

## REQUEST FOR DECISION

Daw Holdings – McGillivray Falls  
Land Use Contract Bylaw No. 87, 1976,  
Amendment Bylaw No. 1359-2014, and Zoning  
Bylaw No. 765, 2002, Amendment Bylaw No. 1360-  
2014

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**Meeting Date:** October 27, 2014

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**To:** SLRD Board

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**Applicant:** Daw Holdings Ltd. (Applicant) & McGillivray Falls Recreation Retreat Ltd. (Owner)

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**Location:** SLRD Electoral Area C – McGillivray Falls

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**Legal Descriptions:**

DL 4363, LLD PID 013-410-377

<b>OCP Designation:</b> N/A Area C OCP Bylaw No. 689, 1999	<b>Zoning:</b> LUC Bylaw No. 87, 1976	<b>ALR Status:</b> N/A	<b>Development Permit Areas:</b> RAR
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**RECOMMENDATION:**

1. THAT Bylaw 1359-2014, cited as “Squamish-Lillooet Regional District Land Use Contract Bylaw No. 87, 1976, Amendment Bylaw No. 1359-2014” be introduced and given first reading.
2. THAT Bylaw 1359-2014, cited as “Squamish-Lillooet Regional District Land Use Contract Bylaw No. 87, 1976, Amendment Bylaw No. 1359-2014” be referred to the appropriate First Nations, Village of Pemberton, and provincial agencies including the Vancouver Coastal Health Authority, the Ministries of Forests, Lands, and Natural Resource Operations, and Transportation & Infrastructure, for comment.
3. THAT Bylaw 1360-2014, cited as “Squamish-Lillooet Regional District Zoning Bylaw No. 765, 2002, Amendment Bylaw No. 1360-2014” be introduced and given first reading.
4. THAT Bylaw 1360-2014, cited as “Squamish-Lillooet Regional District Zoning Bylaw No. 765, 2002, Amendment Bylaw No. 1360-2014” be referred to the appropriate First Nations, Village of Pemberton, and provincial agencies including the Vancouver Coastal Health Authority, the Ministries of Forests, Lands, and Natural Resource Operations, and Transportation & Infrastructure, for comment.

## **KEY ISSUES/CONCEPTS:**

An application to amend Land Use Contract (LUC) Bylaw No. 87, 1976 (McGillivray Falls) in order to facilitate a subdivision of the property has been received from DAW Holdings Ltd. (DAW) who has been authorized to submit an application by the McGillivray Falls Recreation Retreat Ltd. (MFRR) Board of Directors, representing the MFRR shareholders. In order to subdivide the property, it is necessary to remove that portion of DL 4363 (the proposed new lot) from the LUC and zone it under SLRD Zoning Bylaw No. 765, 2002. The provisions of the LUC do not allow the proposed subdivision to occur unless the proposed parcel is removed from the LUC.

This application deals only with the change in LUC designation and the associated rezoning of a small portion of MFRR land that is designated as “Greenbelt Area” under the LUC. The ownership of all of the land will remain with the MFRR. Any future sales or subdivisions of the land would be subject to agreements made between MFRR and DAW Holdings Ltd. (DAW).

## **RELEVANT POLICIES:**

Electoral Area C Official Community Plan Bylaw No. 689, 1999

Zoning Bylaw No. 765, 2002

McGillivray Falls Land Use Contract Bylaw No. 87, 1976

## **BACKGROUND:**

Land Use Contract Bylaw No. 87, 1976 was created in 1976 on District Lot 4363 for the purposes of establishing a recreation retreat. McGillivray Falls Recreation Retreat Ltd. is the company listed on the title of the property. MFRR is a company controlled by 40 shareholders with a Board of Directors. The LUC included provisions for a recreational area by the lake including small summer cabins for the shareholders of MFRR. DAW Holdings Ltd. (DAW) is the agent authorized to submit the application by the MFRR Board of Directors. According to DAW Holdings, there is a complicated history going back before the LUC was created to 1973 between the two separate limited companies: MFRR & DAW. DAW’s intention is to first remove a portion of land from the land use contract, and in future, under another process, acquire title to the proposed lot, with MFRR retaining ownership of the remainder of DL 4363.

## **PUBLIC INFORMATION MEETING & QUESTIONNAIRE:**

A public information meeting was held on August 2, 2014, in D’Arcy, in order to explain to all of the shareholders what is being proposed by this application. 27 people attended including Electoral Area C Director Susie Gimse. A questionnaire was prepared in order to gain feedback into the proposal. A summary of the meeting is attached as Appendix 3.

## McGillivray Falls LUC & Zoning Amendment Questionnaire Responses

The questionnaire that was developed by staff was made available at the public information meeting as well as on the SLRD website on the project page. A total of 14 questionnaires were completed and submitted to the SLRD. The responses were grouped into 'Yes', 'No', and 'Maybe' categories outlined below that indicate support, non-support or conditional support of the application:

- Yes (support) – 2 respondents
- No (non-support) – 9 respondents
- Maybe (conditional support) – 3 respondents
- Total Responses – 14

The issues and concerns raised by respondents are summarized below, and grouped into general issue categories called: Land Use Contract; Zoning; Subdivision; Land Uses; and Other Issues. Some direct quotes from respondents are also included.

### Land Use Contract (LUC)

- “The LUC should only apply to 120 acre portion of the parcel not the full District Lot 4363 as the proposed new lot was not supposed to be included in the LUC”
- The intent is for recreational use of the property only, not commercial use
- Removal of a portion of the parcel from the LUC would open it up to future development
- Future development outside of existing recreational use is not supported
- “The LUC should remain in place until MFRR can secure 100% assurance regarding the preservation of the greenbelt area”
- Numerous concerns were raised about the potential negative effects of the proposal on the existing greenbelt area. It was noted that:
  - The greenbelt designation in the current LUC protects land from further development
  - It protects habitat and species, including salmon spawning in McGillivray Creek
  - Greenbelt designated area includes trails for recreation and wildlife viewing
- “The LUC should remain as is until the whole contract can be renegotiated or eliminated in favour of zoning for the whole property done in cooperation with MFRR”

### Zoning

- Clarity on the possible Open Space zoning is requested
  - What might it entail?
  - Would it be compatible with the LUC?
- “If the LUC was replaced with zoning it should be for the whole parcel and with the approval of MFRR only”

### Subdivision (note that this report pertains only to the LUC and Zoning amendments)

- “The purpose of the subdivision is to complete the 1973 agreements b/w the two companies (MFRR & DAW)”

- Some respondents offered conditional support for the proposed subdivision, provided that the geotechnical, water, and access issues are resolved
- Many respondents do not support any subdivision of the parcel

#### Land Uses

- Nature and extent of possible logging is unclear and not supported
- Commercial timber harvesting would be seen as a bad precedent for the property and lake front area
- Concern regarding the lack of clarity around DAW's intentions for the proposed parcel

#### Other Issues

- Need to clarify the access / potential for a public rights-of-way or easement through MFRR property to proposed parcel – as presented by DAW at the August 2014 public info meeting
- The need to maintain water rights regarding McGillivray Creek
- Consultation between DAW and MFRR regarding DAW's future plans and how it may affect MFRR
- "There is no basis of ownership for DAW to subdivide, and DAW lost the lease on the land in 1994"
- "Not a clear mandate between shareholders, board members, and outside parties to make a reasonable decision"
- "First Nations should be consulted regarding any possible commercial development given recent court decisions"
- What are the tax implications if land use changes on the proposed new parcel?
- Concern regarding recent maintenance by BC Hydro on the roads above the falls that may have negatively affected water quality
- Communication within MFRR between Board and shareholders
- Occasionally troubled relationship between MFRR and DAW
- Keeping roads and trails private

#### **ANALYSIS:**

The application that was submitted proposed forestry/logging use for the new lot. This would be a significant change from the current greenbelt use as part of the LUC, and represents a more active use of the property that could have potentially negative effects on the recreation retreat portion. As previously noted, the applicant has stated that they have no development plans for the property at this time other than acquiring title to the proposed lot and then selectively clearing of the site.

Given the uncertainty about the future uses of the lot, and the concerns raised by several respondents to the questionnaire, SLRD staff are proposing an approach to balance the differing interests. Staff have drafted an LUC amendment bylaw and a zoning amendment bylaw for this

application. It is being brought to the Board for review to be considered for first reading and the initiation of the referral process. There is no OCP amendment required.

The portion of the District Lot 4363 that is proposed to be subdivided would be removed from the LUC by Amendment Bylaw No. 1359-2014 and rezoned by Amendment Bylaw No. 1360-2014. The proposed lot would be rezoned to a new Open Space zone that will have limited uses similar to the greenbelt designation in the land use contract. The intent is to allow the application to move forward with initial bylaw development while recognizing and incorporating concerns highlighted by residents regarding possible uses for the proposed lot; changing the use of the proposed lot from Open Space would require a rezoning.

#### Land Use Contract Amendment Bylaw No. 1359-2014

- Proposes to amend Land Use Contract Bylaw No. 87, 1976 through a text and map change whereby the land use contract would no longer apply to the whole of District Lot 4363.
- A map would be included in the amendment to show the revised extent of the LUC based on the proposed lot to be removed.

#### Current Land Use Designations excerpts from Land Use Contract Bylaw No. 87, 1976

##### LUC Section 2 – Definitions

Greenbelt Area shall mean that portion or portions of the Lands shown coloured white on the Site Plan, together with the remaining lands comprising said District Lot 4363.

##### LUC Section 11 - Greenbelt Areas

The Greenbelt Area shall not be used for any purposes inconsistent with their use and retention as natural unimproved areas. To the extent that it is reasonably practical, the Greenbelt Area shall be kept in its natural state, provided always that underground services may be installed under, and pedestrian pathways be constructed through, the Greenbelt Area.

##### LUC Schedule B Section III – Greenbelt Area

The use of land in the greenbelt area is restricted to recreation grounds and hiking trails and pedestrian pathways and shall not be used for any purpose inconsistent with their use and retention as natural, unimproved areas. No buildings of any nature shall be permitted.

#### Zoning Amendment Bylaw No. 1360-2014

- Proposes to amend the Area C Zoning Bylaw No. 765, 2002 to zone that portion of District Lot 4363 that would be removed from the LUC.
- The portion would be rezoned to an Open Space zone that would allow for similar uses matching that which is currently permitted under the land use contract in the designated Greenbelt Area.
- The Open Space zone would have no building or structures allowed.
- The minimum parcel size for that Open Space zone would be set at the size of the proposed parcel to facilitate the subdivision from DL 4363, with no further subdivision potential.

- Once future uses have been determined for the property, a subsequent rezoning application could be submitted that would amend the zoning to allow a specific development to occur.

## **BILL 17 – CHANGES TO LOCAL GOVERNMENT ACT RE: LAND USE CONTRACTS:**

Bill 17, which was adopted earlier this year, made changes to the *Local Government Act* to terminate all land use contracts in BC by 2024. As a result, zoning will need to be in place by June 30, 2022 before all Land Use Contracts in the province are terminated by June 30, 2024. Regardless of the outcome of this particular application, the McGillivray Falls Land Use Contract Bylaw No. 87, 1976 will need to be terminated and replaced by zoning in accordance with those changes in the near future.

### **OPTIONS:**

#### Option 1

Give the LUC and zoning amendment bylaws first reading and initiate the referral process.

#### Option 2

Do not give the LUC and zoning amendment bylaws first reading, and refer the application back to staff for more information, or revision.

#### Option 3

Reject the application.

**PREFERRED OPTION:** Option 1

### **FOLLOW UP ACTION:**

As per Board direction.

### **CONCLUSION:**

SLRD staff have drafted bylaws to amend the LUC to remove the proposed Lot 1 from the LUC and rezone it to a new Open Space zone under SLRD Zoning Bylaw No. 765, 2002. This will enable the application to continue through the process while recognizing concerns raised through the public information meeting and questionnaire. The initiation of the referral process will allow for comments to be received from First Nations and other agencies.

### **ATTACHMENTS:**

Land Use Contract Amendment Bylaw No. 1359-2014

Zoning Amendment Bylaw No. 1360-2014

Appendix 3: Summary of Public Information Meeting – August 2, 2014

Prepared by: I. Holl, Planner

Reviewed by: K. Needham, Director of Planning and Development

Approved by: L. Flynn, Chief Administrative Officer

**SQUAMISH-LILLOOET REGIONAL DISTRICT  
BYLAW NO. 1359-2014**

A bylaw of the Squamish-Lillooet Regional District to amend the Land Use Contract Bylaw No. 87, 1976, as amended from time to time.

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**WHEREAS** the Board of the Squamish-Lillooet Regional District wishes to amend Land Use Contract Bylaw No. 87, 1976;

**NOW THEREFORE**, the Regional Board of the Squamish-Lillooet Regional District, in open meeting assembled, enacts as follows:

1. This bylaw may be cited for all purposes as “Squamish-Lillooet Regional District Land Use Contract Bylaw No. 87, 1976, Amendment Bylaw No. 1359-2014.”
2. The Squamish-Lillooet Regional District Land Use Contract Bylaw No. 87, 1976 is amended as follows:
  - (a) By adding a new Summary of Amendments table in Land Use Contract Bylaw No. 87, 1976 that will include this bylaw.
  - (b) By replacing the phrase “District Lot 4363, Lillooet District” that follows the section “AND WHEREAS the Developer is the registered holder of the last registered agreement for sale and purchase of those lands in the Lillooet Assessment District, Province of British Columbia, better known and described as:” on page 3 of the original bylaw with the following:

“That portion of PID 013-410-377, District Lot 4363, LLD as outlined in bold and shaded on Schedule D Land Use Contract Extent”
  - (c) By inserting the new Schedule D Land Use Contract Extent, which is attached to and forms part of this bylaw.
  - (d) By replacing the existing definition of Greenbelt Area in Section 2 Definitions, with the following revised definition:

Greenbelt Area shall mean that portion or portions of the Lands shown coloured white on the Site Plan, together with the remaining lands comprising that portion of PID 013-410-377, District Lot 4363, LLD as outlined in bold and shaded on Schedule D Land Use Contract Extent.



READ A FIRST TIME this 27<sup>th</sup> day of OCTOBER, 2014.

READ A SECOND TIME this day of , 201\_.

PUBLIC HEARING held on the day of , 201\_.

READ A THIRD TIME this day of , 201\_.

ADOPTED this day of , 201\_.

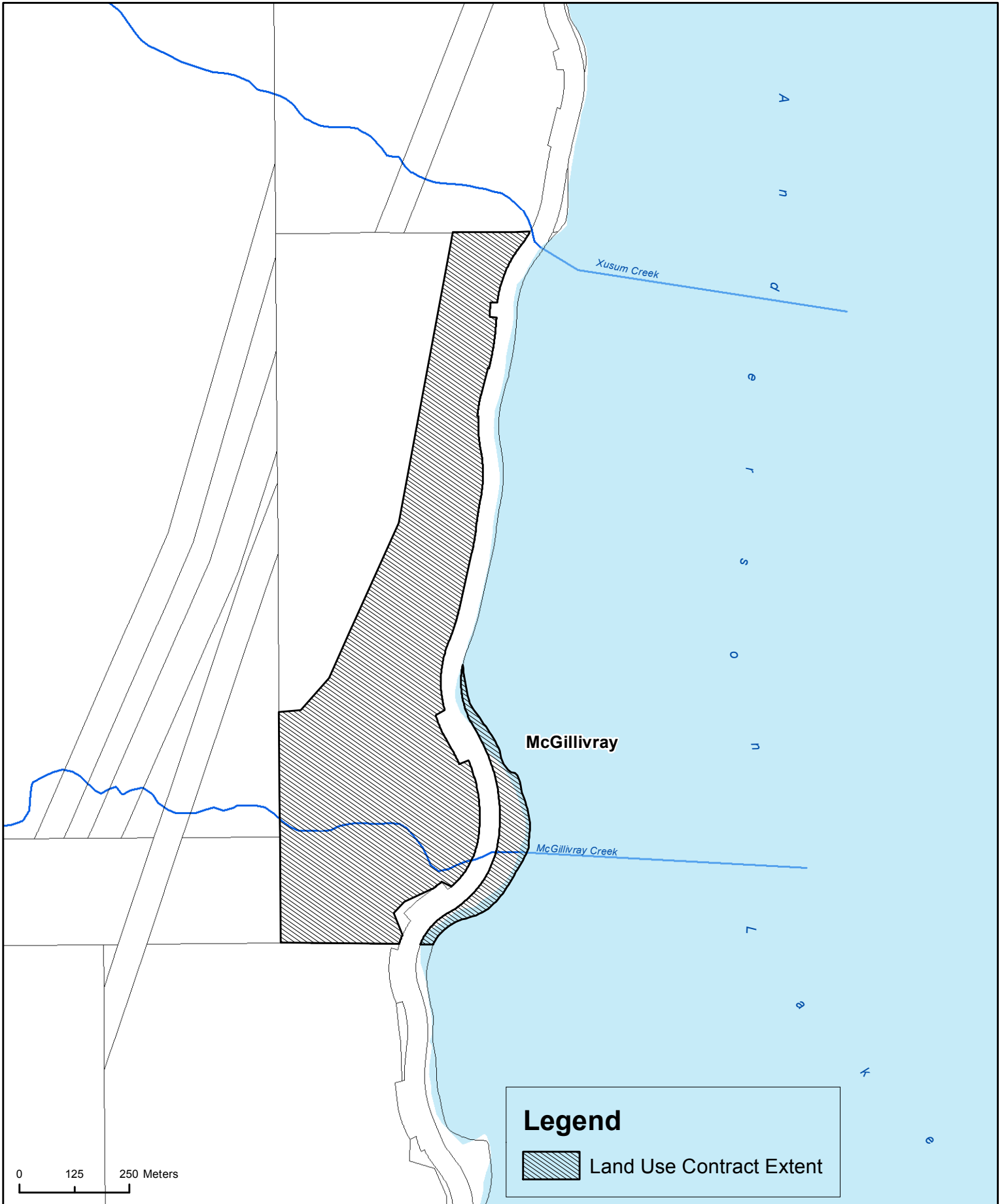
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Patricia Heintzman  
Chair

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Peter DeJong  
Secretary



**SCHEDULE "D"**  
**LAND USE CONTRACT EXTENT**  
**LAND USE CONTRACT AMENDMENT BYLAW NO. 1359-2014**  
**SQUAMISH - LILLOOET REGIONAL DISTRICT**

Plot Date: 10/22/2014



**Legend**

 Land Use Contract Extent

**SQUAMISH-LILLOOET REGIONAL DISTRICT  
BYLAW NO. 1360-2014**

A bylaw of the Squamish-Lillooet Regional District to amend the Zoning Bylaw No. 765, 2002, as amended from time to time.

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**WHEREAS** the Board of the Squamish-Lillooet Regional District wishes to amend Zoning Bylaw No. 765, 2002;

**NOW THEREFORE**, the Regional Board of the Squamish-Lillooet Regional District, in open meeting assembled, enacts as follows:

1. This bylaw may be cited for all purposes as “Squamish-Lillooet Regional District Zoning Bylaw No. 765, 2002, Amendment Bylaw No. 1360-2014.”
2. The Squamish-Lillooet Regional District Zoning Bylaw No. 765, 2002 is amended as follows:
  - (a) By updating the Summary of Amendments table in Zoning Bylaw No. 765, 2002 to include this bylaw.
  - (b) By inserting at the end of the list of zones in Section 4.1 (1), the following:

OS            Open Space
  - (c) Schedule B Zoning Maps of Squamish-Lillooet Regional District Zoning Bylaw 765, 2002 is amended as follows:
    - i. By rezoning that portion of land outlined in bold on Schedule 1, which is attached to and forms part of this bylaw, from Land Use Contract to OS Open Space.
  - (d) By inserting in the first paragraph of Section 4.2 immediately following “Comprehensive Development – Green River Estates Residential” and before “zones:” the words “Open Space”.
  - (e) By inserting the following section after Section 16.8:

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**SECTION 17 – OS ZONE –OPEN SPACE ZONE**

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**Permitted Uses**

- 17.1 In the OS *Zone* the *use* of land, *buildings* and *structures* is restricted to:
- Greenbelt, subject to Section 17.2.2

**Regulations**

- 17.2 On a parcel located in the OS *Zone*, no *building* or *structure* shall be constructed, located or altered, and no plan of subdivision approved which contravenes the regulations set out in the table below in which Column I sets out the matter to be regulated and Column II sets out the regulations.

COLUMN I MATTER TO BE REGULATED		COLUMN II REGULATIONS
.1	Minimum Parcel Area for New Subdivisions	29 ha
.2	Greenbelt use	<ul style="list-style-type: none"> <li>• The greenbelt shall not be used for any purposes inconsistent with their use and retention as natural unimproved areas.</li> <li>• To the extent that it is reasonably practical, the greenbelt shall be kept in its natural state, provided always that underground services may be installed under, and pedestrian pathways be constructed through, the greenbelt.</li> <li>• The use of land in the greenbelt is restricted to recreation grounds, hiking trails, and pedestrian pathways.</li> <li>• No buildings or structures of any nature shall be permitted.</li> </ul>

=====Section 17 ends=====

READ A FIRST TIME this 27<sup>th</sup> day of OCTOBER, 2014.

READ A SECOND TIME this day of , 201\_.

PUBLIC HEARING held on the day of , 201\_.

READ A THIRD TIME this day of , 201\_.

ADOPTED this day of , 201\_.

\_\_\_\_\_  
Patricia Heintzman  
Chair

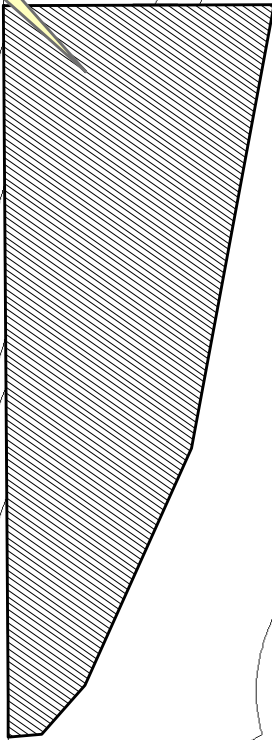
\_\_\_\_\_  
Peter DeJong  
Secretary



**SCHEDULE "1"**  
**ZONING AMENDMENT BYLAW NO. 1360-2014**  
**SQUAMISH - LILLOOET REGIONAL DISTRICT**

Plot Date: 10/21/2014

Area to be rezoned from  
Land Use Contract to  
Open Space (OS)



*Xusum Creek*

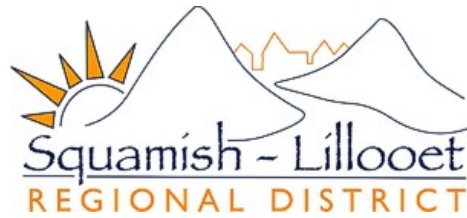
**McGillivray**

*McGillivray Creek*

0 125 250 Meters



## APPENDIX 3



### PUBLIC INFORMATION MEETING RE: LAND USE CONTRACT AND REZONING APPLICATION FOR

#### MCGILLIVRAY FALLS District Lot 4363 (DAW HOLDINGS AGENT)

Saturday, August 2, 2014 4PM

#### Public information meeting summary:

The meeting started at 4 PM. There were 27 people in attendance, including Electoral Area C Director Susie Gimse.

Kim Needham, Director of Planning and Development gave a PowerPoint presentation and outlined the application details.

A number of people asked questions, including the following:

**What is the process?** Kim Needham explained that this application will reduce the size of the District Lot that is under the land use contract and replace some of the site with zoning. This will not change ownership configurations. She explained that the SLRD is not the subdivision authority and that the McGillivray Falls shareholders would need to approve of any subdivision application. Bill Pekonen of DAW Holdings noted that he already has a subdivision application in process, with the approval of McGillivray Falls. Kim Needham noted that any subdivision application would be referred to the SLRD by the Ministry of Transportation and Infrastructure (MOTI). She clarified that the MOTI does not have a public information process. She also noted that there would also be a public hearing held as part of the SLRD process.

**What is the proposed zoning?** Kim Needham explained that it would be an open space zoning, tailor made to the site. Whether this would allow for logging is unknown at this time. Staff is seeking input about the uses through this process. She clarified that no commercial or residential uses were being contemplated. She noted that the zoning would establish what uses can occur. If Mr. Pekonen or others wished to change the zoning thereafter, there would be another rezoning application required including another public process.

**What is the access to the new lot?** Kim Needham noted that MOTI generally requires a legal access for subdivision approvals. Bill Pekonen of DAW Holdings explained that some of the historical trails on the property are gazetted and would provide legal access, including the old wagon trail. Kim Needham noted that legal access would need to be approved by MOTI. Kim Needham clarified that any

subdivision requirements would be made by the MOTI. Electoral Area C Director Susie Gimse noted that the subdivision process is very technical in nature and could include a number of studies and requirements.

**Questionnaire:** Kim Needham provided a questionnaire to everyone and asked that people please complete it and send it back to the SLRD if they wished provide input. She noted that she'd like to clear up any issues prior to the application going to a public hearing.

The meeting closed at 5:25.