

Appendix E: Referral Comments

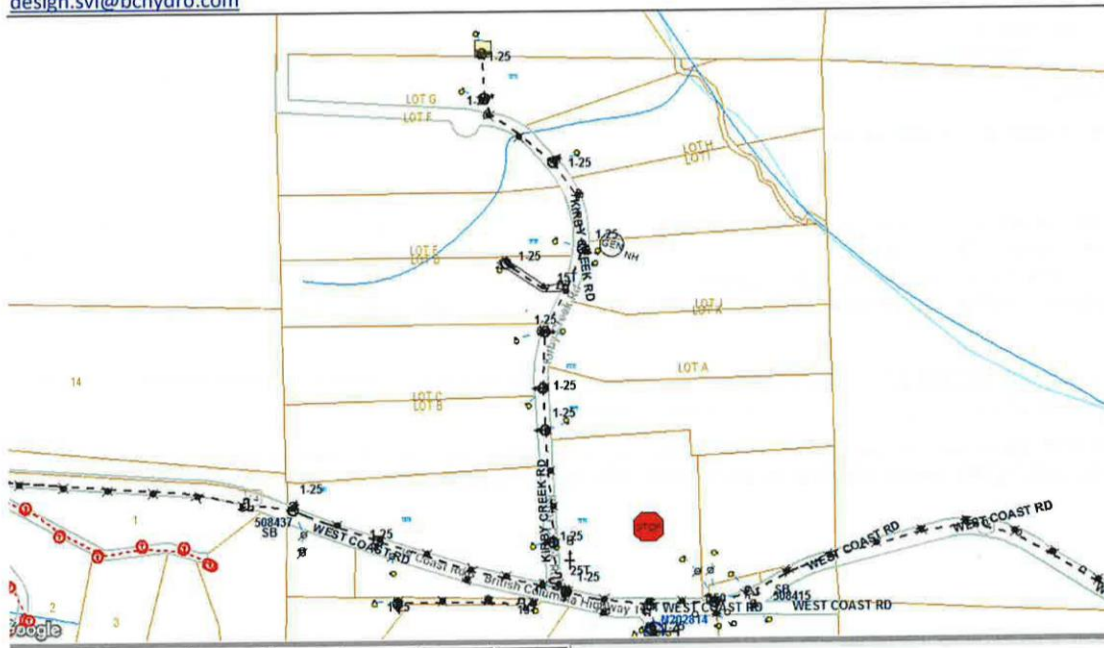
Wendy Miller

To: Wendy Miller
Subject: [External] RE: Zoning Amendment Application RZ000275 - CRD Referral (Kirby Creek Road - Shirley)
Attachments: REFFERAL-FORM-AGENCIES-RZ000275.pdf; PPS-JDF-2022-02-15-RZ000275-Referral-LUC-Report.pdf

From: Mann, Elaine [<mailto:Elaine.Mann@bchydro.com>]
Sent: Tuesday, March 08, 2022 7:56 AM
To: Wendy Miller <[wmiller@crd.bc.ca](mailto:wmill@crd.bc.ca)>
Cc: Reidy, Drew <Drew.Reidy@bchydro.com>; Design, SVI <design.svi@bchydro.com>
Subject: FW: [External] RE: Zoning Amendment Application RZ000275 - CRD Referral (Kirby Creek Road - Shirley)

Hi Wendy

Property Rights do not have issue with the Proposed Bylaw No. 4464 to amend Bylaw No. 2040 to rezone ten 4 ha properties property on Kirby Creek Road from the Forestry (AF) zone to the Rural 2 (RU2) zone for the purpose of permitting agriculture and farm buildings. If Distribution Design in Victoria have any issue/comments they will provide you with a response under separate cover. If you wish to follow up with that office, please contact them at email design.svi@bchydro.com



Elaine Mann | Property Coordinator, Property Rights Services

BC Hydro
400 Madsen Road, 2nd Floor
Nanaimo, BC V9R 5M3

P 250-755-7169
E elaine.mann@bchydro.com

bchydro.com

Smart about power in all we do.



2205 Otter Point Road, Sooke, British Columbia, Canada V9Z 1J2
Phone: 250-642-1634 Fax: 250-642-0541 Email: info@sooke.ca Website: www.sooke.ca

CRD Rezoning Application Referral to District of Sooke Planning Department

Wednesday, March 2, 2022

DOS File No.: CRD Referral

Juan de Fuca Community Planning
3-7450 Butler Road
Sooke, BC V9Z 1V1

Via Email: wmiller@crd.bc.ca

Dear Iain Lawrence, RPP, MCIP, Manager, Juan de Fuca Community Planning

Re: Referral Comments on rezoning application to amend Bylaw No. 2040 for Lots A-H and J and K, District Lot 87, Renfrew District, Plan EPP31225 – Kirby Creek Road from Forestry (AF) to Rural 2 (RU2) for the purposes of permitting agricultural uses and farm buildings.

Upon review of the proposed bylaw amendment to Bylaw No. 2040, Planning staff have determined that the District of Sooke's interest are unaffected by the proposed bylaw amendment RZ000275.

Thank you for providing the opportunity to comment on the proposed rezoning application.

If you have any further questions, please do not hesitate to contact me at the email provided below.

Yours Truly,

A handwritten signature in black ink, appearing to be "KJB", with a horizontal line underneath.

Kasha Janota-Bzowska, Planner I
Planning and Development Department
2205 Otter Point Road
Sooke, BC, V9Z 1J2

Email: kjanotabzowska@sooke.ca

Web: www.sooke.ca

CC: Matthew Pawlow, RPP, MCIP, Director of Planning and Development Services

From: [Cooper, Diana.FLNR:EX](#)
To: [Wendy Miller](#)
Subject: RE: Zoning Amendment Application RZ000275 - CRD Referral (Kirby Creek Road - Shirley)
Date: Tuesday, March 08, 2022 3:03:25 PM
Attachments: [image002.png](#)
[image003.png](#)

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Hello Wendy,

Apologies for the delay. The information inbox is overflowing!

Thank you for your referral regarding a zoning amendment for the following properties:

LOT A DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514819;
LOT B DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514827;
LOT C DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514835;
LOT D DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514843;
LOT E DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514851;
LOT F DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514860;
LOT G DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514878;
LOT H DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514886;
LOT J DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514908; and
LOT K DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514916.

Please review the screenshot of the properties below (outlined in yellow) and notify me immediately if it does not represent the properties that are listed in your referral.

Results of Provincial Archaeological Inventory Search

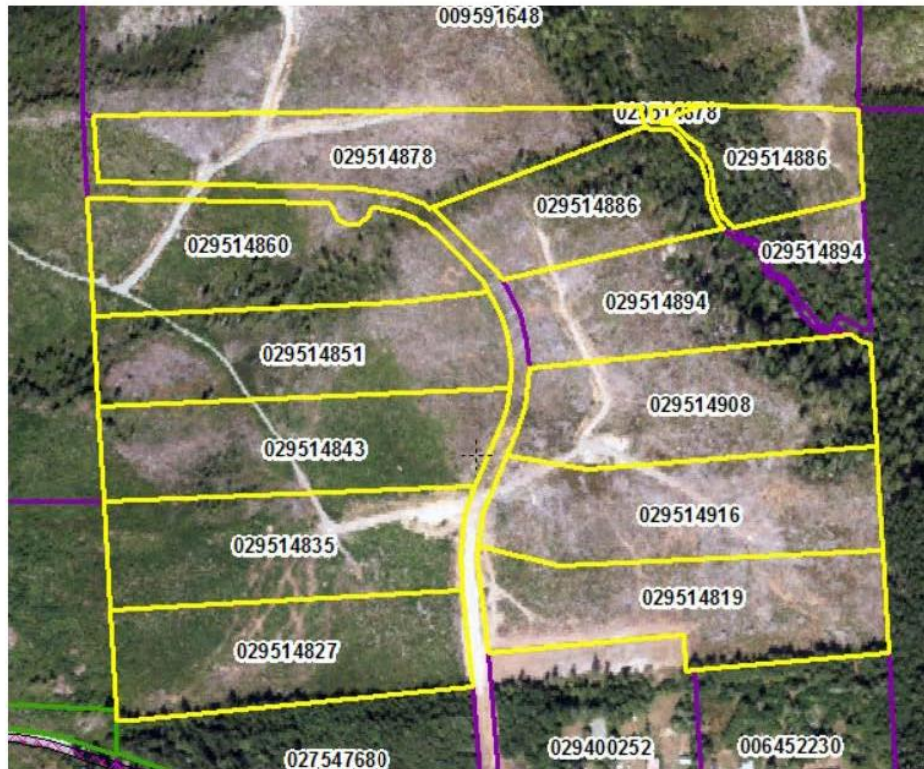
According to Provincial records, there are no known archaeological sites recorded on any of the properties.

Archaeological potential modelling for the area does not indicate a high potential for previously unidentified archaeological sites to be found on the subject properties.

Archaeology Branch Advice

The Archaeology Branch does not identify a need for archaeological study or Provincial heritage permit(s) at the time of this information request.

Please notify all individuals (e.g., owners, developers, equipment operators) involved in land-altering activities (e.g., home renovations, property redevelopment, landscaping, service installation) that if archaeological material is encountered during development, they **must stop all activities immediately** and contact the Archaeology Branch for direction at 250-953-3334.



Please note that subject lot boundaries (yellow) indicated on the enclosed screenshot are based on information obtained by the Archaeology Branch on the date of this communication and may be subject to error or change.

Diana Cooper
Archaeologist/Archaeological Information Administrator
Archaeology Branch|Ministry of Forests, Lands, Natural Resource Operations and Rural Development
Phone: (250) 953-3343|Email: diana.cooper@gov.bc.ca |Website www.gov.bc.ca/archaeology

RESPONSE SUMMARY – REZONING APPLICATION RZ000275

Interest Affected by Proposal for Reasons Outlined Below

Interest Unaffected by Proposal

Comments:

The Ministry of Forests, Lands, Natural Resource Operations and Rural development, Water Protection Section, has received a referral with respect to proposed land-use change of the subject area (lots A-H, and lots J and K, District Lot 87, Renfrew District, Plan EPP31225 – Kirby Creek Road).

Of the wells drilled on the subject area lots, four are in Aquifer 606 bedrock with depths ranging from 104 to 256 m and yields from 0.25 to 8 US gallons per minute (US GPM), and six are in overlying unconsolidated materials with depths from 17 to 29 m and yields from 2 to 10 US GPM. Aquifer 606 (AQ606 Fact Sheet: <https://apps.nrs.gov.bc.ca/gwells/aquifers/606>) consists of fractured volcanic bedrock, known to have a very low productivity, in particular in wells constructed at higher elevation. The median depth of bedrock wells registered in the Groundwater Wells database (GWELLS <https://apps.nrs.gov.bc.ca/gwells>) within 1 km of this site is 39 m, ranging from 17 m to 256 m, and 50% of wells are greater than 60 m deep.

As this area does not have a local water service provider, the applicants should be advised that a water licence (for surface water or for non-domestic groundwater use) is required under the *Water Sustainability Act* (<https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/14015>). Information about water application requirements and process can be found here: <https://portal.nrs.gov.bc.ca/web/client/-/water-licence-application>.

A tributary to Kirby Creek flows through the subject area (lots G, H and J as well as lots D, E and F). There is no water allocation restriction on Kirby Creek. For more information on water licensing and rights refer to: <https://www2.gov.bc.ca/gov/content/environment/air-land-water/water/water-licensing-rights>. A groundwater license for domestic use on a single lot is not required for domestic parcels serviced by individual wells.

Due to the presence of a shallow overburden, the aquifer is also classified as having an overall high vulnerability to contaminants introduced at the land surface. Intrinsic vulnerability mapping (<https://catalogue.data.gov.bc.ca/dataset/drastic-aquifer-intrinsic-vulnerability>) indicates that aquifer vulnerability to contamination in the area of the subject parcel may be moderate. Animal grazing areas, paddocks and locations of manure storage can be a source of nutrient and bacterial contamination of surface and groundwater sources, therefore adequate (minimum 30 m) setbacks of these contaminant source from wells and surface water sources is required (in accordance with *Public Health Act*, Health Hazard Regulation https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/216_2011), and agricultural best practices (Code of Practice for Agricultural Environmental Management) https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/8_2019) to reduce runoff of contaminants are recommended to be employed.

The subdivision map identified the boundaries of riparian features on lots G & H. In addition, there are indications of a tributary (ephemeral?) stream on lots D, E and F not noted on the subdivision plan. Development plans should clearly map and identify all water course and the applicants should be advised of regulatory requirements that could affect the development and siting considerations. The site and lot design should identify access considerations to minimize disturbance of the riparian areas, including adequate building site setbacks from the riparian boundaries. For example, it is not clear how landowners of proposed lots G & H would access the portion of the lot on the opposite side of the wetland or stream, without interference with or alteration of the riparian area. A qualified environmental professional is required to assess building

plans to ensure development is compliant with the [Riparian Areas Protection Regulation](https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/fish/aquatic-habitat-management/riparian-areas-regulation) (more information at: <https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/fish/aquatic-habitat-management/riparian-areas-regulation>) and related local bylaws.

No additional concerns are noted with respect to the proposed bylaw.

David van Everdingen		Regional Hydrogeologist
Signed	_____	Title
February 18, 2022	_____	Ministry of Forests, Lands, Natural Resource Operations & Rural Development Water Protection
Date	_____	Agency

Response Summary – Rezoning Application RZ000275

Response from the Ministry of Forests, Lands, Natural Resource Operations, and Rural Development

✓ **Interest Affected by Proposal for Reasons Outlined Below**

Comments:

We have reviewed the application to rezone ten 4-ha properties on Kirby Creek Road from Forestry to Rural 2 to permit agriculture and farm buildings. It appears that there has been significant development since sometime between 2012 and 2015 when Kirby Creek Road and associated driveways were paved, and ponds were created. It also appears that Kirby Creek Road crosses a stream that is a tributary to Kirby Creek, which is fish-bearing. Based on our records, neither the Kirby Creek Road crossing over the tributary to Kirby Creek, nor the 3+ constructed ponds received approval under the *Water Sustainability Act*, indicating that unauthorized construction has occurred. Based on these findings, we recommend the following:

- If the ponds contain water that is coming from a groundwater source or is being diverted from a stream, or if the water held in the ponds is being used for non-domestic purposes (i.e., agricultural or livestock), a Use Approval or License is required under the *Water Sustainability Act*. Landowners should be aware of these requirements and can find more information at <https://www2.gov.bc.ca/gov/content/environment/air-land-water/water/water-licensing-rights/water-licences-approvals>.
- The CRD offset the construction of any unauthorized ponds by planting native riparian plants around them. It is not recommended to remove unauthorized ponds since local amphibian populations may have begun using the ponds for breeding.
- Any development on lots containing streams (i.e., Kirby Creek tributaries) require a *Riparian Areas Protection Regulation (RAPR)* assessment by a Qualified Environmental Professional to determine the Streamside Protection and Enhancement Area (SPEA) where no disturbance can occur.
- Property owners should be reminded any required vegetation clearing be minimized and occur outside the nesting period from March 1 to August 31 to reduce impacts on all bird species. Any disturbances to nesting birds would be a violation of the provincial *Wildlife Act* and possibly the federal *Migratory Birds Convention Act*.

Please let me know if you have any questions or concerns about the recommendations above.

Sincerely,

Emily Upham-Mills, M.Sc., R.P.Bio.

Ecosystems Biologist
West Coast Region
Ministry of Forests, Lands and Natural Resource Operations and Rural Development
2080 Labieux Road
Nanaimo BC V9T 6J9
ph: 250-736-6974
Email: Emily.Upham-Mills@gov.bc.ca



March 10, 2022

Iain Lawrence
Manager of Community Planning
Capital Regional District

Sent by email

Dear Iain:

Re: File RZ000275 – Rezoning Application for ten 4 ha properties on Kirby Creek Road – The Subject Properties

Thank you for providing the opportunity for the Ministry of Agriculture, Food and Fisheries (Ministry) to comment on File RZ000275 that proposes to rezone ten 4 ha properties to permit agricultural uses and farm buildings. From an agricultural perspective, the Ministry offers the following comments:

- The Subject Properties are not located within the Agricultural Land Reserve (ALR) nor do they border on land in the ALR.
- The Subject Properties are currently zoned Forestry (AF) in the Juan de Fuca Land Use Bylaw, 1992. The AF zone does not allow agriculture as either a permitted use or an accessory use. The applicants propose to rezone the Subject Properties to the Rural 2 (RU2) zone which allows agriculture and farm buildings as permitted uses.
- Ministry staff support the rezoning application given that, if approved, agriculture and farm buildings will be permitted on the Subject Properties.

Please contact Ministry staff if you have any questions regarding the above comments.

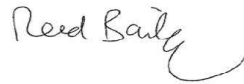
Thank you for the opportunity to provide comments from an agricultural perspective with respect to this file.

Ministry of Agriculture, Extension and Support
Food and Fisheries Services Branch

Mailing Address:
PO Box 9120, Stn Prov Gov
Victoria, BC V8W 9B4

-2-

Sincerely,



Reed Bailey
Land Use Planner
778-698-3455
Reed.Bailey@gov.bc.ca



Emily Carmichael
Regional Agrologist
778 666-2437
Emily.Carmichael@gov.bc.ca

Cc: Shannon Lambie, Regional Planner – Agricultural Land Commission



Our file: 2022-01056
Your file: RZ000275
Date: March 1, 2022

Juan de Fuca Planning
3-7450 Butler Road
Sooke, BC V9Z 1N1

Attn: Ian Lawrence, Manager

The Ministry of Transportation and Infrastructure has received and reviewed your referral of February 16, 2022 to amend Bylaw No. 2040 to rezone ten 4 ha properties property on Kirby Creek Road from the Forestry (AF) zone to the Rural 2 (RU2) zone for the purpose of permitting agriculture and farm buildings. The property does not fall within Section 52 of the Transportation Act and will not require Ministry of Transportation and Infrastructure formal approval.

The Ministry has no objections to the proposed rezoning.

Thank you for the opportunity to comment. If you or the proponent has any questions, please contact Jennifer Dyer at 778-576-1109.

Sincerely,

Jennifer Dyer
Development Services Officer
Vancouver Island District – Saanich

Ministry of
Transportation and
Infrastructure

Vancouver Island District

Mailing Address:
District Office Address:
2100 Labieux Road
Nanaimo, BC V1J 6M7

Area Office Locations:
4460 Chatterton Way
Saanich, BC V8X 5J2

From: [Sinden, Brett](#)
To: [Wendy Miller](#)
Cc: [Shaw, Kevin](#)
Subject: RE: Zoning Amendment Application RZ000275 - CRD Referral (Kirby Creek Road - Shirley)
Date: Wednesday, February 16, 2022 12:08:04 PM

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Good afternoon Wendy.

Sooke RCMP have no comments to add to this application.

Additionally, could you please add Sgt Kevin Shaw as the contact for Sooke RCMP. He is the acting detachment commander while I am away at an assignment at our district office. He is cc'd here.

Thanks.

Brett

S/Sgt Brett SINDEN
Detachment Commander
Sooke RCMP
250-642-5241 extension 2227

From: [Marty Gilbertson](#)
To: [Wendy Miller](#)
Subject: Re: Zoning Amendment Application RZ000275 - CRD Referral (Kirby Creek Road - Shirley)
Date: Tuesday, March 08, 2022 4:20:17 PM

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In regards to the zoning change on the property on Kirby Creek road the Fire Department has no concerns with this change. Makes sense on 10 acre lots for the owners to be able to use the land to its full potential.



Making a difference...together

**Minutes of a Meeting of the Shirley/Jordan River Advisory Planning Commission
Held March 15, 2022 at Juan de Fuca Local Area Services Building, 3-7450 Butler Road,
Otter Point, BC**

PRESENT: Fiona McDannold (Chair), Emily Anderson, Vivi Curutchet, Melody Kimmel
Staff: Iain Lawrence, Senior Manager, JdF Local Area Services (EP);
Wendy Miller, Recorder (EP)

ABSENT: Blair Hughes

PUBLIC: Approximately 7 (EP); 4 in-person

EP – Electronic Participation

The meeting was called to order at 7:05 pm.

1. Elections

Iain Lawrence called for nominations for the position of Chair of the Shirley/Jordan River APC for 2022 and Fiona McDannold's name was put forward. Iain Lawrence called two further times for nominations and, as there were none, Fiona McDannold was acclaimed Chair.

Fiona McDannold called for nominations for the position of Vice Chair of the Shirley/Jordan River APC for 2022 and Melody Kimmel's name was put forward. Fiona McDannold called two further times for nominations and, as there were none, Melody Kimmel was acclaimed Vice Chair.

2. Approval of the Agenda

MOVED by Vivi Curutchet, **SECONDED** Emily Anderson by that the agenda be approved. **CARRIED**

3. Approval of the Supplementary Agenda

MOVED by Melody Kimmel, **SECONDED** by Emily Anderson that the supplementary agenda be approved. **CARRIED**

4. Adoption of the Minutes of June 7, 2021

MOVED by Melody Kimmel, **SECONDED** by Vivi Curutchet that the minutes of June 7, 2021, be adopted. **CARRIED**

5. Planner's Report

No report.

6. Zoning Amendment Application

a) RZ000275 - Lots A-H, and J and K, District Lot 87, Renfrew District, Plan EPP31225 (Kirby Creek Road)

Iain Lawrence spoke to the staff report for a joint application to rezone the subject properties from Forestry (AF) to Rural 2 (RU2). It was advised that the Juan de Fuca Land Use Committee (LUC) directed referral of the application to the Shirley/Jordan River APC at its meeting of February 15, 2022.

**Shirley/Jordan River Advisory Planning Commission Meeting Minutes
March 15, 2022**

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Iain Lawrence highlighted the subject properties and outlined the RU2 zone. It was advised that the RU2 zone requires that agricultural uses and farm buildings/structures be a minimum of 15 m from the natural boundary of a watercourse and that the RU2 zone provides definitions for Agriculture and Farm Building that are specific to the zone.

Iain Lawrence responded to questions from the APC advising that:

- the RU2 zone was created for the rezoning of a split zoned Rural A and AF parcel on Invermuir Road in Shirley in 2019
- the Invermuir Road property is large and would have been able accommodate a sizable indoor equestrian riding arena
- a proposal in Otter Point is currently being considered to permit an equestrian riding facility under a new agriculture zone
- the primary applicant sought out other 4 ha property owners interested in rezoning
- one of the 4 ha properties in the subdivision is not part of the rezoning application and will remain zoned AF with the current list of permitted uses.
- the 15 m setback from the natural boundary of a watercourse required by the RU2 zone is in keeping with the provincial agricultural setbacks from watercourses
- the Official Community Plan Development Permit Area designations include a 30 m assessment area on both sides of a stream/watercourse that applies to any removal of vegetation or other site alteration
- sewerage/septic capacity is confirmed by a certified Wastewater Operator and approved by Island Health and verified through the building permit process
- agricultural runoff is regulated by the Ministry of Agriculture

A member of the public stated that there are existing dwellings in the subject application area without approved septic and that non-compliance has been reported to the CRD.

Iain Lawrence stated that he will contact CRD Bylaw Enforcement regarding the report of non-compliance.

Applicants stated:

- rainwater is being captured for domestic use by some property owners
- property owners are interested in small stock livestock keeping and not large commercial agricultural pursuits

MOVED by Fiona McDannold, **SECONDED** by Emily Anderson that the APC recommends to the LUC that it supports the rezoning application.

CARRIED

7. Adjournment

The meeting adjourned at 7:30 pm.

Chair