

**MEMORANDUM**  
DEVELOPMENT SERVICES DEPARTMENT



**DATE:** May 9, 2023 **FILE NO.:** D2023.015-DVP  
**TO:** Christopher Garrish, Planning Manager  
**FROM:** Fiona Titley, Planner II  
**RE:** Development Variance Permit (DVP) — Electoral Area “D”

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Owner: Harrison Hall & Cameron Stead Agent: Allen Misson Folio: D-00997.000  
Civic: 577 Hody Drive Legal: Lot A, Plan KAP11597, District Lot 337, SDYD, OK Falls Townsite

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**Proposed Development:**

This application is seeking a variance to the interior side parcel that applies to the subject property in order to undertake a subdivision.

Specifically, it is being proposed to vary the rear parcel line from 7.5 metres to 1.27 metres.

In support of this [request], the applicant has stated that “the request to change zoning regulation is to address the physical constraint of the existing house located on proposed lot B. When the house was constructed the setback to the north property line was 1.5m as an interior line. The proposed subdivision will be considering the same north property line to be the rear setback of 7.5m. This new rear setback distance requires variance. This change in [zoning] will not negatively impact the neighbourhood because its an existing house.”

**Site Context:**

The subject property is approximately 1395 m<sup>2</sup> in area and is situated on the east side of Hody Drive, approximately 80 metres east of Okanagan Lake. The property is understood to contain one (1) singled detached dwelling and accessory building.

The surrounding pattern of development is generally characterised by larger Agricultural parcel to the east, similar residential development to the north, south and west and medium density residential property to the south west.

**Background:**

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on July 5, 1961, while available Regional District records indicate that building permits have not previously been issued for this property.

Under the Electoral Area “D” Official Community Plan (OCP) Bylaw No. 2603, 2013, the subject property is currently designated Low Density Residential (LR), and is the subject of the OK Falls Multi Family Development Permit designation.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2023, the property is currently zoned Low Density Residential Two (RS2) which permits a single detached dwelling as the principal permitted use and requires a minimum parcel size of 500m<sup>2</sup>.

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BC Assessment has classified the property as “Residential” (Class 01).

On October 13, 2022, the Ministry of Transportation and Infrastructure (MoTI) referred a proposed 2 lot subdivision involving the subject property to the Regional District for compliance with any applicable RDOS land use bylaws.

Under Section 3.49 of the Regional District’s *Chief Administrative Officer Delegation Bylaw No. 2793, 2018*, “the CAO or his designate shall ... be delegated authority to issue a development variance permit under Section 498.1 of the *Local Government Act* ...”

**Public Process:**

In accordance with Section 2.4 of Schedule 4 (Application for a Development Variance Permit) of the Regional District’s Development Procedures Bylaw No. 2500, 2011, adjacent residents and property owners were notified of this DVP application on April 3, 2023, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of April 26, 2023, being 15 working days from the date of notification, approximately 0 representations have been received electronically or by submission at the Regional District office.

**Delegated Authority:**

Under Section 498.1(2) of the *Local Government Act*, a local government that has delegated authority to an officer or employee to issue a development variance permit (DVP) must include “criteria for determining whether a proposed variance is minor.”

Under Section 3.49 of the Regional District’s Chief Administrative Officer Delegation Bylaw No. 2793, 2018, staff are to consider if the variance would be “minor and would have no significant negative impact on the use of immediately adjacent or nearby properties” through the use of the following criteria:

1. *degree or scope of the variance relative to the regulation from which a variance is sought;*
2. *proximity of the building or structure to neighbouring properties; and*
3. *character of development in the vicinity of the subject property.*

With regard to the degree of the requested variance it is considered that an 83% decrease in rear setback from 7.5 metres to 1.27 metres is not minor, however it is noted that the requested variance is for an existing structure. No new development within the rear setback is proposed.

With regard to the proximity of the single family dwelling to neighbouring properties, the nearest structure on the abutting property is approximately 7.9 metres to the north. As the applicant is not proposing any new construction, the requested variance is seen to be minor and unlikely to adversely impact the use of adjacent properties through loss of privacy or overshadowing.

With regard to the final criteria and the character of development in the vicinity of the subject property, the placement of an accessory building within 1.27 metre of the rear parcel line setback is common in this area.

For these reasons, the proposed variance(s) is deemed to be minor, and consideration by staff of whether to issue a development variance permit (DVP) under delegation may proceed.

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**Analysis:**

As 0 representations have been received and assessed as “opposing the requested variance(s)”, and in accordance with Section 2.12 of Schedule 4 of Regional District’s Development Procedures Bylaw No. 2500, 2011, this application is to be scheduled for consideration by the Regional District Board.

When considering a “minor” variance request, and in accordance with Section 498.1(2) of the *Local Government Act*, the Regional District Board requires that staff consider the following guidelines when deciding whether to issue a DVP:

1. *is the proposed variance consistent with the general purpose and intent of the zone;*
2. *is the proposed variance addressing a physical or legal constraint associated with the site (e.g. unusual parcel shape, topographical feature, statutory right-of-way, etc.);*
3. *is strict compliance with the zoning regulation unreasonable or un-necessary; and*
4. *Would the proposed variance unduly impact the character of the streetscape or surrounding neighbourhood.*

The Zoning Bylaw’s use of setback regulations is generally to provide physical separation between neighbouring properties in order to protect privacy and prevent the appearance of overcrowding.

Minimum setbacks from parcel lines are used to maintain a minimum space between houses in a residential neighbourhood to allow access to sunlight, to provide separation for fire safety or to mitigate nuisances (like noise) that might come from an adjacent building.

Accordingly, when assessing variance requests a number of factors are taken into account, including the intent of the regulation; the presence of any potential limiting physical features on the subject property; established streetscape characteristics; and whether the proposed development would have a detrimental impact upon the amenity of the area and/or adjoining uses.

In this instance, the requested variance is to facilitate the subdivision of the property. Currently Hody Drive is the front parcel line and the property line to the east is the rear parcel line. However, once the subdivision is complete, Maple Street will become the front parcel line for Lot B and the property line to the north will be considered the rear property line. The existing home is setback 1.72 metres from northern property line and will be encroaching into the rear parcel line setback after subdivision.

Administration notes that no new construction is proposed. As such, the requested variance to the rear parcel line is not seen to negatively impact the use or enjoyment of neighbouring properties.

For these reasons, it is recommended that the requested variances be approved.

**Recommendation:**

THAT Development Variance Permit No. D2023.015-DVP, to facilitate a subdivision at 577 Hody Drive, be approved.

**Respectfully submitted:**

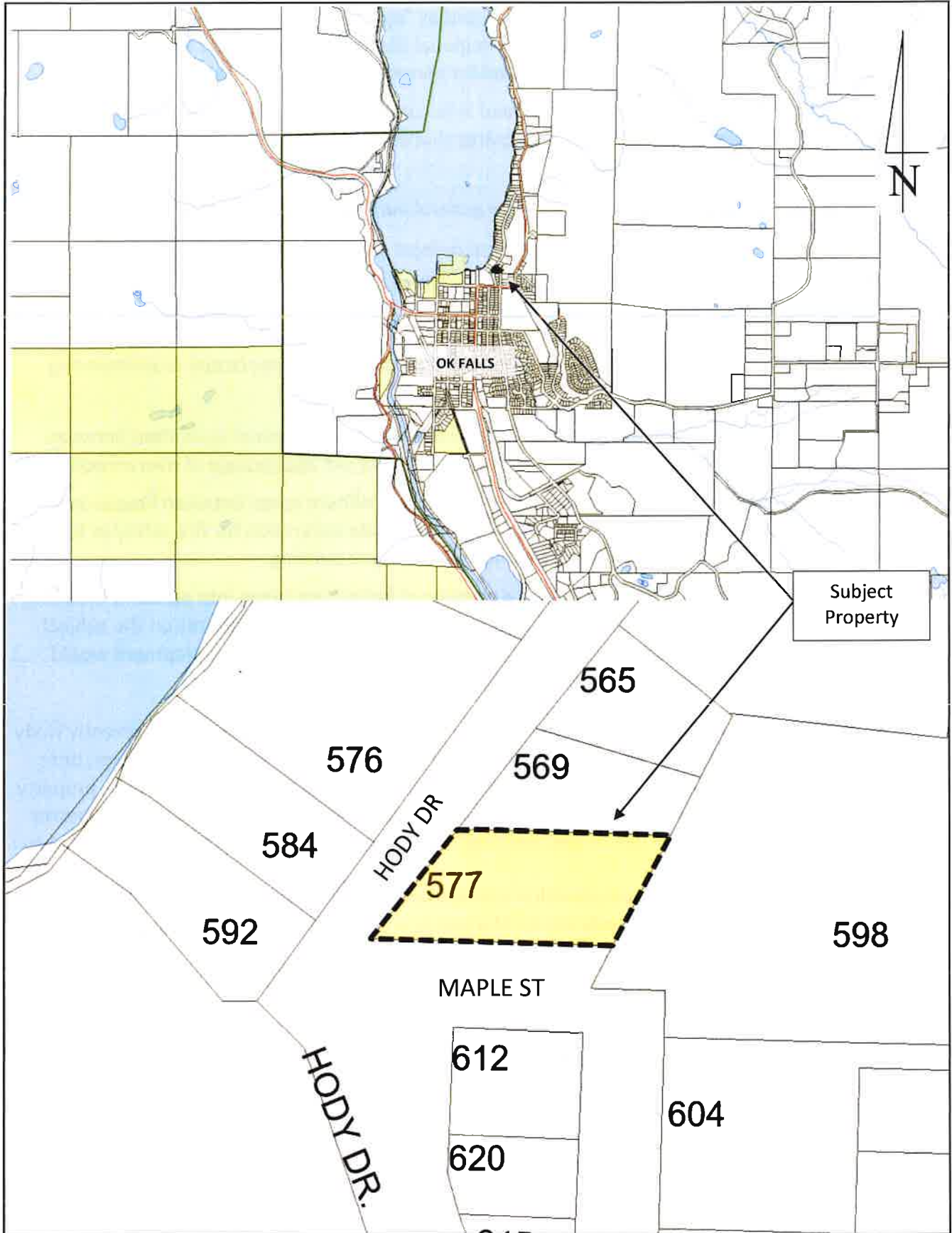
*Fiona Titley*

Fiona Titley, Planner II

**Attachments:**

- No. 1 — Context Maps
- No. 2 — Applicant’s Site Plan
- No. 3 — Site Photo (Google Maps 2012)

Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant’s Site Plan

**SKETCH PLAN TO ACCOMPANY SUBDIVISION APPLICATION OF  
LOT A, D.L. 337, S.D.Y.D., PLAN 11597**

BCGS 82E.033  
SCALE 1:250



THE INTENDED PLOT SIZE OF THIS PLAN IS 435mm IN WIDTH BY 280mm IN HEIGHT (6 SIZE) WHEN PLOTTED AT A SCALE OF 1:250

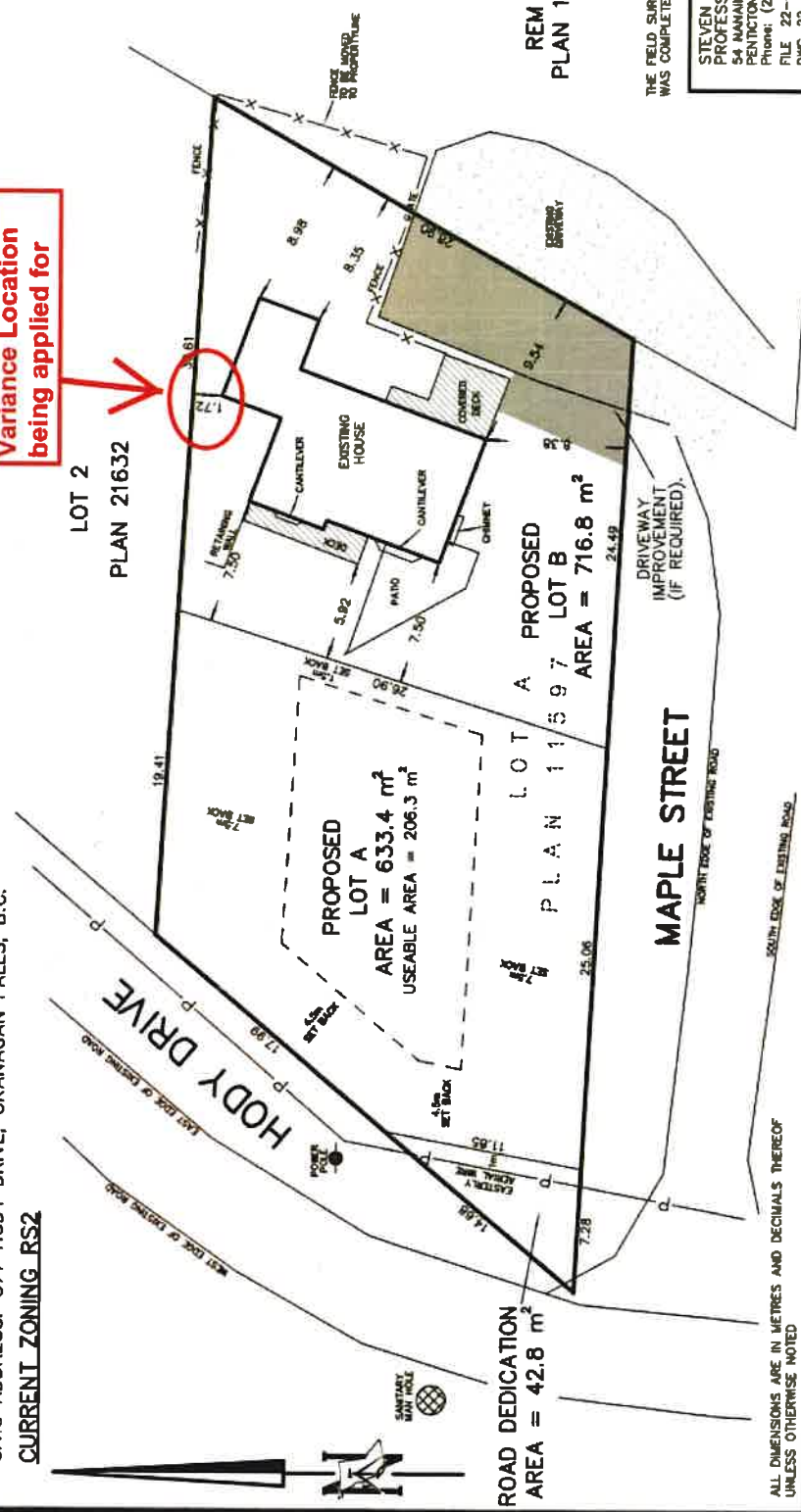
CIVIC ADDRESS: 577 HODY DRIVE, OKANAGAN FALLS, B.C.  
CURRENT ZONING RS2



Variance Location  
being applied for



LOT 2  
PLAN 21632



ROAD DEDICATION  
AREA = 42.8 m<sup>2</sup>

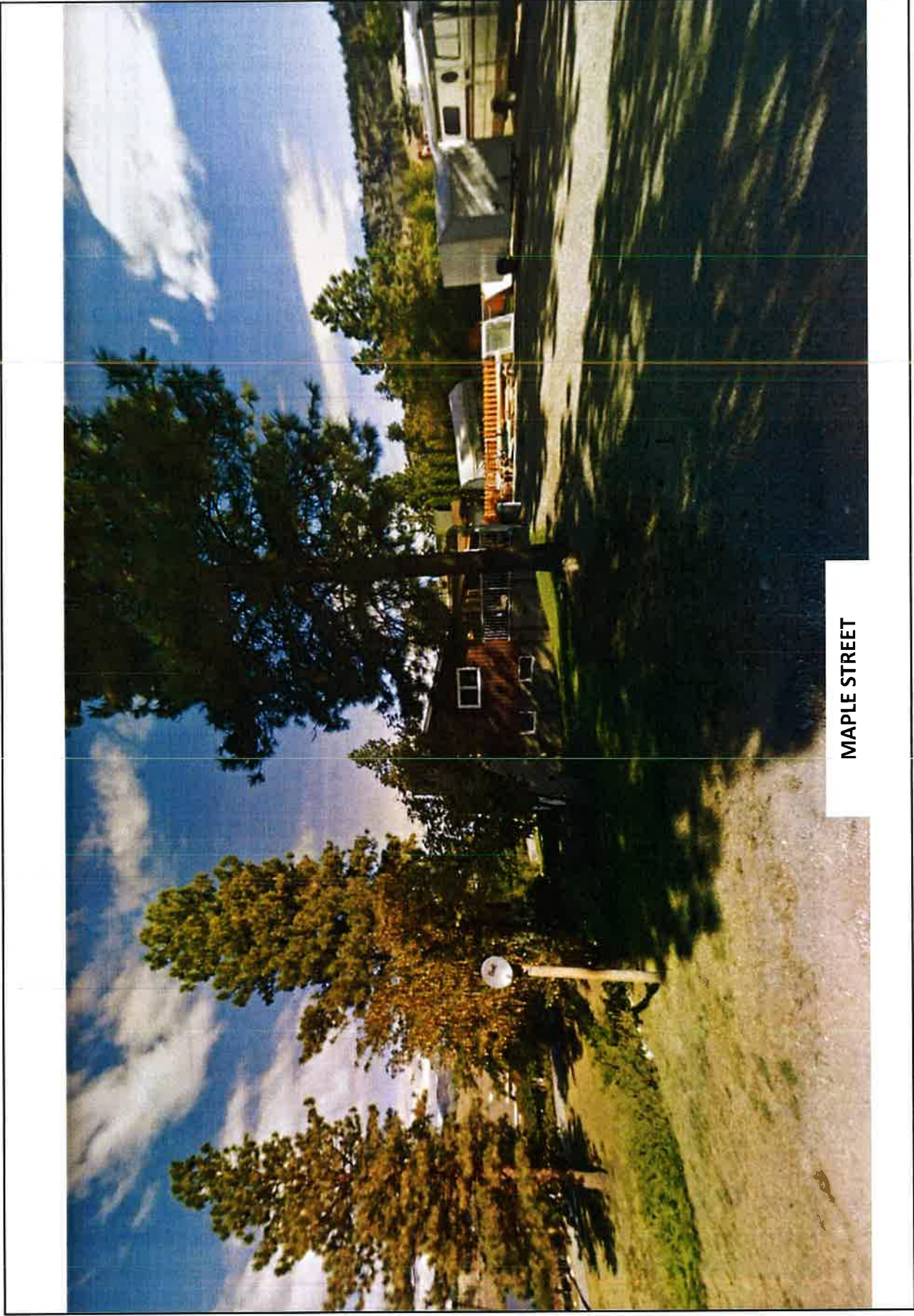
REM C  
PLAN 1279

THE FIELD SURVEY REPRESENTED BY THIS PLAN  
WAS COMPLETED THIS 24th DAY OF AUGUST, 2022.

STEVEN J. BUZIKIEVICH  
PROFESSIONAL LAND SURVEYOR  
54 NANAIMO AVENUE EAST  
PENTICTON, B.C. V2A 1L9  
Phone: (250)492-0659 Fax: (250)492-9851  
FILE 22-0788 FB. 219 PG. 40,41  
DWG. 22-0788SD\_V1

ALL DIMENSIONS ARE IN METRES AND DECIMALS THEREOF  
UNLESS OTHERWISE NOTED

Attachment No. 3 – Site Photo (Google Maps 2012)



MAPLE STREET