

Rationale for Development Variance Permit Application

(1) Overview

This rationale for variance supports an application for a Development Variance Permit (DVP) to reduce the interior side parcel line setback for a chicken coop (the “**Chicken Coop**”), a horse stable/barn (the “**Horse Barn**”), and a hay barn (the “**Hay Barn**”) (collectively referred to herein as the “**Structures**”) situated on 137 Saddlehorn Drive, Kaleden, British Columbia (the “**Property**”). Tracy Gray and Darren Maclellan (the “**Applicants**”) are seeking to reduce the setback for the “Structures” from 15.0 meters to 0.0 meters. The Structures have existed on the Property for approximately 25 years and have all historically been used for equestrian and agricultural purposes.

(2) Property Background

The Property is approximately 3.3 hectares (8.08 acres) and consists primarily of steep and rocky hillside. The Property is situated in a rural neighborhood and is ideally set up for horses, consisting of multiple outbuildings, barns, irrigated pastures, fenced paddocks, and a riding arena (See Chamberlain Letter of Opinion). The Structures have been in place since approximately 1998 and are positioned to maximize the agricultural utility and recreational equestrian capabilities of the Property (See Engel and Volkers Letter of Opinion). The Structures provide seamless access to 2.0 acres of irrigated pasture (See Engel and Volkers Letter of Opinion). There is also a septic field on the Property.

The Applicants use this Property as their principal residence, for recreational equestrian purposes, and limited agriculture. The limited agriculture done on the Property consists of rearing and grazing horses and keeping egg laying hens. The Applicants currently keep 3 horses and 1 mini-horse within the Horse Barn. The Applicants use the Chicken Coop to house their 12 egg-laying hens and a rooster.

The Applicants use the Hay Barn for storing hay and farm related equipment. The stored hay is for the horses kept on the Property. Examples of the type of farm related equipment within the Hay Barn include a horse trailer, ATV, dump bucket, and horse-riding equipment.

The Applicants purchased the Property in 2021 and subsequently discovered the Structures were within a 15-meter setback from 141 Saddlehorn Drive, Kaleden, British Columbia (the “**Neighboring Property**”), a fact that the previous owner did not disclose, but instead misrepresented the property lines to the Applicants, is currently a matter of a separate civil suit.

The Property is located with a rural and agricultural neighborhood. Properties within the neighborhood also have horses and agricultural endeavors.

The Property is not located within the Agricultural Land Reserve.

(a) Zoning and Bylaw References

The Property is zoned Small Holdings Four (SH4) under Zoning Bylaw No. 2800, 2022 (the “**Zoning Bylaw**”). Permitted uses within SH4 include single-detached dwellings, home occupation uses, and agricultural uses. The Zoning Bylaw has defined “agriculture” to include rearing and grazing livestock. Section 6.6 of the Zoning Bylaw permits the Applicants to keep an unlimited amount of livestock/small livestock on the Property. The setback requirements that are the subject of this application is found in section 15.4.5(a) and section 15.4.5(c) of the Zoning Bylaw.

(b) Official Community Plan (OCP)

The Electoral Area 'I' Official Community Plan (OCP) Bylaw No. 2683, 2016 (the “**OCP**”), designates the Property as Small Holdings (SH). A SH OCP designation supports a range of rural, residential, hobby farming, and limited agriculture uses. Section 10.3.6 of the OCP directs the Regional District of Okanagan-Similkameen Board (the “**Board**”) to protect and conserve agriculturally productive land and Section 10.5.1 of the OCP requires the Board to support rural, residential, hobby farming, and agriculture uses.

The Property is also within the Watercourse Development Permit (WDP) and Environmentally Sensitive Development Permit (ESDP) Areas, which require development permits for construction or land alteration in order to protect environmentally sensitive areas. Section 10.3.6 of the OCP expressly requires the Board to protect environmentally sensitive areas within designated Small Holdings Areas.

(c) The Neighboring Property

The Neighboring Property is also zoned SH4 under the Zoning Bylaw and SH under the OCP. The single-family dwelling on the Neighboring Property is situated approximately 75 meters from its boundary with the Property. There is currently a commercial logging truck operation being operated on the Neighboring Property which is situated between the Horse Shed and the single-family dwelling on the Neighboring Property. Commercial logging is not a permitted use on the Neighboring Property. The owners of the Neighboring Property also lease their front pasture area to neighboring horses.

There is currently an easement registered against the Neighboring Property which allows the Applicants to enter upon, pass, and repass over the Neighboring Property (the “**Access Easement**”). The Applicants use the Access Easement to access the Horse Barn, and so did the previous owner of the Property.

(3) Rationale for the Variance

(a) Legal Framework and Discretionary Considerations

In determining whether to issue a Development Variance Permit, the Board ought to consider the guidelines outlined in Section 3.22 of the Chief Administrative Officer Delegation Bylaw, which provides as follows:

3.22 In deciding whether to issue a development variance permit delegated under subsection 3.49, consider the following guidelines:

- i) if the proposed variance is consistent with the general purpose and intent of the zone;
- ii) if the proposed variance addressed a physical or legal constraint associated with the site (e.g. unusual parcel shape, topographical feature, statutory right-of-way, etc.);
- iii) if strict compliance with the zoning regulation would be unreasonable or unnecessary; and
- iv) if the proposed variance would unduly impact the character of the streetscape or surrounding neighborhood.

The Board's decision on whether to grant a Development Variance Permit is discretionary and site-specific. The Board is permitted to consider other factors not expressly contained within Section 3.22 of the Chief Administrative Officer Delegation Bylaw in deciding whether it is in the "community interest" to issue a Development Variance Permit (*1139652 B.C. Ltd. v Whistler (Resort Municipality)*, 2018 BCSC 1806 at para. 57).

The Board has considerable discretion in deciding whether to issue a Development Variance Permit, but that discretion is not unfettered (*1139652 B.C. Ltd. v Whistler (Resort Municipality)*, 2018 BCSC 1806 at para. 79). The Board's decision may be quashed or set aside where the record demonstrates that the Board's decision was "grounded upon or activated by" irrelevant considerations or erroneous assumptions (*1139652 B.C. Ltd. v Whistler (Resort Municipality)*, 2018 BCSC 1806 at para. 81).

A Board may order a "minor" variance if compliance with a bylaw would cause undue hardship, provided the variance does not result in an inappropriate development, substantially affect the use and enjoyment of adjacent land, vary permitted uses and densities, or defeat the intent of the bylaw (*Metchosin (District of) v. Metchosin Board of Variance*, 1993 CanLII 2882 at para. 30). Depriving an owner of any reasonable use of their land can constitute undue hardship (*Metchosin (District of) v. Metchosin Board of Variance*, 1993 CanLii 2882 at para. 23).

In determining whether a variance is "minor," the percentage variation from a setback requirement is not in itself determinative (See *Metchosin (District of) v. Metchosin Board of Variance*, 1993 CanLii 2882 at para. 24), nor does determining whether a variance is "minor"

depend upon establishing some unacceptable adverse impact on somebody else (See *Metchosin (District of) v. Metchosin Board of Variance*, 1993 CanLii 2882 at para. 25). Rather, a “minor” variance is one that is no more than what is required for the purpose of the variance (See *Metchosin (District of) v. Metchosin Board of Variance*, 1993 CanLii 2882 at para. 27).

The standard of review for the Board’s decision on a Development Variance Permit application is reasonableness, meaning the decision must be one that a reasonable body, informed of the relevant factors, could have taken (1139652 B.C. Ltd. v Whistler (Resort Municipality), at paras. 32 and 72). The Board must provide reasons for its decisions and engage in individualized consideration of each application for a Development Variance Permit, rather than blindly following general policies (See *Alkali Lake Indian Band v. Westcoast Transmission Co.*, [1984] B.C.W.L.D. 1440 at paras. 13-15).

The OCP is a statement of objectives and policies that is to guide the Board’s decisions on planning and land-use management (Local Government Act at s. 471)(1)) (See *Wilson v. Cowichan Valley (Regional District)*, 2021 BCSC 1735 at para. 14).

(i) Is the proposed variance consistent with the general purpose and intent of the zone;

The proposed Development Variance Permit is consistent with the general purpose and intent of the Property’s SH(4) designation under the Zoning Bylaw and the Property’s SH designation under the OCP. The SH4 zone permits agricultural use of accessory buildings and structures, including those used to rear and graze livestock. Furthermore, the Property’s zoning designation allows the Applicants to keep an unlimited amount of livestock/small livestock on the Property. The Structures are all aligned with the Property’s SH(4) designation as they are actively used for agricultural purposes and to keep livestock/small livestock. Moreover, the Property’s SH designation in the OCP is intended for medium-sized parcels generally used for rural residential, part-time farming, limited agriculture, and other uses fitting the rural character of the area (i.e. keeping livestock/small livestock). In fact, refusing to issue the Applicants a Development Variance Permit would put the Board in direct conflict with Section 10.5.1 of the OCP, which requires the Board to support a range of uses on lands designated as SH under the OCP, including: rural residential, hobby farming, limited agriculture, and other uses that fit within the rural character of the surrounding area (i.e. keeping livestock/small livestock).

(ii) if the proposed variance addressed a physical or legal constraint associated with the site (e.g. unusual parcel shape, topographical feature, statutory right-of-way, etc.);

The Development Variance Permit addresses a physical or legal constraint associated with the Property. The Applicants’ ability to relocate the Structures is constrained by the Property’s steep, rocky, and heavily treed topography (See Engel and Voker’s Letter of Opinion). Furthermore, rebuilding the Structures elsewhere on the Property would result in a less functional site plan for

the Property that does not capitalize on the Property's natural advantages, permanently devaluing the Property's appeal to equestrian and agricultural buyers (See Engel and Voker's Letter of Opinion).

In addition to the above, most of the Property is located within WDP and ESDP Area and thus relocating the Structures could potentially damage environmentally sensitive areas on the Property. Indeed, requiring the Applicants to relocate the Structures would be in direct conflict with Section 10.3.6 of the OCP, which requires the Board to protect environmentally sensitive areas within designated SH. A septic field on the Property further constrains the Applicants from relocating the Structures.

(iii) if strict compliance with the zoning regulation would be unreasonable or unnecessary

Requiring the Applicants to strictly comply with setback requirements would be unreasonable and unnecessary. Strict compliance with the 15-meter setback would require the demolition and rebuilding of the Structures which would impose significant financial and practical difficulties on the Applicants, thereby constituting undue hardship. The Applicants' contractor has informed the Applicants that renovating either structure is not possible, thereby necessitating a complete demolition and rebuild. The quotes provided is for the demo and rebuild of the Horse Barn (See Barn Rebuild and Demo Quote). The estimated cost for the demolition of the Horse Barn and Hay Barn is estimated to be \$27,600.00 (See Removal of Barn and Stable Quote), and the cost for rebuilding a new 2000 sqft Horse barn is estimated to be at \$308,775.00 (See Rebuilding Barn Quotes).

Not issuing the Applicants a Development Variance Permit would also result in the Property's value decreasing by approximately \$400,000 to \$500,000 (See Chamberlain Letter of Opinion) (See Also Engels & Vokers Letter of Opinion). Without a Development Variance Permit, the Property would be un-mortgageable for most traditional lenders, limiting potential buyers to cash-only investors who would demand a steep discount (See Engel & Vokers' Letter of Opinion). Furthermore, if a Development Variance Permit is not issued the Property will suffer a significant diminution of value appeal, reducing the Property's assessment value (and consequently lowering tax revenue for the Regional District) (See Engel & Vokers' letter of opinion).

Furthermore, if the Applicants are not issued a Development Variance Permit the Applicants will be forced to board their horses offsite during any relocation or rebuilding process. This would cost the Applicants approximately \$1,500 to \$2,000 per month, making continued farm operations on the Property unviable (See Boarding Horses Quote).

Relocating the Structures would also deprive the Applicants of a reasonable use of the Property, being the Applicants' ability to use the Property for agricultural purposes and to keep livestock/small livestock. The current placement of the Structures by the previous owners was

designed to maximize the utility of the only flat area on the 8.08 acre steep and rocky sloping Property (See Engel and Volk's Letter of Opinion). Any requirement to move the Structures would fundamentally compromise the Property's usability from its present optimal form (See Engel and Voker's Letter of Opinion).

Finally, not issuing the Applicants a Development Variance Permit would be in direct conflict with Section 10.5.1 of the OCP, which provides that the Board is expected to support a range of uses on lands designated as Small Holdings, including: rural, residential, hobby farming, limited agriculture, and other uses that fit within the rural character of the surrounding areas (i.e. keeping livestock/small livestock).

The Applicants have admittedly received approximately [REDACTED] from their title insurer as compensation for losses associated with various misrepresentations which were made to the Applicants at the time they purchased the Property, however, as is evident from the above, this [REDACTED] settlement is wholly inadequate to make the Applicants whole, and thus there is no risk of the Applicants receiving "double recovery" if they are issued a Development Variance Permit.

(iv) if the proposed variance would unduly impact the character of the streetscape or surrounding neighborhood.

Issuing the Applicants a Development Variance Permit would not unduly impact the character of the streetscape or surrounding neighborhood. The neighborhood is characterized by similarly sized rural residential uses, and the Property itself has historically functioned as an equestrian holding with multiple outbuildings, barns, irrigated pastures, fenced paddocks, and a riding arena. The Structures have been in their current location for approximately 25 years, predating the current owners' purchase of the Property in 2021, without any major issues. There is no evidence in the record to suggest that the Structures have caused, or have the potential to cause, any nuisance on any neighboring property. With only one neighbor sharing the interior lot line with the Property, issuing the Development Variance Permit would not result in a change to the use, function, or appearance of the neighboring streetscape. The Structures are modest in scale, consistent with the rural/agricultural character of the area, and are not visually unappealing (see Photographs of Structures). Furthermore, the Property's SH4 zoning and SH OCP designation support rural residential, hobby farming, keeping livestock/small livestock, and limited agriculture uses. The presence of the Structures is consistent with the intended use and appearance of this rural neighborhood.

(v) Community Interest

Issuing the Applicants a Development Variance Permit is in the community interest. The Property's zoning and OCP designation permit rural residential, hobby farming, keeping livestock/small livestock and limited agriculture and thus a Development Variance Permit aligns with the Regional District of Okanagan Similkameen's long-term plans for the Property. The Structures are considered critical to the Property's agricultural use and rural character (the

Applicants use the Property to keep livestock/small livestock), and are consistent with the Property's zoning intent.

The Board should give minimal weight, if any, to the neighbors' concerns when deciding whether or not to issue the Applicants a Development Variance Permit. All of the neighbors' concerns are based on erroneous assumptions, irrelevant considerations, and appear to have been solicited by the owner of the Neighboring Property (and thus the concerns were not expressed in good faith). The enclosed concerns do not reliably represent whether or not a Development Variance Permit is in the community interest.

First, any concerns regarding there potentially being a "dangerous" or "concerning" precedent are based on an erroneous understanding of administrative law. Although administrative decision-makers are generally required to make decisions which are consistent with previous decisions, administrative decision-makers are not bound by their previous decisions (*Canada (Minister of Citizenship and Immigration), Vavilov*, 2019 SCC 65 at para. 129). In any event, the circumstances at the Property are readily distinguishable from other properties: the Structures have existed for over 25 years, the Property consists of steep, rocky terrain, the Structures were not constructed by the Applicants, and the Property is subject to environmental designations that limit relocation options.

Second, any concerns regarding the potential for "double recovery" are based on erroneous assumptions. As stated earlier, although the Applicants have received \$162,870.00 from their title insurer, \$162,870.00 is not enough to cover the Applicants' losses (and thus there is no risk of "double recovery").

Third, any concerns regarding "trespass" are completely unfounded. The Access Easement registered against the Neighboring Property allows the Applicants to enter upon, pass, and repass over the Neighboring Property. There is nothing within the record from which the Board can reasonably conclude that the Applicants are somehow "chronically misusing" the Access Easement, particularly so since the Horse Barn has been in its current location for approximately 28-years. Moreover, there is nothing within the record from which the Board can reasonably conclude that the Horse Barn is not being utilized in a manner not permitted under the Zoning Bylaw or the OCP.

Fourth, there is nothing within the record from which the Board can reasonably conclude that anyone will suffer a "loss of privacy" should the Board issue a Development Variance Permit. As stated earlier, the Access Easement already permits the Applicants, **along with the owners of all three neighboring properties listed on the Access Easement**, to pass and repass over the Neighboring Property. Effectively, the Access Easement acts as a neighborhood roadway and thus concerns about privacy are unfounded (or alternatively any impact on privacy as a result of a Development Variance Permit would be minimal).

Fifth, Ms. Semples' concerns regarding the variance not being "minor" are based on an erroneous understanding of what constitutes a "minor" variance. In determining whether a variance is "minor," the percentage variation from a setback requirement is not in itself determinative (See *Metchosin (District of) v. Metchosin Board of Variance*, 1993 CanLii 2882 at para. 24), nor does determining whether a variance is "minor" depend upon establishing some unacceptable adverse impact on a neighboring property (See *Metchosin (District of) v. Metchosin Board of Variance*, 1993 CanLii 2882 at para. 25). Rather, a "minor" variance is one that is no more than what is required for the purpose of the variance (See *Metchosin (District of) v. Metchosin Board of Variance*, 1993 CanLii 2882 at para. 27). In the present matter, the Development Variance Permit is "minor" because it does not do more than what is required for the purpose of the variance.

Sixth, there is nothing within the record from which the Board can reasonably conclude that the Structures are going to cause a "nuisance" within the neighborhood. A nuisance is an unreasonable and substantial interference with anyone's use and enjoyment of their land. Whether an interference is "unreasonable" depends upon balancing the activity's harm against the activity's utility taking into consideration factors such as severity, neighborhood character, frequency, and duration (See *Antrim Truck Centre Ltd. v. Ontario (Transportation)*, 2013 SCC 13). In the present matter, there is nothing within the record that suggests that the Structures are causing, or have the potential to cause, an "unreasonable" and "substantial" interference with anyone's property. This is a rural neighborhood in which agricultural use and keeping livestock/small livestock is permitted and thus some noise, odor, and pests are to be expected. Furthermore, the Access Easement already permits the Applicants to pass and repass over the Neighboring Property. The fact that the Horse Barn has been in its current location for approximately 28-years strongly suggests that the Access Easement has always been utilized to access the Horse Barn.

Seventh, any concerns regarding the Applicants having acquired "additional horses" since having purchased the Property are based on erroneous assumptions. The Applicants had 3 horses and 3 mini-donkeys when they first purchased the Property. The Applicants now have 3 horses and a mini-horse.

Eighth, there is nothing within the evidentiary record from which the Board can reasonably conclude that any neighboring properties will experience a decrease in property value should the Applicants be issued a Development Variance Permit. Any allegation about a decrease in property value is completely speculative. In light of the serious impact this decision will have on the Applicants, it would be unreasonable for the Board to deny the Applicants a Development Variance Permit on this basis without further evidence.

Ninth, any concerns regarding "fire risk," "structural integrity," "water erosion," and "pests," are completely speculative and not at all substantiated by any evidence. Indeed, Bigcat Contracting & Bigcat Forestry Management Ltd. has advised the Applicants the Hay Barn and Horse Barn do

not present a “fire hazard.” Although Bigcat Contracting & Bigcat Forestry Management Ltd. has opined that the Hay Barn and Horse Barn require some load bearing support, these repairs are minimal and a fraction of the cost of relocating/replacing the Hay barn and Horse Barn (See Fire and Structural Assessment).

Tenth, any concerns regarding the Structures constituting a “visual encumbrance” are completely unfounded. Photographs of both structures clearly evidence that the Structures are consistent with the character of the neighborhood (See Photograph of Structures).

Eleventh, whether the Applicants’ exercised “due-diligence” is irrelevant in determining whether the Applicants ought to be issued a Development Variance Permit. In every interaction with the Regional District of Okanagan-Similkameen since having purchased the Property in 2021, the Applicants have sought to remain in compliance with all bylaws and to work positively towards resolutions when issues have been brought to their attention. In any event, upon discovering the set-back issue, the Applicants have acted transparently and sought legal resolution through appropriate channels, including seeking a Development Variance Permit.











January 26, 2026

Attention: Darren and Tracy Gray

RE: Letter of Opinion – 137 Saddlehorn Drive, Kaleden

PURPOSE OF THIS LETTER OF OPINION

This Letter of Opinion is for the purpose of providing an opinion of current Market Value for the subject property, and to offer general commentary regarding how the presence (or removal) of the equestrian related structures may impact the marketability and value of the property.

DEFINITION OF MARKET VALUE

It is the highest price estimated in terms of money, which a property will bring if exposed for sale on the open market allowing a reasonable time to find a purchaser. Frequently, it is referred to as the price at which a willing seller would sell and a willing buyer would buy: neither being under abnormal pressure.

LEGAL DESCRIPTION OF PROPERTY:

LOT A, PLAN KAP72013, SECTION 10, TOWNSHIP 88, SIMILKAMEEN DIV OF YALE LAND DISTRICT, EXCEPT PLAN EPP103243 PID: 025-505-645

SUBJECT PROPERTY

137 Saddle horn Drive is positioned within the greater Kaleden area, which is widely recognized as a desirable rural and lifestyle location in the South Okanagan. It offers a more private, spacious setting than typical urban residential properties.

The subject property offers 8.079 acres of land with a 3,074sqft log home that has been well kept and nicely updated. There is also a detached garage / shop with a lovely carriage above. The property is ideally set up for horses with multiple outbuildings, barns, irrigated pastures, fenced paddocks and a riding arena. The property also features an outdoor pool as well as a custom-built wood fired spa (sauna, hot tub, and fire pit area).

The property has been used as an equestrian style holding and includes improvements that appeal to buyers seeking a rural lifestyle property. The properties carriage home, barn structures, fenced areas, and functional outdoor space is set up and suitable for equestrian related uses.



OPINION OF MARKET VALUE

The current market for rural and lifestyle properties in the South Okanagan is continuing to experience a period of adjustment. While interest rates have shown signs of stabilizing and declining, buyer activity remains more cautious than in peak market conditions, and purchasers are placing increased emphasis on overall value, property condition, and risk-related factors.

Properties that offer strong functionality, good land use, and desirable improvements (such as equestrian infrastructure) can still attract strong interest. However, when a property is affected by legal uncertainty, non conforming structures, or potential future costs, buyers often respond by either delaying purchase decisions, requesting price concessions, or requiring additional conditions prior to proceeding.

In this case, the subject property's market value is influenced by the current variance permitting process and the uncertainty surrounding the barn placement and fencing improvements. The market impact is typically tied not only to the cost of removal or replacement, but also the reduced usability of the property during the resolution process and the perceived risk by future buyers.

VALUATION

Based on our current understanding of the property, and recognizing that the equestrian-related structures contribute value when they are functional, permitted, and correctly positioned, it is our general opinion that:

Market Value as improved (with equestrian structures in place, assumed functional and permitted):

Estimated Market Value Range: \$1,500,000.00 to \$1,600,000.00

Market Value if the Barn Structures and Related Improvements Were Not Present (or required to be removed):

Estimated Market Value Range: \$1,100,000.00 to \$1,200,000.00



CONDITIONS OF THE LETTER OF OPINION

This Letter of Opinion is subject to the following conditions:

- The opinion is for valuation purposes only.
- Legal description and property boundaries are assumed to be correct and should be confirmed by survey and/or legal counsel.
- I assume no responsibility for the matter in character, nor do I render my opinion as to the title, which is assumed to be in good standing. All existing liens and encumbrances must be disregarded, and the property is valued as though free and clear.
- This opinion reflects market conditions and information available as of the date of this letter and is subject to change.
- I am not required to give testimony or attendance in court by reason of this opinion of value, with reference to the property in question, unless arrangements have been previously made thereof.

Thank you for allowing us the opportunity to provide this service for you. If you have any questions, please do not hesitate to reach out.

Regards,

Paul Grewal and Karrie Grewal

Crush Real Estate

Chamberlain Property Group

ENGEL & VÖLKERS[®]

January 23, 2026

**Regional District of Okanagan-Similkameen
Development Services Department**
101 Martin Street Penticton, BC V2A 5J9

To the Regional District of Okanagan-Similkameen, Development Services Department,

RE: Professional Real Estate Assessment – Site-Specific Setback Amendment Property
Address: 137 Saddlehorn Drive, Kaleden, BC

I am writing this letter at the request of the property owners of 137 Saddlehorn Drive, Kaleden, BC. I recently met with the owners to review the impact of the request to reduce the property line setback and offer this professional real estate assessment in support of their application for a site-specific setback amendment. As a real estate professional with 20 years of experience in the industry within this market area, I have evaluated the financial and market implications regarding the location of the property's agricultural improvements—specifically the 5-stall barn and associated farm structures.

While the owners are seeking this amendment to rectify the boundary discrepancy, I wish to outline the severe financial consequences and the permanent compromise to the land's utility if this relief is not granted:

Direct Diminution of Market Value

The property is currently assessed at a total value of \$1,511,000 for 2026. Based on current market conditions, I estimate a direct loss of between \$400,000 to \$500,000 in market value should the property be listed without these structures. Additionally, without a "clean" title, the property becomes un-mortgageable for most traditional lenders, effectively limiting the pool of buyers to "cash-only" investors who demand a steep "stigma discount."

Compromised Land Usability from its Present Form

The current placement of the barn, riding ring, and animal shelters was designed to maximize the utility of the 8.08-acre steep and rocky sloping hillside. Any requirement to move these structures would fundamentally compromise the land's usability from its present, optimal form:

- **Loss of Functional Layout:** The current configuration provides seamless access to the 2.0 acres of irrigated pasture. Relocating the barn would significantly disrupt the established flow of the farm operations, essentially eliminating grazing areas and reducing the property's efficiency as a working farm.

ENGEL & VÖLKERS[®]

- **Loss of Rebuild Rights:** Without a setback amendment, any future event resulting in the destruction of these structures—such as fire or significant weather damage—would prevent future owners from rebuilding in the current location. Forcing a rebuild in a different area of the parcel would result in a less functional site plan that does not capitalize on the land's natural advantages, permanently devaluing the estate's appeal to equestrian or agricultural buyers.

Impact on Local Revenue

The property currently contributes significant tax revenue, with the 2025 taxes recorded at \$6,762.38. A successful "diminution of value" appeal based on the denial of the development permit would likely lead to a significantly lower assessment, reducing the tax revenue generated for the Regional District.

Conclusion

In conclusion, I strongly support the owners' request for an amendment to the related bylaw. Granting this relief would provide the legal "cure" necessary to restore the property's marketability and protect the owners from a devastating financial loss. It ensures the site remains a viable agricultural asset, as it has been since its construction in 1998.

Sincerely,



Lyndi Ainsworth
Managing Broker, License Partner/Owner
Personal Real Estate Corporation

Engel & Völkers South Okanagan
467 Main Street
Penticton, BC V2A 5C4
Canada

Telephone +1 250 809 1260
lyndi.ainsworth@evrealestate.com
www.lyndiainsworth.evrealestate.com

Each brokerage independently owned and operated

ENGEL & VÖLKERS[®]

Talking Points for 137 Saddlehorn Drive

1. The "Only Viable Spot" Argument (Terrain)

- "Our property is 8.08 acres, but because it is a **steep and rocky hillside**, the current location of the barn is the only area that makes sense for farm operations."
- "Moving these structures isn't just a minor inconvenience; the terrain makes it physically and financially impractical to rebuild elsewhere without destroying the land's utility."

2. Protecting Agricultural Viability

- "The barn and riding ring have been in this exact spot since **1998**. They were positioned to allow seamless access to our 2.0 acres of irrigated pasture."
- "If we are forced to move the structures, we lose our grazing area. This would essentially end the property's life as a functional, working farm and ranch."

3. The "Un-mortgageable" Risk (The Financial Core)

- "Professional assessment shows that without this setback amendment, the property lacks a 'clean title.' This makes it **un-mortgageable** for standard buyers."
- "We are looking at a potential market value loss of **\$400,000 to \$500,000**. This isn't just a dip in value; it's a devastating financial blow caused by a technical boundary discrepancy."

4. Future Security (Rebuild Rights)

- "We need the 'legal cure' of this amendment to ensure that if there is ever a fire or a major storm, we have the right to rebuild in the same footprint."
- "Without this amendment, the property is permanently devalued because no future buyer will want to take on the risk of a farm they can't rebuild if disaster strikes."

5. Mutual Interest with the District (The Tax Angle)

- "We want to maintain the property at its current high-value assessment. If the permit is denied and the property value drops by half a million dollars, it will inevitably lead to a lower tax assessment and **reduced revenue for the Regional District.**"

Bigcat Contracting & Bigcat Forestry Management Ltd.

Bigcat_contracting@outlook.com

250-490-7033

Date: Jan 20,2026

Re: Outbuildings – Fire Hazard Statement

Property Address: 137 Saddlehorn Drive

To Whom It May Concern,

This letter is to confirm that Bigcat Contracting & Bigcat Forestry Management LTD. has reviewed & inspected the outbuildings (Hay Barn, Horse Barn) located on the property at **137 Saddlehorn Drive**, owned by **Tracey Gray**.

Based on a visual assessment and inspection of the structures, the outbuildings do **not present a fire hazard** at this time. The buildings are maintained in a condition that does not pose an increased risk of ignition or fire spread under normal use. Aswell The property Has been properly maintained to minimize the spread of any active wildfire that may burn through or around the property.

While the building does require some load baring support for the roof structure these repairs are minimal and a fraction of the cost of relocating/replacing the buildings. They can easily be done in a timely manor by an approved contractor. Bigcat Contracting has also provided an estimate to the property owners to complete these repairs if they are able to proceed with repairs with the buildings in their present location.

This statement is provided for general information purposes only and reflects conditions observed at the time of review January 6, 2026

If further information is required, please feel free to contact Bigcat Contracting using the information listed above.

Sincerely,

Mie-Bruce Smesman

Owner

Bigcat Contracting & Bigcat Forestry Management LTD.

Estimate

3000 CONSTRUCTION PREP

Demolition

Take down existing structure and chicken coop, sort and dispose of materials with 40 yard containers, remove existing pressure-treat foundation, concrete slabs, and dispose of pressure treated lumber, concrete, rebar, and miscellaneous material.

Subtotal	\$29,400.00
Subtotal	\$29,400.00
Tax	\$1,470.00
Total	\$30,870.00

ESTIMATE

CLIENT

Darren & Tracy MacLellan
137 Saddlehorn Drive
Cawston BC

DATE

July 15, 2023

ESTIMATE No.



LOCATION ADDRESS

137 Saddlehorn Drive

SUBJECT

Removal of Barn and Coop

SCOPE OF WORK

Obtain building permit drawings, permit and complete budget for 2000 sqft barn rebuild.
Supply materials and labour to construct new barn. Includes site work and electrical services.
Possible relocation for well pump.

Permit drawings
Structural engineer allowance
Permit fees RDOS
Site work. (Excavation, trucking, material)
Concrete work. Forming materials, labour, concrete, place and finishing flat work
Framing materials and labour
Roofing and siding
Plumbing
Electrical work
Overhead and Profit



\$308,775.00

Valid for 30 days

Thank you for the opportunity to provide pricing on your project, if you have any questions please feel free to contact us.

Scott Mayhew 250-486-5613 scott@scottmayhew.ca

ESTIMATE

CLIENT

Darren & Tracy MacLellan
137 Saddlehorn Drive
Cawston BC

DATE

July 15,2023

ESTIMATE No.



LOCATION ADDRESS

137 Saddlehorn Drive

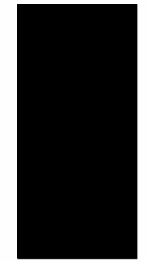
SUBJECT

Removal of Barn and Coop

SCOPE OF WORK

Disconnection of electrical services and move to temp pole, remove the entire structure from the foundation and dispose. Remove all the concrete and site grade the area to avoid any hazards. Remove coop encloure only.

Lowbed Excavator in and out
Machine time for dispose and loading waste bins and dump trucks
Bin rental and disposal fees
General labour
Disposal of concrete
Electrical work
Overhead and Profit

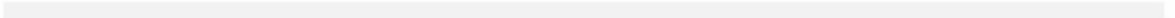


\$27,600.00

Valid for 30 days

Thank you for the opportunity to provide pricing on your project, if you have any questions please feel free to contact us.

Scott Mayhew 250-486-5613 scott@scottmayhew.ca



Get [Outlook for Mac](#)

From: Victoria Souto [REDACTED]

Date: Tuesday, January 6, 2026 at 3:11 PM

To: [REDACTED]

Subject: Board rates

Hi Tracy

Spanishcrossranch board rates;

[REDACTED]

Thank you for your inquiry

Vikki Souto

[REDACTED]

|
SUMMARY - 3 horses [REDACTED] = \$1905.00
3.5 horses [REDACTED] = \$2222.50

Sent from my iPhone

PART II - TERMS OF INSTRUMENT

THIS AGREEMENT made as of the 21 day of February, 1997

BETWEEN:

KITLEY LAKE ESTATES LTD., a Company
duly incorporated under the laws of
the Province of British Columbia,
having its Registered and Records
Office at 100-166 Main Street,
Penticton, British Columbia,
V2A 5A4
(hereinafter called the "Owner of Lot 4")

OF THE FIRST PART

AND:

KITLEY LAKE ESTATES LTD., a Company
duly incorporated under the laws of
the Province of British Columbia,
having its Registered and Records
Office at 100-166 Main Street,
Penticton, British Columbia,
V2A 5A4
(hereinafter called the "Owner of Lot 5")

OF THE SECOND PART

AND:

KITLEY LAKE ESTATES LTD., a Company
duly incorporated under the laws of
the Province of British Columbia,
having its Registered and Records
Office at 100-166 Main Street,
Penticton, British Columbia,
V2A 5A4
(hereinafter called the "Owner of Lot 7")

OF THE THIRD PART

AND:

KITLEY LAKE ESTATES LTD., a Company
duly incorporated under the laws of
the Province of British Columbia,
having its Registered and Records
Office at 100-166 Main Street,
Penticton, British Columbia,
V2A 5A4
(hereinafter called the "Owner of Lot 9")

OF THE FOURTH PART

TG

WHEREAS:

A. The Owner of Lot 4 is the registered owner of all and singular that certain parcel or tract of land and premises situate, lying and being in Kitley Lake Estates, British Columbia, and more particularly known as:

Lot 4,
District Lot 2454s
Section 10
Township 88
SDYD
Plan KAP 58896

(hereinafter called "Lot 4")

B. The Owner of Lot 5 is the registered owner of all and singular that certain parcel or tract of land and premises situate, lying and being in Kitley Lake Estates, British Columbia, and more particularly known as:

Lot 5
District Lot 2454s
Section 10
Township 88
SDYD
Plan KAP 58896

(hereinafter called "Lot 5")

C. The Owner of Lot 7 is the registered owner of all and singular that certain parcel or tract of land and premises situate, lying and being in Kitley Lake Estates, British Columbia, and more particularly known as:

Lot 7,
District Lot 2454s
Section 10
Township 88
SDYD
Plan KAP 58896

(hereinafter called "Lot 7")

TG

TG

D. The Owner of Lot 9 is the registered owner of all and singular that certain parcel or tract of land and premises situate, lying and being in Kitley Lake Estates, British Columbia, and more particularly known as:

Lot 9.
District Lot 2454s
Section 10
Township 88
SDYD
Plan KAP 58896

(hereinafter called "Lot 9")

E. There has been prepared a Reference Plan by Richard P. Andrews, a British Columbia Land Surveyor whereon that part of Lot 4 required for the easement granted herein is shown within that part shown in heavy black on the said plan, hereinafter referred to as the "Easement Area - Lot 4" and also whereon that part of Lot 5 required for the said easement is shown within that part shown in heavy black on the said plan, hereinafter referred to as the "Easement Area - Lot 5 and registered in the Kamloops Land Title Office under filing number KAP 58977_____".

F. The parties wish to create a Right of Way (hereinafter collective referred to as the "Easement Areas" over Easement Area - Lot 4 and Easement Area - Lot 5 for persons and vehicles of the respective properties.

NOW THEREFORE THIS INDENTURE WITNESSETH that in consideration of the premises and the mutual grants and covenants herein contained and the sum of TEN DOLLARS (\$10.00) now paid by each of the parties to the other (the receipt and sufficiency whereof is hereby

76

Page 7

acknowledged) and of the due execution of these presents by the parties hereto, the PARTIES HERETO COVENANT AND AGREE AS FOLLOWS:

1. The Owner of Lot 4, Lot 4 being the servient tenement, does hereby grant, convey, release, assign and confirm unto the Owners of Lots 5, 7 and 9 and their respective heirs, executors, administrators, successors, agents, invitees, licensees, as the case may be, and all lawful occupants of Lots 5, 7 and 9 in common with the owners and occupants of Lot 4 the full, free and uninterrupted right, license, liberty, right-of-way, easement, privilege and permission at all times and from time to time without vehicle of any kind in perpetuity to and for the benefit of the dominant tenements, Lot 5, Lot 7 and Lot 9:
 - a) to construct, operate, maintain, inspect, replace and repair a roadway over, under and through the Easement Area - Lot 4 for the purpose of a roadway and all related purposes including ingress, egress and regress;
 - b) to enter upon and pass and repass over Easement Area - Lot 4 for the purpose of ingress and egress for any of the purposes of this Agreement;

2. The Owner of Lot 5, Lot 5 being the servient tenement, does hereby grant, convey, release, assign and confirm unto the Owners of Lots 4, 7 and 9 and their respective heirs, executors, administrators, successors, agents, invitees, licensees, as the case may be, and all lawful occupants of Lots 4, 7 and 9 in common with the owners and occupants of Lot 5 the full, free and uninterrupted right, license,

TG

Page 8

liberty, right-of-way, easement, privilege and permission at all times and from time to time without vehicle of any kind in perpetuity to and for the benefit of the dominant tenements, Lot 4, Lot 7 and Lot 9:

- a) to construct, operate, maintain, inspect, replace and repair a roadway over, under and through the Easement Area - Lot 5 for the purpose of a roadway and all related purposes including ingress, egress and regress;
- b) to enter upon and pass and repass over Easement Area - Lot 5 for the purpose of ingress and egress for any of the purposes of this Agreement;

3. The Owner of Lot 4, Owner of Lot 5, Owner of Lot 7 and the Owner of Lot 9 each covenant with the other:

- a) not to make, place, erect or maintain any building, structure, foundation, pavement excavation, well, pile material or obstruction upon the Easement Areas which might interfere with or endanger the excavation for, installation, operation, maintenance, removal or replacement of the works authorized herein or any part thereof or which might obstruct access by the Owner of Lot 4, the Owner of Lot 5, the Owner of Lot 7 or the Owner of Lot 9 and their respective servants, agents or licensees;
- b) not to diminish or substantially add to the ground cover over such of these works as may be from time to time installed, operated or maintained on or below the surface of the Easement Areas;

- c) from time to time and at all times, upon every reasonable request and at the cost and charges of the party to whom the request is directed to do an execute or cause to be made, done or executed all such further and other lawful acts, deeds, things, devices, conveyances, and assurances in law whatsoever for the better assuring the rights granted herein.
- 4. The Owner of Lot 4 and the Owner of Lot 5 each grant to the other and to the Owner of Lot 7 and to the Owner of Lot 9 the right to enter upon the Easement Areas for the purposes set forth herein.
- 5. The parties hereto agree with each other to share equally the cost of construction and maintenance of the Right of Way being created.
- 6. In performing any work in the Easement Areas the parties hereto will take all reasonable steps to prevent soil slippage.
- 7. The parties here agree each with the other to maintain the Easement Areas in good repair.
- 8. It is understood and agreed between the parties as follows:
 - a) that this Agreement shall be construed as running with the land; no part of the fee of the soil shall pass to or be vested as a result of this Agreement and each party may fully use and enjoy the easement granted herein subject only to the rights and restrictions provided in this Agreement;

TG

Page 10

- b) that this Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators and assigns as the case may be.
 - c) that wherever the singular and masculine are used in this Agreement they shall be construed as meaning the plural or feminine or body corporate wherever the context or the parties so require.
9. Notwithstanding anything herein to the contrary this agreement may only be cancelled with prior written consent of the Ministry of Transportation and Highways.

TG

Page 11

IN WITNESS WHEREOF the parties have affixed its corporate seal
before its proper officer the day and year first above written.

KITLEY LAKE ESTATES LTD.
by its authorized signatory

Matthew Chamberlain
authorized signatory

KITLEY LAKE ESTATES LTD.
by its authorized signatory

Matthew Chamberlain
authorized signatory

KITLEY LAKE ESTATES LTD.
by its authorized signatory

Matthew Chamberlain
authorized signatory

KITLEY LAKE ESTATES LTD.
by its authorized signatory

Matthew Chamberlain
authorized signatory

kitley/216e

END OF DOCUMENT

TG

DO NOT WRITE ABOVE THIS LINE
APPLICATION FOR DEPOSIT OF REFERENCE OR
EXPLANATORY PLAN (CHARGE)
LAND TITLE ACT
Form 11(a) Section 99(l)(e)(j) and (k)

I, Richard P. Thompson, Barrister & Solicitor, 100-166 Main Street, Penticton, British Columbia, V2A 5A4, agent Kitley Lake Estates Ltd.(Inc. 480788), c/o 100 - 166 Main Street, Penticton, B.C. V2A 5A4, the owner(s) of a registered charge, apply to deposit reference/explanatory plan of:

Easement Over Part of Lots 4 and 5, D.L. 2454s, Section 10, Township 88, S.D.Y.D, Plan KAP 58896

I enclose:

1. The reference/explanatory plan.
2. The reproduction of the plan required by section 67(u).
3. Fee of \$ _____.

KAP 58977

04/23/97 A0866m OT/PLAN 50.00

Dated the 7 day of ~~March~~ ^{APRIL} 1997


Richard P. Thompson

RICK HARRIS
AGENT
EXPRESS MANAGEMENT LTD.

NOTE:

- (i) The following reproduction of the plan must accompany this application:
 - (a) one blue linen original (alternatively, white linen or original transparencies).
 - (b) one duplicate transparency.
 - (c) one whiteprint is required as a worksheet for the land title office.
- (ii) The following further requirements may be necessary:
 - (a) If the parent property is in an Agricultural Land Reserve, a release is required unless the parent property is less than 2 acres (app.0.8094 hectares) or where, for permitted uses, an approving officer has signed the plan under section 1(1)(a) and (b) of the Subdivision and Land Use Regulations (B.C. Reg. 93/75) under the Agricultural Land Commission Act.
 - (b) Where a notice respecting a grant under the Home Purchase Assistance Act is endorsed on title, an extra white print must accompany the application, unless the Ministry of Lands, Parks and Housing agrees otherwise in writing. This extra print must contain the following endorsement:
"The eligible residence as defined by the Home Purchase Assistance Act is located on lot created by this plan.

B.C.L.S. or solicitor for the owners

- (c) Controlled access approval must be evident on the plan where parent property adjoins a highway that is designated as a controlled access highway.
- (d) Where the plan refers to a covenant to be made under section 215, the instrument containing the covenant must be tendered with the plan.

kitley/form11a

This is **Exhibit "C"** referred to in the Affidavit of Tracy Lee Gray sworn before me at Surrey, British Columbia, the 19th day of September, 2025.

A Commissioner for taking affidavits within
British Columbia

TG