

# ADMINISTRATIVE REPORT



**TO:** Board of Directors  
**FROM:** B. Newell, Chief Administrative Officer  
**DATE:** January 5, 2023  
**RE:** Development Variance Permit Application — Electoral Area “G” (G2022.048-DVP)

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## Administrative Recommendation:

**THAT Development Variance Permit No. G2022.048-DVP, to allow a new parcel to be created through subdivision utilizing an off-site well at 2748 Liddicoat Road, be denied.**

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Legal: Lot B, Plan KAP2485, Section 31, Township 52, SDYD      Folio: G-07060.000  
OCP: Agriculture (AG)      Zone: not applicable  
Variance Requests: various (see below)

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## Proposed Development:

This application is seeking variances to the Regional District’s Subdivision Servicing Bylaw No. 2000, 2002, in order to allow a new parcel to be created through subdivision to utilize an off-site well.

Specifically, it is being proposed to waive the following regulations under Schedule “A” (Design Criteria, Specifications and Standard Drawings):

1. the requirement to submit a report by a certified Professional Engineer which includes a well log or pump test completed within the previous 12 months.
2. the requirement for construction of a well on each parcel of a proposed subdivision that is dependent on groundwater as a source of water.
3. the requirement that a well is restricted to supplying water to the parcel on which it is located.

In support of this request, the applicant has stated that:

- *The testing requirement would cost Mrs. Clifton in excess of \$7,000.00, while the existing well and infrastructure has functioned well in excess of the RDOS minimum standards for more than 40 years.*
- *With regards to the well tenure being an easement instead of on the lot itself, the Land Commission required a minimum parcel footprint, which did not include the well. We cannot construct a new well within the proposed home site severance as the bedrock is too close to the surface... It is impossible for us to meet all the requirements of all the government agencies.*

## Site Context:

The subject property is approximately 43 ha in area and is situated on the north side of Liddicoat Road, approximately 2 km north from the boundary with Village of Keremeos. The property is currently developed to include multiple residences, multiple accessory buildings and agricultural land.

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The surrounding pattern of development is characterised by agricultural land, vacant land, and large holdings parcels developed to include single detached dwellings.

**Background:**

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on August 20, 1936, while available Regional District records indicate that building permits have not previously been issued for this property.

Under the Electoral Area “G” Official Community Plan (OCP) Bylaw No. 2975, 2022, the subject property is currently designated Agriculture (AG).

The property is within the Agricultural Land Reserve (ALR) and has been classified as part “Residential” (Class 01) and part “Farm” (Class 09) by BC Assessment.

Subdivision:

On April 30, 2021, the Agricultural Land Commission (ALC) approved a homesite subdivision of the subject property that would create an approximately 0.3 ha parcel around the existing dwelling and leave a 40.8 ha remainder parcel suitable for continued agricultural use with access from Liddicoat Road.

On January 19, 2022, the Ministry of Transportation and Infrastructure (MoTI) referred a proposed 2 lot subdivision involving the subject property to the Regional District for compliance with any applicable RDOS land use bylaws.

Under Section 10.3 of the Regional District Subdivision Servicing Bylaw No. 2000, 2002, a homesite severance subdivision approved by the ALC is exempt from the “Community Water System” and “Community Sewer System” requirements of the bylaw *if* provided with an on-site water source and on-site sewage disposal system.

In this instance, the on-site water source for the homesite severance parcel is to be sited on the 40.8 ha remainder parcel.

**Public Process:**

Adjacent property owners will have received notification of this application with written comments regarding the proposal being accepted, in accordance with Section 2.10 of Schedule ‘4’ of the Regional District’s Development Procedures Bylaw No. 2500, 2011, until 4:30 p.m. on November 18, 2022. All comments received are included as a separate item on the Board’s Agenda.

**Analysis:**

In considering this proposal, Administration notes that the purpose of regulating water servicing standards for new parcels through the Subdivision Servicing Bylaw is generally to ensure that these parcels are provided with a source of adequate drinking water.

Responsibility for ascertaining whether the bylaw’s requirements for quality and for quantity of water from a private water source can be met is that of the owner of the land being subdivided, and the Regional District requires the submission of a report from a qualified professional (e.g. Professional Engineer) to confirm compliance. This is consistent with the professional reliance model widely used throughout the British Columbia.

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In the absence of a report from a qualified professional, it is not possible for the Regional District to confirm that a new parcel is capable of being provided with an adequate private water source.

In this instance, the applicant has indicated that there *may* not be an adequate source of water due to the presence of bedrock under the proposed homesite severance parcel and that the cost of undertaking the necessary site testing by a qualified professional represents financial hardship to the property owner.

Financial hardship is not seen to be a valid land use planning consideration (e.g. it could be used to justify any contravention of a zoning or servicing regulation) and that other options are available to the property owner, such as undertaking the necessary drilling and testing (NOTE: it is understood that there are companies in the region capable of drilling through bedrock to create wells).

Alternative:

Conversely, it is recognised that the applicant has provided a pump test from 1975 indicating that the well complied with RDOS standards at that time and they have further advised that it has continuously provided a source of potable water to the dwelling over the preceding decades.

That the on-going use of this well can also be secured through the registration of a statutory easement in favour of the homesite severance parcel, thereby ensuring the existing dwelling will continue to be provided with a source of water.

Accordingly, requiring the drilling of a new well 50 metres to the east of the current well may be seen as an unnecessary and uneconomical use of resources and that the intent of the bylaw can be satisfied through the use of the easement.

It is also recognized that the current boundaries of the property along with the presence of Keremeos Creek and limited public road frontage present significant challenges to, and likely preclude revising the boundaries of the homesite severance parcel to incorporate the existing well. For instance, a condition of the ALC's approval is maintaining a direct frontage to a public road for the remainder of the parcel in order to maintain its on-going agricultural use.

If, in future, the current well fails, the presence of bedrock at the site does not render future drilling on this site impossible, rather, it only creates a financial limitation. That a viable well has existed for 48 years on the other side of the driveway suggests access to ground water is not an issue at this location (NOTE: Keremeos Creek exists 250 metres to the west).

Finally, Administration notes that when requiring the confirmation of a water source on a new parcel, the Regional District "does not warrant or guarantee the continuing quality or quantity of water on [that] parcel over time."

Summary:

In summary, Administration does not support the requested variances because they lack adequate justification and they are not consistent with the intent of the Bylaw.

**Alternatives:**

1. That the Board approve Development Variance Permit No. G2022.048-DVP subject to the following conditions being satisfied:

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- i) An easement be registered at the Land Title Office to the satisfaction of the Regional District to provide access to the off-site well from the proposed 0.3 ha parcel.

**Respectfully submitted**

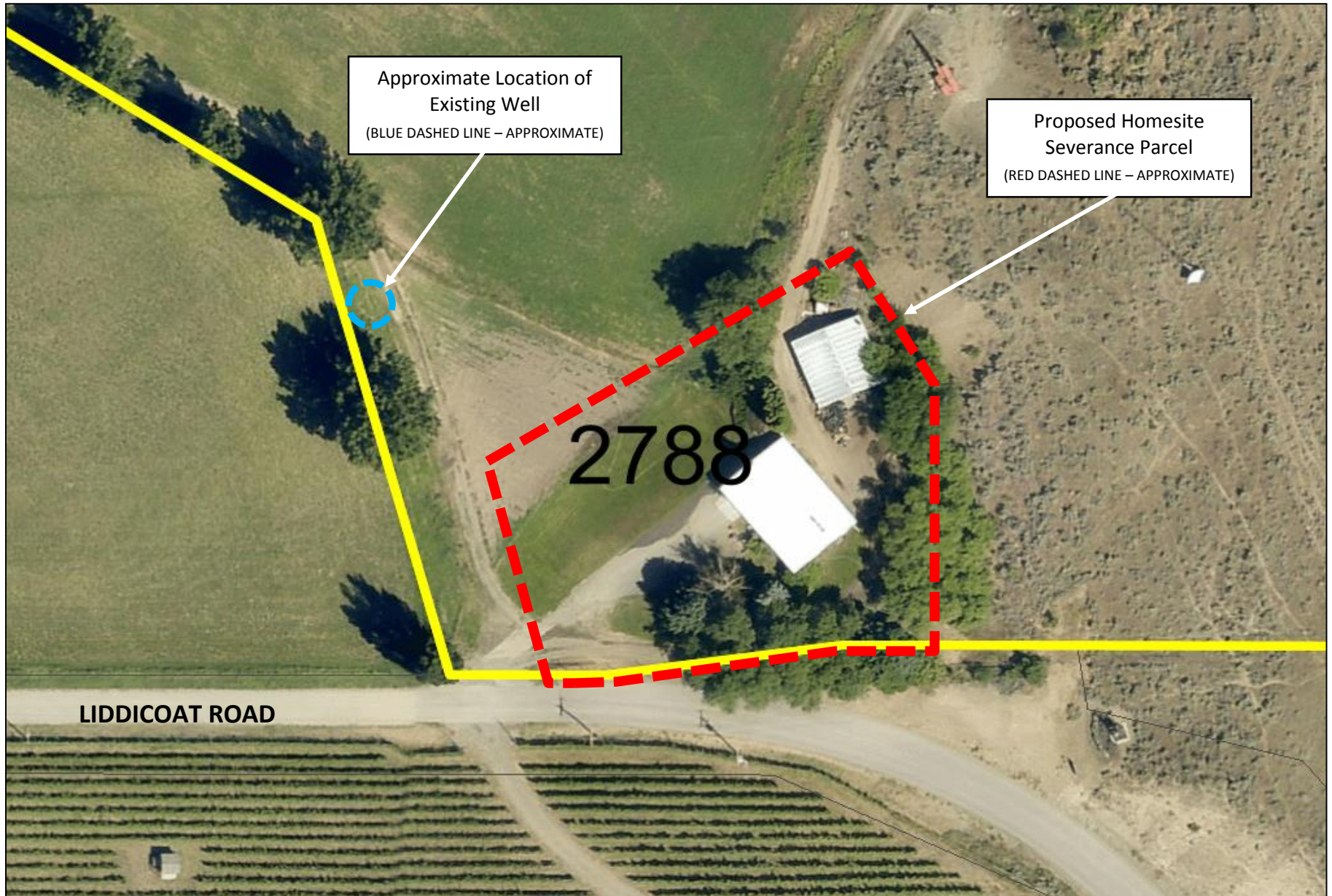
*Ben Kent*  
Ben Kent, Planner I

**Endorsed by:**

  
C. Garrish, Planning Manager

Attachments: No. 1 – Aerial Photo  
No. 2 – Site Photo (2021)

Attachment No. 1 – Aerial Photo



Attachment No. 2 – Site Photo (2021)

