



Okanagan Indian Band

12420 Westside Road • Vernon, BC, • V1H 2A4

Telephone: 250-542-4328 • Facsimile 250-542-4990

Email: okibreferrals@okanagan.org

“This correspondence will not be construed so as to to prejudice, limit, or derogate from any rights, claims or interests in respect of any Aboriginal title, rights and interests of Okanagan or Syilx Nation recognized and affirmed under Section 35 of the Constitution Act, 1982 and nothing in this letter indicates acceptance by Okanagan of federal or provincial Crown jurisdiction over or ownership of land, water or other resources within the Territory.”

Project Name:

H2023.009-ZONE : OCP & Zoning Amendment - 551 Un-named Road

FN Consultation ID:

H2023.009-ZONE

Consulting Org Contact:

Chris Garrish

Consulting Organization:

[Regional District of Okanagan Similkameen](#)

Date Received:

Monday, September 18, 2023

Attention: Chris Garrish

The Territorial Stewardship Division would like to acknowledge receipt of the above referral. The Okanagan Indian Band (“OKIB”) has conducted a desktop review of the project. The location of the project to which the referral relates is within Syilx (Okanagan Nation) territory, and may have impacts on Syilx Aboriginal Title and Rights, which OKIB holds as part of the Syilx. However, the project is located outside the OKIB’s Area of Responsibility as a member of the Syilx. At this time, we defer to the Upper Similkameen Indian Band and Lower Similkameen Indian Band for a more in depth review. Please keep us informed of any updates or changes to the project as this may change our assessment and our view on the need for further consultation with OKIB.

liml?mt | Thank You

Julie Richard
Referrals Management Clerk
Territorial Stewardship Division
Okanagan Indian Band
12420 Westside Road
Vernon BC, V1H 2A4
Office: 250-542-7132
Cell: 250-309-5217

Lauri Feindell

From: McGowan, Kevin MOTI:EX <Kevin.McGowan@gov.bc.ca>
Sent: October 16, 2023 10:06 AM
To: Planning
Cc: Ben Kent
Subject: Application to amend the zoning of the property in order to allow a 1-lot and two remainder subdivision (2023-04480)
Attachments: PLR (pdf).pdf

Some people who received this message don't often get email from kevin.mcgowan@gov.bc.ca. [Learn why this is important](#)

Hello,

MOTI eDAS File: 2023-04480

Thank you for the application for proposed rezoning to facilitate the 1 lot and two remainder subdivision, east of Eastgate.

As the rezoning requirement is a condition of subdivision, the Ministry of Transportation and Infrastructure has no concerns.

The geohazard report requirement (and associated safe building sites for all lots/remainers) may want to be included as part of the rezoning review as the subject property(s) has steep grades in several places and I think confirmation that there *are* safe building sites should be the first item to be resolved. MOTI's guidelines/criteria for geohazard reports is included in the PLR (attached).

If you have any questions, feel free to contact me at (778)-684-2253.

Regards,

Kevin McGowan

Sr. Development Officer

Ministry of Transportation and Infrastructure
45890 Victoria Avenue, Chilliwack, BC V2P 2T1
Office: (778)-704-0028 | **Cell:** (778)-684-2253



Your File #: 122030-SD
eDAS File #: 2022-05202
Date: Mar/22/2023

Passayton Development Corporation;
c/o AllTerra Land Surveying Ltd (Kelowna)
Bronwyn Denton
1315 St Paul St
Kelowna, British Columbia V1Y 2E2
Canada

Attention: Bronwyn Denton

Re: Proposed Subdivision of PID: 009-919-651, District Lot 229, YDYD
PID: 009-919-708, District Lot 1195, YDYD Except Those Portions Thereof
Included Within the Boundaries of District Lots 901 and 627
Map: 1394601,474992
Map: 1394747,474515
Highway 3 KM 0.8 east of Garret Road - North and South Sides

Your proposal for a 3 lot Conventional subdivision is in the review process however additional information is required before the preliminary review can be completed.

- a. The Approving Officer considers that the land within your proposal may be subject to natural hazard(s) such as, but not limited to, flooding, erosion, land slip or avalanche. If the risk to persons and/or property is too great your proposal could be refused. If you wish to explore this aspect further, you should engage a Qualified Professional, registered with Engineers and Geoscientists British Columbia (EGBC), to advise you.

For assessing landslide hazards the professional shall follow the most recent version of the EGBC Guidelines for Legislated Landslide Assessments for Residential Developments in BC and include the Appendix D: Landslide Assessment Assurance Statement, duly executed, with any report. Please note that for the purposes of that Appendix D statement, the province of British Columbia does not have an adopted level of landslide safety. Also, the report must be provided for the approving officer to refer to and retain in the record of the approval decision.

For assessing flood hazards the professional shall follow the most recent version of the EGBC Guidelines for Legislated Flood Assessments in a

Local District Address
Chilliwack Area Office
45890 Victoria Avenue
Chilliwack, BC V2P 2T1
Canada
Phone: (604) 795-8211 Fax: (604) 795-8214

Changing Climate in BC and include the Appendix I: Flood Assurance Statement, duly executed, with any report. Please note that for the purposes of that Appendix I statement, the province of British Columbia does not have an adopted level of flood hazard or flood risk tolerance. Also, the report must be provided for the approving officer to refer to and retain in the record of the approval decision.

The Approving Officer could consider a subdivision plan at risk from an event, based upon a specific probability of occurrence of that event. When quantifying the frequency of occurrence of natural hazards, the Qualified Professional must distinguish between two different types of events: damaging events and life-threatening events.

When considering damaging events only, unless otherwise specified, a probability of occurrence of 1 in 475 years (10% probability in 50 years) for individual landslide hazards should be used as a minimum standard. This value is the probability of the damaging event occurring. The qualified professional is to identify the run-out extent, or area of influence, of the event.

Where the damaging event is a flooding hazard, a probability of occurrence of 1 in 200 years should be used as a minimum standard.

Where the damaging event is a snow avalanche hazard, a probability of occurrence of 1 in 300 years should be used as a minimum standard.

Where life-threatening catastrophic events are known as a potential natural hazard to a building lot the Qualified Professional is to consider events having a probability of occurrence of 1 in 10,000 years and is to identify areas beyond the influence of these extreme events.

Large scale development must consider the same 1:10,000 year events and must also consider the total risk to the new development. When the total risk approach is used, international standards must be identified. The consultant should clearly identify the calculation procedures used.

- b. The proposed remainder of District Lot 1195 includes hooked portions north of Highway 3 and south of the Similkameen River. Contour mapping indicates that there are relatively steep slopes within remainder, particularly south of the Similkameen River. Confirmation from a qualified professional of a safe building site within the remainder is required.
- c. Contour mapping indicates that there are relatively steep slopes within the remainder of District Lot 229 and there may not be a building site free from natural hazards available. Confirmation from a qualified professional of a safe building site within the remainder must be provided.
- d. The Regional District of Okanagan-Similkameen (RDOS) has notified the Ministry in their letter dated November 7, 2022 that the proposed subdivision does not comply with all applicable bylaws. Modification of the proposed layout to comply with the bylaw requirements or a rezoning of the property to a land use that would allow for the current subdivision layout is necessary. The requirement for complying with applicable bylaws is found in Section 87 of the Land Title Act.

Further review of your application will not occur until we receive the above noted information. If the requested information is not received within one year, a new application and new fees may be required.

We can provide the following conditions based on the information we have received. Please note these preliminary conditions are for guidance only and may be amended or expanded upon, depending on the additional information received and further review of the application. **It is recommended that you do not invest in satisfying these conditions at this time:**

1. The applicant shall comply with the requirements of the RDOS's letter dated November 7, 2022. Written confirmation from the regional district that the subdivision complies with all applicable bylaws shall be submitted with the final plan.
2. The applicant shall work with the Ministry to resolve the previous highway dedications covered by Highway Plan H253 and the three gazette notices (R49561, R49566 and R52276) and remove them from the titles. The Land Title Office will likely require that the legal notations be addressed before any subdivision plans relating to these parcels will be accepted for registration.
3. The only access available for the portion of the remainder of District Lot 1195 south of the Similkameen River will be located along the east property line. This section of Highway 3 has concrete roadside barrier installed for safety along the south side of the highway which precludes the construction of an access to this portion of the property. The applicant shall demonstrate how access to the remainder of DL 1195 south of the Similkameen River is to be achieved.
4. Access for the portion of the remainder of DL 1195 north of Highway 3 is affected by the grade difference between the highway and the property. The applicant shall demonstrate that an access meeting Ministry design requirements can be constructed.
5. Access to the proposed commercial lot shall be based upon the intended development and an access permit from the Ministry is required. The access may be approved with restricted turning movements due to sight lines from the existing curve on Highway 3 and auxiliary right/left turn lanes may be required to accommodate the anticipated development trips. Locating the access as close to the west property line as possible will provided the longest sight distance from the curve.
6. The preliminary layout submitted does not illustrate how much public access to the Similkameen River is included. Please have the surveyor confirm the width of the access to water. The requirement for the provision of public access to water is found in Section 75(1)(c) and (d) of the Land Title Act. If relief is being sought from this requirement, the applicant must submit an affidavit pursuant to Section 76(4) of the Land Title Act requesting relief from the requirement of public access to water outlining the reasons why the plan need not comply with the provisions of the Act.
7. Provincial records indicate this application is in an area with significant potential to contain archaeological sites and that development may be in conflict with archaeological sites protected under the Heritage Conservation Act.

Therefore, the Provincial Approving Officer requires that as a condition of PLR, the applicant hire a qualified archaeologist to determine the need for an

archaeological impact assessment of the subject property. The purpose of the archaeological impact assessment would be to accurately identify the location(s) of the known archaeological site(s), to record any additional sites that may be present, and to recommend any action that may be needed to manage archaeological values in conflict with future development. This might include the placement of covenants to ensure that such sites are not disturbed without proper authorization from the Archaeology Branch.

If the archaeologist determines that an archaeological impact assessment is not required, the archaeologist must forward a written statement to this office with a copy to the Archaeology Branch containing the reasons for eliminating this requirement.

If an archaeological impact assessment is required, you should be aware that applications for Heritage Conservation Act permits take in the order of 6 weeks to process. This includes allowance for a 30 day comment period from local First Nation(s). Processing time can be shortened accordingly if, at the time of application, supporting letter(s) are received from local First Nations.

Information on archaeological consultants may be obtained by calling the B.C. Association of Professional Archaeologists at 604 265-1494, or by email at admin@bcapa.ca, or by checking their web site (<http://www.bcapa.ca/>). Archaeological consultants are also listed in the Yellow Pages.

8. RDOS indicated in their letter dated November 7, 2022 that the proposal is subject to the requirements in Section 3.0 of Schedule "A" of Subdivision Servicing Bylaw No. 2000, 2002. The bylaw requires that water supply be confirmed for new parcels; however, it is not clear if these requirements apply to the proposed remainders. As the current zoning allows the remainders to be used for residential purposes, the applicant must provide confirmation that a water supply meeting the requirements of the bylaw is available for each remainder.
9. RDOS indicated in their letter dated November 7, 2022 that Proposed Lot 1 is subject to the requirements of Subdivision Servicing Bylaw No. 2000, 2002. The bylaw requires that sewage disposal be confirmed for lots with an area less than 2.0 ha. As the two remainders are greater than 2.0 ha, RDOS does not require any written confirmation regarding sewage disposal. As the remainders can be used for residential purposes and there are relatively steep slopes within the properties, the applicant shall provide a report prepared by a qualified professional confirming that there is a suitable area available in each remainder to support construction of a septic system.
10. Covenants may be required to implement recommendations contained in the professional reports required to support this application. Additional requirements for covenants will be established once the reports have been reviewed and accepted.
11. The final plan shall generally comply with the preliminary subdivision layout prepared by AllTerra Land Surveying Ltd., file: 122030-SD dated August 23rd, 2022.
12. The final survey and plan image must be completed by a British Columbia Land Surveyor.
13. The Ministry file number 2022-05202 shall be included on the plan image.
14. All relevant documentation, covenants, final plans, fees, rural property tax

report and written confirmations shall be submitted in one package to this office.

Please note that addressing all the above will not automatically bring approval. Also, at any time changes in acts, regulations, bylaws or policy may make this review invalid. Therefore, it's recommended that you obtain a Preliminary Layout Review letter before proceeding with your proposal. A new application may be required.

If you have any questions or wish to set up an appointment, please do not hesitate to call Samantha Lewis at (778) 943-0142. Please quote file number 2022-05202 when contacting this office.

Signed on behalf of Provincial Approving Officer by

A handwritten signature in black ink, appearing to read 'S. Lewis', written in a cursive style.

Samantha Lewis
Development Services Officer

Attachment: Proposal

Copy to: RDOS

