

THE CORPORATION OF THE CITY OF COURTENAY

NOTICE OF COMMITTEE OF THE WHOLE MEETING

DATE: Monday, January 30, 2017
PLACE: City Hall Council Chambers
TIME: 4:00 p.m.

AGENDA

1.00 STAFF REPORTS/DISCUSSIONS

- 1. Comox Valley Regional District Referral – Courtenay Fish and Game**
- 2. Comox Valley Regional District Financial Plan - Discussion**

2.00 RESOLUTIONS OF COUNCIL

1. In Camera Meeting:

That notice is hereby given that a Special In-Camera meeting closed to the public will be held January 30, 2017 at the conclusion of the Committee of the Whole Meeting pursuant to the following sub-sections of the *Community Charter*:

- 90 (1)(e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality; and
- 90 (2)(b) the consideration of information received and held in confidence relating to negotiations between the municipality and provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

3.00 ADJOURNMENT



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT TO COMMITTEE OF THE WHOLE

To: Council

File No.: 3030-04-01

From: Chief Administrative Officer

Date: January 30, 2017

Subject: CVRD Referral to amend Temporary Use Permit for Courtenay & District Fish & Game Protective Association

PURPOSE:

The purpose of this report is to respond to a Comox Valley Regional District (CVRD) referral regarding CVRD Temporary Use Permit TUP 2C 15.

CAO RECOMMENDATIONS:

That based on the January 30, 2017 Staff report "CVRD Referral to amend Temporary Use Permit for Courtenay & District Fish & Game Protective Association", Council approve OPTION 1 and direct staff to respond to the referral **not supporting** the proposed amendment to TUP 2C 15.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

In February 2015, the CVRD requested comments on a rezoning application by the Courtenay and District Fish and Game Protective Association (The F&G Club) to allow a boat launch, RV campground and use of their lounge for special events. These uses had been established on the property contrary to the CVRD zoning.

At that time, City staff responded to the referral not supporting the application citing the Regional Growth Strategy (RGS) goals to protect drinking water sources from contaminants including encroachment from development. Staff also requested copies of professional reports and peer review of the findings indicating the development posed no risk to the water supply prior to formal consultation pursuant to RGS Policy. These studies were not provided.

The CVRD Board subsequently issued a Temporary Use Permit (TUP 2C 15) on February 3, 2016 to allow 54 camping sites (RV and tent) including one caretaker space; special events directly related to a principal use; a boat launch, docks and swimming floats. This permit was issued for a period of 3 years and included a number of conditions. A copy of the TUP is attached for information as **Attachment No.1**.

DISCUSSION:

On December 23rd, 2016 the City received a referral request from the CVRD related to an amendment to TUP 2C 15 to allow 20 additional camping sites for volunteer workers. A copy of the referral is attached as **Attachment No. 2.**

The referral documents indicate that the “Rural Comox Valley Official Community Plan” states that a TUP will only be considered when the proposed uses will not negatively impact drinking water. It also states that development must not negatively impact water quality or natural systems. Information to support consideration of these factors was not provided to the City for review and comment prior to the issuance of the TUP in 2016 or with the currently requested amendment.

RGS policy 5B-1 is very clear that development proposals must include “reports by appropriate professionals to study potential impacts on water quality and quantity, including a peer review of professional findings and recommendations.” This information has not been provided.

Similarly, the required Riparian Areas Regulation (RAR) reports have not been provided to assess appropriate setbacks to the lake with regard to the existing uses and disturbances. The new campsites are also proposed within 30m of a wetland.

Without the required information to assess the impacts of the development staff remain concerned that the approval of these uses by way of TUP 2C 15 and their proposed expansion pose an unknown risk to the City’s drinking water supply. Accordingly, staff recommend the City respond **not supporting** the application.

FINANCIAL IMPLICATIONS:

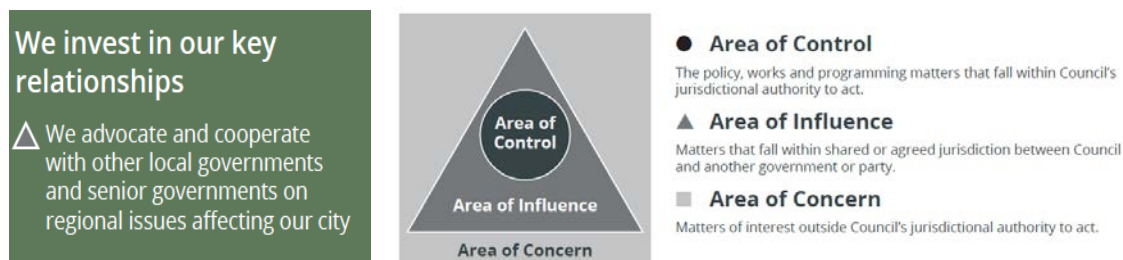
There is no direct financial implication to the City as a result of this referral.

ADMINISTRATIVE IMPLICATIONS:

Staff have spent approximately 4 hours reviewing and researching the request and preparing this report.

STRATEGIC PLAN REFERENCE:

Responding to referral requests falls within Council’s area of Influence to advocate and cooperate with other local governments and senior governments on regional issues affecting our city.



OFFICIAL COMMUNITY PLAN REFERENCE:

6.2.1 Goals

1. to ensure a high level of water quality is maintained
2. to protect the watershed of Comox Lake and thereby protect the City’s source of water

REGIONAL GROWTH STRATEGY REFERENCE:

Objective 5-B: Protect the quality of water sources.

Drinking water in the Comox Valley is extracted from lakes, rivers and aquifers. These water sources are all vulnerable to contaminants that come from a number of sources including stormwater runoff, forestry activities, recreational activities in and around lakes, and encroachment from development.

Supporting policies

5B-1

Manage development on the basis of precautionary principles within watershed of water supply lakes. This will require development proposals to include reports by appropriate professionals to study potential impacts on water quality and quantity, including a peer review of professional findings and recommendations.

5B-4

Where development is proposed in a watershed of a water supply lake that is controlled politically by one jurisdiction, but where the lake provides a water source to other jurisdiction(s), the jurisdiction responsible for approving development within the watershed will formally consult with the jurisdictions receiving water from the watershed.

CITIZEN/PUBLIC ENGAGEMENT:

The City does not undertake citizen engagement on referral requests.

OPTIONS:

Option 1 That the City respond to the referral request **not supporting** the proposed amendment and that the studies required by RGS policy 5B-1 be provided for City review. (Recommended)

Option 2 That the City respond to the referral request asking for further information and studies as required by RGS policy 5B-1 prior to forming an opinion.

Option 3 That the City respond to the referral request indicating the City's interests are unaffected.

Prepared by:



Ian Buck, MCIP, RPP
Director of Development Services

Attachment No.1 – Temporary Use Permit

Appendix A



TUP 2C 15

TO: Courtenay and District Fish and Game Protective Association

OF: 3780 and 3786 Colake Road, P.O. Box 3177, STN Main, Courtenay BC V9N 5N4

1. This temporary use permit (TUP 2C 15) is issued subject to compliance with all of the bylaws of the regional district applicable thereto, except as specifically varied or supplemented by this permit for the following proposed accessory uses:

- a. campground;
- b. special events directly related to a principal use;
- c. recreational facilities directly related to a principal use; and
- d. boat launch, docks, and swimming floats.

3. This temporary use permit applies to, and only to, those lands within the regional district described below:

Legal Description:

That part of Section 33, Township 10, Comox District, Plan 552-H, Included within the Area Shown Outlined in Red on Plan 788RW; and

Lot 1, Section 33, Township 10, Comox District, Plan VIP78343

Parcel Identifier (PID): 000-863-840 and 026-200-881

Folio: 771 05838.000 and 771 05838.100

Civic Address: 3780/3786 Colake Road

4. The land described herein shall be developed strictly in accordance with the following terms and conditions and provisions of this permit:

Land Use:

- i. the subject properties can have, as accessory uses, one boat launch, docks, swimming floats, a campground, special events directly related to a principal use, and recreational facilities directly related to a principal use;
- ii. no buildings or structures, except for utility buildings or structures, are permitted within 30m of the present natural boundary/high water mark of Comox Lake;
- iii. wastewater associated with recreational vehicle (RV) campers, such as sewage and grey water, must be hauled out and properly disposed; and
- iv. the maximum number of camping spaces (tent spaces and RV spaces), including one caretaker's space, is limited to 54.

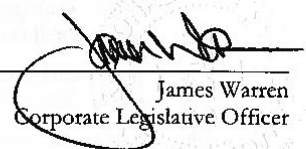
Appendix A

TUP 2C 15

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5. Within one (1) year of the “certified on” date of this permit (see below), the applicant shall undergo a riparian area assessment in accordance with the provincial *Riparian Area Regulation* (RAR) and obtain any applicable development permit for works arising from the recommendations of the riparian area assessment.
6. The applicant shall ensure that all sources of potable water on the properties have received approval of the public health authority prior to their use.
7. This temporary use permit (TUP 2C 15) shall expire within three (3) years of the “certified on” date of this permit (see below).
8. Renewal of this temporary use permit (TUP 2C 15) will not be considered until:
 - a. a risk assessment of the campground use on the water quality of Comox Lake has been submitted to the Comox Valley Regional District. The risk assessment must be prepared by a qualified professional and address the following:
 - identify potential contaminants to Comox Lake related to campground use;
 - identify spatial and temporal risk to Comox Lake water supply intake; and
 - identify measures to protect Comox Lake from contamination related to campground use.
 - b. restoration works or recommended measures arising from the RAR have been implemented. Satisfactory implementation of the RAR recommendations will need to be confirmed by a qualified environmental professional.
9. Issuance of this temporary use permit does not relieve the applicant of the requirement to obtain a development permit for any applicable works within a development permit area as identified in the *Rural Comox Valley Official Community Plan*.
10. On an annual basis, on the certification date, the application shall provide written confirmation that the uses on the property comply with this temporary use permit.
11. This temporary use permit is **NOT** a development permit.
12. This temporary use permit is **NOT** a building permit.

CERTIFIED as the **Temporary Use Permit** issued by resolution of the board of the Comox Valley Regional District on November 24, 2015 and January 26, 2016.


James Warren
Corporate Legislative Officer

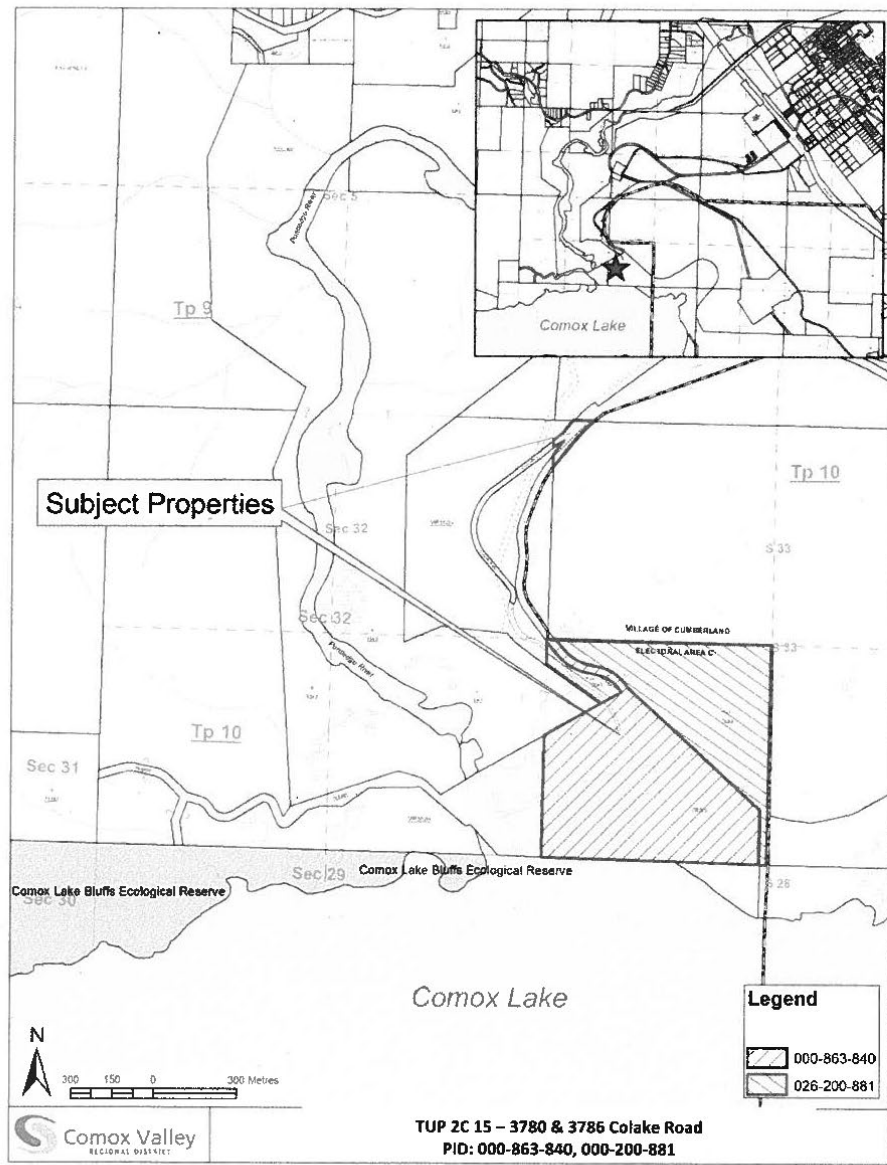
Certified on

February 3, 2016

Comox Valley Regional District

Appendix A

Subject Property Map



Comox Valley Regional District

Attachment No. 2 – CVRD Referral

600 Comox Road, Courtenay, BC V9N 3P6
Tel: 250-334-6000 Fax: 250-334-4358
Toll free: 1-800-331-6007
www.comoxvalleyrd.ca



TEMPORARY USE PERMIT AMENDMENT REFERRAL FORM

**File: 3120-20 / TUP 2C 15 – Courtenay and District Fish and Game Protective Association –
3780 Colake Road**

Date Sent: December 23, 2016

Please comment on the attached temporary use permit amendment proposal for potential effect on your agency's interests. Section 493 of the *Local Government Act* (RSBC 2015 c. 1) (LGA) enables a local government to issue a temporary use permit and assign terms and conditions to allow a land use not otherwise permitted in the applicable zone. Section 494 outlines public notice requirements. Section 495 enables a local government to require the owner of the land to provide an undertaking to restore land described in the permit to a condition specified in the permit by a specific date. Section 502 allows a local government, as a condition of a land use permit (including temporary use permits) to require deposit of a security respecting landscaping requirements, potential hazardous condition or damage to the natural environment. Section 503 requires the filing of a notice with the registrar upon amending or cancelling a temporary use permit.

Bylaw No. 328, being the Comox Valley Planning Procedures and Fees Bylaw, 2014, states that an application to amend a land use permit will be processed in the same manner as consideration of a new permit application. Therefore, we are seeking your agency's input. You will note on the response form a number of choices that may describe your agency's interests. All details that support your position are appreciated as are official legislative, governance and policy considerations that may affect the CVRD's consideration of this proposed permit amendment.

We would appreciate your response by **January 30, 2017**. If no response is received by that time, it will be assumed that your agency's interests are unaffected. If required, please contact the CVRD to assist you in determining the type of information that would be helpful or to better understand how the proposed amendment may impact land use and development. Should you have any specific questions regarding the referral, please contact Alana Mullaly at 250-334-6051 or by email to amullaly@comoxvalleyrd.ca.

Applicant's name:	Courtenay and District Fish and Game Protective Association
Civic address:	3780 Colake Road
Purpose of permit amendment:	To increase the number of permitted campsites (recreational vehicle and tent sites) from 54 to 74.
Legal description:	Lot 1, Section 33, Township 10, Comox District, Plan VIP78343 (PID: 026-200-881); and Lot 1, Sections 32 and 33, Township 10, Comox District, Plan EPP56506 (PID 029-762-103)
OCP designation:	Resource (no change proposed)
Zoning:	Upland Resource 400ha (no change proposed)

Temporary use permit amendment referral file: TUP 2C 15

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Background information:

On February 3, 2016, the applicant was issued a TUP to allow the following accessory uses on the subject properties (Figure 1):

- campground (limited to 54 camping sites, to include both recreational vehicle sites and tent sites and including one campground caretaker's space);
- special events directly related to a principal use;
- recreational facilities directly related to a principal use; and
- boat launch (one), docks, and swimming floats.

Among the conditions of the permit is a requirement that all wastewater associated with recreational vehicle campers, such as sewage and greywater, must be hauled out and properly disposed. Further, within one year of permit issuance (i.e. February 3, 2017), the applicant is required to undergo a riparian assessment in accordance with the provincial RAR and obtain any applicable development permit for works arising from the recommendations of the riparian area assessment. Further, the permit establishes conditions that must be satisfied prior to board consideration of an application to renew the TUP (i.e. prior to expiry of the permit on February 3, 2019). Specifically, a risk assessment of the campground use on the water quality of Comox Lake and implementation of the restoration works/recommended measures of the RAR assessment (see Appendix A).

Current situation:

On October 20, 2016, the applicant submitted a request to amend the TUP for the purpose of allowing 20 additional camping sites in two areas (gravel surface parking areas) approximately 400m and 425m from Comox Lake and immediately adjacent to the boundary between electoral area 'C' and the Village of Cumberland (Figure 2). The applicant has advised that the club allows, approximately 10 times per year, volunteers to camp on the property while undertaking project work. Provision for these camping spaces was not considered by the applicant when the 54 spaces were defined in the original permit. Note that the 54 spaces are located within the campground adjacent to Comox Lake. The permit does not specify where camping can or cannot occur nor is a distinction made between people (i.e. volunteer workers versus camping guests). The applicant wishes to reserve 54 spaces for guest use adjacent to Comox Lake and enable use of additional camping spaces for campers undertaking project work in these two other locations within the property.

At their meeting on November 29, 2016, the CVRD board approved the following:

THAT the proposal to amend the Courtenay and District Fish and Game Protective Association's temporary use permit (TUP 2C 15), issued on February 3, 2016, be referred to the external agencies and First Nations identified in Appendix C of this staff report dated November 1, 2016;

AND FINALLY THAT consultation with First Nations occur in accordance with the First Nations referrals management program.

(Note that if the CVRD board seeks to approve an amendment to allow the additional 20 campsites, staff will recommend against making a distinction between "camping guests" and "volunteer workers" as it is the impact of the land use that is material to the application versus the specific individuals.)

Temporary use permit amendment referral file: TUP 2C 15

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The subject property is designated resource area. Section 62(3) of Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014,” states that TUPs may be considered in a resource area when the use will not negatively impact drinking water quality or quantity. Similarly, development must be undertaken in a manner that does not negatively impact water quality or natural systems. As such, development is expected to use best practices to protect riparian habitat, minimize fragmentation of ecosystems, prevent erosion and establish on-site drainage mechanisms that will not negatively impact water quality. This is implemented, in part, through the aquatic and riparian habitat development permit area wherein any site alteration within 30m of a watercourse triggers the need for a development permit. In accordance with the LGA, lands within the development permit area shall not be altered without the benefit of a development permit. Issuance of a TUP does not relieve the applicants from the requirement of obtaining a development permit for works within 30m of a watercourse.

The proposed additional camping sites are located in two areas that have been cleared and surfaced with gravel. The areas are presently used for parking related to adjacent recreational facilities (i.e. shooting area and “Boom Town”). A portion of one of the gravel surface areas (i.e. immediately adjacent to “Boom Town”) is included within the 30m buffer area of a wetland (Figure 3). Establishing camping spaces within that buffer area will require an aquatic and riparian area habitat development permit. Should the board agree to approve an amendment to the TUP, staff will recommend including a requirement for a development permit in the list of conditions pertaining to the additional 20 campsites. Note that irrespective of any amendment to the TUP, a development permit is required to address already disturbed lands within the development permit area.

There is a requirement for a local government to file a notice of TUP amendment with the land title office. Once the notice is filed, the terms of the permit or any amendment to it, are binding on all persons who acquire an interest in the land affected by the permit.

Staff intends to report back to the CVRD electoral areas services committee with the findings of the external agency referral in February or March 2017. That report will include a recommendation based on the following options:

1. Deny the permit amendment request and enforce the conditions of TUP 2C 15;
2. Amend the permit (as requested by the applicant or as modified by staff);
3. Issue a new permit.

A. Mullaly

Alana Mullaly, MCIP RPP
Manager of Planning Services
Planning and Development Services Branch

Figure 1: Subject properties map
Figure 2: Air photo context
Figure 3: Wetland and 30m development permit area

Appendix A: Temporary Use Permit TUP 2C 15

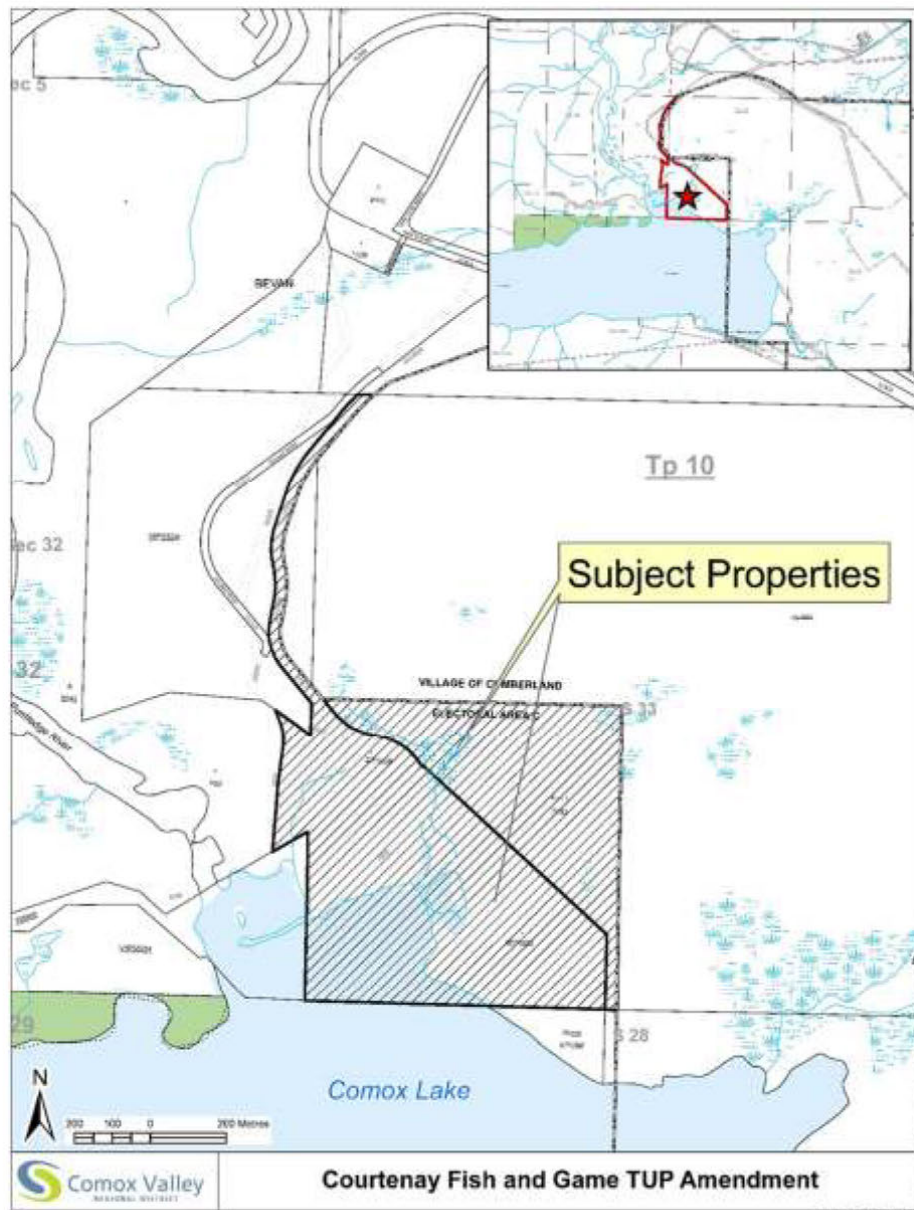


Figure 1: Subject properties map

Temporary use permit amendment referral file: TUP 2C 15

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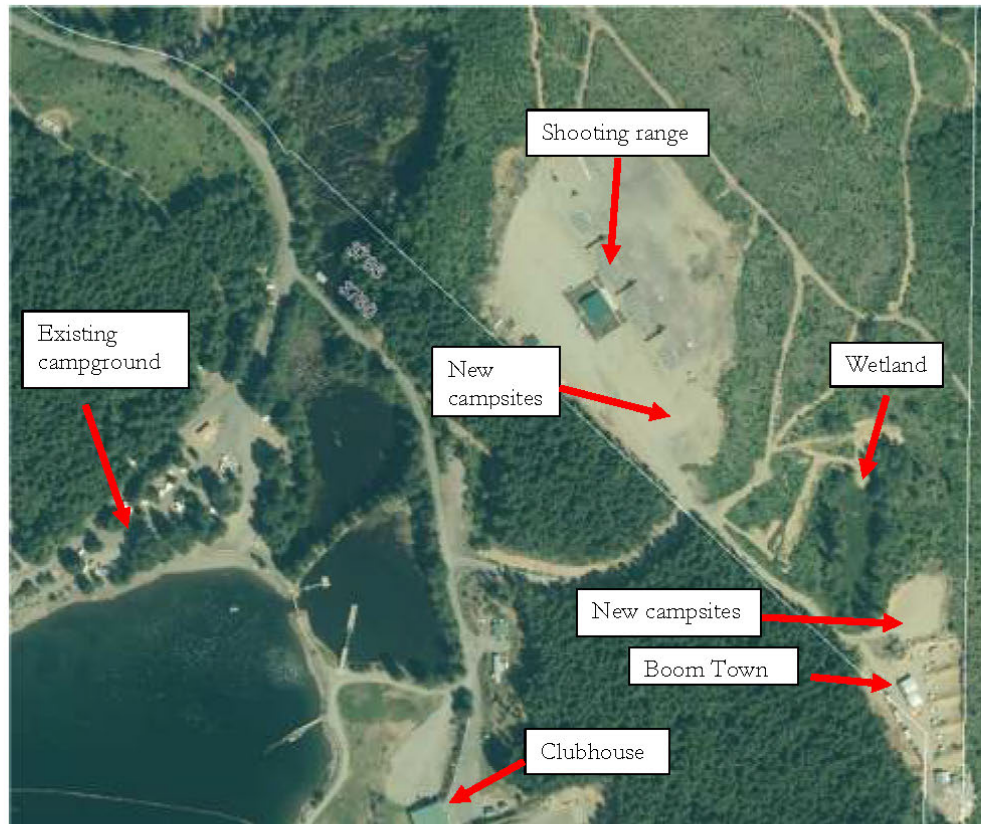


Figure 2: Air photo context

Temporary use permit amendment referral file: TUP 2C 15

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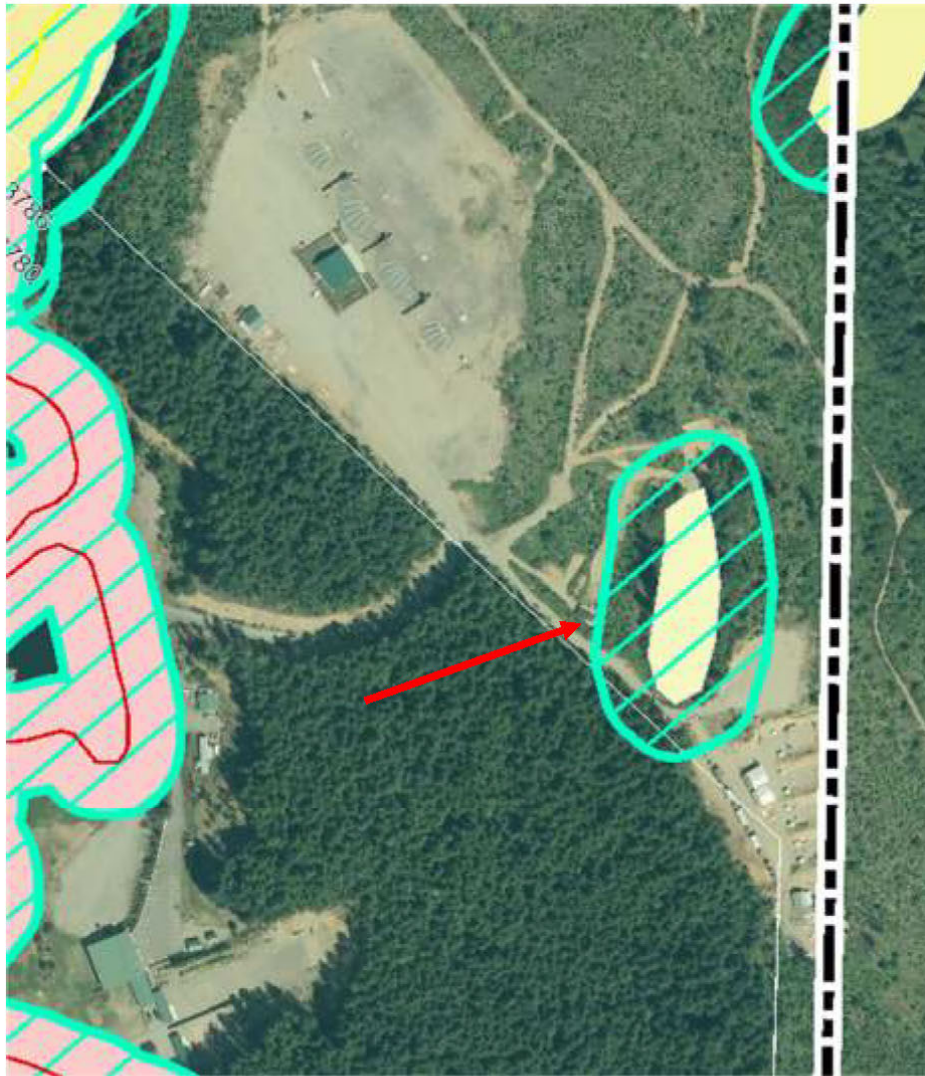


Figure 3: Wetland and 30m development permit area (green hatching)