking facilities, used or intended for use as a temporary residence for property owners or the traveling public”;

- Strata recreational vehicle, which is defined as “a recreational vehicle, such as; trailers, campers, motor homes, or park models used for the accommodation of property owners or the traveling public”; and
- Traveler’s campground, which is defined as “the portion of the common area within the parcel used for the transient accommodation of travelers in tents or Recreational Vehicles.”

While the word “strata” is used, none of the above definitions impose any requirements that could not be achieved through a different form of ownership, including the one proposed by the Developer.

The same is true of the restrictive covenants. When reviewing their provisions, it is important to note that while the recitals (Sections A – E) provide context for the agreements, they are not enforceable provisions. So while the recitals for the Shoreland RC refer to individual strata sites, the actual legal obligations set out in Article 1 do not contain any requirement to develop the Lands as a strata. The Shoreland RC requires that the Developer comply with the Cariboo Regional District Shoreland Management Policy, 2004 and refrain from subdividing the Lands until an adequate sewerage system has been approved. Likewise the Layout RC requires in part that the Developer comply with a site plan, but nothing in Article 1 restricts the Developer’s ability to allocate sites within the Lands in a manner other than strata titled lots.



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Our File No.: 180552

April 27, 2018

Via Email: wendy.holtom@gov.bc.ca

Wendy Holtom
Ministry of Transportation and Infrastructure
Provincial Approving Officer
301-640 Borland Street
Williams Lake, BC V2G 4T1

AND TO:

Via Email: hsurat@cariboo.ca

Havan Surat
Cariboo Regional District
Manager of Development Services
Suite D, 180 North 3rd Avenue
Williams Lake, BC V2G 2A4

Re: Fir Crest Resort development (the “Development”) to be constructed by 0972514 BC Ltd. (the “Developer”) on real property with a legal description of Parcel A (38046E and Plan B6004) of District Lot 5037, Lillooet District, Except Plans 6847, 20135 and KAP 77955 (the “Lands”)

We represent the Developer in respect of its development of the Lands. We understand that the Developer has had discussions with both the Ministry of Transportation and Infrastructure (the “**Ministry**”) and the Cariboo Regional District (the “**CRD**”) in respect of its proposal to construct the Development. In light of the complexity of the matter and the number of parties involved, we would like to summarize the Developer’s position, and also clarify what approvals we believe are required to proceed.

The Development

The proposed Development is to be a 113 unit recreational vehicle resort containing cabins, recreational vehicle sites, and a campground. The Lands are approximately 60 km southeast of Williams Lake on the west side of Highway 97 on the shore of Lac La Hache. The Lands were

rezoned to “Comprehensive Development 2 (CD 2) Zone – Fir Crest Resort,” Zoning Bylaw 3501, 1999 (“**CD-2 Zoning**”). Two restrictive covenants were registered on title to the Lands on April 15, 2013 under registration numbers CA3078039 (the “**Shoreland RC**”) and CA3078041 (the “**Layout RC**”). The CD-2 Zoning was achieved by one of the Developer’s predecessors in title, who had originally intended to stratify the Lands, and the language in the CD-2 Zoning, the Shoreland RC, and the Layout RC all reflect this.

The Developer is of the opinion that developing the Lands as a strata corporation is not feasible from an economic or marketing perspective. The Developer instead proposes to sell shares in the registered owner of the Lands, with each share being associated with a licence to use a specific site and the common areas and facilities. The shareholders of the registered owner will elect directors to manage the Development and the common areas. All shareholders will also be parties to a Co-Ownership Agreement that will require the shareholders to abide by the registered owner’s articles and bylaws. Practically speaking, this structure will in many ways be similar to a strata development, but is more consistent with the standard in the industry. Our client can provide you with any additional details you require in respect of this structure, as well as provide you with materials on its other projects that have been similarly developed.

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Additionally, it should be noted that while the CD-2 Zoning bylaw uses the term “strata” it never defines that term as a strata corporation. The bylaw also does not refer to strata lots, rather, it uses the term “strata cabin site”, which is defined as a portion of the Lands rather than as a distinct strata lot. It also allows the following primary uses:

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The same is true of the restrictive covenants. When reviewing their provisions, it is important to note that while the recitals (Sections A – E) provide context for the agreements, they are not enforceable provisions. So while the recitals for the Shoreland RC refer to individual strata sites, the actual legal obligations set out in Article 1 do not contain any requirement to develop the Lands as a strata. The Shoreland RC requires that the Developer comply with the Cariboo Regional District Shoreland Management Policy, 2004 and refrain from subdividing the Lands until an adequate sewerage system has been approved. Likewise the Layout RC requires in part that the Developer comply with a site plan, but nothing in Article 1 restricts the Developer’s ability to allocate sites within the Lands in a manner other than strata titled lots.

Approval Required – Real Estate Development Marketing Act (“REDMA”)

As set out above, it is our opinion that no further approval is required from the Approving Officer to proceed with the development of the Lands in the manner proposed. In order to commence marketing shared interests in the Lands, however, s. 8(4) of REDMA requires that the Developer first obtain approval from the Approving Officer:

8(4) A developer must not market a shared interest in land that does not include a right of use or occupation of a building unless an approving officer has given approval, in accordance with subsection (6), to market the shared interest in land.

Subsection (6) sets out that:

8(6) For the purpose of subsection (4), an approving officer, within 2 months of receiving an application for approval, or within a longer period prescribed by the Lieutenant Governor in Council, must


- (a) consider
 - (i) the public interest,
 - (ii) any criteria prescribed by the Lieutenant Governor in Council, and
 - (iii) any other matter that the approving officer considers to be relevant,and
- (b) notify the developer, in writing, that
 - (i) the approval is granted,
 - (ii) the approval is refused until conditions specified in the notice are met,or
 - (iii) the approval is refused, in which case, the notice must set out the reasons for the refusal.

We have been advised by the CRD that no Approving Officer has been appointed for the regional district under s. 77.1 of the *Land Title Act*, and accordingly Wendy Holtom is the Provincial Approving Officer pursuant to s. 77.2(1)(a) of the *Land Title Act*.

We accordingly request approval under s. 8(4) of *REDMA* to commence marketing shared interests in the Lands. The Developer has expended significant time and money on the developing the Lands, and is of the opinion that the Development will be a benefit to the region. Our client's experience from developing recreational vehicle resorts and campgrounds is that typical purchasers and their guests spend a significant amount of time visiting local attractions, restaurants, and stores, and that such activity has a noticeable impact on local businesses. Our client has developed significant expertise in the development of similar sites across the province, and accordingly is interested in creating a first class campground and RV resort that will comply with all relevant municipal regulations and bylaws. The developer wishes proceed with this project at the earliest opportunity but is concerned that if the project continues to experience delays that changing economic conditions could negatively impact feasibility. Our client do all it can to help you make your determination and will quickly provide you with additional information at your request. If you have any questions or would like any additional information please do not hesitate to contact the writer.

Yours truly,

MCQUARRIE HUNTER LLP



CHRISTOPHER J. BETTENCOURT*

Partner

*CJB Law Corporation

CJB/la

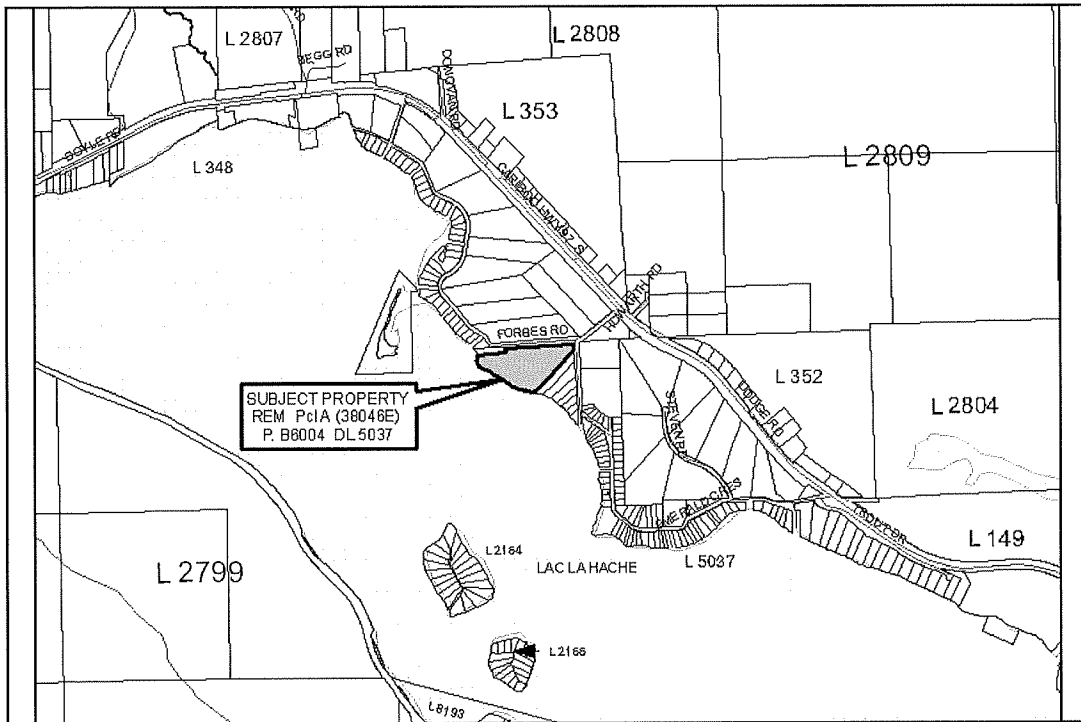
cc: Client

Planning Comments
4600-20-2759

Planning staff recommend that this rezoning application be considered for approval.

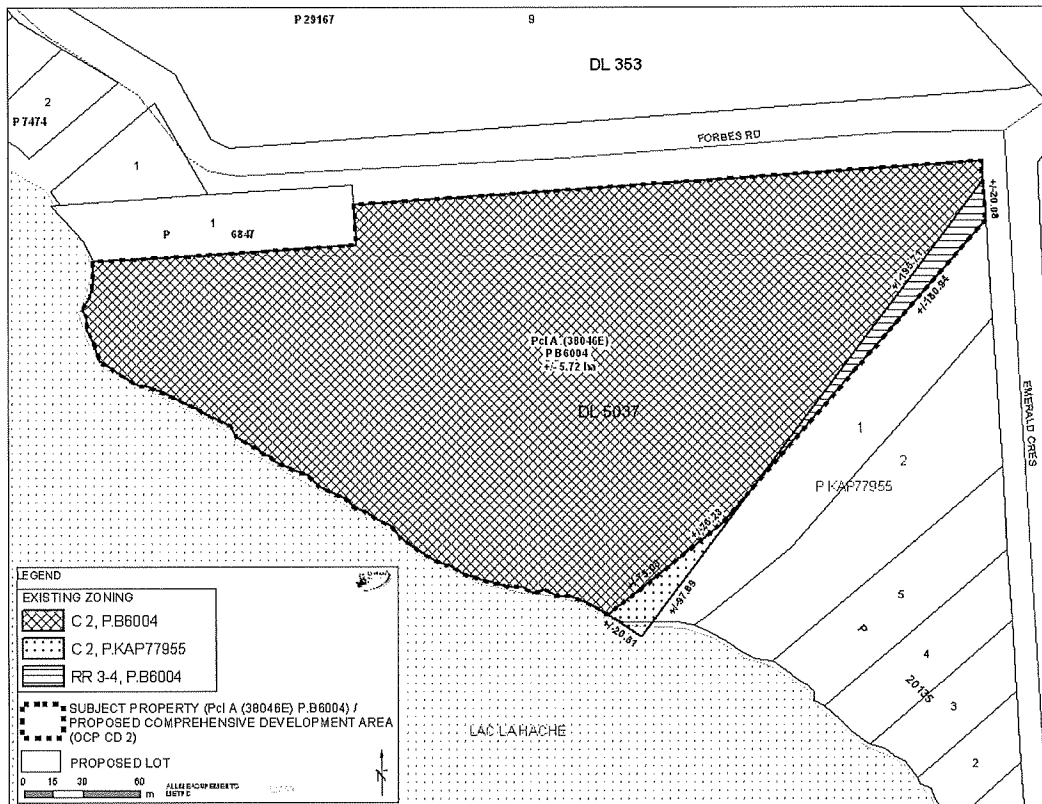
The application seeks to create a Comprehensive Development zone (CD zone) in order to convert an existing campground into a Recreational Vehicle and Cabin bareland strata development that will also include a limited amount of public campground. In addition, the common area is to allow for the operation of Limited Service Commercial activities that are subsidiary to the campground use.

The 6.04 hectare property is located in Lac La Hache at the junction of Forbes Road and Fircrest Road, near Cariboo Highway South, as shown in the graphic below.



The parcel is proposed to be rezoned from Tourist Commercial (C 2) zone and Special Exception RR 3-4 zone to the proposed Comprehensive Development 2 (CD-2) zone – Fir Crest Resort - under the South Cariboo Area Zoning Bylaw No. 3501. Staff point out that the purpose of a Comprehensive Development (CD) zone is to provide a zone that allows for the creation of comprehensive site specific land use regulations where circumstances are such that the project cannot be accommodated by existing zoning.

Parcel A was subject of a previous rezoning application (4600-20-2451) to create two residential lots. The lot layout was slightly changed at subdivision stage which resulted in a small section of the northeast corner of Fircrest Resort to be zoned RR 3-4. The graphic below shows the existing and proposed zoning.



Staff note that this application is accompanied by an Official Community Plan amendment to create a new designation. The subject property is located in the Lac La Hache Official Community Plan

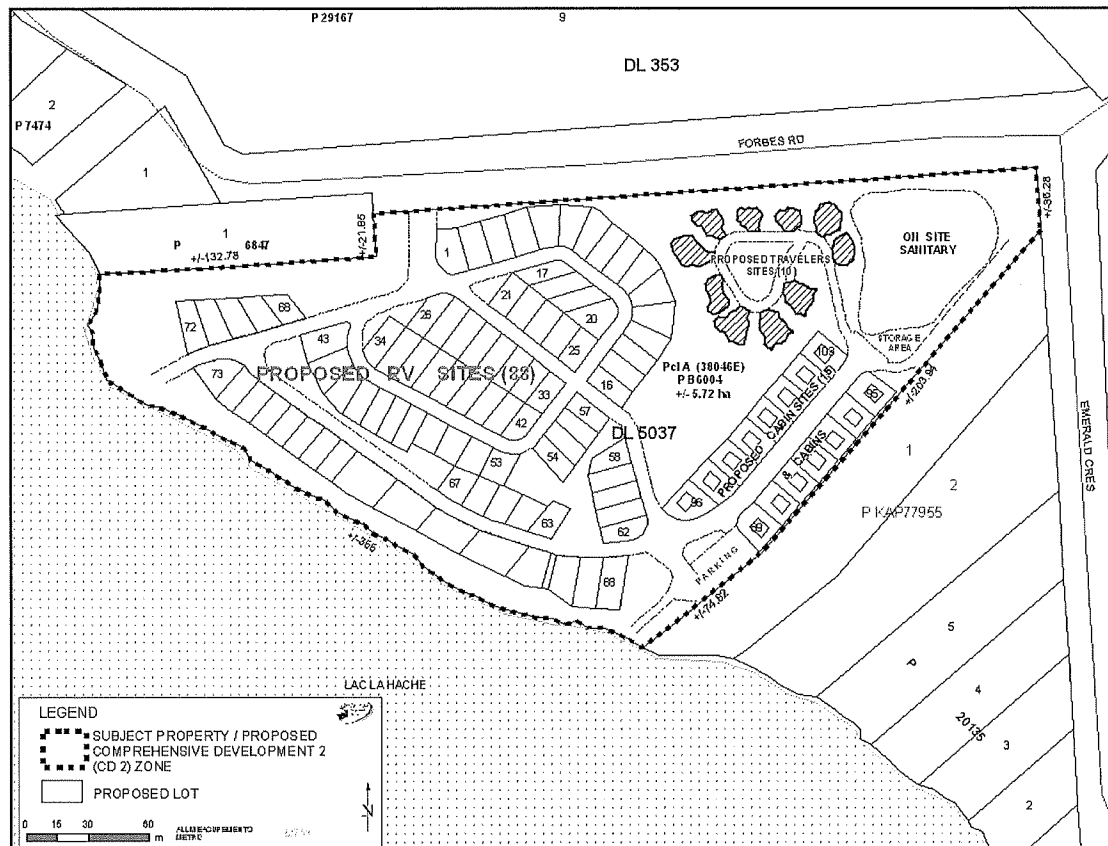
The Fircrest Resort has been operating as a public campground and is comprised of campsites serviced with private water and septic disposal, as well as several lakeshore cabins. An on-site manager’s dwelling, maintenance buildings, staff cabin, docking and parking areas are proposed to be retained as part of the redevelopment. The majority of existing cabins will be removed to be replaced with recreational vehicle strata sites.

Staff further point out that under Section 242 of the Strata Property Act, a strata plan for a building that has been previously occupied requires the approval of the approving authority i.e. the Regional Board. The Act further specifies that the approving authority must not approve the strata plan unless the building substantially complies with the following:

- (a) the applicable bylaws of the municipality or the regional district;
- (c) the British Columbia Building Code referred in the Building Regulations of British Columbia.

The proposed strata development will include a maximum of 88 recreational vehicles sites and 14 strata cabin sites, as well as a minimum of 10 public campground sites. No more than one recreational vehicle will be permitted per Strata Recreational site.

Ancillary buildings and structures will be permitted for primary and secondary uses; however the maximum area for ancillary building on Strata Recreational Vehicle site or Cabin site will be limited to 5 square metres (50 square feet). Further, no more than two Accessory Dwelling Units are to be permitted in the common area. The proposal layout is shown in the graphic below. Staff note that it was in the interest of the proponent to return a number of campsites/RV sites for the travelling public.



The proposed development density is a decrease from the existing permitted density under the Tourist Commercial (C 2) zone. In comparison, based on Parcel A's area, the existing C 2 zone allows up to 168 Recreational Vehicle or Campsites, and up to 89 Cabins. The Fir Crest Resort redevelopment proposal was revised prior to submission to the CRD based on public consultation held by the proponent. Hence, the density and proposed land uses associated with the proposed CD-2 zone addresses the public concerns expressed in the two public meetings.

The proposed Comprehensive Development zone also includes provision for landscaping and screening. Further, the first fifteen metres of the riparian zone will be covenanted as per the requirement of the CRD Shoreland Management Policy. Staff note that Lac La Hache is designated a high sensitivity lake. The proponent is proposing a community water and sewer system to ensure the quality of on-site sanitary services and the protection of Lac La Hache water quality. The proposed water system will draw water from an onsite well and will receive on-site treatment prior to distribution. A Type 3

Treatment sanitary plant with subsurface disposal is currently being designed for the site and will require approval by the Ministry of Environment. Staff note that semi-annual monitoring of the Type 3 System will be implemented. Further, three covenants were registered as part of the two-lot subdivision. Covenant KX47880 is a no build covenant saving harmless to the Regional District if the property is flooded. The other two covenants (KX0003105 and KX0003106) were registered as part of the RR-3-4 rezoning and were for on-site septic disposal and riparian protection respectively. As such, those two covenants shall be discharged.

Upon review of the proposed comprehensive development zone, planning staff believes that the redevelopment of the Fir Crest Resort would not have a negative impact on the surrounding lands and that the proposal has been tailored to meet the concerns of the residents.

Recommendation: That Cariboo Regional District South Cariboo Area Zoning Amendment Bylaw No. 4517, 2009 be read a first and second time this 19th day of May 2009. Further, that this application be subject to:

- 1) Adoption of the Cariboo Regional District Lac La Hache Area Official Community Plan Amendment Bylaw No. 4516, 2009;
- 2) The applicant entering into a covenant to ensure compliance with the provisions of the Shoreland Management Policy prior to consideration of final adoption with respect to on-site effluent disposal and riparian buffer protection;
- 3) Discharge of covenant KX0003105 and KX003106 from Parcel A (38046E) (Plan B6004) of District Lot 5037, Lillooet District, except Plans 6847, 20135 and KAP77955;
- 4) Confirmation that an application for sewage disposal has been approved by the Ministry of Environment;
- 5) Submission of a report from a qualified professional on compliance with the BC Building Code for any previously occupied building that will be retained in the proposed strata.

Further, that all costs associated with the registration and discharge of covenants to be borne by the applicant.