ADMINISTRATIVE REPORT

TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: May 4, 2023

RE: Official Community Plan (OCP) & Zoning Bylaw Amendment – Electoral Area "F" (F2022.004-ZONE)

Administrative Recommendation:

THAT Bylaw No. 2790.06, 2023, a bylaw to amend the Area "F" Official Community Plan; and,

THAT Bylaw No. 2800.13, 2023, a bylaw to amend the Okanagan Valley Zoning Bylaw to facilitate a two-lot subdivision at 1108 Fish Lake Road, be denied.

Folio: F-07289.300

Legal: Lot 4, District Lot 4239, ODYD, Plan KAP25804

OCP: Resource Area (RA)

Zone: Resource Area (RA)

Proposed Development:

This application is seeking to amend the Official Community Plan designation and zoning of the subject property in order to facilitate a two-lot subdivision.

In order to accomplish this, the following land use bylaw amendments are being proposed by the applicant:

- amend the land use designation under Schedule 'B' (OCP Map) of the Electoral Area "F" Official Community Plan (OCP) Bylaw No. 2790, 2018, from Resource Area (RA) to part Large Holdings (LH) and part Small Holdings (SH); and
- amend the zoning under Schedule '2' (Zoning Map) of the Okanagan Valley Zoning Bylaw No. 2800, 2022, from Resource Area (RA) to part Large Holdings Two (LH2) and part Small Holdings Four (SH4).

In support of the rezoning, the applicant has stated:

- *The impact on this community is negligible as the homesite would not be visible from Fish Lake Road as it would be situated on an upper bench. There is a need for more affordable land, which this would provide, with minimal impact to this small community of 5 properties, within District Lot 4239. We are presently unaware of any available* [formerly SH2, now SH4] *properties within 10 kms.*
- *The type of development would be a single family dwelling. The preference would be to have this property sub-divided as soon as possible to allow for a potential buyer to move forward in an increasing limited market.*

Site Context:

The subject property is approximately 15.4 ha in area and is bisected by Fish Lake Road. It is understood that the parcel is comprised of a single detached dwelling and garage. It is part of a historical Crown Grant, which has since been subdivided into five separate parcels.

The property is largely surrounded by un-surveyed and undeveloped Crown lands. Aside from the other parcels derived from the historical Crown Grant, the most proximal privately held parcels are within the community of Meadow Valley to the east, which is predominantly agricultural in nature.

Background:

The property was created on February 27, 1975, while available Regional District records indicate that building permits have been issued for a single detached dwelling (1979) and garage (1984). BC Assessment has classified the subject property as "Residential" (Class 01).

Sub-Regional Growth Strategy (RGS):

Under the RGS Bylaw No. 2770, 2017, the property is not within a Primary or Rural Growth Area.

Goal #1 of the RGS is to "focus development in serviced areas in designated Primary Growth Areas and Rural Growth Areas". In support of this goal, the RGS Bylaw speaks to:

- Discouraging rezoning of large rural land parcels to smaller parcel sizes, outside of Primary Growth Areas and Rural Growth Areas (Policy 1C-3);
- Limiting consideration for rezoning of large rural land parcels to smaller parcel sizes outside of Primary Growth Areas and Rural Growth Areas only where such growth is infill, does not significantly increase the number of units or the established density, and respects the character of its surroundings (Policy 1C-4);
- Strengthening policies in OCPs to discourage incremental and additional rural growth outside of identified growth areas and proposed developments that do not closely adhere to OCP guidelines for the protection of rural and resource areas will not be supported (Policy 1C-5).

Official Community Plan (OCP):

The property is designated Resource Area (RA) which speaks to maintaining such lands "as large land parcels" (e.g. 20.0 ha minimum parcel size) "in recognition that these areas will remain as rural, with limited community services and infrastructure" and to "protect … habitat areas" when these lands are designated as environmentally sensitive. The property is the subject of a Watercourse Development Permit (WDP) and Environmentally Sensitive Development Permit (ESDP) Area designation.

Zoning Bylaw:

The property is zoned Resource Area (RA) which requires a minimum parcel size of 20.0 ha for subdivision.

Faulder Zone Review & Meadow Valley Aquifer Study

The Faulder Zone Review was initiated in the Fall of 2021 following concerns from residents with respect to water availability in the Faulder area and proposes various amendments to the Okanagan Valley Zoning Bylaw and Electoral Area "F" OCP.

More specifically, the project involves proposed restrictions on certain land uses which would place additional users/stressors on the Faulder Community Water System (e.g., accessory dwellings, secondary suites, etc.), and the introduction of OCP policies to support the long-term sustainability of the water resources in Faulder, Meadow Valley, and the surrounding area.

The Meadow Valley Aquifer Study was completed in 2022, which supports the Faulder Zone Review. The report assessed the capacity of the aquifer to support the variety of land uses across Faulder and Meadow Valley and included a conceptual model of groundwater flow, groundwater available across four distinct sub-regions of the Meadow Valley Aquifer (North Meadow Valley, South Meadow Valley, North Faulder, and Trout Creek Valley), climate and water demand projections, as well as a number of conclusions and recommendations.

The property is not located within the boundaries of the Meadow Valley Aquifer; however, it is bisected by Darke Creek, which is known to be a main source of recharge to the aquifer. It is understood that the property draws surface water from an off-shoot of Darke Creek which also runs through the property.

Referrals:

Approval from the Ministry of Transportation and Infrastructure (MoTI) is not required prior to adoption as the proposed amendments involve lands beyond 800 metres of a controlled access highway.

Pursuant to Section 476 of the *Local Government Act*, the Regional District must consult with the relevant School District when proposing to amend an OCP for an area that includes the whole or any part of that School District. In this instance, School District No. 67 has been made aware of the proposed amendment bylaw.

Pursuant to Section 477 of the *Local Government Act*, after first reading the Regional Board must consider the proposed OCP amendment in conjunction with Regional District's current financial and waste management plans. The proposed OCP amendment has been reviewed by the Public Works Department and Finance Department, and it has been determined that the proposed bylaw is consistent with RDOS's current waste management plan and financial plan.

Public Process:

On November 3, 2022, a Public Information Meeting (PIM) was held electronically and was attended by four members of the public.

At its meeting of April 11, 2023, the Electoral Area "F" Advisory Planning Commission (APC) recommended that the subject development application be denied.

The written notification of affected property owners, the public meetings as well as formal referral to the agencies listed at Attachment No. 1, should be considered appropriate consultation for the purpose of Section 475 of the *Local Government Act*. As such, the consultation process undertaken is seen to be sufficiently early and does not need to further ongoing.

All comments received to date in relation to this application are included as a separate item on the Board Agenda.

Analysis:

The application is seen to be inconsistent with the South Okanagan Regional Growth Strategy (RGS), particularly as the proposal seeks to increase residential development by rezoning larger rural land parcels (i.e., RA parcels) to smaller parcel sizes outside of a designated Growth Area (Policy 1C-3).

The RGS directs development to settlement areas where services are located [emphasis added].

Similarly, the OCP directs residential development to designated Rural Growth Areas (Section 6.4.1) while considering limited new development in existing settlement areas where they are consistent with the OCP (Section 6.4.3).

The property is not located within a Primary or Rural Growth Area under the RGS, nor is it located within an existing settlement area with existing services (i.e., the property is not within an area serviced by community water or sewer systems).

It is recognized that the RGS does contemplate a limited amount of infill development outside of Primary and Rural Growth Areas (Policy 1C-4); however, it is noted that these are generally considered to include rezonings to reduce minimum parcel size for subdivision, which do not require OCP amendments.

As it relates to Policy 1C-5, the proposal is seeking to increase residential development in a relatively isolated area outside of a Growth Area, which is predominantly comprised of un-surveyed Crown lands and some larger privately held parcels designated and zoned for agriculture, resource extraction, recreation, environmental conversation and large rural residential purposes.

In light of the comments above, the proposal is not seen to be consistent with the RGS or the applicable Growth Management objectives within the OCP Bylaw.

OCP Consistency:

Policy 1C-5 of the RGS stipulates that proposed developments that do not closely adhere to OCP guidelines for the protection of rural and resource areas will not be supported.

The OCP supports lands designated as RA generally being maintained as large land parcels, and further supports a 20 hectare minimum parcel size in recognition that these areas will remain as rural, with limited community services and infrastructure. Section 7.3.1.3 of the OCP also discourages the subdivision of lands within Faulder and Meadow Valley area as a means of maintaining the “rural character” of the area.

The OCP requires that proposals to create additional land designated as Large Holdings (LH) or Small Holdings (SH) be assessed against various criteria such as availability of vacant LH and SH lands, capability of the natural environment and impact on environmentally sensitive areas, servicing, and compatibility with adjacent land uses and designations, and the character of the existing area (Section 10.3.4).

Availability of Vacant LH and SH Lands:

The subject property is located in an area which is largely comprised of un-surveyed Crown lands that are designated RA. While there are some lands designated as AG and LH within Meadow Valley approximately 1 km to the east, there are no lands designated as LH and SH in the immediate vicinity of the subject property.

Environmental Assessment:

The applicant has provided an Environmental Assessment for the property which indicates that the property supports four classes of environmentally sensitive areas (ESAs) (i.e., ESA-1, ESA-2, ESA-3, ESA-4). "Proposed Lot A" as illustrated in Attachment No. 2 consists entirely of lands designated ESA-3, which is "applied to ecosystems that may have low to moderate conservation values because of importance to wildlife (e.g. disturbed or fragmented ecosystems or habitat features).

Consistency with Adjacent Land Uses and Existing Character:

As previously noted, the surrounding properties are zoned and designated RA with distal properties within Meadow Valley predominantly being designated AG and LH. In this regard, the proposed rezoning would introduce rural residential zones and OCP designations which would not be consistent with the zoning and OCP designations of the surrounding parcels.

The subject property and the northerly parcels within the historic Crown Grant currently appear to be used for rural residential purposes. Despite this, this block of parcels is a relatively isolated pocket of development in an area predominantly consisting of un-surveyed Crown lands. Narrowly examined, the proposed addition of a rural residential lot is not seen to be out of character in the context of the developed block of parcels; however, examined with a wider frame of reference, it is considered to be out of character in the context of its setting in a largely undeveloped area.

Unhooking of parcels where they are split by a road are generally supported as the road is generally seen to form a natural boundary. However, it is noted that the proposal is not consistent with the Growth Management objectives in that the proposal is outside of a Rural Growth Area (Section 6.4.1), and the proposal is not in keeping with the OCP's broad goals and policies as demonstrated above.

Consideration should be given to the potential cumulative impacts of subdivisions in an area known to have water quality and availability concerns.

While an increase of one additional lot is not seen to be substantial in the short-term allowing incremental growth in the area may detrimentally impact local water availability in the long-term.

Further, approval of ad hoc rezoning requests such as this may result in an increase in submissions of similar requests that would, over time, erode the integrity of the RA designation at this location and likely result in a change in the character of the area and may compromise the rural character of the area in the long-term.

Summary:

In summary, the proposal is seen to be inconsistent with the Regional Growth Strategy and the applicable policies contained within the Electoral Area "F" OCP Bylaw, and may have deleterious impacts on the established rural character of the area and long-term sustainability of the water resources in the surrounding area.

Alternatives:

1. THAT Electoral Area "F" Official Community Plan Amendment Bylaw No. 2790.06, 2023, and Okanagan Valley Zoning Amendment Bylaw No. 2800.13, 2023, be read a first and second time and proceed to public hearing;

   AND THAT the Board of Directors considers the process, as outlined in the report from the Chief Administrative Officer dated May 4, 2023, to be appropriate consultation for the purpose of Section 475 of the *Local Government Act*;

   AND THAT, in accordance with Section 477 of the *Local Government Act*, the Board of Directors has considered Amendment Bylaw No. 2790.06, 2023, in conjunction with its Financial and applicable Waste Management Plans;

   AND THAT the holding of the public hearing be scheduled for the Regional District Board meeting of May 18, 2023;

   AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.

Respectfully submitted:

Shannon Duong, Planner II

Endorsed By:

C. Garrish, Planning Manager

Attachments: No. 1 – Agency Referral List

No. 2 – Applicant's Site Plan

No. 3 – Applicant's Posting Plan of the Eastern Portion of the Property

Attachment No. 1 – Agency Referral List

Referrals to be sent to the following agencies as highlighted with a ☑, prior to the Board considering first reading of Amendment Bylaw Nos. 2800.13, 2023 and 2790.06, 2023.

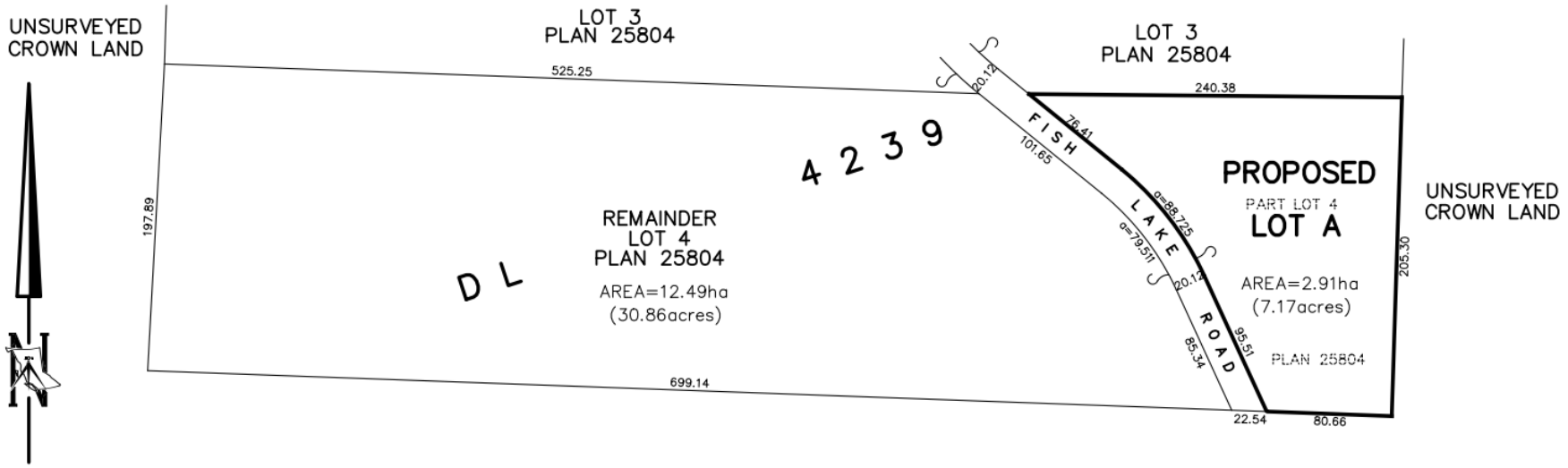
☐	Agricultural Land Commission (ALC)	☑	Fortis
☑	Interior Health Authority (IHA)	☐	City of Penticton
☐	Ministry of Agriculture	☑	District of Summerland
☐	Ministry of Energy, Mines & Petroleum Resources	☐	Town of Oliver
☐	Ministry of Municipal Affairs & Housing	☐	Town of Osoyoos
☑	Ministry of Lands, Water and Resource Stewardship	☐	Town of Princeton
☐	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Archaeology Branch)	☐	Village of Keremeos
☐	Ministry of Jobs, Trade & Technology	☑	PIB / OIB (via NationsConnect)
☑	Ministry of Transportation and Infrastructure	☐	Environment Canada
☐	Integrated Land Management Bureau	☐	Fisheries and Oceans Canada
☐	BC Parks	☐	Canadian Wildlife Services
☐	School District #53 (Areas A, B, C, D & G)	☐	OK Falls Irrigation District
☐	School District #58 (Area H)	☐	Kaleden Irrigation District
☑	School District #67 (Areas D, E, F, I)	☑	Meadow Valley Irrigation District
☐	Central Okanagan Regional District	☐	Kootenay Boundary Regional District
☐	Thompson Nicola Regional District	☐	Fraser Valley Regional District

SKETCH PLAN TO ACCOMPANY A REZONING AND SUBDIVISION APPLICATION OF LOT 4, DL 4239, ODYD, PLAN 25804

BCGS 82E.061
SCALE 1:2500

50 0 50 100 150 metres

THE INTENDED PLOT SIZE OF THIS PLAN IS 432mm IN WIDTH BY 280mm IN HEIGHT (B SIZE) WHEN PLOTTED AT A SCALE OF 1:2500



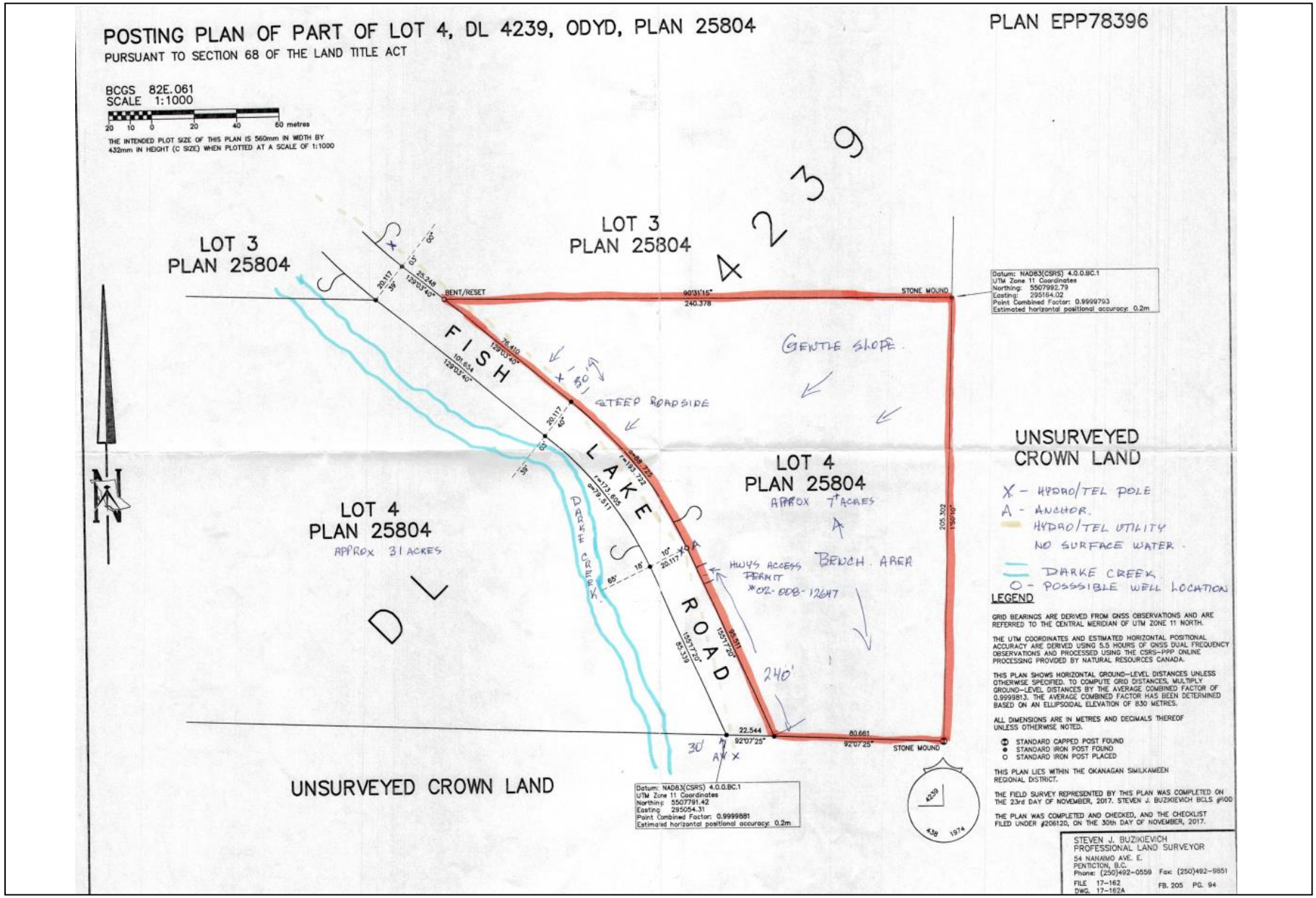
LEGEND

THIS PLAN LIES WITHIN THE REGIONAL DISTRICT OF OKANAGAN SIMILKAMEEN

ALL DIMENSIONS ARE IN METRES AND DECIMALS THEREOF UNLESS OTHERWISE NOTED

STEVEN J. BUZIKIEVICH
PROFESSIONAL LAND SURVEYOR
54 NANAIMO AVENUE EAST
PENTICTON, B.C. V2A 1L9
Phone: (250)492-0559 Fax: (250)492-9851

FILE 22-0263
DWG. 22-0263A


POSTING PLAN OF PART OF LOT 4, DL 4239, ODYD, PLAN 25804
PURSUANT TO SECTION 68 OF THE LAND TITLE ACT
PLAN EPP78396
BCGS 82E.061
SCALE 1:1000
20 10 0 20 40 60 metres
THE INTENDED PLOT SIZE OF THIS PLAN IS 560mm IN WIDTH BY 432mm IN HEIGHT (C SIZE) WHEN PLOTTED AT A SCALE OF 1:1000
LOT 3
PLAN 25804
LOT 3
PLAN 25804
4239
BENT/RESET
STONE MOUND
90°31'15"
240.378
Datum: NAD83(CSRS) 4.0.0.BC.1
UTM Zone 11 Coordinates
Northing: 5507992.79
Easting: 295164.02
Point Combined Factor: 0.9999793
Estimated horizontal positional accuracy: 0.2m
FISH
LAKE
ROAD
DARKE CREEK
GENTLE SLOPE
STEEP ROADSIDE
LOT 4
PLAN 25804
APPROX 7 ACRES
LOT 4
PLAN 25804
APPROX 31 ACRES
HWYS ACCESS PERMIT #02-008-12647
BENCH AREA
240'
30'
UNSURVEYED CROWN LAND
UNSURVEYED CROWN LAND
X - HYDRO/TEL POLE
A - ANCHOR
HYDRO/TEL UTILITY
NO SURFACE WATER
DARKE CREEK
O - POSSIBLE WELL LOCATION
LEGEND
GRID BEARINGS ARE DERIVED FROM GNSS OBSERVATIONS AND ARE REFERRED TO THE CENTRAL MERIDIAN OF UTM ZONE 11 NORTH.
THE UTM COORDINATES AND ESTIMATED HORIZONTAL POSITIONAL ACCURACY ARE DERIVED USING 5.5 HOURS OF GNSS DUAL FREQUENCY OBSERVATIONS AND PROCESSED USING THE CSRS-PPP ONLINE PROCESSING PROVIDED BY NATURAL RESOURCES CANADA.
THIS PLAN SHOWS HORIZONTAL GROUND-LEVEL DISTANCES UNLESS OTHERWISE SPECIFIED. TO COMPUTE GRID DISTANCES, MULTIPLY GROUND-LEVEL DISTANCES BY THE AVERAGE COMBINED FACTOR OF 0.9999813. THE AVERAGE COMBINED FACTOR HAS BEEN DETERMINED BASED ON AN ELLIPSOIDAL ELEVATION OF 830 METRES.
ALL DIMENSIONS ARE IN METRES AND DECIMALS THEREOF UNLESS OTHERWISE NOTED.
STANDARD CAPPED POST FOUND
STANDARD IRON POST FOUND
STANDARD IRON POST PLACED
THIS PLAN LIES WITHIN THE OKANAGAN SIMILKAMEEN REGIONAL DISTRICT.
THE FIELD SURVEY REPRESENTED BY THIS PLAN WAS COMPLETED ON THE 23rd DAY OF NOVEMBER, 2017. STEVEN J. BUZIKIEVICH BCLS #900
THE PLAN WAS COMPLETED AND CHECKED, AND THE CHECKLIST FILED UNDER #206120, ON THE 30th DAY OF NOVEMBER, 2017.
STEVEN J. BUZIKIEVICH
PROFESSIONAL LAND SURVEYOR
54 NANAIMO AVE. E.
PENTICTON, B.C.
Phone: (250)492-0559 Fax: (250)492-9851
FILE 17-162
DWG. 17-162A
FB. 205 PG. 94
Datum: NAD83(CSRS) 4.0.0.BC.1
UTM Zone 11 Coordinates
Northing: 5507791.42
Easting: 295054.31
Point Combined Factor: 0.9999881
Estimated horizontal positional accuracy: 0.2m
22.544
92°07'25"
80.661
92°07'25"
STONE MOUND
205.302
135°10'