

RESPONSE SUMMARY

AMENDMENT BYLAW NOS. 2800.36 & 2905.05

Approval Recommended for Reasons Outlined Below

Interests Unaffected by Bylaw

Approval Recommended Subject to Conditions Below

Approval Not Recommended Due to Reasons Outlined Below

Signature:  _____

Signed By: Janelle Rimell _____

Agency: Interior Health Authority _____

Title: Environmental Health Officer _____

Date: March 26, 2024 _____

Lauri Feindell

Subject: FW: OCP and Zoning Bylaw Amendment Referral (Project No. A2024.003-ZONE)

From: ALC Referrals ALC:EX <ALC.Referrals@gov.bc.ca>

Sent: March 22, 2024 1:12 PM

To: Colin Martin <cmartin@rdos.bc.ca>

Subject: RE: OCP and Zoning Bylaw Amendment Referral (Project No. A2024.003-ZONE)

You don't often get email from alc.referrals@gov.bc.ca. [Learn why this is important](#)

Colin

The proposed rezoning is consistent with the decision on ALC file: 63210 which permitted subdivision of the Property subject to conditions. Res. #335/2022

To date it does not appear that the conditions have been fulfilled, thus the subdivision would not be authorized by the ALC.

Regards

Martin Collins ALC Regional Planner

Lauri Feindell

From: FOR DOS Referrals CSNR:EX <FLNRDOSReferrals@gov.bc.ca>
Sent: February 27, 2024 4:04 PM
To: Colin Martin
Subject: Automatic reply: OCP and Zoning Bylaw Amendment Referral (Project No. A2024.003-ZONE)

Thank you for your referral. Please note we currently have limited staff working and responses may be delayed. Please allow for additional timelines for responses.

As of October 18, 2023, the Ministry of Water, Land and Resource Stewardship has been migrating the Lands Program Team and Water Program Team as well as some Corporate Services staff to their Ministry from the Ministry of Forests. This migration will transition over slowly in early to mid 2024.

Effective immediately please send your Referrals as follows:

- Continue to send your Referrals for **Ministry of Forests** related referrals to FLNRDOSReferrals@gov.bc.ca.
- Continue to send your Referrals for **Ecosystems Region 8** to ReferralAppsREG8@gov.bc.ca
- For **Crown Land (including docks) related referrals** please redirect your email to Crown.Lands.Thompson.Okanagan@gov.bc.ca
- For **Water (excluding docks) related referrals** please TEMPORARILY redirect your email to Watertoadmin@gov.bc.ca

Regards,
Patricia Shatzko
WLRS Water Referrals Coordinator

Lauri Feindell

From: Danielson, Steven <Steven.Danielson@fortisbc.com>
Sent: April 1, 2024 1:01 PM
To: Planning
Subject: 2nd Ave, 217, 401, 8310, 8504, 9304, Osoyoos RDOS (A2024.003-ZONE)

Some people who received this message don't often get email from steven.danielson@fortisbc.com. [Learn why this is important](#)

With respect to the above noted file,

Land Rights Comments

- There are no immediate concerns or requests for additional land rights, however there may be additional land rights requested stemming from changes to the existing FortisBC Electric ("FBC(E)") services, if required.

Operational & Design Comments

- There are FortisBC Electric ("FBC(E)") primary distribution facilities along 2nd Avenue. Further extension work may be required to bring or change services to proposed Lot 2 depending on the building site location, the cost of which may be significant.
- All costs and land right requirements associated with changes to the existing servicing are the responsibility of the applicant.
- The applicant and/or property owner are responsible for maintaining safe limits of approach around all existing electrical facilities within and outside the property boundaries.
- For any changes to the existing service, the applicant must contact an FBC(E) designer as noted below for more details regarding design, servicing solutions, and land right requirements.

In order to initiate the design process, the customer must call 1-866-4FORTIS (1-866-436-7847). Please have the following information available in order for FBC(E) to set up the file when you call.

- Electrician's Name and Phone number
- [FortisBC Total Connected Load Form](#)
- Other technical information relative to electrical servicing

For more information, please refer to FBC(E)'s overhead and underground design requirements:

FortisBC Overhead Design Requirements

<http://fortisbc.com/ServiceMeterGuide>

FortisBC Underground Design Specification

<http://www.fortisbc.com/InstallGuide>

If you have any questions or comments, please contact us at your convenience.

Best Regards,

Steve Danielson, AACI, SR/WA

Contract Land Agent | Property Services | FortisBC Inc.

2850 Benvoulin Rd
Kelowna, BC V1W 2E3
Mobile: 250.681.3365
Fax: 1.866.636.6171
FBCLands@fortisbc.com



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**DEVELOPMENT SERVICES
PRELIMINARY BYLAW
COMMUNICATION**

Your File #: A2024.003-
ZONE (Scott-
BL2800.36)
eDAS File #: 2024-01080
Date: March 4, 2024

Regional District Okanagan Similkameen
101 Martin Street
Penticton, BC V2A 5J9

Attention: Lauri Feindell, Planning Secretary

**Re: Proposed Zoning Amendment Bylaw 2800.36 for:
Lot 1, District Lots 2450s & 4101s, SDYD, Plan EPP134209
8310 – 2nd Avenue, Osoyoos, BC**

Preliminary Approval is granted for the rezoning for one year pursuant to section 52(3)(a) of the *Transportation Act*.

****NOTE:** *Your documents indicate an outdated legal description for this property. There was a new legal description created for this property in December 2023 due to an Accretion Plan – Plan EPP134209. See attached Certificate of Title.*

If you have any questions, please feel free to call Penticton Development Services at (250) 712-3660.

Yours truly,

Rob Bitte
Development Officer

Attachment – Certificate of Title (Scott)

Local District Address
Penticton Area Office 102 Industrial Place Penticton, BC V2A 7C8 Canada Phone: (250) 712-3660 Fax: (250) 490-2231

Lauri Feindell

From: Teresa Anderson <tanderson@oib.ca>
Sent: March 28, 2024 10:01 AM
To: Planning
Cc: OIB-Referrals
Subject: RE: OCP and Zoning Bylaw Amendment Referral (Project No. A2024.003-ZONE)

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

RE: 60 (sixty) day extension

Thank you for the above application. This email is to inform you that due to current levels of internal capacity, we are unable to review your referral in your proposed timeline. With additional time, the Osoyoos Indian Band will be able to ensure that an informed review process will occur. We are setting the new timeline to be 60 days from the existing timeline.

Most recently, the Supreme Court of Canada in the *Tsilquot'in* case confirmed that the province has been applying an incorrect and restrictive test to the determination of Aboriginal Title. Aboriginal Title includes the exclusive right of a First Nation to decide how that land is used and the right to benefit economical from those uses.

Please note that *not* receiving a response regarding a referral from the Osoyoos Indian Band in the pre-application, current or post-application stage does not imply our support for the project.

We appreciate your co-operation.

Thank you,

Teresa Anderson

Referrals Coordinator



Osoyoos Indian Band

P: 250.498.3444 Ext. 3046

F: 250.498.6577

referrals@oib.ca

www.oib.ca/

Disclaimer

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Lauri Feindell

From: Penticton Indian Band Natural Resources Department <no-reply-snpinktn@knowledgekeeper.ca>
Sent: February 28, 2024 2:14 PM
To: Planning
Subject: A2024.003-ZONE
Attachments: consultation-response-82191-l-240228-a2024003-zone-20240228-1413.pdf

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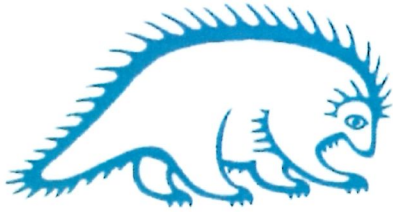
Hello Planning RDOS,

The proposed project falls within the Okanagan/syilx territory and the Penticton Indian Band's area of responsibility. All lands and resources within the vicinity of this referral are subject to unextinguished Okanagan/syilx Nation Aboriginal Title and Rights.

Please review attached letter.

Please do not reply to this email message. Replies to this message will not be received as this is a no-reply email address. Please contact me at:

Madison Terbasket
Interim Referrals Coordinator
Penticton Indian Band
Natural Resources
email: mterbasket@pib.ca
office: 250-492-0411 Ext: 241
address: 841 Westhills Drive
Penticton, British Columbia
Canada V2A 0E8



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:

A2024.003-ZONE

FN Consultation ID:

Consulting Org Contact:

Chris Garrish

Consulting Organization:

[Regional District of Okanagan Similkameen](#)

Date Received:

Wednesday, February 28, 2024

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 Penticton Indian Band, Osoyoos 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



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Project Name:

A2024.003-ZONE

FN Consultation ID:

L-240228-A2024.003-ZONE

Consulting Org Contact:

Planning RDOS

Consulting Organization:

[Regional District of Okanagan Similkameen](#)

Date Received:

Wednesday, February 28, 2024

February 28, 2024

WITHOUT PREJUDICE

Attention: Planning RDOS

File number: A2024.003-ZONE

RE: 40 (forty) day extension

Thank you for the above application that was received on 2024-02-28.

This letter is to inform you that due to current levels of internal capacity, we are unable to review your referral in your proposed timeline. With additional time, snpink'tn (Penticton Indian Band) will be able to ensure that an informed review process will occur. We are setting the new timeline to be 40 days from the existing timeline.

syilx (Okanagan Nation) Title includes snpink'tn right to proactively use and manage our resources. In Tsilhqot'in, the Supreme Court of Canada emphasizes the need to seek the consent of the title-holding Aboriginal group, and warns, without consent for a project, the proponent risks having the project cancelled. The obligation to seek free, prior and informed consent is further required by the United Nations Declaration on the Rights of Indigenous People (UNDRIP). UNDRIP requires that Indigenous peoples shall be consulted and cooperated with in good faith in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

Please note that not receiving a response regarding a referral from snpink'tn in the pre-application, current or post-application stage does not imply our support for the project.

I appreciate your co-operation.

Respectfully,

Madison Terbasket

Referrals Coordinator



Penticton Indian Band

Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8

Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Project Name:

A2024.003-ZONE

FN Consultation ID:

L-240228-A2024.003-ZONE

Consulting Org Contact:

Planning RDOS

Consulting Organization:

[Regional District of Okanagan Similkameen](#)

Date Received:

Wednesday, February 28, 2024

File number:

A2024.003-ZONE

February 28, 2024

WITHOUT PREJUDICE

Attention: Planning RDOS

We are in receipt of the above referral. This proposed activity is within the PIB Area of Interest within the Okanagan Nation's Territory, and the lands and resources are subject to our unextinguished Aboriginal Title and Rights.

The Supreme Court of Canada in the *Tsilhqot'in* case has confirmed that the province and Canada have been applying an incorrect and impoverished view of Aboriginal Title, and that Aboriginal Title includes the exclusive right of Indigenous People to manage the land and resources as well as the right to benefit economically from the land and resources. The Court therefore concluded that when the Crown allocates resources on Aboriginal title lands without the Indigenous peoples' consent, it commits a serious infringement of constitutionally protected rights that will be difficult to justify.

PIB has specific referral processing requirements for both government and proponents which are integral to the exercise of our management right and to ensuring that the Crown can meet its duty to consult and accommodate our rights, including our Aboriginal title and management rights. According to this process, proponents are required to pay a \$500 processing fee for each referral. This fee must be paid within 30 days. Proper consultation and consideration of potential impacts cannot occur without the appropriate resources therefore it is only with payment that proper consultation can begin and the proposed activity/development can be reviewed.

1. Invoice Number: L-240228-A2024.003-ZONE

Referrals Processing Fee

Sub Total \$ 500.00

Tax \$ 0.00

Total \$ \$500.00

INVOICE AMOUNT FOR PRELIMINARY OFFICE REVIEW \$500.00

We accept cash and cheque via mailing as well as EMT. Our mailing address is 841 Westhills Drive Penticton BC, V2A 0E8. Our EMT is PIBPayments@pib.ca.

Please have 'ATTN: Natural Resources File # [insert referral number] PC:132 ' in the notes if you are using EMT or if you are using another method, please supply the referral number with it .

Upon receipt of the processing fee, we will commence our review. You may then expect to receive a letter from us notifying you of the results of our review of potential impacts of the project within 30 to 90 days.

If the proposed activity requires a more in-depth review, PIB will notify the proponent and all parties will negotiate a memorandum of agreement regarding a process for review of the proposed activity.

Please note that our participation in the referral and consultation process does not define or amend PIB's Aboriginal Rights and Title, or limit any priorities afforded to Aboriginal Rights and Title, nor does it limit the positions that we may take in future negotiations or court actions.

If you require further information or clarification, please do not hesitate to contact me.

limlæmt,

Madison Terbasket
Interim Referrals Coordinator
Penticton Indian Band
Natural Resources
email: mterbasket@pib.ca
office: 250-492-0411
address: 841 Westhills Drive
Penticton, British Columbia
Canada V2A 0E8

Lauri Feindell

From: Penticton Indian Band Natural Resources Department <no-reply-snpinktn@knowledgekeeper.ca>
Sent: March 12, 2024 2:32 PM
To: referrals@oib.ca; Planning
Subject: A2024.003-ZONE
Attachments: consultation-response-82191-l-240228-a2024003-zone-20240312-1431.pdf

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Hello Planning RDOS,

The proposed project falls within the Okanagan/syilx territory.

Please review attached letter.

Please do not reply to this email message. Replies to this message will not be received as this is a no-reply email address. Please contact me at:

Madison Terbasket
Interim Referrals Coordinator
Penticton Indian Band
Natural Resources
email: mterbasket@pib.ca
office: 250-492-0411 ext:241
address: 841 Westhills Drive
Penticton, British Columbia
Canada V2A 0E8



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Project Name:

A2024.003-ZONE

FN Consultation ID:

L-240228-A2024.003-ZONE

Consulting Org Contact:

Planning RDOS

Consulting Organization:

[Regional District of Okanagan Similkameen](#)

Date Received:

Wednesday, February 28, 2024

File number:

A2024.003-ZONE

March 12, 2024

Attention: Planning RDOS

We are in receipt of the above referral. The proposed activity is located within syilx (Okanagan Nation) Territory.

snpink'tn (Penticton Indian Band) has now had the opportunity to review the proposed activity. At this time, the snpink'tn will be deferring further consultation and engagement to the Osoyoos Indian Band.

If you require further information or clarification, please do not hesitate to contact me.

Invoice Number: XXXX

Fees

Defer Admin (12%) \$ 9.60

Desktop Review (Defer) \$ 80.00

Total \$ 89.60

INVOICE AMOUNT FOR DEFERRAL REVIEW \$89.60

We accept cash and cheque via mailing as well as EMT. Our mailing address is 841 Westhills Drive Penticton BC, V2A 0E8.

Our EMT is PIBPayments@pib.ca.

Please have ' ATTN: Natural Resources File # [insert referral number] PC:132 ' in the notes if you are using EMT or if you are using another method, please supply the referral number with it.

limlæmt,

Madison Terbasket

Referrals Coordinator

P: 250-492-0411

Referrals@pib.ca