

RESPONSE SUMMARY

AMENDMENT BYLAW NO. 2912

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: R. Lyle Thomas

Agency: Town of Princeton

Title: CAO

Date: Nov. 4, 2020



Bylaw Referral

Regional District of Okanagan-Similkameen

101 Martin Street, Penticton, BC, V2A-5J9

Telephone: 250-492-0237 / Email: planning@rdos.bc.ca

| OFFICE USE ONLY | |
|-----------------|----------------|
| Date: | Nov 2, 2020 |
| Bylaw: | 2912 |
| File: | X2020.009-ZONE |

You are requested to comment on the attached bylaw for potential effect on your agency's interests. We would appreciate your response **WITHIN 30 DAYS**. If no response is received within that time, it will be assumed that your agency's interests are unaffected.

Please email your reply to planning@rdos.bc.ca by **December 4, 2020**.

PURPOSE OF THE BYLAWS: The Regional District Board is proposing to initiate a series of textual amendments to the Environmentally Sensitive Development Permit (ESDP) Area designations in the Electoral Area "A", "C", "D", "E", "F", "H" & "I" Official Community Plan (OCP) Bylaws. The following is a summary of the proposed changes (please see the annotated version of Bylaw No. 2912 for my details):

- revised policy statements that speak to environmentally sensitive development permits being implemented only in relation to subdivision;
- the introduction of a new guideline related specifically to subdivision design in ESDP Areas;
- the deletion of "construction of, addition to or alteration of a building or other structure" and the "alteration of the land, including grading, removal of vegetation, deposit or moving of soil, paving, installation of drainage or underground services" as triggers for an environmentally sensitive development permit; and
- the deletion of all non-subdivision related exemptions for environmentally sensitive development permits

LEGAL DESCRIPTION: not applicable

CIVIC ADDRESS: not applicable

PID: not applicable

| | | | |
|-----------------------------------|--------------------|-------------------------|-------------------------|
| AREA OF PROPERTY AFFECTED: | ALR STATUS: | OCP DESIGNATION: | ZONING DISTRICT: |
| Not applicable | Yes (part) | [various] | [various] |

OTHER INFORMATION: At its meeting of September 3, 2020, the following Motion was debated and carried by the Regional District Board:

THAT the RDOS Board apply Environmentally sensitive development permits (ESDPs) to only Subdivisions and rezonings; and further,

THAT Staff report back to the Board on the options to make ESDPs more effective at Subdivisions and rezonings; and further,

THAT ESDPs should in no way prevent or discourage residents from firesmaring their properties according to the firesmart principles.

Additional information, including staff reports as well as an annotated and clean version of the amendment bylaw can be found at the following location: <https://www.rdos.bc.ca/development-services/planning/strategic-projects/esdp-review>

Please fill out the Response Summary on the back of this form. If your agency's interests are "Unaffected" no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this bylaw.

Christopher Garrish, Planning Manager

Agency Referral List

| | | |
|--|---|---|
| <input checked="" type="checkbox"/> Agricultural Land Commission (ALC) | <input checked="" type="checkbox"/> BC Parks | <input checked="" type="checkbox"/> City of Penticton |
| <input checked="" type="checkbox"/> Interior Health Authority (IHA) | <input checked="" type="checkbox"/> Central Okanagan Regional District | <input checked="" type="checkbox"/> District of Summerland |
| <input checked="" type="checkbox"/> Ministry of Agriculture | <input checked="" type="checkbox"/> Kootenay Boundary Regional District | <input checked="" type="checkbox"/> Town of Oliver |
| <input checked="" type="checkbox"/> Ministry of Energy, Mines & Petroleum Resources | <input checked="" type="checkbox"/> Canadian Wildlife Services | <input checked="" type="checkbox"/> Town of Osoyoos |
| <input checked="" type="checkbox"/> Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Ecosystem Section) | <input checked="" type="checkbox"/> Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Archaeology Branch) | <input checked="" type="checkbox"/> Penticton Indian Band (PIB) |
| <input checked="" type="checkbox"/> Fisheries and Oceans Canada | <input checked="" type="checkbox"/> School District #67 (Okanagan Skaha) | <input checked="" type="checkbox"/> Osoyoos Indian Band (OIB) |
| <input checked="" type="checkbox"/> Fortis | <input checked="" type="checkbox"/> School District #53 (Okanagan Similkameen) | <input checked="" type="checkbox"/> Lower Similkameen Indian Bands (LSIB) |
| <input checked="" type="checkbox"/> Town of Princeton | <input checked="" type="checkbox"/> School District #58 (Nicola-Similkameen) | <input checked="" type="checkbox"/> Okanagan Nation Alliance (ONA) |

Christopher Garrish

From: Dirk Zinner [REDACTED]
Sent: August 9, 2020 5:30 PM
To: mpendergraft@rdoso.bc.ca
Cc: Karla Kozakevich; Christopher Garrish; pbeckett@persona.ca
Subject: pink zones etc.

Dear folks.

I am writing re. the 'Imprecise EDPA Mapping '

I am a resident on Anarchist Mtn. I understand that RDOS is planning to implement some changes re. the environmental situation in our area.

I am requesting that this be significantly reviewed and changed.

1. Numerous environmental studies(at major cost) have already been done for this area and additional studies at a significant and irritating costs as well as time to the lot owner are duplicate and not needed.
2. The new proposals (as I understand them) would impose major limitations on what an owner (such as us) can do on owns property. The way I read the new document, I wouldn't be able to do anything. i.e. NO gardening ; NO fire smarting our property, etc. This does NOT make any sense.
We moved here to enjoy, appreciate and respect the out of doors.
Imposing new controls after purchasing a lot is unacceptable.
3. What evidence is there to support the changes (i.e. pink zone???)

Furthermore, I am wondering what RDOS is doing to control some of the invasive and obnoxious weeds that are threatening and overrunning this area (i..e knapweed)? It is one thing to print and distribute fancy brochures; what about spending some of that money(our tax \$s) to eradicate these obnoxious weeds???(such as along road sides and 'common areas?

I thank you in advance for your serious consideration of what we are desiring and facing on Anarchist Mtn.

Dirk Zinner
[REDACTED]

Sent from [Mail](#) for Windows 10



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000 | Fax: 604 660-7033
www.alc.gov.bc.ca

December 4, 2020

Reply to the attention of Sara Huber
ALC Planning Review: 46747
Local Government File: X2020.009-ZONE

Chris Garrish
Planning Manager, RDOS
planning@rdos.bc.ca

Re: Regional District of Okanagan Similkameen Electoral Areas A, C, D, E, F, H and I Official Community Plan Amendment Bylaw No. 2912

Thank you for forwarding a draft copy of Regional District of Okanagan Similkameen (RDOS) Electoral Areas A, C, D, E, F, H, and I Official Community Plan (OCP) Amendment Bylaw No. 2912 (the "Bylaw") for review and comment by the Agricultural Land Commission (ALC). The following comments are provided to help ensure that the Bylaw is consistent with the purposes of the *ALC Act* (ALC Act), the Agricultural Land Reserve (ALR) General Regulation, (the "ALR General Regulation"), the ALR Use Regulation (the "ALR Use Regulation"), and any decisions of the ALC.

Current Proposal:

The Bylaw proposes a series of textual amendments to the Environmentally Sensitive Development Permit (ESDP) Area designations, including the following:

- revised policy statements that speak to environmentally sensitive development permits being implemented only in relation to subdivision;
- the introduction of a new guideline related specifically to subdivision design in ESDP Areas;
- the deletion of "construction of, addition to or alteration of a building or other structure" and the "alteration of the land, including grading, removal of vegetation, deposit or moving of soil, paving, installation of drainage or underground services" as triggers for an environmentally sensitive development permit; and
- the deletion of all non-subdivision related exemptions for environmentally sensitive development permits

ALC Staff Comments:

ALC staff have no objection to this amendment, as it eliminates the requirement for an ESDP for the construction, addition to, or alteration of a building or structure and associated Qualified Environmental Professional report, which may include structures used for farming purposes. Rather, the Bylaw relates the ESDP to subdivision only, which would require an application to the ALC anyways.

The ALC strives to provide a detailed response to all bylaw referrals affecting the ALR; however, you are advised that the lack of a specific response by the ALC to any draft bylaw provisions cannot in any way be construed as confirmation regarding the consistency of the submission with the ALCA, the Regulations, or any Orders of the Commission.

This response does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

If you have any questions about the above comments, please contact the undersigned at 236-468-3258 or by e-mail (Sara.Huber@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION



Sara Huber, Regional Planner

Enclosure: Referral of RDOS X2020.009-ZONE

CC: Ministry of Agriculture – Attention: Alison Fox (Alison.Fox@gov.bc.ca)

46747m1

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

BYLAW NO. 2912, 2020

**A Bylaw to amend the Electoral Area "A", "C", "D", "E", "F", "H" & "I"
Official Community Plan Bylaws**

The REGIONAL BOARD of the Regional District of Okanagan-Similkameen in open meeting assembled, ENACTS as follows:

1. This Bylaw may be cited for all purposes as the "Regional District of Okanagan-Similkameen Environmentally Sensitive Development Permit Area Update Official Community Plan Amendment Bylaw No. 2912, 2020."

Electoral Area "A"

2. The "Electoral Area "A" Official Community Plan Bylaw No. 2450, 2008" is amended by:
 - i) replacing sub-section 13.1.2.3 (Policies – General) under Section 13.0 (Natural Environment and Conservation) in its entirety with the following:
 3. Requires that, where a proposed subdivision affects land subject to an Environmentally Sensitive Development Permit Area, an Environmental Assessment (EA) be prepared by a Qualified Environmental Professional (QEP) in accordance with the policies outlined at Section 18.2 as well as relevant federal and provincial best management guidelines.
 - ii) replacing sub-section 13.3.2.2 (Policies) under Section 13.0 (Natural Environment and Conservation) in its entirety with the following:
 - .2 Requires that land designated as an Environmentally Sensitive Development Permit Area shall be retained in a natural state and not subdivided prior to the issuance of an Environmentally Sensitive Development Permit (ESDP) in accordance with the guidelines outlined at Section 18.2 of this Plan unless an exemption applies.
 - iii) replacing sub-section 13.3.2.6 (Policies) under Section 13.0 (Natural Environment and Conservation) in its entirety with the following:

Commented [CG1]: Proposes to replace reference to "development" with "subdivision"

Commented [CG2]: Proposes to replace reference to "development" with "subdivision"

- .6 Encourages development that avoids impacting important native species, habitats, ecosystems or sensitive areas and to retain important ecosystem features and functions. Responsiveness to this policy will be a very important consideration in the approval of an amendment bylaw application.
- iv) replacing a new sub-section 18.2 (Environmentally Sensitive Development Permit (ESDP) Area) under Section 18.0 (Development Permit Areas) in its entirety with the following:

Commented [CG3]: New wording.

18.2 Environmentally Sensitive Development Permit (ESDP) Area

Commented [CG4]: Option for an "Expedited Development Permit" has been removed as it is primarily related to building permits (was Section 18.2.7).

.1 Category

The Environmentally Sensitive Development Permit (ESDP) Area is designated pursuant to Section 488(1)(a) of the *Local Government Act* for the protection of the natural environment, its ecosystems and biological diversity.

.2 Area

The lands shown as Environmentally Sensitive Development Permit Area on Schedule 'C' are designated as an Environmentally Sensitive Development Permit Area.

.3 Justification

To regulate development activities within environmentally sensitive areas in order to protect important sensitive ecosystems and biological diversity including valuable habitat for endangered species of native, rare vegetation or wildlife, and provide wildlife corridors and secondary habitat.

.4 Background

The natural environment provides essential habitat and corridors for plants, fish, birds and other organisms. It also acts as a natural water storage, drainage and purifying system, which can help to protect private property from flooding or land loss due to watercourse erosion. Furthermore, as concerns over climate change grow, it should be recognized that functioning ecosystems are more efficient at consuming carbon dioxide as well as carbon storage. Vegetation adjacent to watercourses needs to remain in a largely undisturbed state in order to maintain a healthy environment and clean water.

The south Okanagan-Similkameen area is considered one of the most ecologically diverse in British Columbia and Canada, and includes sensitive ecosystems which support a number of provincially Red and Blue-listed species (extirpated, endangered, threatened, and vulnerable) and federally listed Species at Risk. The ESDP Area is intended to protect habitat for

endangered species of native, rare vegetation or wildlife, and provide wildlife corridors and secondary habitat within the Plan Area.

The ESDP Area is comprised of important habitat areas for wildlife and plant communities. Sensitive ecosystems in the area include grasslands, riparian areas, old forest, shrub-steppe, broadleaf woodland, coniferous woodland, wetlands, shallow soiled rock outcrops and ridges. Specifically, BC's pocket desert, Kruger Mountain, Osoyoos Lake, the oxbows and wetlands of Okanagan River, Richter Pass with the natural ridgeline views between Highway 3 and Osoyoos Lake. It is the close proximity of these diverse habitats that contribute to a wide variety of species, both common and rare, that are found in this Electoral Area.

.5 Development requiring a permit

.1 A development permit is required, except where exempt under Section 18.2.7 (Exemptions), for development on lands within the ESDP area. Where not exempted, development requiring a development permit includes:

- a) subdivision.

Commented [CG5]: The following references have been removed:
b) the construction of, addition to or alteration of a building or other structure; and
c) alteration of the land, including grading, removal of vegetation, deposit or moving of soil, paving, installation of drainage or underground services

.6 Guidelines

.1 A Development Permit is required for development within an ESDP Area, and shall be in accordance with the following guidelines:

a) An Environmental Assessment (EA) Report, prepared in accordance with the requirements of the Regional District's Development Procedures Bylaw, must be submitted to the Regional District in respect of the proposed development by a qualified environmental professional (QEP) that is a Registered Professional Biologist in British Columbia (RPBio) or team that shall include a RPBio under contract to the development applicant, and shall include:

i) An Ecological Assessment Phase including:

- .1 background information;
- .2 an ecological assessment;
- .3 listing of rare and endangered species; and
- .4 stratification and rating of Environmentally Sensitive Areas (ESAs).

ii) An Impact Assessment and Mitigation Phase including:

- .1 description of proposed development;
- .2 assessment of potential impacts;

- .3 short and long term impacts;
- .4 cumulative and residual impacts;
- .5 avoidance of ESAs;
- .6 mitigation and compensation;
- .7 security requirements;
- .8 monitoring reports;
- .9 accountability; and
- .10 monitoring plan.

- b) Subdivision should be planned, designed and implemented to protect environmentally sensitive areas. Habitats that provide for at-risk species, at-risk ecological communities and keystone species should be given priority for protection.
 - c) Development should be planned away from native trees and trees containing active nest sites or cavities. If removal of native trees cannot be avoided, mitigation should include restoration and replanting with equivalent native trees.
 - d) Habitat connectivity and the retention of connectivity corridors between sensitive ecosystems should be preserved. Wildlife crossings should be designed to protect continuity of wildlife corridors where these are interrupted by roadways.
 - e) Monitoring reports may be required to be submitted to the Regional District following the completion of a development in order to confirm the conditions of a development permit have been met.
 - f) The Regional District may incorporate any areas or measures identified in an EA to protect sensitive ecosystems from the effect of development as terms and conditions of the development permit.
2. If an area of land is subject to additional Development Permit Area designations under Section 488(1)(a) of the *Local Government Act*, the Regional District requires that a single development permit application that combines the requirements of each Development Permit Area be submitted. The application will be assessed in accordance with the individual development permit guidelines for each applicable Development Permit Area under this bylaw and, if approved, issued under a combined development permit.

Commented [CG6]: New Guideline specific to subdivision

.7 Exemptions

A development permit is not required for development within land in the ESDP area for:

- .1 subdivisions that propose to:
 - a) consolidate existing parcels, including the consolidation of parts of a closed road to an existing parcel; or
 - b) alter parcel lines between two or more parcels where no additional parcels are created upon completion of the alteration.

Commented [CG7]: All non-subdivision related exemptions have been removed.

Electoral Area "C"

3. The "Electoral Area "C" Official Community Plan Bylaw No. 2452, 2008" is amended by:

- i) replacing sub-section 16.1.2.3 (Policies – General) under Section 16.0 (Natural Environment and Conservation) in its entirety with the following:
 - .3 Requires that, where a proposed subdivision affects land subject to an Environmentally Sensitive Development Permit Area, an Environmental Assessment (EA) be prepared by a Qualified Environmental Professional (QEP) in accordance with the policies outlined at Section 21.2 as well as relevant federal and provincial best management guidelines.
- ii) replacing sub-section 16.3.2.2 (Policies) under Section 16.0 (Natural Environment and Conservation) in its entirety with the following:
 - .2 Requires that land designated as an Environmentally Sensitive Development Permit Area shall be retained in a natural state and not subdivided prior to the issuance of an Environmentally Sensitive Development Permit (ESDP) in accordance with the guidelines outlined at Section 21.2 of this Plan unless an exemption applies.
- iii) replacing sub-section 16.3.2.6 (Policies) under Section 16.0 (Natural Environment and Conservation) in its entirety with the following:
 - .6 Encourages development that avoids impacting important native species, habitats, ecosystems or sensitive areas and to retain important ecosystem features and functions. Responsiveness to this policy will be a very important consideration in the approval of an amendment bylaw application.
- iv) replacing a new sub-section 21.2 (Environmentally Sensitive Development Permit (ESDP) Area) under Section 21.0 (Development Permit Areas) in its entirety with the following:

Commented [CG8]: Proposes to replace reference to "development" with "subdivision"

Commented [CG9]: Proposes to replace reference to "development" with "subdivision"

Commented [CG10]: New wording.

21.2 Environmentally Sensitive Development Permit (ESDP) Area

Commented [CG11]: Option for an "Expedited Development Permit" has been removed as it is primarily related to building permits (was Section 21.2.7).

.1 Category

The Environmentally Sensitive Development Permit (ESDP) Area is designated pursuant to Section 488(1)(a) of the *Local Government Act* for the protection of the natural environment, its ecosystems and biological diversity.

.2 Area

The lands shown as Environmentally Sensitive Development Permit Area on Schedule 'C' are designated as an Environmentally Sensitive Development Permit Area.

.3 Justification

To regulate development activities within environmentally sensitive areas in order to protect important sensitive ecosystems and biological diversity including valuable habitat for endangered species of native, rare vegetation or wildlife, and provide wildlife corridors and secondary habitat.

.4 Background

The natural environment provides essential habitat and corridors for plants, fish, birds and other organisms. It also acts as a natural water storage, drainage and purifying system, which can help to protect private property from flooding or land loss due to watercourse erosion. Furthermore, as concerns over climate change grow, it should be recognized that functioning ecosystems are more efficient at consuming carbon dioxide as well as carbon storage. Vegetation adjacent to watercourses needs to remain in a largely undisturbed state in order to maintain a healthy environment and clean water.

The south Okanagan-Similkameen area is considered one of the most ecologically diverse in British Columbia and Canada, and includes sensitive ecosystems which support a number of provincially Red and Blue-listed species (extirpated, endangered, threatened, and vulnerable) and federally listed Species at Risk. The ESDP Area is intended to protect habitat for endangered species of native, rare vegetation or wildlife, and provide wildlife corridors and secondary habitat within the Plan Area.

The ESDP Area is comprised of important habitat areas for wildlife and plant communities. Sensitive ecosystems in the area include grasslands, riparian areas, old forest, shrub-steppe, broadleaf woodland, coniferous woodland, wetlands, shallow soiled rock outcrops and ridges. It is the close proximity of these diverse habitats that contribute to a wide variety of species, both common and rare, that are found in this Electoral Area.

.5 Development requiring a permit

- .1 A development permit is required, except where exempt under Section 21.2.7 (Exemptions), for development on lands within the ESDP area. Where not exempted, development requiring a development permit includes:
- a) subdivision.

Commented [CG12]: The following references have been removed:
b) the construction of, addition to or alteration of a building or other structure; and
c) alteration of the land, including grading, removal of vegetation, deposit or moving of soil, paving, installation of drainage or underground services.

.6 Guidelines

- .1 A Development Permit is required for development within an ESDP Area, and shall be in accordance with the following guidelines:
- a) An Environmental Assessment (EA) Report, prepared in accordance with the requirements of the Regional District's Development Procedures Bylaw, must be submitted to the Regional District in respect of the proposed development by a qualified environmental professional (QEP) that is a Registered Professional Biologist in British Columbia (RPBio) or team that shall include a RPBio under contract to the development applicant, and shall include:
 - i) An Ecological Assessment Phase including:
 - .1 background information;
 - .2 an ecological assessment;
 - .3 listing of rare and endangered species; and
 - .4 stratification and rating of Environmentally Sensitive Areas (ESAs).
 - ii) An Impact Assessment and Mitigation Phase including:
 - .1 description of proposed development;
 - .2 assessment of potential impacts;
 - .3 short and long term impacts;
 - .4 cumulative and residual impacts;
 - .5 avoidance of ESAs;
 - .6 mitigation and compensation;
 - .7 security requirements;
 - .8 monitoring reports;
 - .9 accountability; and
 - .10 monitoring plan.

- b) Subdivision should be planned, designed and implemented to protect environmentally sensitive areas. Habitats that provide for at-risk species, at-risk ecological communities and keystone species should be given priority for protection.
 - c) Development should be planned away from native trees and trees containing active nest sites or cavities. If removal of native trees cannot be avoided, mitigation should include restoration and replanting with equivalent native trees.
 - d) Habitat connectivity and the retention of connectivity corridors between sensitive ecosystems should be preserved. Wildlife crossings should be designed to protect continuity of wildlife corridors where these are interrupted by roadways.
 - e) Monitoring reports may be required to be submitted to the Regional District following the completion of a development in order to confirm the conditions of a development permit have been met.
 - f) The Regional District may incorporate any areas or measures identified in an EA to protect sensitive ecosystems from the effect of development as terms and conditions of the development permit.
- .3 If an area of land is subject to additional Development Permit Area designations under Section 488(1)(a) of the *Local Government Act*, the Regional District requires that a single development permit application that combines the requirements of each Development Permit Area be submitted. The application will be assessed in accordance with the individual development permit guidelines for each applicable Development Permit Area under this bylaw and, if approved, issued under a combined development permit.

Commented [CG13]: New Guideline specific to subdivision.

7 Exemptions

A development permit is not required for development within land in the ESDP area for:

- .1 subdivisions that propose to:
 - a) consolidate existing parcels, including the consolidation of parts of a closed road to an existing parcel; or
 - b) alter parcel lines between two or more parcels where no additional parcels are created upon completion of the alteration.

Commented [CG14]: All non-subdivision related exemptions have been removed.

Electoral Area "D"

4. The "Electoral Area "D" Official Community Plan Bylaw No. 2603, 2013" is amended by:

i) replacing sub-section 17.1.2.3 (Policies – General) under Section 17.0 (Natural Environment and Conservation) in its entirety with the following:

.3 Requires that, where a proposed subdivision affects land subject to an Environmentally Sensitive Development Permit Area, an Environmental Assessment (EA) be prepared by a Qualified Environmental Professional (QEP) in accordance with the policies outlined at Section 24.2 as well as relevant federal and provincial best management guidelines.

Commented [CG15]: Proposes to replace reference to "development" with "subdivision"

ii) replacing sub-section 17.3.2.2 (Policies) under Section 17.0 (Natural Environment and Conservation) in its entirety with the following:

.2 Requires that land designated as an Environmentally Sensitive Development Permit Area shall be retained in a natural state and not subdivided prior to the issuance of an Environmentally Sensitive Development Permit (ESDP) in accordance with the guidelines outlined at Section 24.2 of this Plan unless an exemption applies.

Commented [CG16]: Proposes to replace reference to "development" with "subdivision"

iii) replacing sub-section 17.3.2.6 (Policies) under Section 17.0 (Natural Environment and Conservation) in its entirety with the following:

.6 Encourages development that avoids impacting important native species, habitats, ecosystems or sensitive areas and to retain important ecosystem features and functions. Responsiveness to this policy will be a very important consideration in the approval of an amendment bylaw application.

Commented [CG17]: New wording.

v) replacing a new sub-section 24.2 (Environmentally Sensitive Development Permit (ESDP) Area) under Section 24.0 (Development Permit Areas) in its entirety with the following:

24.2 Environmentally Sensitive Development Permit (ESDP) Area

Commented [CG18]: Option for an "Expedited Development Permit" has been removed as it is primarily related to building permits (was Section 21.2.7).

.1 Category

The Environmentally Sensitive Development Permit (ESDP) Area is designated pursuant to Section 488(1)(a) of the *Local Government Act* for the protection of the natural environment, its ecosystems and biological diversity.

.2 Area

The lands shown as Environmentally Sensitive Development Permit Area on Schedule 'C' are designated as an Environmentally Sensitive Development Permit Area.

.3 Justification

To regulate development activities within environmentally sensitive areas in order to protect important sensitive ecosystems and biological diversity

including valuable habitat for endangered species of native, rare vegetation or wildlife, and provide wildlife corridors and secondary habitat.

.4 Background

The natural environment provides essential habitat and corridors for plants, fish, birds and other organisms. It also acts as a natural water storage, drainage and purifying system, which can help to protect private property from flooding or land loss due to watercourse erosion. Furthermore, as concerns over climate change grow, it should be recognized that functioning ecosystems are more efficient at consuming carbon dioxide as well as carbon storage. Vegetation adjacent to watercourses needs to remain in a largely undisturbed state in order to maintain a healthy environment and clean water.

The south Okanagan-Similkameen area is considered one of the most ecologically diverse in British Columbia and Canada, and includes sensitive ecosystems which support a number of provincially Red and Blue-listed species (extirpated, endangered, threatened, and vulnerable) and federally listed Species at Risk. The ESDP Area is intended to protect habitat for endangered species of native, rare vegetation or wildlife, and provide wildlife corridors and secondary habitat within the Plan Area.

The ESDP Area is comprised of important habitat areas for wildlife and plant communities. Sensitive ecosystems in the area include grasslands, riparian areas, old forest, shrub-steppe, broadleaf woodland, coniferous woodland, wetlands, shallow soiled rock outcrops and ridges. It is the close proximity of these diverse habitats that contribute to a wide variety of species, both common and rare, that are found in this Electoral Area.

.5 Development requiring a permit

- .1 A development permit is required, except where exempt under Section 24.2.7 (Exemptions), for development on lands within the ESDP area. Where not exempted, development requiring a development permit includes:
 - a) subdivision.

.6 Guidelines

- .1 A Development Permit is required for development within an ESDP Area, and shall be in accordance with the following guidelines:
 - a) An Environmental Assessment (EA) Report, prepared in accordance with the requirements of the Regional District's Development Procedures Bylaw, must be submitted to the Regional District in respect of the proposed development by a

Commented [CG19]: The following references have been removed:
d) the construction of, addition to or alteration of a building or other structure; and
e) alteration of the land, including grading, removal of vegetation, deposit or moving of soil, paving, installation of drainage or underground services.

qualified environmental professional (QEP) that is a Registered Professional Biologist in British Columbia (RPBio) or team that shall include a RPBio under contract to the development applicant, and shall include:

- i) An Ecological Assessment Phase including:
 - .1 background information;
 - .2 an ecological assessment;
 - .3 listing of rare and endangered species; and
 - .4 stratification and rating of Environmentally Sensitive Areas (ESAs).
- ii) An Impact Assessment and Mitigation Phase including:
 - .1 description of proposed development;
 - .2 assessment of potential impacts;
 - .3 short and long term impacts;
 - .4 cumulative and residual impacts;
 - .5 avoidance of ESAs;
 - .6 mitigation and compensation;
 - .7 security requirements;
 - .8 monitoring reports;
 - .9 accountability, and
 - .10 monitoring plan.
- b) Subdivision should be planned, designed and implemented to protect environmentally sensitive areas. Habitats that provide for at-risk species, at-risk ecological communities and keystone species should be given priority for protection.
- c) Development should be planned away from native trees and trees containing active nest sites or cavities. If removal of native trees cannot be avoided, mitigation should include restoration and replanting with equivalent native trees.
- d) Habitat connectivity and the retention of connectivity corridors between sensitive ecosystems should be preserved. Wildlife crossings should be designed to protect continuity of wildlife corridors where these are interrupted by roadways.
- e) Monitoring reports may be required to be submitted to the Regional District following the completion of a development in

order to confirm the conditions of a development permit have been met.

- f) The Regional District may incorporate any areas or measures identified in an EA to protect sensitive ecosystems from the effect of development as terms and conditions of the development permit.
- .4 If an area of land is subject to additional Development Permit Area designations under Section 488(1)(a) of the *Local Government Act*, the Regional District requires that a single development permit application that combines the requirements of each Development Permit Area be submitted. The application will be assessed in accordance with the individual development permit guidelines for each applicable Development Permit Area under this bylaw and, if approved, issued under a combined development permit.

.7 Exemptions

A development permit is not required for development within land in the ESDP area for:

- .1 subdivisions that propose to:
 - a) consolidate existing parcels, including the consolidation of parts of a closed road to an existing parcel; or
 - b) alter parcel lines between two or more parcels where no additional parcels are created upon completion of the alteration.

Commented [20]:

Electoral Area "E"

5. The "Electoral Area "E" Official Community Plan Bylaw No. 2458, 2008" is amended by:

- i) replacing sub-section 18.1.2.3 (Policies – General) under Section 18.0 (Natural Environment and Conservation) in its entirety with the following:
 - .3 Requires that, where a proposed subdivision affects land subject to an Environmentally Sensitive Development Permit Area, an Environmental Assessment (EA) be prepared by a Qualified Environmental Professional (QEP) in accordance with the policies outlined at Section 23.2 as well as relevant federal and provincial best management guidelines.
- iv) replacing sub-section 18.3.2.2 (Policies) under Section 18.0 (Natural Environment and Conservation) in its entirety with the following:
 - .2 Requires that land designated as an Environmentally Sensitive Development Permit Area shall be retained in a natural state and not subdivided prior to the issuance of an Environmentally Sensitive Development Permit (ESDP) in

Commented [CG21]: All non-subdivision related exemptions have been removed.

Commented [CG22]: Proposes to replace reference to "development" with "subdivision"

accordance with the guidelines outlined at Section 23.2 of this Plan unless an exemption applies.

v) replacing sub-section 18.3.2.6 (Policies) under Section 18.0 (Natural Environment and Conservation) in its entirety with the following:

- .6 Encourages development that avoids impacting important native species, habitats, ecosystems or sensitive areas and to retain important ecosystem features and functions. Responsiveness to this policy will be a very important consideration in the approval of an amendment bylaw application.

Commented [CG23]: Proposes to replace reference to "development" with "subdivision"

vi) replacing a new sub-section 23.2 (Environmentally Sensitive Development Permit (ESDP) Area) under Section 23.0 (Development Permit Areas) in its entirety with the following:

23.2 Environmentally Sensitive Development Permit (ESDP) Area

Commented [CG24]: New wording.

.1 Category

The Environmentally Sensitive Development Permit (ESDP) Area is designated pursuant to Section 488(1)(a) of the *Local Government Act* for the protection of the natural environment, its ecosystems and biological diversity.

.2 Area

The lands shown as Environmentally Sensitive Development Permit Area on Schedule 'C' are designated as an Environmentally Sensitive Development Permit Area.

.3 Justification

To regulate development activities within environmentally sensitive areas in order to protect important sensitive ecosystems and biological diversity including valuable habitat for endangered species of native, rare vegetation or wildlife, and provide wildlife corridors and secondary habitat.

.4 Background

The natural environment provides essential habitat and corridors for plants, fish, birds and other organisms. It also acts as a natural water storage, drainage and purifying system, which can help to protect private property from flooding or land loss due to watercourse erosion. Furthermore, as concerns over climate change grow, it should be recognized that functioning ecosystems are more efficient at consuming carbon dioxide as well as carbon storage. Vegetation adjacent to watercourses needs to remain in a largely undisturbed state in order to maintain a healthy environment and clean water.

The south Okanagan-Similkameen area is considered one of the most ecologically diverse in British Columbia and Canada, and includes sensitive ecosystems which support a number of provincially Red and Blue-listed species (extirpated, endangered, threatened, and vulnerable) and federally listed Species at Risk. The ESDP Area is intended to protect habitat for endangered species of native, rare vegetation or wildlife, and provide wildlife corridors and secondary habitat within the Plan Area.

The ESDP Area is comprised of important habitat areas for wildlife and plant communities. Sensitive ecosystems in the area include grasslands, riparian areas, old forest, shrub-steppe, broadleaf woodland, coniferous woodland, wetlands, shallow soiled rock outcrops and ridges. It is the close proximity of these diverse habitats that contribute to a wide variety of species, both common and rare, that are found in this Electoral Area.

.5 Development requiring a permit

- .1 A development permit is required, except where exempt under Section 23.2.7 (Exemptions), for development on lands within the ESDP area. Where not exempted, development requiring a development permit includes:
- a) subdivision.

Commented [CG25]: Option for an "Expedited Development Permit" has been removed as it is primarily related to building permits (was Section 21.2.7).

.6 Guidelines

- .1 A Development Permit is required for development within an ESDP Area, and shall be in accordance with the following guidelines:
- a) An Environmental Assessment (EA) Report, prepared in accordance with the requirements of the Regional District's Development Procedures Bylaw, must be submitted to the Regional District in respect of the proposed development by a qualified environmental professional (QEP) that is a Registered Professional Biologist in British Columbia (RPBio) or team that shall include a RPBio under contract to the development applicant, and shall include:
 - i) An Ecological Assessment Phase including:
 - .1 background information;
 - .2 an ecological assessment;
 - .3 listing of rare and endangered species; and
 - .4 stratification and rating of Environmentally Sensitive Areas (ESAs).
 - ii) An Impact Assessment and Mitigation Phase including:

- .1 description of proposed development;
- .2 assessment of potential impacts;
- .3 short and long term impacts;
- .4 cumulative and residual impacts;
- .5 avoidance of ESAs;
- .6 mitigation and compensation;
- .7 security requirements;
- .8 monitoring reports;
- .9 accountability; and
- .10 monitoring plan.
- b) Subdivision should be planned, designed and implemented to protect environmentally sensitive areas. Habitats that provide for at-risk species, at-risk ecological communities and keystone species should be given priority for protection.
- c) Development should be planned away from native trees and trees containing active nest sites or cavities. If removal of native trees cannot be avoided, mitigation should include restoration and replanting with equivalent native trees.
- d) Habitat connectivity and the retention of connectivity corridors between sensitive ecosystems should be preserved. Wildlife crossings should be designed to protect continuity of wildlife corridors where these are interrupted by roadways.
- e) Monitoring reports may be required to be submitted to the Regional District following the completion of a development in order to confirm the conditions of a development permit have been met.
- f) The Regional District may incorporate any areas or measures identified in an EA to protect sensitive ecosystems from the effect of development as terms and conditions of the development permit.
- .5 If an area of land is subject to additional Development Permit Area designations under Section 488(1)(a) of the *Local Government Act*, the Regional District requires that a single development permit application that combines the requirements of each Development Permit Area be submitted. The application will be assessed in accordance with the individual development permit guidelines for each applicable Development Permit Area under this bylaw and, if approved, issued under a combined development permit.

.7 Exemptions

A development permit is not required for development within land in the ESDP area for:

- .1 subdivisions that propose to:
 - a) consolidate existing parcels, including the consolidation of parts of a closed road to an existing parcel; or
 - b) alter parcel lines between two or more parcels where no additional parcels are created upon completion of the alteration.

Commented [CG26]: The following references have been removed:
f) the construction of, addition to or alteration of a building or other structure; and
g) alteration of the land, including grading, removal of vegetation, deposit or moving of soil, paving, installation of drainage or underground services.

Electoral Area "F"

6. The "Electoral Area "F" Official Community Plan Bylaw No. 2790, 2018" is amended by:

- i) replacing sub-section 16.1.2.3 (Policies – General) under Section 16.0 (Natural Environment and Conservation) in its entirety with the following:
 - .3 Requires that, where a proposed subdivision affects land subject to an Environmentally Sensitive Development Permit Area, an Environmental Assessment (EA) be prepared by a Qualified Environmental Professional (QEP) in accordance with the policies outlined at Section 23.2 as well as relevant federal and provincial best management guidelines.
- ii) replacing sub-section 16.3.2.2 (Policies) under Section 16.0 (Natural Environment and Conservation) in its entirety with the following:
 - .2 Requires that land designated as an Environmentally Sensitive Development Permit Area shall be retained in a natural state and not subdivided prior to the issuance of an Environmentally Sensitive Development Permit (ESDP) in accordance with the guidelines outlined at Section 23.2 of this Plan unless an exemption applies.
- iii) replacing sub-section 16.3.2.6 (Policies) under Section 16.0 (Natural Environment and Conservation) in its entirety with the following:
 - .6 Encourages development that avoids impacting important native species, habitats, ecosystems or sensitive areas and to retain important ecosystem features and functions. Responsiveness to this policy will be a very important consideration in the approval of an amendment bylaw application.
- iv) replacing a new sub-section 23.2 (Environmentally Sensitive Development Permit (ESDP) Area) under Section 23.0 (Development Permit Areas) in its entirety with the following:

Commented [27]:

Commented [CG28]: All non-subdivision related exemptions have been removed.

Commented [CG29]: Proposes to replace reference to "development" with "subdivision"

23.2 Environmentally Sensitive Development Permit (ESDP) Area

Commented [CG30]: Proposes to replace reference to "development" with "subdivision"

.1 Category

The Environmentally Sensitive Development Permit (ESDP) Area is designated pursuant to Section 488(1)(a) of the *Local Government Act* for the protection of the natural environment, its ecosystems and biological diversity.

.2 Area

The lands shown as Environmentally Sensitive Development Permit Area on Schedule 'H' are designated as an Environmentally Sensitive Development Permit Area.

.3 Justification

To regulate development activities within environmentally sensitive areas in order to protect important sensitive ecosystems and biological diversity including valuable habitat for endangered species of native, rare vegetation or wildlife, and provide wildlife corridors and secondary habitat.

.4 Background

The natural environment provides essential habitat and corridors for plants, fish, birds and other organisms. It also acts as a natural water storage, drainage and purifying system, which can help to protect private property from flooding or land loss due to watercourse erosion. Furthermore, as concerns over climate change grow, it should be recognized that functioning ecosystems are more efficient at consuming carbon dioxide as well as carbon storage. Vegetation adjacent to watercourses needs to remain in a largely undisturbed state in order to maintain a healthy environment and clean water.

The south Okanagan-Similkameen area is considered one of the most ecologically diverse in British Columbia and Canada, and includes sensitive ecosystems which support a number of provincially Red and Blue-listed species (extirpated, endangered, threatened, and vulnerable) and federally listed Species at Risk. The ESDP Area is intended to protect habitat for endangered species of native, rare vegetation or wildlife, and provide wildlife corridors and secondary habitat within the Plan Area.

The ESDP Area is comprised of important habitat areas for wildlife and plant communities. Sensitive ecosystems in the area include grasslands, riparian areas, old forest, shrub-steppe, broadleaf woodland, coniferous woodland, wetlands, shallow soiled rock outcrops and ridges. It is the close proximity of these diverse habitats that contribute to a wide variety of species, both common and rare, that are found in this Electoral Area.

.5 Development requiring a permit

Commented [CG31]: New wording.

- .1 A development permit is required, except where exempt under Section 23.2.7 (Exemptions), for development on lands within the ESDP area. Where not exempted, development requiring a development permit includes:
- b) subdivision.

.6 Guidelines

- .1 A Development Permit is required for development within an ESDP Area, and shall be in accordance with the following guidelines:
- a) An Environmental Assessment (EA) Report, prepared in accordance with the requirements of the Regional District's Development Procedures Bylaw, must be submitted to the Regional District in respect of the proposed development by a qualified environmental professional (QEP) that is a Registered Professional Biologist in British Columbia (RPBio) or team that shall include a RPBio under contract to the development applicant, and shall include:
 - i) An Ecological Assessment Phase including:
 - .1 background information;
 - .2 an ecological assessment;
 - .3 listing of rare and endangered species; and
 - .4 stratification and rating of Environmentally Sensitive Areas (ESAs).
 - ii) An Impact Assessment and Mitigation Phase including:
 - .1 description of proposed development;
 - .2 assessment of potential impacts;
 - .3 short and long term impacts;
 - .4 cumulative and residual impacts;
 - .5 avoidance of ESAs;
 - .6 mitigation and compensation;
 - .7 security requirements;
 - .8 monitoring reports;
 - .9 accountability; and
 - .10 monitoring plan.

- b) Subdivision should be planned, designed and implemented to protect environmentally sensitive areas. Habitats that provide for at-risk species, at-risk ecological communities and keystone species should be given priority for protection.
 - c) Development should be planned away from native trees and trees containing active nest sites or cavities. If removal of native trees cannot be avoided, mitigation should include restoration and replanting with equivalent native trees.
 - d) Habitat connectivity and the retention of connectivity corridors between sensitive ecosystems should be preserved. Wildlife crossings should be designed to protect continuity of wildlife corridors where these are interrupted by roadways.
 - e) Monitoring reports may be required to be submitted to the Regional District following the completion of a development in order to confirm the conditions of a development permit have been met.
 - f) The Regional District may incorporate any areas or measures identified in an EA to protect sensitive ecosystems from the effect of development as terms and conditions of the development permit.
- .6 If an area of land is subject to additional Development Permit Area designations under Section 488(1)(a) of the *Local Government Act*, the Regional District requires that a single development permit application that combines the requirements of each Development Permit Area be submitted. The application will be assessed in accordance with the individual development permit guidelines for each applicable Development Permit Area under this bylaw and, if approved, issued under a combined development permit.

7 Exemptions

A development permit is not required for development within land in the ESDP area for:

- .1 subdivisions that propose to:
 - a) consolidate existing parcels, including the consolidation of parts of a closed road to an existing parcel; or
 - b) alter parcel lines between two or more parcels where no additional parcels are created upon completion of the alteration.

Commented [CG32]: Option for an "Expedited Development Permit" has been removed as it is primarily related to building permits (was Section 21.2.7).

Electoral Area "H"

7. The "Electoral Area "H" Official Community Plan Bylaw No. 2497, 2012" is amended by:

Amendment Bylaw No. 2912, 2020
(X2020.009-ZONE)
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- i) replacing Section 17.0 (Environment & Conservation) in its entirety with the following:

17.0 ENVIRONMENT & CONSERVATION

17.1 Background

Environmental quality is an important component of the community vision, and is tied to the quality of life and lifestyle options valued by local residents, property owners and visitors. The natural attributes of the Plan area, however, are seen to extend beyond the boundaries of Electoral Area "H", and the Regional District considers that environmental issues in the Similkameen Valley should be addressed from a broad regional perspective.

The Similkameen Valley is situated in the rain shadow of the Coast and Cascade Mountains, with the western part of the valley (which is seen to include Electoral Area "H") possessing a cooler, moister climate from that found in the dry south-eastern part of the valley. The whole of the Valley is seen to belong to the Southern Interior "Ecoprovince", which has the greatest diversity of birds in the interior of British Columbia and the most breeding species of all the Ecoprovinces in the province. The low elevation areas of the Similkameen Valley are also home to the Bunchgrass (BG), Ponderosa Pine (PP), and, Interior Douglas Fir (IDF) zones. These three zones are comparatively rare within the province, and have been identified as areas of conservation concern.

While the Bunchgrass zone is predominantly in the valley bottom from Keremeos southward, the Interior Douglas Fir (very dry hot) zone follows the major low elevation drainages including the Tulameen and the Similkameen rivers. A substantial proportion of the Ponderosa Pine zone falls in the area around the Town of Princeton.

Many of the Valley's ecosystems are sensitive to human disturbance, and high proportions are designated by the Provincial and or Federal governments as being "at risk". Alteration and the loss of ecosystems have historically occurred due to a variety of activities such as livestock farming, commercial orchard and field crop development, and more recently the focus has been on vineyard/winery and rural ranchette or larger parcel home developments.

The Similkameen River as a whole system continues to support many intact remaining natural attributes such as riparian deciduous forests, dense thickets, meadows and wetlands associated with its floodplain. The cottonwood forests on the valley floor are a notable feature of the landscape. Equally significant are the high mountains with deep dry valleys, the surrounding sensitive upland ecosystems of sagebrush grasslands,

rugged slopes, old growth open Ponderosa Pine and Interior Douglas Fir forests.

For the purpose of protecting environmentally sensitive areas (ESAs), which include not only riparian areas, but shrub-steppe, forested lands, rugged terrain and aquatic areas, the Regional District undertook Sensitive Ecosystem Inventory (SEI) mapping around the communities of Eastgate, Otter Lake and Chain Lakes.

As a local government listed under Section 3 of the *Riparian Areas Protection Regulation*, the Regional District has implemented a Watercourse Development Permit (WDP) Area designation in order to protect riparian areas; being lands within 30 metres of the high water mark of streams and ravines including lakes, watercourses and wetlands, and as described further at Section 22.3 of this bylaw.

For maps of development permit areas and other environmentally sensitive areas in the Plan Area see Schedule 'G' (Environmentally Sensitive Development Permit Area and Other Important Ecosystem Area) and Schedule 'H' (Watercourse Development Permit Area).

17.1.1 Objectives - General

- .1 Maintain and sustain a healthy environment by encouraging the enhancement of ecological systems and by protecting biodiversity.
- .2 Integrate measures to sustain environmental quality and consider impacts on the environment in future land use decisions.
- .3 Work with property owners and agents to inform and guide the design of development in a way that is sensitive to important landscape features such as watercourses, hillsides and sensitive ecosystems.
- .4 Support efforts to protect source water quality and quality today and for future generations.

17.1.2 Policies - General

The Regional Board:

- .1 Recognizes the importance of containing and controlling noxious weeds through the continued endorsement of weed prevention and control initiatives.
- .2 Recognizes and encourages the educational and eco-tourism contribution toward protection of the community's natural environment made by environmental organizations, and supports accommodating these uses with the necessary changes to the land use designations so long as the general intent of policies in this Plan are met.

- .3 Requires that, where a proposed subdivision affects land subject to an Environmentally Sensitive Development Permit Area, an Environmental Assessment (EA) be prepared by a Qualified Environmental Professional (QEP) in accordance with the policies outlined at Section 22.2 as well as relevant federal and provincial best management guidelines.
- .4 Requires that EA reports prepared by QEPs be undertaken in accordance with the Regional District's Development Procedures Bylaw.
- .5 Supports the incorporation of traditional ecological knowledge in the stewardship of important foreshore, riparian, and terrestrial ecosystems, and will seek to work with the Upper Similkameen Indian Band and Lower Similkameen Indian Band to incorporate it where feasible, practical and appropriate.

17.2 Riparian and Foreshore Areas

Riparian areas are places under the influence of water. They surround and contain wetlands, ponds, permanent and intermittent creeks, springs, wet meadows, etc. The Plan Area includes several lakes such as Missezula, Alison, Chain, Link, Osprey and Thirsk Lakes and numerous smaller lakes. The Plan Area also includes the Similkameen River and various smaller streams.

Activities in riparian areas have potential to impact water quality, affect erosion, damage fish habitat and impact habitat for species at risk. Agriculture impacts are significant and range from infilling to cultivation and livestock use.

Because riparian and foreshore areas are so strongly connected to both habitats for species at risk and water quality through groundwater/surface water, it is vital that land use practices protect riparian areas by retaining and restoring native species, and ecosystems. Natural riparian areas provide significant ecosystems benefits that costly water treatment and recovery planning for species at risk cannot replace.

Generally land above the high water mark (natural boundary) is privately held and land below the high water mark belongs to the Crown and forms part of the water resource in the province. Land within 30.0 metres of the high water mark of a stream or a ravine is identified as being within a Watercourse Development Permit Area and any development within this area may require a Development Permit (see Section 22.3). Other activities that are subject to regulation include dock construction and modification, mooring buoy installation, and shoreline modifications (including sand, soil, vegetation removal, disturbance, and addition).

17.2.1 Objectives

- .1 Foster community awareness of the importance and sensitivity of the riparian and foreshore environments in the Plan Area.
- .2 Protect aquatic habitat areas and associated environmentally sensitive areas from negative impacts of development as identified in Schedule 'G' (Environmentally Sensitive Development Permit Area and Other Important Ecosystem Area) and Schedule 'H' (Watercourse Development Permit Area).
- .3 Improve and better manage waterfront public access along major lake shorelines, while limiting the overall number of public access points.
- .4 Minimize and avoid development in high hazard soil instability areas along lake foreshore and riparian areas.
- .5 Encourage high quality lakeshore development that maintains the natural character of all lakes and sustains the sensitive riparian and foreshore ecosystems.
- .6 Conserve, protect and enhance surface, ground and aquifer water sources in cooperation with provincial ministries, local water purveyors and landowners.
- .7 Identify, manage and protect significant watercourses to maintain their natural habitat and environmental quality.

17.2.2 Policies

The Regional Board:

1. Recognises riparian values and, in accordance with the provincial *Riparian Areas Protection Regulation*, has designated land within 30.0 metres of the high water mark of a stream or a ravine as a development permit area. Land designated as a Watercourse Development Permit Area shall be developed according to the guidelines outlined in Section 22.3 (Watercourse Development Permit Area) of this Plan unless an exemption applies. The Watercourse Development Permit Area includes the lands within 30.0 metres of the high water mark of a stream or ravine identified on Schedule 'H'.
- .2 Encourages provincial and federal water and resource managers to protect and enhance water quality, base flows, natural drainage patterns, and continuous riparian corridors of sufficient width to accommodate the dynamic nature of the hydrologic system, to avoid and reduce flood damage, to avoid the need for channel stabilization, to avoid underground drainage systems, to avoid groundwater

interruption, and to protect and sustain aquatic biota, important fish populations and habitats.

- .3 Supports efforts that maintain appropriate riparian buffers, determined by qualified professionals that take into account processes of natural erosion, deposition and movement of natural stream boundaries, floodplain provisions and sensitive terrestrial habitats
- .4 Encourages and supports the analysis of ground water hydrology in areas with identified aquifers, and requires environmental assessments in advance of considering zoning amendments for uses such as heavy industrial, mining, fuel storage and/or sewage or waste containment.
- .5 Discourages development that will have a negative environmental impact on lake riparian and foreshore areas.
- .6 Encourages the subdivision approving officer to ensure that public access to lakes is provided pursuant to Section 75 of the *Land Title Act*.
- .7 Supports the use of Section 86 of the *Land Title Act* and Section 56 of the *Community Charter* to regulate development in a floodplain and provide for the safe use of the land for the intended purpose.

17.3 Terrestrial Areas

Terrestrial areas are simply described as the areas upland or beyond water. They include areas with grassland and shrub-steppe, sparsely vegetated, broadleaf woodlands, coniferous woodlands and old forest ecosystems. Many at risk species are found in terrestrial ecosystems in the Plan Area.

Like foreshore and riparian areas, terrestrial areas also contain areas sensitive to development and land use. Of the various ecosystem types, the grassland and shrub-steppe ecosystems are particularly sensitive to disturbance and subject to habitat loss through development, agriculture conversion, impacts from invasive plants, and habitat loss resulting from recreation use.

Significant proportions of sensitive terrestrial habitat have been provincially recognized and protected in the Plan Area.

17.3.1 Objectives

- .1 Protect and steward sensitive and important terrestrial ecosystem areas as identified in Schedule 'G' (Environmentally Sensitive Development Permit Area Areas).

- .2 Encourage provincial and federal governments, private organizations and private landowners to protect, enhance and manage critical habitat areas for species at risk in the Plan Area.
- .3 Work cooperatively with regional partners and support rehabilitation, restoration and enhancement of wildlife habitats and environmentally sensitive areas that have been subject to negative impacts in the past.
- .4 Encourage and facilitate linkages of protected habitat areas.

17.3.2 Policies

The Regional Board:

- .1 Recognizes the values of environmentally sensitive lands and has on Schedule 'G':
 - a) Designated these lands as an Environmentally Sensitive Development Permit Area pursuant to Section 488(1)(a) of the *Local Government Act*; or
 - b) Identified these lands as "Potential Sensitive Ecosystems".
- .2 Requires that land designated as an Environmentally Sensitive Development Permit Area shall be retained in a natural state and not subdivided prior to the issuance of an Environmentally Sensitive Development Permit (ESDP) in accordance with the guidelines outlined at Section 22.2 of this Plan unless an exemption applies.
- .3 Considers that land identified as "Potential Sensitive Ecosystems" should generally be retained in a natural state and, if a re-designation of the land under the OCP or a re-zoning of the land under the Zoning Bylaw is proposed, that these lands be considered for inclusion in the Environmentally Sensitive Development Permit Area in Schedule 'G'.
- .4 Encourages the parcel sizes of land designated as an Environmentally Sensitive Development Permit Area or identified as "Potential Sensitive Ecosystems" on Schedule 'G' to remain as large as possible to protect these habitat areas.
- .5 Will not support the re-designation of land under the OCP or the re-zoning of land under the Zoning Bylaw where it is determined that the proposed development is contrary to the ESDP Area Guidelines of this Plan and the impact cannot be mitigated to a level acceptable to the Regional Board.
- .6 Encourages development that avoids impacting important native species, habitats, ecosystems or sensitive areas and to retain important ecosystem features and functions. Responsiveness to this policy will be a very important consideration in the approval of an application.

- .7 Encourage the protection, preservation, enhancement and management of sensitive ecosystems or land contiguous to sensitive ecosystems of private lands through the following methods:
- a) donation of areas to the Regional District or provincial government;
 - b) donation of areas to a land trust or conservation organization;
 - c) introduction of conservation area designation and zoning;
 - d) creation of conservation covenants in favour of municipal, provincial government, private conservation organizations;
 - e) establishment of statutory right of ways under the *Land Title Act* for affected areas;
 - f) establishment of long-term leases for sensitive areas;
 - g) land stewardship and participation in conservation initiatives by the private landowner; or
 - h) consideration of alternative development standards.
- .8 Supports conserving, enhancing and promoting the protection of wildlife corridors and ecosystem connectivity with interfacing Crown lands.
- .9 Encourages the use of native vegetation to restore disturbed sites.

17.4 Conservation Areas

For the purpose of protecting environmentally sensitive areas (ESAs), the Regional District may designate lands as Conservation Area (CA). The Conservation Area designation is applied to land that is preserved and protected for its unique natural value, land left in a natural or semi-natural state for the purpose of conserving plant life and providing habitat for wildlife or fish.

Conservation Area lands may include Crown land designated as an Ecological Reserve or Wildlife Management Areas, but is generally applied to private lands that have been acquired or donated for conservation purposes and which are held by an individual or an organisation, such as The Nature Trust of British Columbia or the Nature Conservancy of Canada.

For a map of Conservation Areas in the Plan Area see Schedule 'B' (Official Community Plan Map).

17.4.1 Objectives

- .1 Protect and steward designated Conservation Areas in their natural or semi-natural state for the purpose of conserving plant life and providing habitat for wildlife or fish.
- .2 Work with agencies and partners, including local First Nations to enhance, protect and interpret ecological systems and biodiversity in Conservation Areas.
- .3 Work with property owners and agents to inform and guide the design of development in a way that is sensitive to adjacent or abutting Conservation Areas.

17.4.2 Policies

The Regional Board:

- .1 Recognizes and encourages the educational and eco-tourism contributions toward protection of Conservation Areas made by environmental organizations, and supports accommodating these uses where they do not conflict with Conservation Area objectives.
 - .2 Supports the incorporation of traditional ecological knowledge in the stewardship of Conservation Areas, and will seek to work with local First Nations to incorporate it where feasible, practical and appropriate.
- ii) replacing a new sub-section 22.2 (Environmentally Sensitive Development Permit (ESDP) Area) under Section 22.0 (Development Permit Areas) in its entirety with the following:

22.2 Environmentally Sensitive Development Permit (ESDP) Area

.1 Category

The Environmentally Sensitive Development Permit (ESDP) Area is designated pursuant to Section 488(1)(a) of the *Local Government Act* for the protection of the natural environment, its ecosystems and biological diversity.

.2 Area

The lands shown as Environmentally Sensitive Development Permit Area on Schedule 'G' are designated as an Environmentally Sensitive Development Permit Area.

.3 Justification

To regulate development activities within environmentally sensitive areas in order to protect important sensitive ecosystems and biological diversity

including valuable habitat for endangered species of native, rare vegetation or wildlife, and provide wildlife corridors and secondary habitat.

.4 Background

The natural environment provides essential habitat and corridors for plants, fish, birds and other organisms. It also acts as a natural water storage, drainage and purifying system, which can help to protect private property from flooding or land loss due to watercourse erosion. Furthermore, as concerns over climate change grow, it should be recognized that functioning ecosystems are more efficient at consuming carbon dioxide as well as carbon storage. Vegetation adjacent to watercourses needs to remain in a largely undisturbed state in order to maintain a healthy environment and clean water.

The Similkameen area is considered one of the most ecologically diverse in British Columbia and Canada, and includes sensitive ecosystems which support a number of provincially Red and Blue-listed species (extirpated, endangered, threatened, and vulnerable) and federally listed Species at Risk. The ESDP Area is intended to protect habitat for endangered species of native, rare vegetation or wildlife, and provide wildlife corridors and secondary habitat within the Plan Area.

The ESDP Area is comprised of important habitat areas for wildlife and plant communities. Sensitive ecosystems in the area include grasslands, riparian areas, old forest, shrub-steppe, broadleaf woodland, coniferous woodland, wetlands, shallow soiled rock outcrops and ridges. It is the close proximity of these diverse habitats that contribute to a wide variety of species, both common and rare, that are found in this Electoral Area.

.5 Development requiring a permit

- .1 A development permit is required, except where exempt under Section 22.2.7 (Exemptions), for development on lands within the ESDP area. Where not exempted, development requiring a development permit includes:
 - a) subdivision.

.6 Guidelines

- .1 A Development Permit is required for development within an ESDP Area, and shall be in accordance with the following guidelines:
 - a) An Environmental Assessment (EA) Report, prepared in accordance with the requirements of the Regional District's Development Procedures Bylaw, must be submitted to the Regional District in respect of the proposed development by a

order to confirm the conditions of a development permit have been met.

- f) The Regional District may incorporate any areas or measures identified in an EA to protect sensitive ecosystems from the effect of development as terms and conditions of the development permit.
- .7 If an area of land is subject to additional Development Permit Area designations under Section 488(1)(a) of the *Local Government Act*, the Regional District requires that a single development permit application that combines the requirements of each Development Permit Area be submitted. The application will be assessed in accordance with the individual development permit guidelines for each applicable Development Permit Area under this bylaw and, if approved, issued under a combined development permit.

.7 Exemptions

A development permit is not required for development within land in the ESDP area for:

- .1 subdivisions that propose to:
 - a) consolidate existing parcels, including the consolidation of parts of a closed road to an existing parcel; or
 - b) alter parcel lines between two or more parcels where no additional parcels are created upon completion of the alteration.

Commented [CG33]: The following references have been removed:

b)the construction of, addition to or alteration of a building or other structure; and

c)alteration of the land, including grading, removal of vegetation, deposit or moving of soil, paving, installation of drainage or underground services.

Electoral Area "I"

8. The "Electoral Area "I" Official Community Plan Bylaw No. 2683, 2008" is amended by:

- i) replacing sub-section 17.1.2.3 (Policies – General) under Section 17.0 (Natural Environment and Conservation) in its entirety with the following:
 - .3 Requires that, where a proposed subdivision affects land subject to an Environmentally Sensitive Development Permit Area, an Environmental Assessment (EA) be prepared by a Qualified Environmental Professional (QEP) in accordance with the policies outlined at Section 23.2 as well as relevant federal and provincial best management guidelines.
- ii) replacing sub-section 17.3.2.2 (Policies) under Section 17.0 (Natural Environment and Conservation) in its entirety with the following:

Commented [34]:

qualified environmental professional (QEP) that is a Registered Professional Biologist in British Columbia (RPBio) or team that shall include a RPBio under contract to the development applicant, and shall include:

- i) An Ecological Assessment Phase including:
 - .1 background information;
 - .2 an ecological assessment;
 - .3 listing of rare and endangered species; and
 - .4 stratification and rating of Environmentally Sensitive Areas (ESAs).
- ii) An Impact Assessment and Mitigation Phase including:
 - .1 description of proposed development;
 - .2 assessment of potential impacts;
 - .3 short and long term impacts;
 - .4 cumulative and residual impacts;
 - .5 avoidance of ESAs;
 - .6 mitigation and compensation;
 - .7 security requirements;
 - .8 monitoring reports;
 - .9 accountability; and
 - .10 monitoring plan.
- b) Subdivision should be planned, designed and implemented to protect environmentally sensitive areas. Habitats that provide for at-risk species, at-risk ecological communities and keystone species should be given priority for protection.
- c) Development should be planned away from native trees and trees containing active nest sites or cavities. If removal of native trees cannot be avoided, mitigation should include restoration and replanting with equivalent native trees.
- d) Habitat connectivity and the retention of connectivity corridors between sensitive ecosystems should be preserved. Wildlife crossings should be designed to protect continuity of wildlife corridors where these are interrupted by roadways.
- e) Monitoring reports may be required to be submitted to the Regional District following the completion of a development in

.2 Requires that land designated as an Environmentally Sensitive Development Permit Area shall be retained in a natural state and not subdivided prior to the issuance of an Environmentally Sensitive Development Permit (ESDP) in accordance with the guidelines outlined at Section 23.2 of this Plan unless an exemption applies.

Commented [CG35]: All non-subdivision related exemptions have been removed.

iii) replacing sub-section 17.3.2.6 (Policies) under Section 17.0 (Natural Environment and Conservation) in its entirety with the following:

.6 Encourages development that avoids impacting important native species, habitats, ecosystems or sensitive areas and to retain important ecosystem features and functions. Responsiveness to this policy will be a very important consideration in the approval of an amendment bylaw application.

Commented [36]:

iv) replacing a new sub-section 24.2 (Environmentally Sensitive Development Permit (ESDP) Area) under Section 24.0 (Development Permit Areas) in its entirety with the following:

24.2 Environmentally Sensitive Development Permit (ESDP) Area

Commented [CG37]: All non-subdivision related exemptions have been removed.

.1 Category

The Environmentally Sensitive Development Permit (ESDP) Area is designated pursuant to Section 488(1)(a) of the *Local Government Act* for the protection of the natural environment, its ecosystems and biological diversity.

.2 Area

The lands shown as Environmentally Sensitive Development Permit Area on Schedule '1' are designated as an Environmentally Sensitive Development Permit Area.

.3 Justification

To regulate development activities within environmentally sensitive areas in order to protect important sensitive ecosystems and biological diversity including valuable habitat for endangered species of native, rare vegetation or wildlife, and provide wildlife corridors and secondary habitat.

.4 Background

The natural environment provides essential habitat and corridors for plants, fish, birds and other organisms. It also acts as a natural water storage, drainage and purifying system, which can help to protect private property from flooding or land loss due to watercourse erosion. Furthermore, as concerns over climate change grow, it should be recognized that functioning ecosystems are more efficient at consuming

carbon dioxide as well as carbon storage. Vegetation adjacent to watercourses needs to remain in a largely undisturbed state in order to maintain a healthy environment and clean water.

The south Okanagan-Similkameen area is considered one of the most ecologically diverse in British Columbia and Canada, and includes sensitive ecosystems which support a number of provincially Red and Blue-listed species (extirpated, endangered, threatened, and vulnerable) and federally listed Species at Risk. The ESDP Area is intended to protect habitat for endangered species of native, rare vegetation or wildlife, and provide wildlife corridors and secondary habitat within the Plan Area.

The ESDP Area is comprised of important habitat areas for wildlife and plant communities. Sensitive ecosystems in the area include grasslands, riparian areas, old forest, shrub-steppe, broadleaf woodland, coniferous woodland, wetlands, shallow soiled rock outcrops and ridges. It is the close proximity of these diverse habitats that contribute to a wide variety of species, both common and rare, that are found in this Electoral Area.

.5 Development requiring a permit

.1 A development permit is required, except where exempt under Section 24.2.7 (Exemptions), for development on lands within the ESDP area. Where not exempted, development requiring a development permit includes:

- a) subdivision.

.6 Guidelines

.1 A Development Permit is required for development within an ESDP Area, and shall be in accordance with the following guidelines:

- a) An Environmental Assessment (EA) Report, prepared in accordance with the requirements of the Regional District's Development Procedures Bylaw, must be submitted to the Regional District in respect of the proposed development by a qualified environmental professional (QEP) that is a Registered Professional Biologist in British Columbia (RPBio) or team that shall include a RPBio under contract to the development applicant, and shall include:

- i) An Ecological Assessment Phase including:
 - .1 background information;
 - .2 an ecological assessment;
 - .3 listing of rare and endangered species; and

Commented [CG38]: Proposes to replace reference to "development" with "subdivision"

- .4 stratification and rating of Environmentally Sensitive Areas (ESAs).
- ii) An Impact Assessment and Mitigation Phase including:
- .1 description of proposed development;
 - .2 assessment of potential impacts;
 - .3 short and long term impacts;
 - .4 cumulative and residual impacts;
 - .5 avoidance of ESAs;
 - .6 mitigation and compensation;
 - .7 security requirements;
 - .8 monitoring reports;
 - .9 accountability; and
 - .10 monitoring plan.
- b) Subdivision should be planned, designed and implemented to protect environmentally sensitive areas. Habitats that provide for at-risk species, at-risk ecological communities and keystone species should be given priority for protection.
- c) Development should be planned away from native trees and trees containing active nest sites or cavities. If removal of native trees cannot be avoided, mitigation should include restoration and replanting with equivalent native trees.
- d) Habitat connectivity and the retention of connectivity corridors between sensitive ecosystems should be preserved. Wildlife crossings should be designed to protect continuity of wildlife corridors where these are interrupted by roadways.
- e) Monitoring reports may be required to be submitted to the Regional District following the completion of a development in order to confirm the conditions of a development permit have been met.
- f) The Regional District may incorporate any areas or measures identified in an EA to protect sensitive ecosystems from the effect of development as terms and conditions of the development permit.
- .2 If an area of land is subject to additional Development Permit Area designations under Section 488(1)(a) of the *Local Government Act*, the Regional District requires that a single development permit application that combines the requirements of each Development Permit Area be

Commented [CG39]: Proposes to replace reference to "development" with "subdivision"

submitted. The application will be assessed in accordance with the individual development permit guidelines for each applicable Development Permit Area under this bylaw and, if approved, issued under a combined development permit.

.7 Exemptions

Commented [CG40]: New wording.

A development permit is not required for development within land in the ESDP area for:

- .1 subdivisions that propose to:
 - a) consolidate existing parcels, including the consolidation of parts of a closed road to an existing parcel; or
 - b) alter parcel lines between two or more parcels where no additional parcels are created upon completion of the alteration.

READ A FIRST AND SECOND TIME this ____ day of _____, 2020.

PUBLIC HEARING held on this ____ day of _____, 2020.

READ A THIRD TIME this ____ day of _____, 2020.

ADOPTED this ____ day of _____, 2020.

Board Chair

Corporate Officer

DRAFT

Christopher Garrish

From: Jamie V Wright
Sent: October 18, 2020 6:20 PM
To: Karla Kozakevich; Mark Pendergraft; George Bush; Rick Knodel; Ron Obirek; Riley Gettens; Tim Roberts; Bob Coyne; Subrina Monteith; John Vassilaki; Jake Kimberley; Frank Regehr; Julius Bloomfield; Toni Boot; Doug Holmes; Petra Veintimilla; Suzan McKortoff; Spencer Coyne; Manfred Bauer; Christopher Garrish
Cc: Pbeckett; Mark Mckenney; Ironbull; Lynnehesketh63; Gmont; Freesem; Graham; John; Riechert; Dsvendse
Subject: ESDP Issue Electoral Area A - Anarchist Mountain
Attachments: The ESDP Issue in Electoral Area.pdf

Dear RDOS Directors,

I understand on October 15th, 2020 that several RDOS board members opposed the suggested language of the ESDP draft recommendations made by Electoral Area "A" Director Mark Pendergraft and have sent the draft to the APC for further comments.

As President of the Anarchist Mountain Community Society (AMCS), I am attaching an overview of evidence/data concerning the ESDP issue in the Anarchist Mountain Area. The RDOS needs to make evidence based decisions and use evidence based processes in this most important issue for private landowners in our area. *We don't want to lose focus on our concerns about the process beyond the cost of the permits.*

Thank you,

Jamie

Jamie V Wright
President, AMCS



The ESDP Issue in Electoral Area 'A' – Anarchist Mountain

Good decisions are based on evidence. Let evidence and data be the centre of the discussion. While the over-arching desire or goal is to protect the environment – specifically 'endangered species' - without data and evidence-based decision making, any discussion or efforts to protect the environment become simply **emotional environmentalism** – which serves no good purpose.

The Anarchist Mountain evidence to date:

- The RDOS **issued (3) ESDP** to the developer - during the subdivision stage. The developer conducted environmental studies (of which the RDOS has copies) & hived-off some land to the RDOS as conservation areas;
- All this land has a use history of logging, forest fires and cattle grazing. (There is still considerable on the ground artifacts of this historic use.);
- The Developer then proceeded to create the residential subdivisions wherein trees were cut, earth and rock were moved/blasted/placed to create ditches, berms, building sites, drill wells, install power and add asphalt;
- Individual lots were sold and owners proceeded to build homes & out-buildings, connect to power – if it existed, connect to wells, install septic fields, install solar panels, plant gardens and Fire Smart their property under the guidance of the local Fire Smart experts;
- Some 17+ years later, the RDOS decided – with limited private land owner consultation to **duplicate the ESDP process** prior to a land owner receiving a building permit. This ESDP covered the same areas disturbed and established during the sub-division stage;
- The RDOS mapped the area – the Pink Zone. This **mapping is completely arbitrary and inaccurate**. Pink Zone mapping clearly did not capture all the land disturbance that was undertaken to develop a sub-division. The RDOS mapped only the asphalt drives & perhaps the cleared building placement site. In some instances, the RDOS did not even map the asphalt. The RDOS admitted to some **mapping errors**, yet persisted regardless this inaccuracy;
- This RDOS **ESDP is in conflict with Fire Smart advice & practice** which is strongly supported by both the Province & Federal Governments. Fires remain the greatest risk on Anarchist Mountain;
- The RDOS conducted a review of this ESDP on private land owners. (Administrative report 20190523 to the Board.) This revealed the RDOS consulted with QEP's for their feedback on how the process was working. Three issues here:
 - QEPs have been placed in a **conflict of interest position** as they were consulted for feedback - while the private land owner was not - yet the private landowner is expected to pay for the QEP reports. QEPs have a strong commercial interest in the RDOS maintaining the ESDP on private land. A very lucrative revenue stream;
 - QEP reports did not capture development site disturbance or the area history on logging, forest fires and cattle grazing. This error challenges their 'expert' qualifications. If "endangered species" survived all this prior land use impact – it throws into question whether these species are actually endangered. **Data efficacy is at issue**;
 - Bernie & Eileen Langlois - private landowners - submitted an excellent letter of concern laying out all the same issues we are still dealing with - yet the RDOS **ignored private land owner input** and forged on; (RDOS staff report attached)
- While the RDOS is using all their energy regulating private land owners, they have **NO PLAN to protect the environment on crown lands they are responsible for**. Part of the 'horse-trading' with the developer on Anarchist was conservation land areas 'donated' to the RDOS.

We all know that plants & animals have no regard for arbitrary property boundaries so forcing private land owners to 'protect' the environment while adjacent lands have no effort is a losing proposition. Nothing useful is accomplished and at great cost - to the private landowner. It is analogous to a private land owner trying to rid their lawn of dandelions while adjacent public boulevards and right of ways have no plan or effort. It is simply not effective.

This is a data overview. The ESDP process as implemented on private land already subdivided, calls into question motive and the process the RDOS uses to make decisions. The outcome of processes and decisions that avoid actual data serves to frustrate legitimate desires by land owners to protect environment and deal with real risks like forest fires and invasive grasses.

Christopher Garrish

From: Jamie V Wright
Sent: October 27, 2020 8:16 PM
To: Mark Pendergraft; Karla Kozakevich; George Bush; Rick Knodel; Ron Obirek; Riley Gettens; Tim Roberts; Bob Coyne; Subrina Monteith; John Vassilaki; Jake Kimberley; Frank Regehr; Julius Bloomfield; Toni Boot; Doug Holmes; Petra Veintimilla; Suzan McKortoff; Manfred Bauer
Cc: Christopher Garrish; Pbeckett; Mark Mckenney; Ironbull; Lynnehesketh63; Gmont; Freesem; Graham; John; Riechert; Dsvendse; Stan Teichroew; Jim Gray; Alex Giovannelli; Giselle Leclair; Eileen Langlois; Gloria Richardson; Lausmank55; Tbsalamone; jgt3; Bernie Langlois6
Subject: Citizen Concerns & Suggestions for RDOS Process Improvements
Attachments: Citizen Concerns and Suggestions for RDOS Process Improvements.pdf

Dear RDOS Chair, Directors, APC & EcoPlan Consultants,

We, the Anarchist Mountain Community Society, are a not-for-profit society of rural property owners and we would like to work more closely with the RDOS as well as the Provincial and Federal representatives for our area on better governance and service.

The recent update provided by our Anarchist Mountain Fire Department is useful information in fire risk, protection & guidance. However, there are a few concerning issues with the RDOS process as outlined in the document attached.

Thank you for your attention,

Jamie

Jamie V Wright
President, AMCS



Citizen Concerns and Suggestions for RDOS Process Improvements

Fire Risk, Protection & Guidance:

The recent update provided by our AMFD is useful information. However, there are a few concerning issues with RDOS process:

5) Mandatory Fire Smarting for New Construction:

The AMFSC position is that Fire Smart requirements; for both the buildings and property; should be mandated by the RDOS at the building permit stage. (Note: This may also be a moot point as the RDOS is already considering this) The RDOS has suggested a “wildfire professional” evaluate and approve the plans at a cost to the owner. The AMFSC position is that while Fire Smart requirements should be mandated there is no need for a “wildfire professional” as the Fire Smart requirements are well documented and straight forward.

CONCERN:

1. While the RDOS Planning Manager stated the RDOS wasn't considering REGULATING private land owners to hire a 'wildfire professional', the reality is we do not have the trust and confidence this is not the RDOS plan. This would again create a **CONFLICT of INTEREST** regulation - creating a commercial interest for 'wildfire professionals'. Private land owners are already Fire Smarting their property under the guidance of the volunteer Fire Department - against the insistence of the ESDP regulations. The RDOS still uses only one tool in their toolbox - REGULATING private landowners, yet **continue to ignore their responsibility for managing Fire Smart on crown lands.**

9) The need for Fire Smarting on vacant properties; both private and developer owned properties.

10) The need to control both burn piles and campfires on private properties where no water supply is available. (I.e. owners Fire Smarting and camping prior to operation of water well)

CONCERN:

1. It's been our experience and neighbours' observations, that over the past number of years, vacant lots on AM have been used by 'others' for camping and campfire drinking parties. We cannot assume property owners are doing this. It is not helpful for the RDOS to REGULATE private landowners from use of their property with punitive measures. Typically, they are working to Fire Smart their land as well as plan for their building project, by spending time on their property – prior to building.
2. We enjoy the benefits of a highly recognized and expert Volunteer Fire Department on Anarchist Mountain. The Province has publicly recognized this expertise. We as a registered NFP Society spend volunteer hours raising funds to support the Fire Department in their work. It would be more than appropriate for the RDOS to extend the same recognition and seek to consult and collaborate with this group for Fire Smart planning and education rather than dismiss their expertise by contracting 'outside experts'.

Metal Storage Containers:

CONCERNS:

1. This proposed Regulation seems to be entirely driven by some neighbourhood “aesthetic” preferences from the Apex Area. Since the history of development in Canada, architectural styles have been varied – influenced by many factors. This is a reflection of Canadian **diversity which should be promoted rather regulated against**. The contention that metal storage containers drive down property values is personal opinion. There is a **lack of credible data** on which the RDOS is basing policy/regulation decisions. Ask the Real Estate industry what drives property values;
2. There now seems to be a **desire to ‘broad-brush’ these regulations across most Electoral areas** - in particular Area ‘A’ which has a number of geographical, parcel size, topography, Fire Risk, and other differences with Apex and other areas;
3. **Lack of consultation** - the RDOS conducted one survey in Area A with respect to metal storage containers - and not well publicized - hence the low response;
4. Metal storage containers are used by a number of private land owners in Area ‘A’ which is mainly LH and SH, for on-going storage purposes - not just during construction as suggested. They store seasonal recreation equipment like ATVs, bikes, snowmobiles, quads, motorcycles, chainsaws, table saws, sheets of plywood, Porsche fenders or turkey deep-fryers, and sometimes the garbage prior to garbage day to protect from bears and rodents etc. They are also fire resistant, air tight, water tight and portable. Again, the RDOS is trying to draft regulations when they have a **lack of data**. We do appreciate the effort to properly define metal storage containers – if the definition is proper, however, we strongly suggest regulating metal storage containers is a waste of time, energy and public funds;
5. It’s been suggested that Metal storage containers encourage break-ins. These containers are very secure. That’s part of their designed function. Lack of break-in success discourages attempts on metal containers. It’s surprising the issue of break-in & theft is not a significant part of this discussion as there are too many incidents in Area A. **Where are the RCMP stats of criminal activity (break-in & theft) for Area ‘A’? Data is important.**
6. Metal containers have no impact on either accelerating or delaying construction schedules. The economy, financing & cash-flow, lack of contractor availability/motivation, many permits & long delays in permit approvals, long delivery time for materials - and currently insane material price escalation - if at all available. The contention that limiting time a metal container can be on site during construction as an incentive to accelerate construction or close permits is misinformed. **Where is the data? Talk to owners.** The resulting impact would be added cost due to theft or delayed construction for which much data exists. Property owners require choice for storage solutions.
7. Placement of metal storage containers is predicated on owner access and zoning set-backs from property lines. Both Area ‘A’ LH & SH properties have a building site area and most – if not all - are sheltered by earth/rock berms or trees. Someone would really need to go out of their way to notice a metal storage container. The function is storage – not a neighbour’s concept of aesthetics. Regulating aesthetics sets a dangerous precedent on free choice.

**Solar panels:
CONCERNS:**

1. Again, we in Electoral Area ‘A’ were not provided an opportunity for input. Perhaps this was due to the RDOS internet technical issues? However, **Communication and consultation is inadequate.**
2. There is absolutely no mention of the SUN in the analysis. Placement of solar panels is highly influenced by **exposure to sun** for the longest period in the day/season which also means avoiding shadow & shade areas. **Again, where is the data?**

3. A great many roof structures do not have the required sunlight exposure as roof slopes are oriented for many different purposes; there needs to be panel placement options on a property. **Data is important.**
4. Solar panels placed on roof systems need be designed for the weight & loading. Roofing material life-cycle is greatly diminished when panels are installed on a roof. Owners need options. **Data is important.**
5. The Province is encouraging alternate forms of energy through various incentives. This Bylaw would **conflict with stated Government priorities** on alternative energy.

SUGGESTED IDEAS for BETTER GOVERNANCE:

Regardless the issue, we as tax paying citizens and private landowners strongly suggest alternative ways for the RDOS to achieve land planning, protecting the environment, and Fire protection - or simply good Governance with a **focus on data and evidence-based decision making.**

IDEA #1:

‘The 5 Levels of Public Engagement’ – an RDOS branded document representing globally-accepted and RDOS promoted best practice standards for public engagement. We strongly encourage the RDOS use this best practice more frequently. (Your document attached)

Level 1 – Inform: this is a great opportunity to provide an overview of an initiative, the data concerning the initiative and how this initiative fits into the RDOS Strategic Plan priorities for citizen service.

Level 2: Feedback:

We are very concerned at the current practice for soliciting feedback – particularly from private land owners. While on-line surveys seem popular with the RDOS, they rarely reach the affected land owners in a timely fashion and frequently ask the wrong questions. We suggest you try citizen WORKSHOPS to better engage land owners in the process of review of rationale and feedback. So, rather than citizens responding to the same survey questions again & again; attending ‘open-house’ public consultation events with the same questions, while we repeat the same concerns to the same deaf ears, this process of citizen WORKSHOPS where citizens have real input & impact on decisions while working with consultants and the local government is shown to be much more effective and less time consuming. This process usually takes an empathic approach and respects divergent opinion, getting to consensus.

Level 3 – Involve:

This engagement process is very effective as well in working with citizens as opposed to dictating to them.

Level 4 – Collaborate:

Ultimately, this is the level of engagement private land owners expect when the desire of an RDOS initiative is to regulate private land owners. There are much more effective ways to manage issues than regulating private land owners. Constant Regulation without proper engagement results in extreme frustration and inevitably unnecessary cost to the private land owner. Unwarranted Regulation diminishes the quiet enjoyment of private land.

Level 5 – Empower:

This engagement is always a democratic requirement including elections and when warranted referendums. Normally, citizens don’t expect to solve every frustration with either unless faced with no alternatives.

IDEA #2:

The RDOS is able to contact Area ‘A’ private landowners by mail when they issue the annual property tax bill - or when they want to send a threatening letter for an assumed regulation transgression. Using that contact capability – particularly for land owners that have not yet built on their property - we the AMCS would like the RDOS to send - along with the tax bill - a pre-drafted

note of WELCOME (drafted by AMCS) and inviting new property owners on Anarchist Mountain to subscribe to the AMCS website and the RDOS for current, up-to-date information and events important to this community. The note could also suggest to new property owners that they be aware of the potential for 'free-camping' on their property and need to protect against any damage. We also could provide advice on the importance of Fire Smart efforts and current neighbourhood watch awareness.

Friendly education achieves more positive action than punitive, threatening regulation. This approach would also serve the other RDOS Electoral Areas very well.

IDEA #3:

Good governance in Canada (both Federally and Provincially) is promoted through the reliance on **actual data** which is then used for **evidence-based decision making**. This should be the practice of all municipalities and local government. Good government is also a focus on **citizen SERVICE** rather than citizen regulation.

IDEA #4:

It is useful for any organization public/private to set actual **key performance indicators** to align and measure business/corporate activity against stated priority **goals within strategic plans**. How do citizens measure RDOS success? How do citizens know if the RDOS is working toward its stated purpose and priorities? How does the RDOS avoid policy conflict?

Citizens prefer to have influence on governance priorities to ensure energy and funds are directed to a purpose of service.

There are many useful guides and training courses to be found at the Institute on Governance, FCM, Municipal World and many others that would guide Policy writing and Good Governance and citizen service. Using Level 4 Collaborative workshop events would provide the RDOS with citizen guidance on priorities.

As a registered NFP Society representing our community, we have a vested interest in working more closely with the RDOS as well as the Provincial and Federal representatives for our area on better governance and service and have a strong voice on all matters directly impacting our enjoyment and protection of life as rural property owners.

Fire Smart protection initiatives remain the top priority for private land owners in Electoral Area 'A' with LESS regulation and MORE collaboration and education.

January 27, 2021

To: The board of the Regional District of Okanagan-Similkameen

Re: RDOS Environmentally Sensitive Development Permit Amendments

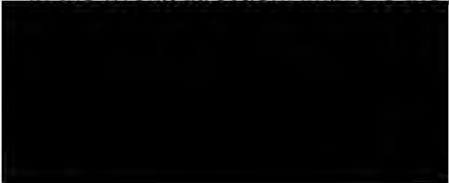
I am aware of the proposed changes to the ESDP's through my membership on the Area "C" APC. However, I am writing to you as RDOS resident, who has lived in rural Oliver for 20 years. I object strongly to the current proposed amendments to the ESDP.

You are all aware that the South Okanagan is an environmentally special place with many sensitive habitats and species, many of which have suffered from ever-increasing human development. It should not be news to any of you that the South Okanagan is one of Canada's hotspots for biodiversity and number of rare species. In 2017 the RDOS updated the ESDP policy, because the lack of protection of environmentally sensitive areas was seen as a gap. Four years later, the need for this protection is even stronger, as we see an increase in development and more people moving to the valley, many of whom are not aware of the environmental values that are here. The RDOS has a responsibility to help protect these sensitive areas and mitigate impacts to them on land that they have jurisdiction over.

The presentation by RDOS staff to the APC showed that the majority of ESDP's in the last 4 years were for developments or alterations to private properties, not for subdivisions. This was the intended purpose of the changes made in 2017. The process is not perfect and needs some adjusting, but completely eliminating all requirements for ESDP for anything but a subdivision is a giant step backward. The individual landowners are where this permit process can have the biggest impact on protecting the most critical parts of the landscape and the species within.

Many other municipalities and regional governments make this type of tool work. If there are issues with enforcement, look at potential bylaws. If the Rapid ESDP is not working as it was intended, adjust it. Make changes to your website so that it is easier for landowners to understand what situations an ESDP would apply, before they get started. Improve the oversight of the QP reports, possibly through the shared environmental planner, or even better a full time RDOS environmental planner.

We are all only here for a short time in the big scheme of things and it is our collective responsibility to leave the land, if not better than we found it, then at least not worse. The proposed changes are going in the wrong direction. Improve the process, don't eliminate it.



Sara Bunge

Oliver BC V0H 1T5

RESPONSE SUMMARY

AMENDMENT BYLAW NO. 2912

Approval Recommended for Reasons Outlined Below

Interests Unaffected by Bylaw

Approval Recommended Subject to Conditions Below

Approval Not Recommended Due to Reasons Outlined Below

Environment and Climate Change Canada (ECCC) has concerns with the bylaw amendment.

Since 2008, ECCC - through its Canadian Wildlife Service branch (CWS) - has directly contributed \$784,000 to the Regional District of Okanagan Similkameen to support the South Okanagan Similkameen Conservation Program (SOSCP). This relationship supports collaborative environmental management and land-use planning throughout the Regional District. The relationship is a recognition of the importance of developing locally viable solutions to our shared environmental and legislative responsibilities.

The Environmentally Sensitive Development Permit process is an excellent example of a locally developed solution that ensures adherence to applicable environmental legislation supported by other levels of government. Since 2008, ECCC has provided \$440,895 to directly support the development and implementation of the ESDP process, providing financial resources to support mapping, scoping, drafting, development, and implementation (through provision of the Shared Environmental Planner role within RDOS) as well as a recent audit of the ESDP effectiveness. The proposed bylaw amendment should not be made without consideration of these substantial investments and of the collaborative history between ECCC, SOSCP, and RDOS.

In particular, ECCC is concerned about amendments that transfer or remove responsibilities to address the potential presence of critical habitat on private lands, creating gaps and eliminating oversight of activities, resulting in less stewardship and the destruction of critical habitat. The current ESDP provides a level of oversight and due diligence that benefits land owners and environmental professionals.

For example, by eliminating "*alteration of the land, including grading, removal of vegetation, deposit or moving of soil, paving, installation of drainage or underground services*" as a trigger for ESDP, the proposed bylaw amendment removes a layer of local oversight in environmental management.

In summation, ECCC encourages the RDOS to reconsider some aspects of the ESDP bylaw amendment as currently proposed, and to instead seek a modified approach to the amendment or use other mechanisms to provide greater clarity and direction to landowners and QEPs throughout the existing process.

We wish to note that the collaborative relationship with RDOS has been productive. We view this relationship as being particularly valuable in proactively resolving potential conflicts with

conservation objectives in the region, in part by improving land owner access to information about the presence of species at risk and their habitats.

Signature: _____

Signed By: _____

Agency: _____

Title: _____

Date: _____

Canadian Wildlife

Attention: Chris Garrish

Candy Anders <[REDACTED]>

Thu 9/10/2020 3:46 PM

To: Planning E-Box <planning@rdos.bc.ca>

Email to: Chris Garrish

Mark Pendergraft

After time mulling over some things, I am writing to express my thoughts and concerns regarding a few current topics.

OCP - in general, I am in favour of it and very pleased with the cooperation and communication you have had with the FireSmarting team. I support FireSmarting principles including concern about vacant properties' responsibilities, use of proper building materials and concern about access on roads with no alternative access.

Defining the area as rural is a bit ambiguous. For example, on Anarchist Mountain in the former Regal Ridge development, we have a country lifestyle yet enjoy the benefits similar to towns with good roads and maintenance/service, garbage and recycling pickup etc. I recommend more support in the management of invasive weeds on both public and private lands, unsightly premises, temporary residents (i.e. weekenders, seasonal) where there is risk of fire, garbage/wildlife risk, sewage improperly disposed of etc. I am okay with RV's where the property owner is actively building their home as most are acting responsibly.

EDSP - although this is a separate initiative of RDOS and was recently cancelled at your board meeting, the concerns of the 'pink zone' in this area seemed to overshadow many things. It had some areas of merit and I am supportive of the concerns raised regarding Firesmarting, thank you for listening to that team. What does bother me is this pink zone thing (i.e. building permit infractions) seemed to overshadow other things in the community for a while and the initiative taken by some ticked off by fines encouraged others to oppose any other proposed bylaw (i.e. metal structures) based on a 'no more rules' philosophy. The July 29 letter on Anarchist Community Society website suggesting to residents what to complain about to the RDOS is not necessarily the opinion of all residents including newer residents who do not know the history.

For example, the letter spoke about a 'broad brush' complaint.....I am of the opinion that the RDOS does not go out of its way to make rules unless there is a concern/need for it. Highlighting the metal storage containers proposed bylaw is not necessarily the opinion of the whole community. Although I understand perhaps the issue started with concern in Apex, let's address it before it does become a problem in other parts of the district. Concerns include safety, environmental and property values, pride of ownership and living in the RDOS.

Thank you for the opportunity to voice my concerns and opinions. If you wish to contact me, my contact information is below.

Best regards,
Candy Anders

From: [RDCO Planning Services](#)
To: [Planning](#)
Subject: RE: Bylaw Referral - ESDP Area Amendments - Bylaw No. 2912 (Project No. X2020.009-ZONE)
Date: December 7, 2020 9:46:30 AM
Attachments: [image003.png](#)
[image004.png](#)

Good morning,

Thank-you for the opportunity to provide comments on the above noted referral. RDCO Environmental Planning staff has reviewed the information and provides the following comments on this proposal with a recommendation of non-support:

- Designating Environmentally Sensitive Development Permit Areas (ESPDA) offers land use planning options and tools to protect the natural environment, its ecosystems, and biological diversity and protection of development from hazardous conditions.
- The South Okanagan contains some of the most biologically diverse ecosystems and critically endangered plant communities in British Columbia and across Canada. While RDCO staff agree that the most effective time to achieve ESDPA objectives and protection of the natural environment is at time of subdivision and rezoning, there is still great value in applying ESDPA criteria to building permits and development proposals after the subdivision and rezoning stage.
- Across the Okanagan, RDCO staff encourage and support clear and consistent approaches when it comes to environmental planning. ESDPA criteria can achieve the goals and objectives of an Official Community Plan by specifying areas of land that must remain free of development, require natural features or areas be preserved, protected, restored, or enhanced, require watercourse dedication, and further require protection measures such as erosion and drainage control, riparian area enhancements, and habitat restoration. Without requiring this at time of building permit or triggering an ESDP during land alteration activities, much of the local government ability to protect the natural environment is lost.
- Given the above information, RDCO staff advise that approval of ESDP Area Amendment Bylaw is not recommended.

Respectfully,

Planning Services
Regional District of Central Okanagan
250-469-6227 | planning@rdco.com
Connect with us | rdco.com

On Thu, Nov 19, 2020 at 9:27 AM Eva Durance wrote:

I was alerted yesterday to the changes proposed in the ESDP areas document at the RDOS and would appreciate your comments on it. As we read the draft document, the changes would eliminate the need for an ESDP except for a subdivision. This would be a huge, and potentially very environmentally/ecologically damaging reduction in the need for an ESDP and open the door to the further degradation and/or destruction of sensitive habitats such as grasslands, wetlands, and riparian vegetation, and even threatened species such as cottonwoods, water birch, and antelope-brush. The latter has already been further devastated by the complete clearing of the antelope-brush-ponderosa pine-grasslands south of Vaseux Lake, what I take to be part of the Thompson property.

I noted in particular the following Section 5, p. 26, which certainly appears to corroborate the above. The Commented box is beside the Section and presumably from staff.

“Development requiring a permit .1 A development permit is required, except where exempt under Section 18.2.7 (Exemptions), for development on lands within the ESDP area. Where not exempted, development requiring a development permit includes: a) subdivision. .” **Commented [CG5]:** The following references have been removed: b) the construction of, addition to or alteration of a building or other structure; and c) alteration of the land, including grading, removal of vegetation, deposit or moving of soil, paving, installation of drainage or underground services



Dec 4, 2020

File: 2020088
Your File: X2020.009-ZONE

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

Attention: Christopher Garrish, Planning Manager

Re: Environmentally Sensitive Development Areas update for RDOS Electoral Areas A, C, D, E, F, H and I.

The Ecosystems Section of the Ministry of Forests, Lands, Natural Resource Operations & Rural Development has reviewed the above noted referral. We understand that the application is for the following updates to the ESDPA requirements: *(a) that they only apply to subdivisions and rezoning, (b) that staff report back to the Board on the options to make ESDPs more effective at subdivisions and rezonings; and (c) that ESDPs should in no way prevent or discourage residents from firesmarting their properties according to the firesmart principles.*

There are no concerns with items (b) and (c) above. However, the province strongly recommends against item *(a) exemption of all but rezoning and subdivision applications from the ESDPA process* for the following reasons:

- The RDOS administers one of the foremost biodiversity hotspots in the country. It contains high densities of Species at Risk and includes one of Canada's most endangered ecosystems. If the majority of development proceeds outside of an ESDP process, environmental oversight of the > 10,000 square km region will be dramatically reduced.
- A large proportion of wetlands, both mapped and un-mapped, occur on private property. 90% of the Okanagan and Similkameen's wetlands have already been lost to development. The ESDP process is a way to flag these features and provide for their wellbeing and that of the species at risk often present.
- ESDPs make landowners aware of important features to consider during development. Many RDOS properties are large, rural parcels; therefore, having at least cursory guidance on, e.g., house siting or driveway development can help preserve sensitive features.

- The level of environmental assessment conducted at the rezoning and/or subdivision stage is not always detailed enough to effectively identify and mitigate damage to specific sensitive features. Therefore, having a process to evaluate e.g. home placement on a given site, or areas to leave vegetation intact at the level of individual development, increases the likelihood of preserving habitat.
- It is the province's understanding that existing ESDPA requirements were developed through lengthy stakeholder and public discussion and with the help of the South Okanagan Similkameen Conservation Program (SOSCP). From the information provided in the referral package, it appears that the same level of scrutiny and consultation was not applied to the currently proposed changes.
- Regardless of ESDP compliance rates, the ESDP process makes landowners aware of the values on their property so they can make informed decisions; compliance issues could be addressed directly rather than making blanket exemptions
- If the ESDP process is causing issues for certain types of development or in certain areas, focused solutions are recommended rather than changes that affect the entire 10,000 + square km.
- The region is facing unprecedented development pressures. Removing most of the (terrestrial) oversight could have far-reaching consequences for Species at Risk in the Okanagan Similkameen.

Please contact the undersigned if you cannot follow the recommendations provided in this referral response. It is the proponent's responsibility to ensure his/her activities are in compliance with all relevant legislation, including the *Water Sustainability Act* and the *Wildlife Act*. The undersigned may be reached at Jamie.Leathem@gov.bc.ca or 778-622-6834 if you have further questions or require additional information.

Sincerely,



Jamie Leathem, M.Sc.
Ecosystems Biologist
For the Referral Committee

JL/jl

July 22, 2020

Directors, RDOS
101 Martin St.
Penticton, BC
V2A 5J9

Dear Sirs/Madams:

Re: Imprecise EDPA Mapping

As a community, residents on Anarchist Mountain are generally upset by the requirement of an Environmentally Sensitive Development Permit (ESDP) prior to receiving building permits. Until our (the Anarchist Mountain Community Society's (AMCS) recent activities to raise community awareness of the issue, most residents were not even aware of the ESDP process. The ESDP requirements were effectively a covenant placed on title after most people purchased the land and then not publicly disclosed to landowners with any credible effort.

Restrictions on landowners imposed by the process are at odds with the guidelines of FireSmart – those being the removal of ground fuels surrounding homes. RDOS is aware of this issue and is perhaps already considering making competent and rigorous changes to Environmental Development Permit Areas (EDPAs).

Our further complaint about the system is in its imprecise mapping at the local scale. We understand that local governments have the right to impose EDPAs to protect riparian and sensitive ecosystems, but also understand that EDPAs must be designated on reasonable evidence and with reasonably certain boundaries.

We would argue that the boundaries outlined by the RDOS in Area 'A' are not reasonably mapped. We would need more information and research to confirm its accuracy.

We (and we believe all residents) feel that the environmental protection intent of the ESDP process would be adequately met if EDPAs were moved off personal holdings and pertained only to public and crown land within Area 'A'. Mark

Pendergraft, Area 'A' Director, is reportedly in agreement with this proposed change.

We would also add that people who live in the rural environment do not need to be told that it is worth protecting. At the same time, they are generally averse to arbitrary and imprecise regulation.

Also, it seems there is no real value in getting an ESDP. In cases we are aware of, after paying fees to the RDOS and to the QEP, no difference has been made as to whether projects proceed; the only effect is that residents' lives have been made more difficult, more complicated and more expensive. This is not the purpose of local government. We would want to see substantive impact research in this regard prior to proceeding with any plan.


If you need to see a copy of our zone, please let us know.

Kindest Regards,

Karen Goodfellow/Herman Commandeur



James & Brenda Gray



July 22, 2020

Directors, RDOS
101 Martin St.
Penticton, BC
V2A 5J9

Dear Chair and Directors:

Re: Imprecise EDPA Mapping

As a community, residents on Anarchist Mountain are generally upset by the requirement of an Environmentally Sensitive Development Permit (ESDP) prior to receiving building permits. Until our (the Anarchist Mountain Community Society (AMCS)) recent activities to raise community awareness of the issue, most residents were not even aware of the ESDP process. The ESDP requirements were effectively a covenant placed on title after most people purchased the land and then not publicly disclosed to landowners with any credible effort.

Most fundamentally, restrictions on landowners imposed by the process are at odds with the guidelines of FireSmart – those being the removal of ground fuels surrounding homes. RDOS is aware of this issue and is perhaps already considering making competent changes to Environmental Development Permit Areas (EDPAs).

My further complaint about the system is in its imprecise mapping at the local scale. I understand that local governments have the right to impose EDPAs to protect riparian and sensitive ecosystems, but also understand that EDPAs must be designated on reasonable evidence and with reasonably certain boundaries.

I would argue that the boundaries outlined by the RDOS in Area 'A' are not reasonably mapped. As an example, I submit my own property at 1051 Bullmoose Trail, Osoyoos (below). Clearly very little attention went into the mapping of the EDPA on our property; well over half our pool and pool house (both RDOS permitted) are in the "pink zone". Additionally, the long existing road leading from our property to Longview Place is fully within the EDPA; this is clearly disturbed, as opposed to natural, land.

I, and all residents I have spoken to on the subject, feel that the environmental protection intent of the ESDP process would be adequately met if EDPAs were moved off personal

James & Brenda Gray



holdings and pertained only to public and crown land within Area 'A'. Mark Pendergraft, Area 'A' Director, is reportedly in agreement with this proposed change.

I would also add that people who live in the rural environment do not need to be told that it is worth protecting. At the same time, they are generally averse to arbitrary and imprecise regulation.

Also, it seems there is no real value in getting an ESDP. In cases I am aware of, after paying fees to the RDOS and to the QEP, no difference has been made as to whether projects proceed; the only effect is that residents' lives have been made more difficult, more complicated and more expensive. This is not the purpose of local government.



Kindest Regards,

James Gray
Resident and AMCS Director

From: Timothy Gray

Date: Tuesday, December 8, 2020 at 7:47 PM

To: Riley Gettens RDOS Okanagan Lake West Rural Summerland

Subject: FW: RDOS is planning to make significant changes to their Environmentally Sensitive Development Permit Area

Hello Riley,

I am a professional biologist, I live on the West Bench. I have lived in the Okanagan for about 4 years. I volunteer as a member of the RDOS South Okanagan Conservation Fund technical advisory committee, BC College of Applied Biology and the South Okanagan Naturalist Committee. I received the email below from Alison Peatt.

I am concerned that if RDOS reverses previous policies pertaining to the requirement for Environmental Assessments and the identification of Environmentally Sensitive Development Permit Areas we will be doing a major disservice at a local community and local ecological level. I have lived central Canada and the West coast am happy to have put down roots here to raise my young family. The Okanagan Similkameen is unique in BC and Canada. There is always going to be a demand for developable land in the South Okanagan, it is in extremely short supply. There are some excellent professionals who have made major contributions towards the goals of conservation / environmental protection / environmental assessment requirements in the South Okanagan. Environmental protection statutes at a provincial and federal level are generally said to be "lacking teeth", local municipal requirements provide an extremely valuable role in terms of protecting sensitive environmental features. To dial back or remove any existing requirements to expedite or facilitate a couple developments is short sighted and would come at the expense of natural features that make this a great place to live, raise a family, retire.

Please interpret this as my strong opposition to any changes that would reduce requirements for Environmental Assessment in the RDOS. I acknowledge that part of my work load is completing EAs for local developments.

Tim Gray M.E.T.

Directors of RDOS
101 Martin Street
Penticton , BC
V2A 5J9

Dear Sirs or madam:

RE: EDPA Bylaw Implementation in RDOS

I am quite familiar with how the ESDP was designed, why and when. It is astounding that until just recently when Anarchist Mountain Community Society (AMCS) took it upon themselves to inform land owners of this policy and how it affects them, that until now most people including long time residents were unaware of the pink zone and its restrictions on property owners and their development plans. This plan was first introduced in February 2005. In 15 years, RDOS has not properly communicated with stakeholders. Since protecting riparian and sensitive ecosystems is important to all, why has the plan not been communicated to all landowners and affected parties who are now faced with covenants on title.

In the executive summary of the 48 page document entitled "*In Practice and in Caselaw March 2016*"

- 1) It is clear that EDPAs are a tool for local governments to protect riparian and terrestrial natural environments but there must be precision of mapping in terms of identifying the sensitive areas.
- 2) The local governments must be specific about activities that constitute land alterations.

In RDOS, the mapping is very suspect since exclusions were largely an interpretation of already disturbed areas on available aerial map. No exclusions were made from ground proofing.

As a result, the mapping is very imprecise and inconsistent.

- a) There are large tracts including full lots with paved driveways still in the pink zone
- b) There are large tracts that are excluded for unknown reasons. (OME lots?)
- c) In my case the pool which was permitted is partially in the pink zone as is the septic field and garden.
- d) Since the initial mapping was done, many changes have taken places that are not accounted for.

The triggers or activities requiring an ESDP are:

- a) Subdivision development
- b) Construction
- c) The alteration of land, including grading, removal of vegetation, deposit or moving of soil, paving installation of drainage or underground services.

With respect to activities that constitute land alterations, these directly conflict with appropriate Firesmarting guidelines provided by the provincial government.

Furthermore whether it was done prior to or since the implementation of the ESDP, most residents have altered their land by firesmarting , paving , building gardens ,etc.. without ever applying for an ESDP because no one knew anything about this bylaw.

RDOS was well intentioned in designing a plan to protect the environment but the plan is flawed and seriously lacking in achieving its objectives. The intent is to protect the flora and fauna of the sensitive areas but in the 24 months since the implementation, only 18 permits were issued in Area A which is less than 5 % of the overall land owners. The only way to find out about the pink zone and the ESDP is to apply for a building permit and the only way to educate yourself about the sensitive values is to pay for an ESDP.

I submit to you that, to date, RDOS has done a poor job in saving and protecting the environment since very few people know about the values or what to do about it.

People who moved and live in a rural setting do not need to be told how important it is to protect it. That's why they moved here. You would be surprised how people can rally around an issue given the right approach. ESDP is not it. The heavy hand of government and non-accountability is not what residents respond to.

Our recommendation would be to:

- 1. Remove the pink zone from all private properties or at the very least exclude 2 hectares directly surrounding residences.**
- 2. Exclude any alteration of land that is related to firesmarting activities.**
- 3. Begin an education program to educate all residents (not just those applying for a building permit) as to the environmentally sensitive values.**

There are numerous good ideas for solutions that the public can offer if consulted. We need our government to listen more.

I and many residents of Anarchist Mountain are available for consultation at any time. We can even provide the venue.

Kindest Regards
Bernie Langlois



Christopher Garrish

From: Lavona Reade
Sent: January 22, 2021 3:14 PM
To: Planning
Subject: ESDP review feedback

Attention: RDOS review

We purchased XXXXX (Anarchist Mountain) in December 2020. We submit this email in support of proposed changes to the existing ESDP, OCP Bylaws for Electoral Area "A".

We support the **deletion** of:

“construction of, addition to or alteration of a building or other structure” and the “alteration of the land, including grading, removal of vegetation, deposit or moving of soil, paving, installation of drainage or underground services” as triggers for an environmentally sensitive development permit;

We support permits only being required for subdivision.

Sincerely,

Lavona and Steven Reade

July 31, 2020

All Rural - Regional Directors, RDOS
(See list below)
101 Martin St.
Penticton, BC
V2A 5J9

by EMAIL ONLY

Dear Directors:

Re: Conflicts - Environmentally Sensitive Development Permit (ESDP) Program

Residents on Anarchist Mountain, within Area A, have raised concerns with the RDOS about the ESDP program for several years. I am also a member of the Area A – Advisory Planning Council. Our APC has raised our concerns about the apparent arbitrariness of the ESDP program (Dec.14, 2015 minutes). However, since 2015 no actions for correcting these issues appear to have been taken by RDOS. Since 2017 the RDOS has taken a more aggressive stance concerning ESD Permits in advance of allowing a building permit to be issued, or regarding enforcement for non-compliance.

As a property owner on Anarchist Mountain (Area A) since 2003, I recall that when the original developer (Regal Ridge) proposed new sub-divisions RDOS required them to conduct rigorous environmental studies prior to development approval. These studies were conducted by Qualified Environmental Professionals. Upon receipt of those studies and after consultation with the developer those development plans were approved, and lands were then made available for sale to the public.

Much of the information relied upon by RDOS in the development of the ESDP program appears to have come from the *South Okanagan & Similkameen Conservation Program (SOSCP)*, during their Keeping Nature in our Future Project (2014?). In my view the ESDP program in our area was based upon information that appears to have been largely anecdotal, and not backed up with biological or environmental data. At a recent APC meeting I asked the RDOS staff (Mr. Garrish) and your consultants (EcoPlan - writing the revised Official Community Plan (OCP)) to provide the APC with data that justifies the origins of the ESDP program. EcoPlan came back to us saying *they could not find specific data showing the eco values in Area A*, except they did point out “***In a note from the SOSCP Planner - The conservation rankings were predominantly based on sensitive and at-risk ecosystems which are likely to remain constant over time. We did not have species location data which can only be identified through comprehensive inventories and some data are confidential as well so cannot be shared with the public***”. I attach the SOSCP biodiversity map entitled “Opportunities for Biodiversity Conservation” from the Keeping Nature in our Future Project (page 3).

It is reasonable to believe that a conservation organization like SOSCP (who does great work) would promote a “precautionary” approach to recommending to RDOS the ESDP designation of what they believe to be **possible** ecologically sensitive areas, even without ground truth data as proof of those values. Regulating landowners based on speculative assumptions is not appropriate.

My concern also stems from the ESDP program on the Anarchist Mountain being instituted **AFTER** the development permits for development on Anarchist Mountain were approved by RDOS. Those development approvals were subject to rigorous environmental study, by QEP's, prior to being approved by RDOS. It is unreasonable to require residents to repeat these studies, at their own expense, when a QEP was already been involved in the original evaluation of environmental values prior to the development permit being issued by RDOS.

Another important point is that the ESDP is in direct conflict with Fire Smart recommendations promoted by RDOS, provincial authorities and the insurance industry. As the ESDP program stands now it is not permissible to remove brush, vegetation, debris and under grown beyond 10 meters from a principle residence without an ESDP. On Anarchist Mountain (a recognized Fire Smart Community) all the properties are several acres to many acres in size; thus, this conflict imposes a major impediment to fire safety. The ESDP should not conflict with Fire Smart activities, in an interface fire risk area.

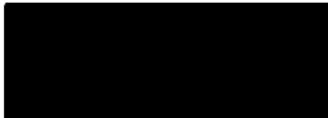
Our community prioritizes wildfire as the most serious risk to our properties and to our personal safety. As such we encourage the RDOS to support Fire Smart activities with more than “words in a brochure.” I suggest that RDOS find funding sources, perhaps in concert with the Provincial and Federal government, the Union of B.C. Municipalities or the insurance industry, Gas Tax, various foundations or other sources, to access grants to provide community-wide Fire Smart activities. With funding support common hazard areas could be tackled hiring professional tree fellers and mechanized equipment. A similar program was done at Mount Baldy in the past two-three years. Preventing a wildfire catastrophe is much less costly than fighting fires or rebuilding burned out communities.

Better fire risk assessment planning , through a Community Wildfire Protection Plan is also something that RDOS should be supporting and creating for the Anarchist Mountain neighbourhoods.

I believe that the RDOS Planning Dept. is considering a full review of the ESDP program – which is encouraging. I applaud consideration of that review. The “Pink Zone” problem on Anarchist Mountain has harmed RDOS’s reputation in the eyes of many of our residents and created some resentment and distrust of the RDOS. I have had several discussions with Area ‘A’ Director - Mark Pendergraft on the ESDP matter, and he has indicated to me that changes would likely be beneficial for all concerned.

I hope that if Director Pendergraft or RDOS staff bring reasonable amendments to the EDSP program forward to the Board, including public consultations, that you will support changes. I offer any assistance I can provide to RDOS in moving positive discussions and amendments forward. A common solution is the goal here. This problem will not go away without changes being made.

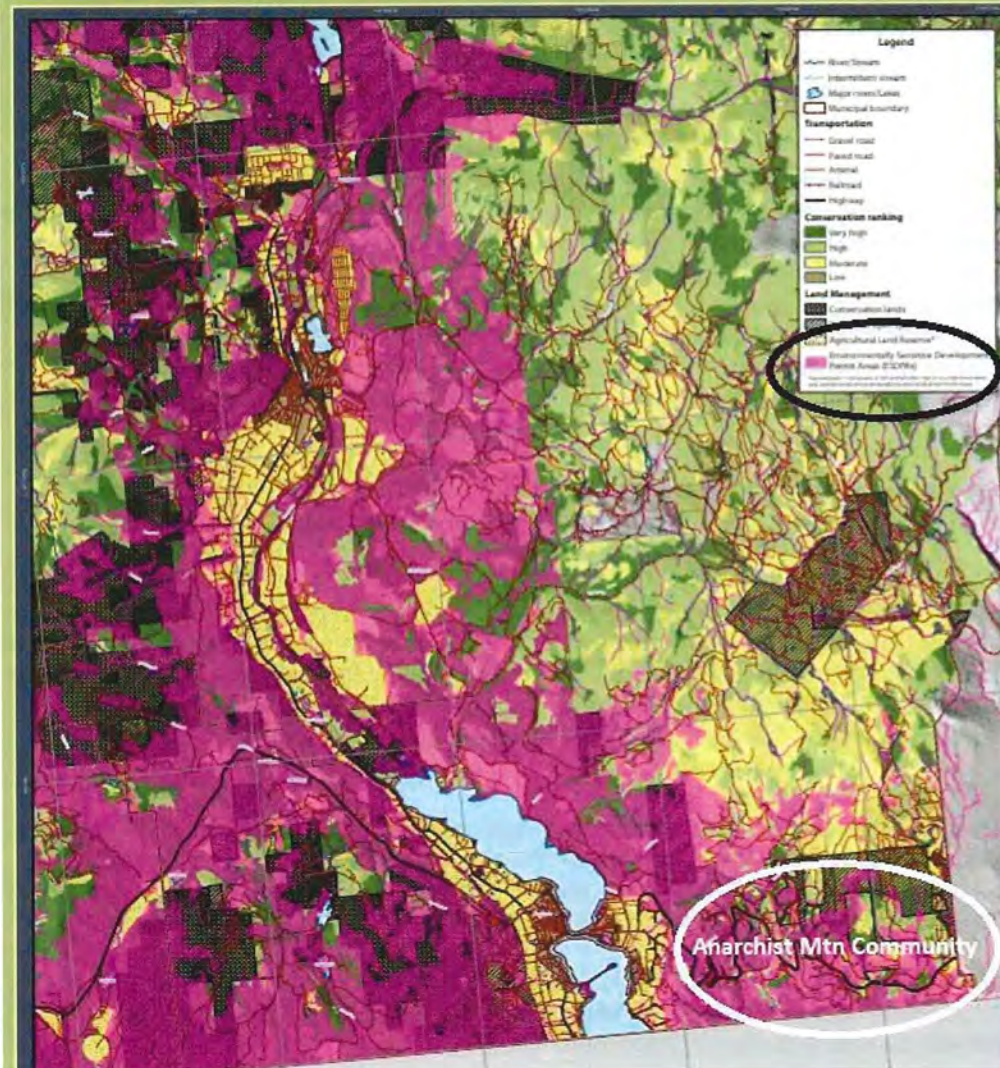
Carefully considered planning and by-laws, with open and considered public input, are essential for proper municipal governance. Having the rate payers see that their local government is listening and acting upon legitimate concerns is equally important.



Mark McKenney
Resident Anarchist Mtn,
Member Advisory Planning Council – Area A

Area A - Opportunities for Biodiversity Conservation

From: Keeping Nature in Our Future (SOSCP)



Copy to
Mark Pendergraft – Area “A” Director, RDOS
mpendergraft@rdos.bc.ca

Karla Kozakevich, Board Chair, **RDOS** & Area E, Naramata
kkozakevich@rdos.bc.ca

Chris Garrish, Planning Manager, **RDOS**
cgarrish@rdos.bc.ca

From: [Forbes, Christina D AGRI:EX](#)
To: [Planning](#)
Subject: FW: Bylaw Referral - ESDP Area Amendments - Bylaw No. 2912 (Project No. X2020.009-ZONE)
Date: November 26, 2020 10:52:55 AM
Attachments: [image001.png](#)
[image002.png](#)

Good morning,

The Ministry of Agriculture has reviewed the attached referral and have no comments to provide.

Thank you,
Christina

Christina Forbes BSc, P.Ag | Regional Agrologist | Kelowna
New Phone Number: 236-766-7057 | c: 250-309-2478
Email: Christina.Forbes@gov.bc.ca

Generic Email: AgriServiceBC@gov.bc.ca

**Osoyoos Mountain Estates Inc.
Box 327, Osoyoos, BC V0H 1V0**

September 2, 2020

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

RECEIVED
Regional District

SEP 11 2020

101 Martin Street
Penticton BC V2A 5J9

**RE: Environmentally Sensitive Development Permit (ESDP) Area
Commentary on Proposed Bylaw Amendments**

Background:

Osoyoos Mountain Estates Inc. (OMEI) was formed in 2012 for the purpose of acquiring a substantial amount of land from 590335 BC Ltd. (Regal Ridge) when that company failed. Today, OMEI owns approximately 1300 hectares on Anarchist Mountain including approximately 757 hectares which is zoned CA – Conservation Area. A substantial portion of this CA zone land is subject to a Conservation Covenant registered in favour of RDOS in 2003. The covenant ensures that this land will remain in its natural state forever.

OMEI is generally supportive of all reasonable and practical measures to protect the natural environment, and particularly to mitigate the risk of wildfire. We consider wildfire risk the greatest danger to the Anarchist Mountain community from both an environmental and economic perspective. We continue to support on going Fire Smart activities through the provision of a controlled waste site where residents can deliver fuels from their lots for safe burning. We work in unison with Anarchist Mountain Fire Department and the Fire Smart committee on this initiative which has been very well received by residents. We have clearly indicated our interest in tangibly supporting the establishment of a possible satellite fire hall through the donation of a suitable parcel of land.

We have always worked cooperatively with RDOS on these issues. However, we are not fully supportive of the current ESDP guidelines as now constituted and believe that some changes are needed.

History

Prior to 1999, when Regal Ridge was conceived the Anarchist Mountain area was very sparsely populated with a few large ranch holdings. There was no real residential development at all. Economic activity over several decades had been limited to intermittent logging, cattle grazing and limited gravel extraction from a few sites.

At that time zoning was RA (Resource Area) with a 20 Ha minimum lot size. Intuitively, larger lot sizes were seen by many as an effective tool to eliminate or at least reduce environmental impacts with the main assumption being that an individual owner would not impact a full 20 Ha parcel. The deficiency in this approach is that all of the land in a given area may be impacted by private owners (i.e. there are no restrictions or covenants). Additionally, the most valuable areas from an environmental standpoint were not guaranteed of any protection. Regal Ridge proposed a cluster development approach with significantly smaller lot sizes. When the Regal Ridge development was proposed RDOS required significant environmental analysis and investigation prior to rezoning. Subsequently, numerous environmental reports were prepared before development started and then as development proceeded.

The initial environmental reports identified some specific areas that warranted protection if the development was to proceed. It was only after extensive negotiations with the owner/developer that RDOS allowed re-zoning to smaller holdings which resulted in significantly higher density in the area. In exchange for this re-zoning the developer agreed to the designation of about 1,000 Ha as Conservation Area (CA). This CA zoned land can never be developed and must be left in its natural state. To further protect the land RDOS and the developer entered in to a Conservation Covenant which has been registered and runs with the land in perpetuity.

Therefore, prior to the initial Regal Ridge subdivisions RDOS already had the comfort of knowing that a significant amount of land deemed high value from an environmental perspective had been protected from development. RDOS could now focus on each subdivision when applications were brought forward.

The key initial environmental reports were as follows:

Ophiuchus Consulting – Sarell/Haney – August 9, 2002

This was the original Environmental Assessment required by RDOS to assess the Regal Ridge Development plan. Under the cluster development approach proposed by Regal Ridge it was recommended that environmental concerns could be addressed at the sub-division stage as each smaller area was developed. The Sarell/Haney report made the following recommendations:

1. *Develop environmental guidelines for each cluster development prior to lot sales - these can be incorporated into neighborhood community plans;*
2. *Contain physical developments to as small an area as possible, including the containment of spoil and side-casting down slopes;*
3. *Post signs on wildlife trees so they can be retained where possible;*
4. *The areas with high fire hazards (much of the IDFxh1 and cool slopes throughout) should be thinned of small-diameter trees to reduce fuel loading and ladder fuels;*
5. *Fence the perimeter of the clusters or developable areas to ensure that impacts are contained – thinned stems from wildfire hazard abatement could be incorporated;*
6. *Determine whether and where road underpasses are required for small wildlife to avoid road mortality – these could be incorporated with surface water drainage plans;*
7. *Promote good land stewardship (e.g. xeriscaping, problem wildlife management, weed control, pet management) with residents and land users through developing neighborhood stewardship pamphlets; and*
8. *Develop sound management plans for natural lands, especially to deal with anticipated recreational uses and fire hazards. Finally, the lands that are not developed should be transferred to a bona-fide, non-government organization that has the ability to manage these lands for conservation purposes. This is especially true of those lands identified as undeveloped High Biodiversity Areas. There are possibilities of developing community recreation areas along the Nine Mile Creek Tributary at the eastern edge of the properties, and the lands that include the summit of Anarchist Mountain. These areas have high recreation values and environmental values that can be maintained with recreational uses.*

Most, but not all of these recommendations have been implemented in the various sub-divisions on Anarchist Mountain. With respect to the matter at hand the key recommendation is Point 1- requiring site specific environmental assessments at

the sub-division stage. This results in the developer and RDOS negotiating appropriate environmental protections prior to the development of the subdivision.

Ophiuchus Consulting – Sarell/Haney – April 26, 2003

This was a follow up report to the 2002 Sarrell report and was the final report required by RDOS prior to re-zoning the area. This report refined the conclusions of the 2002 report. It is very important to note that from 2002 to 2003 some proposed clusters were moved and some deleted so as to ensure that the recommendations of the environmental consultant could be met.

Summitt Environmental Consultants – Phase 1 Report – July 2005

This is a standard Phase 1 environmental report which assessed the likelihood of the property having any contamination as a result of past economic activity.

Alcock & Sarell – Stream Assessment Report – 2007

The developments on Anarchist Mountain intersect a number of watercourse features identified in the Terrain Resource Inventory Mapping (TRIM) provided by the Province. The Riparian Areas Regulation (RAR), enacted under Section 12 of the Fish Protection Act in July 2004, requires the Regional District of Okanagan-Similkameen (RDOS) to protect riparian areas (zoning bylaw sec 7.23) by ensuring that proposed development activities are subject to a science-based assessment conducted by a Qualified Environmental Professional. This report provided the required assessment

Sarell/Haney – May 2008

In 2008 Regal Ridge was proposing that three areas be re-zoned for higher density on Anarchist Mountain. The three areas were zoned for Large Holdings at that time with the proposal being they be re-zoned Small Holdings with a minimum parcel size of 1 ha. All three areas were previously assessed in the original subdivision plan for Regal Ridge (Sarell and Haney 2002). These areas were originally zoned Large Holdings as a consequence of limiting the number of subdivision parcels within the overall development plan while more desirable areas were zoned Small Holdings. This report concluded that the small cluster developments could proceed in these areas provided the recommendations of the consultant were followed.

Summary Comments

These are all relatively “high level” reports which provide comment and analysis on the Anarchist Mountain area as a whole. They are extremely useful as they identify the key issues and areas that needed special attention in the future as development proceeded. The clusters that were subsequently built by Regal Ridge and Osoyoos Mountain Estates with environmental recommendations followed. This repository of information provided RDOS with a firm basis to proceed to consider future development in the mountain environment.

As development proceeded over the years RDOS required some form of environmental report dealing with the specific location of each sub-division development. (OMEI owns ~ 20 environmental reports pertaining to the Anarchist Mountain area). Therefore, when approving a sub-division request RDOS has always had the benefit of the high-level reports along with a specific report on the subdivision proposed. In 2017 this became more formalized when virtually the entire mountain was designated as an ESDP area.

ESDP Bylaw Critique.

We have two general criticisms of the bylaw:

1) Fire Smart Activity

The ability of an individual lot owner to fire smart their lot should not be limited by this bylaw or any other bylaw. In fact, Fire Smart activities should be actively encouraged. This community was one of the first in British Columbia to become a Fire Smart community and the mountain residents take this very seriously. It is our opinion that Anarchist Mountain residents are fully invested in mitigation of Wildfire Risk and in reasonable and effective requirements to preserve and protect environmental values. All stakeholders agree that Wildfire Risk needs to be aggressively managed with the Fire Smart programme being a cornerstone activity. Further, in the aforementioned Sarrell 2002 report one of the key recommendations deals with good land stewardship including fuel reduction and thinning of trees.

The bylaw should allow lot owners to maintain their lots in accordance with Fire Smart practices without interference.

Lot Owners – Exemption

We are of the strong opinion that individual lot owners should be exempted from any further environmental investigation if they wish to construct an allowed structure on their lot. Our opinion is premised on the fact that in all cases the lot in question will have been subject to previous adequate environmental investigation. We will use two examples to further illustrate this position:

2) Langlois Example:

Attached to the May 23/19 administrative report (Garrish) is a submission from a lot owner; Mr. Bernie Langlois. Mr. Langlois and his wife purchased a lot in the Bullmoose area on Anarchist Mountain and then built a house. They subsequently wanted to build an accessory building and were then required to submit a separate report from a QEP specific to his lot. This is taking place on a small holding lot of < 2Ha.

When considering the Langlois request RDOS had the benefit of the 2002 Sarrell/Haney environmental report and the 2008 Sarrell report which was specific to the Bullmoose area. Additionally, in this case RDOS also had the benefit of a specific report on the Bullmoose subdivision (Scheffler - November 2010). That report concluded that there were no unique or specific environmental issues with respect to the subdivision area. In other words, Scheffler did not recommend any covenants, no build areas etc. The sub-division was then built to a very high standard.

After being subjected to this level of environmental analysis what could the possible benefit be to requiring yet another environmental assessment on the Langlois lot?

➤ Raven Hill Extension Area

In 2012 OMEI developed an 8 lot sub-division under an ESDP. A report was prepared by a QEP which recommended that the development could proceed if a covenant was placed on a specific area which had some environmental values of significance. The area identified affected one of the proposed lots. This recommendation was readily accepted by OMEI with the sub-division subsequently completed. The subsequent purchaser of the affected area was happy with the covenant, and was able to develop the lot to his liking. We would suggest that a further report for a building permit would have added no additional value.

Today, if an owner wanted to build a house on one of these lots a specific report from a QEP would be required.

What is the value of any additional report on the sub-divided area now?

I would also like to add an additional comment around building sites. I understand that RDOS takes the position that if an owner builds exactly on the cleared building site provided by the developer a QEP report might be waived as the site has already been disturbed. As a developer, I can say with certainty that we choose what we consider to be the most suitable site. However, this can be a very subjective exercise and as has happened a lot owner may choose a slightly different location to take advantage of a particular view or other characteristic.

We find it instructive that 76% of ESDP's issued have been for residential dwellings or garages. These structures have been built on lots that have been examined from an environmental perspective previously. Anecdotally, I am told that no permits have been denied over an environmental issue. This should not be a surprise to anyone

We also would like to remark on a few comments in the administrative report of May 23/19:

"QEP's have also advised that they believe that the new ESDP guidelines to be useful and better than the past approach (i.e. exempting all residential development at the building permit stage)"

Clearly the ESDP guidelines are useful and beneficial to QEP's but what value do they add to the overall goal of protecting and preserving environmental values? How many assessments on a particular property is sufficient?

"The option of a Rapid Environmental Assessment (REA) for residential buildings and structures was introduced in 2017 as a way to provide a cost-effective alternative to Environmental Impact Assessments (EIA)".

The report goes on to say that this has not worked as hoped as some QEP's were "confused" as to the level of report required. Fees have not reduced, and report size and quality have varied significantly. Frankly, this has been an abject failure. The proposed solution of a template, with a new name (Environmental Screening Report) completed by a QEP, will not effectively deal with the issue, in our opinion.

RECOMMENDATION

In our opinion, the solution to this lies at the subdivision stage. When a land owner/developer applies for a subdivision RDOS has the full capability to require environmental assessment of the entire area to be developed. Environmental issues at that time can be addressed in terms of the parcel lay out, suitability of building sites, road layouts, sewage disposal and water sources. With benefit of the high-level reports and a specific sub-division report RDOS should be able to satisfy any and all concerns with the developer.

With respect, we would suggest that the requisite expertise, and responsibility to deal with these complex issues sits with RDOS, the developer and their professional advisors. Most lot owners can add little value to the process and do not want to be involved. They simply want to build their “dream house”

We would like to see the following amendments:

1. All previously developed lots under 5 Ha in the Anarchist Mountain Area should be excluded from the ESDP area designation. Any permitted development such as an accessory building should not trigger the need for any environmental investigation.
2. Any ongoing enforcement procedures should be set aside until a decision on the bylaw changes are made.
3. All lot owners should be able to apply Fire Smart guidelines and principals in maintaining their lots without violating the bylaw.

Respectfully submitted,



Ron Palmer, Managing Partner
Osoyoos Mountain Estates Inc.

From: Alison Peatt
Date: November 18, 2020 at 10:58:50 PM PST
To: Riley Gettens

Subject: upcoming vote to rescind environmental development permit provisions and their application to subdivisions

Riley: I live at 4049 Sage Mesa Dr in Area F. I think we met briefly at a Bear Smart meeting. I am writing to express my dismay at hearing that the RDOS is considering a motion to rescind the environmental development permit provisions as they are currently applied to lots in the Okanagan portions of the regional district. I wrestled with whether or not to even write this note, wondering if my opinion would carry any weight. As one of the authors of the work, clearly those that want to see it go away will not care to hear my concerns. However, I've learned over my long career to try harder to stand in the face of criticism and to speak when it would be easier to slink away.

This proposal would undo something I worked on for about 5 years, making my efforts largely pointless, which is difficult to contemplate; but, some things we work on are timeless and other things are forgotten in a heartbeat. What aches is the lost opportunity for conservation leadership and innovation, in a place where doing the right thing can accomplish so much and where doing the wrong thing can be a legacy of biodiversity gone for good.

I started working in the South Okanagan when I was 27, with one year of experience after I completed my master's degree. I remember what was here at that time, species and wilderness that our oldest children saw, but future generations will never see. I hate to think that more again will be lost because a few people are convinced that FireSmart and conservation are in some kind of conflict.

I am one of the authors of the Building Climate Resilience in the Okanagan guide (a collaboration between the local Real Estate Association and RDOS). This guide explains how landowners can act to protect themselves and their assets from fire. RDOS has for a long while had an exemption that permits landowners to take action and remove fuels near their homes, without needing to speak with a QEP or get professional advice, however advisable that might be. There may very well be perceived conflicts, but there are no real ones that I know of. I work with people who are trying to figure out how to make conservation of species at risk and fire protection work better; I certainly see scope for change, but unravelling what has already been done, is a waste of resources and so demoralizing for those who worked so hard to build something better, to help RDOS meet the same standards most other local governments in the region follow.

I have significant experience in outreach related to mitigating impacts of climate. I helped the city of Penticton last year with a plan to look at FireSmart, recreation use and wildlife in the Three Blind Mice Area. I spent 5 years doing outreach on shoreline stewardship to encourage actions that will keep our lake and water quality protected. I think perhaps your passion is health care, but I hope you have some bandwidth left for environmental considerations. When I participated with the City of Penticton and the Town of Osoyoos OCP updates, I recall the health experts and advocates speaking passionately about the strong ties between health and environment. They weren't just talking about getting outside; they recognized that water quality, biodiversity, ecosystem services all built on health. I hope you will see this tie and advocate to keep the current environmental provisions in place. Prior to the change I was part of making, RDOS had a very large mapped area acknowledging all its nationally significant biodiversity, but in more than a decade and a half, it considered fewer than 30 environmental assessments in support of development. That is because if you apply development permits only to subdivision and rezoning, there are few opportunities for environmental protection.

I would also like to highlight my interactions with the Anarchist community east of Osoyoos, who are being characterized, or so I hear, as the group the RDOS will "help" by rescinding ESDP requirements applied to subdivided lots, giving them better control over opportunities to conduct FireSmart unhindered. Last May, I was invited to speak to a group of 80 or so residents from that community about environmental values in the area and how they could be addressed in a fire prone landscape. I found a warm reception from those I met and remember only one person that challenged my presentation suggesting that environmentally sensitive development permits were somehow preventing something that should be allowed, in pursuit of fire risk reduction. I heard privately afterward that there were some community members that had conducted drastic vegetation removal on their properties; some of the residents didn't the clearing of vegetation, there was no indication either at work or in that outreach session that QEP advice prevented the achievement of Firesmart actions. As there is little or no enforcement of environmental reports, except where others complain, it seems much more likely that someone or a few people didn't want to pay to have an environmental assessment. I find it ironic how much some are willing to pay to have countertops or good plumbing installed and yet how little perceived value is found in the several thousand dollars spent to obtain advice about environmental protection.

I would like to close by saying that I worked as the shared environmental planner for the RDOS for 7 years successfully, as far as a controversial job can be successful. I worked under contract to the South Okanagan Similkameen Conservation Program but delivered services to all local governments in the region. I am well known in BC for my competence as a professional and for my efforts to work collaboratively on all my projects. The only client I have ever lost over perceived or real performance issues is the RDOS. I still don't really understand why that happened, but I think you should know that too, if you are going to give my letter any weight. You are welcome to look into my credentials. I have worked with Osoyoos, Oliver, Penticton, Summerland and Kelowna providing advice on environmental assessments and official community plan updates. I am a regional expert on species at risk, I am trained in the Riparian Areas Regulation methodology and I am engaged with the College of Applied Biology on a committee that is looking at professional Ethics training.

In closing, I will say that I encouraged the Province to award the RDOS recognition for environmental leadership. Ironically, if it is still there, there is a plaque outside the boardroom that recognizes that RDOS for that work. I have attached a photo of me and the mayor of Victoria taken when I accepted the award on behalf of the regional district. You might contemplate that picture while you are deciding how to vote.

Thanks for the opportunity to provide input.

Yours sincerely,



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:

Bylaw Referral - ESDP Area Amendments - Bylaw No. 2912 (Project No. X2020.009-ZONE)

FN Consultation ID:

L-201102-X2020009-ZONE

Consulting Org Contact:

Planning RDOS

Consulting Organization:

[Regional District of Okanagan-Similkameen](#)

Date Received:

Thursday, November 26, 2020

WITHOUT PREJUDICE AND NOT TO BE CONSTRUED AS CONSULTATION

November 26, 2020

Attention: Planning RDOS

File number: X2020.009-ZONE

RE: 40 (forty) day extension

Thank you for the above application that was sent on 11-02-2020.

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, the 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.

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, and that Aboriginal Title includes the exclusive right of a First Nation to decide how that land is used and the right to benefit economically from those uses.

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

I appreciate your co-operation.

limlāmt,

Maryssa Bonneau
Referrals Coordinator
P: 250-492-0411
E: referrals@pib.ca



Penticton Indian Band
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Date Received:

Thursday, November 26, 2020

WITHOUT PREJUDICE AND NOT TO BE CONSTRUED AS CONSULTATION

November 26, 2020

Attention: Planning RDOS

File Number: X2020.009-ZONE

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.

Invoice Number: L-201102-X2020009-ZONE

SubTotal Tax Total

Referral Processing \$ 500.00 \$ 0.00 \$ 500.00

Total \$ 500.00 \$ 0.00 \$ 500.00

INVOICE AMOUNT FOR PRELIMINARY OFFICE REVIEW \$500.00

Please make cheque or cash payable to Penticton Indian Band. re: P.C.132 and send to 841 Westhills Drive, Penticton, British Columbia, Canada V2A 0E8

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.

limlëmt,

Maryssa Bonneau
Referrals Coordinator
P: 250-492-0411
E: referrals@pib.ca

August 1, 2020
by EMAIL only

Mark Pendergraft, Area "A" Director RDOS
mpendergraft@rdoso.bc.ca

101 Martin St.
Penticton, BC
V2A 5J9

Dear Mark:

Re: ESDP ByLaw/Pink Zone designation

ESDP Bylaw from one of the RDOS documents

- Firesmaring activities are allowed providing they occur within 10 metres of the existing and permitted structures.
- Otherwise an ESDP is required to scrap, rake, removal of vegetation, moving of soil.

As a resident of Anarchist Mountain since the mid-1990's, my wife and I find the contents of this proposed pink zone bylaw incredible, upsetting and mind-boggling, as well as totally unnecessary for the residents of Anarchist Mountain. We residents are well versed in the concept of environmentally sensitive areas, and we value nature and the natural setting we have on this mountain. The former named Regal Ridge occupies a goodly portion of the mountain, and the developer not only designated conservation areas but also had in place many Firesmart guidelines. In addition he did much in an attempt to control invasive plants, such as knapweed.

As a resident whose house and property was in the path of the wildfire of 2003, I am well aware of the intensity and spread of a wildfire, and of the measures one can take to help mitigate the effects upon our homes and buildings, all of which are part and parcel of the Firesmart program. As well, Forestry, in 2002 when a wildfire in Oroville could possibly head in our direction, visited me and recommended the following: trim all trees on the hillside from the road to our house, around the house, and for 100 feet beyond the house, to a height of 10-15 feet; clean up duff and pine needles/cones from under the trees; burn all branches, needles, etc. in the Fall/Winter. Also recommended was to make extensive wide fireguards

around the house, and especially on the hillside as that is where the fire would likely travel upwards to our house. And finally, Forestry recommended an ongoing process of thinning out the forest on our property.

All of this requires "Firesmarting activities " occurring more than 10 metres from existing and permitted structures and not what is written in the ESDP Bylaw. And what is a "permitted structure"? Is a pumphouse or storage shed included? In addition, firesmarting activities require scraping, raking, removal of vegetation (duff, needles, cones, branches), and to make the fireguards, the moving of soil. As well, if we are to store inflammables, such as propane cylinders and gas/diesel containers, safely from the house, then a storage shed is required.

If one goes by the proposed ESDP Bylaw, we residents of the mountain are setting ourselves up for a disastrous wildfire encounter in the future. Therefore, I recommend the pink zone restriction designations be limited to crown land and the land Regal Ridge zoned as conservation lands on Anarchist Mountain.

Thank you.

Irvin Redekopp
[REDACTED]

cc

Jamie V. Wright, President
[REDACTED]

Karla Kozakevich, Board Chair, RDOS

kkozakevich@rdos.bc.ca

Chris Garrish, Planning Manager, RDOS

cgarrish@rdos.bc.ca

Electoral Area "A" Advisory Planning Council (APC):

Peter Beckett, Chair, (APC) [REDACTED]

Mark McKenney, Vice Chair, (APC) [REDACTED]



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December 4, 2020

Christopher Gerrish
Planning Manager
Regional District of Okanagan-Similkameen
101 Martin Street, Penticton, BC V2A 5J9

Re: Comments regarding bylaw amendments No. 2912 & No. 2500.17

Dear Mr. Gerrish,

Please consider the following referral comments on behalf of the South Okanagan Similkameen Conservation Program (SOSCP), a longstanding partner of the regional district on environmental and conservation planning matters.

The predominant focus of the comments presented herein is on the sweeping changes that will be enacted if Draft Amendment Bylaw No. 2912 is to be adopted. Please consider this letter as SOSCP's formal referral comments for both Draft Amendment Bylaw No. 2912 and Draft Amendment Bylaw No. 2500.17 i.e. they should be included in the agenda package and administrative report for each respective bylaw. Please note that the two documents referenced throughout can be found as Appendix A and B. SOSCP's response draws on its professional expertise as well as concerns raised by its partners.

SOSCP's review of the proposed amendments raises deep concerns regarding the perceived direction that the Regional District of Okanagan-Similkameen (RDOS) is headed. The contemplated removal of protections for species at risk and sensitive ecosystems appears to be justified at least partly by the demands of a minority of stakeholders without proper fact-checking and adequate consultation, which is incompatible with our shared mandate for environmental protection and long-term sustainability.

As a long-term partner on land use matters within the Okanagan-Similkameen, SOSCP regularly reviews Environmentally Sensitive Development Permits (ESDP), Riparian Development Permits (RDP), and many other bylaws and policies from the RDOS and municipal partners, giving it a unique viewpoint to fully appreciate the benefits and challenges of development permits and other applicable environmental protection measures. As a major contributor to SOSCP's core activities, it is both surprising and concerning that RDOS did not solicit SOSCP's inputs when contemplating the proposed amendments. Moreover, SOSCP was not formally asked to submit a referral on the proposed amendments while concomitantly, the organization was assisting an adjacent municipality in updating its OCP, including the reinforcement of its ESDP provisions.



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One would understand the overall confusion created by the impromptu proposed amendments as the RDOS' website was and still is suffering several broken and misdirected links, including the bylaw amendment pages, which makes it difficult to provide fully informed commentary on the proposed changes. This confusion is enhanced by the fact that three draft bylaws are available on the website, of which only two were formally circulated to stakeholders associated with SOSCP, those being Draft Amendment Bylaw No. 2912 and Draft Amendment Bylaw No. 2905. Thus, Draft Amendment Bylaw No. 2500.17 can only be found on the website and was not mentioned to referral agencies as prescribed by Section 475 of the *Local Government Act*. Neither does the bylaw contain an easily readable tracked changes version of the proposed changes, nor any addendums or further explanatory notes. This makes it very tedious to cross compare to obtain a fuller understanding, while also raising concerns as to the intention of such ambiguity.

We believe that RDOS should exercise due diligence by rectifying these gaps and clarifying these ambiguities to allow for impacted stakeholders to provide an informed response. Until such time and for the reasons detailed previously, SOSCP will withhold its provision of comments on Draft Amendment Bylaw No. 2905 with the exception of the following based on previous observations: SOSCP believes that RDOS is doing a disservice to the community it serves by not allowing referral agencies, residents, or stakeholders to properly engage with a potentially consequential and wide-reaching OCP amendment. As per the requirements of Section 475 of the *Local Government Act*, SOSCP would note that it appears the RDOS has failed to meet its mandatory requirement to circulate an OCP amendment to affected parties.

Draft Amendment Bylaw No. 2912 and Draft Amendment Bylaw No. 2500.17

Extraordinary Natural Values

The Okanagan-Similkameen region is a biologically unique area with species and ecosystems that do not occur anywhere else in Canada, and in some cases, worldwide. The district hosts one of Canada's highest levels of biodiversity, including several listed species, both provincially and federally, whose survival relies on the protection and conservation of already endangered and highly pressured ecosystems. SOSCP would also like to remind RDOS of the countless services rendered by these ecosystems to the regional communities, services that represent incommensurable economical value. Given these conditions, one can understand the role of tools such as environmentally sensitive development permit processes to protect and preserve the integrity of irreplaceable ecosystems and biodiversity.

The Biodiversity Conservation Strategy for the South Okanagan Similkameen, *Keeping Nature in our Future*, provides information to ensure that the stewardship of the natural environment is considered in all decisions on urban, suburban, resource, recreational, and rural development. Conservation ranking maps, which show the significance and sensitivity of various ecosystems in the region, were determined using the best available



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science and peer reviewed. The conservation ranking maps are a higher-level tool for local governments at the appropriate scale for community planning.

Long-standing commitment to ESDP

In response to the increasing threats to, and rarity of, native plants, wildlife, and ecosystems, the RDOS has established Environmentally Sensitive Development Permit Areas. The RDOS prides itself on its role as a regional leader in environmental protection, as illustrated by the awards it has received for past initiatives. As such, regulating residential development supports the commitment made by the Regional District Board to protect and preserve the natural environment as illustrated in its Vision statement:

We envision the Regional District of Okanagan-Similkameen as a steward of our environment, sustaining a diverse and livable region that offers a high quality of life through good governance.

In 2013, the RDOS Board supported the use of *Keeping Nature in our Future* as a guiding document to initiate a review of its ESDP area designations and policies, including high and very high environmentally sensitive areas. This process was accompanied by extensive Advisory Planning Commission engagement and public consultations on proposed modifications leading to its adoption in 2017. From that day, SOSCP has been and is still assisting in a cost-sharing model to help support the implementation of ESDPs.

Furthermore, the bylaw modifications proposed in Amendments No. 2912 and No. 2500.17 directly contradict the general environmental policies referenced in each OCP, as well as the more specific provision included under the Natural Environment & Conservation sections. For example, in the current Electoral Area A OCP, policy 13.1.1.2 states that the Municipality shall:

Integrate measures to sustain environmental quality and consider impacts on the environment in future land use decisions.

If the draft bylaws are enacted, the effectiveness of this clause would be significantly diminished. While it is at the discretion of local governments to define what constitutes a development and to place restrictions on such development under the *Local Government Act*, no one can argue that the proposed amendments are a huge step back for the RDOS in its protection of the natural environment under its jurisdiction.

Rapid Environmental Assessment Process



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The option of a Rapid Environmental Assessment (REA) for residential buildings and structures was introduced in 2017. It was developed as a solution to address the previous exemption for residential development to increase environmental safeguards for all types of development while providing a cost-effective alternative to traditional Environmental Impact Assessments (EIA). Residential development exemptions are no longer considered consistent with best management practices for the protection of the natural environment which is why adjacent jurisdictions, including Summerland and Penticton, have also removed these exemptions.

It is important to consider that natural environments, along with scientific understanding of ecosystems and species, are in constant evolution. This provides rationale for why ESDP applications require the presence of qualified professionals to assess current site conditions and natural values and potential impacts of development on a case by case basis.

Additionally, reliance on only subdivision for ESDP application ensures that many existing subdivided lots are excluded from future assessment despite potential or known occurrence of critical habitats or species at risk. For instance, some of these areas, particularly in the south part of the region, support multiple, overlapping habitats for species at risk, as well as known locations of use (i.e. Areas A, C, D, I). These values were not considered at the time of subdivision and rezoning because this information was not available.

Despite obvious benefits from a sitewide assessment at the time of subdivision, construction details of later development can still have greater bearing and impacts on species at risk and sensitive ecosystems. Typical rural subdivisions do not include intensive land grading and installation of infrastructure, other than access and occasionally communal water and sewer systems. On-site developments have the greatest impact when residences or accessory structures are built. These impacts cannot be determined at the time of subdivision except for the establishment of a development pocket. Furthermore, the scope and scale of development, even on lots of uniform zoning, cannot guarantee the location of structures, intensity of use, structure height and footprint, site grading, landscaping and tree removal, or the total number of structures. These can only be effectively assessed at the time of development.

Review of REA Process

In 2019, an audit was performed by a third-party to assess the effectiveness of the ESDP Area Guidelines in its first two years and to provide the Board with an overview of the process's successes and challenges thus far (Appendix A). The review process included consultations with local QEPs as well as provincial and federal employees working in regional environmental management at the time. The major outcomes of the review are listed below:



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- The ESDP process helps inform development and reduces impacts to sensitive ecosystems and species at risk and ensures that reliable environmental information is being considered as part of the development planning process.
- The ESDP process assists the Regional District with the protection of Critical Habitat consistent with the requirements of the federal Species at Risk Act.
- QEPs believe the new ESDP guidelines to be useful and better than the past approach (*e.g.*, exempting all residential development).
-

Furthermore, the review highlighted the very fact that as we continue to learn from our experiences and evolve in our understanding of nature, there is and will be a continuing need for revisions of the ESDP process. The review also identified opportunities to improve the approval process and quality of assessments and provided support for monitoring and evaluating compliance.

Despite constraints, including limited resources, staff turnover, and COVID-19, improvements are ongoing. SOSCP developed and provided training opportunities related to ESDP process requirements and expectations including the design of effective mitigation measures and the development of a species at risk portfolio. RDOS staff and the SOSCP Land Use Biologist are currently working on recommended changes to improve the REA process. These include mapping updates to remove existing undeveloped lots and the creation of an Environmental Screening Report template to streamline review and improve the quality of assessments.

In conclusion, we believe that we have established that removing the requirement for an ESDP on all developments except for subdivision is inconsistent with the Board's previous position, guiding vision, feedback from professionals, or the extensive, ongoing work undertaken to develop and improve the process. This is echoed in the May 23, 2019 Administrative Report to the Planning and Development Committee (Appendix B).

Wildfire, ESDP, and FireSmart

SOSCP is aware of concerns from landowners related to the compatibility of ESDP and FireSmart requirements and as such, that these concerns were used to pressure RDOS to amend its bylaws to remove applicable ESDP requirements. This is cited in a letter attached to the Administrative Report in Appendix B.

SOSCP wants to remind RDOS of an existing exemption to ESDPs that allows landowners to clear within 10 metres of their structures for FireSmart. This provision ensures that landowners retain their right to protect their property from wildfire while maintaining the protection of sensitive species and ecosystems. For this reason, SOSCP believes that the concerns were based mainly on misinformation and therefore can be assuaged through a consultation with targeted landowners to communicate directly and educate them on the



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issue. SOSCP is offering its services to RDOS for such purpose as part of their long-standing collaboration.

Closing remarks

In conclusion, we believe that we have presented sufficient evidence as to why SOSCP strongly opposes both Draft Amendment Bylaw No. 2912 and Draft Amendment Bylaw No. 2500.17. We believe that what appears to be a pressured adoption of Draft Amendment Bylaws No. 2912 and No. 2500.17 without a proper consultative process based on transparency, open communication and science is a disservice to the communities and an abridgement of the right of future generations to enjoy a healthy natural environment. As such, SOSCP would welcome the opportunity to provide further comment on Draft Amendment Bylaw No. 2905 at such time the RDOS provides a clear version of the proposed changes.

Responsible land use planning must include the consideration of biodiversity and ecosystem conservation, which in turn requires the application of strong, effective processes to regulate development such as ESDP, not only at the time of subdivision, but also development. There is no question that the proposed amendments will cause long term environmental degradation, including reduced habitat connectivity, impaired ecosystem services, diminished climate change adaptation capacity, and will further reduce our ability to protect and retrieve already eroded biodiversity.

Sincerely,



Benjamin Misener, CPT



Sophie Fillion, BSc. MES

On behalf of the South Okanagan Similkameen Conservation Program

Attachments:

Appendix A (Audit Report)

Appendix B (2 year review report)

Appendix A



Environmentally Sensitive Development Permit Area Provision Audit - Commissioned by SOSCP 2019

Conducted by Contracted Consultant Bearfoot Resources.

INTRODUCTION

Where a local government specifies or designates “environmentally sensitive development permit” (ESDP) areas it may require an applicant to submit a report certified by a Qualified Environmental Professional (QEP) that describes potential environmental impacts of proposed developments and that provides recommendations to avoid or mitigate those anticipated impacts.

The Regional District of Okanagan-Similkameen (RDOS) is interested in how its ESDP process is working, after it was updated in June 2017. QEPs have told the South Okanagan-Similkameen Conservation Program (SOSCP) that they want further guidance from SOSCP to support improved, effective implementation of local government development permit processes for environmentally sensitive areas, particularly where Critical Habitat for federally-listed species at risk is present. Funders of SOSCP’s Shared Environmental Planner project are also interested in how the work of the planner influences the protection of habitat and species. As a first step, SOSCP has done this review of a sample of eleven approved development permits issued by the RDOS¹ to better understand its permit approval processes and results on-the-ground, with focus on species-at-risk habitats and sensitive ecosystem occurrences.

SOSCP did not look for permit infractions; the goal for the review was educational and non-regulatory with a view toward adaptive, ongoing improvement of the REA and EA processes.

BACKGROUND

The RDOS requires a development permit for activities including subdivision, vegetation removal, alteration of the land and for building construction within designated ESDP areas. The purpose of an ESDP is “protection of the natural environment”² by assessing and avoiding or mitigating impacts to sensitive values³ such as species at risk and habitat features of importance to rare or endangered species.

While maintaining its authority over the development permit review and approval process, the RDOS relies on recommendations made by QEPs for protection of environmentally sensitive areas. To accomplish this, RDOS (in addition to other obligations and subject to some exemptions) requires applicants for land development in ESDP areas to submit either a Rapid Environmental Assessment

¹ A twelfth property in the District of Summerland will be considered separately.

² Section 488(1)(a) of the *Local Government Act* permits local governments to designate development permit areas for “protection of the natural environment, its ecosystems and biological diversity”.

³ *Local Government Act* Section 491(1).

(REA) or an Environmental Assessment (EA) report.⁴ Each report must be prepared by a QEP and each has specified content requirements.

A REA is intended to provide a cost-effective alternative to the preparation of the more comprehensive EA for “residential buildings, structures and uses” within ESDP areas. It requires assessing “environmentally valuable resources” (EVRs) within 100 meters of the proposed development. EVRs include sensitive ecosystems, listed species-at-risk, federally-identified Critical Habitat, and certain habitat features (e.g. wildlife trees, dens and burrows, etc.). REA reports must include strategies to achieve avoidance, and/or recommendations for restoration and mitigation. There is no RDOS requirement for subsequent monitoring; it puts responsibility on the QEP to monitor that REA recommendations are implemented.

RDOS requires the more comprehensive EA report where the QEP cannot certify either the absence of EVRs or that impacts have been avoided or acceptably mitigated through a REA. A key aspect of an EA report is to stratify the subject property into a high to low value four-class rating system of Environmentally Sensitive Areas (ESAs 1 to 4) with a view to avoiding negative impacts to high value sites. An RDOS EA also requires an inventory of likely-to-occur rare and endangered plant and animal species to be done during the appropriate seasons; requires an impact assessment of the proposed development; consideration of avoidance and mitigation strategies; and may require subsequent monitoring.

METHOD

The objective of this project was to conduct an internal field-review of a sample of approved ESDPs to assess results on-the-ground and identify potential improvements to development permit review processes, to better support QEPs and local governments in achieving effective protection of species-at-risk habitats and environmentally sensitive areas. The SOSCP program manager selected 13 approved development permits for review, focussed on species-at-risk habitats and environmentally sensitive areas. One was not reviewed due to access considerations, and one within the District of Summerland will be considered separate to this report.

File materials were gathered for each ESDP and a chronology of events established. By desktop and reconnaissance-level field review, questions were answered for each property. These included:

- What was identified by the proponent/QEP as ESA or as species-at-risk?
- What concerns or issues were identified by the SOSCP Environmental Planner?
- What was recommended by the SOSCP Environmental Planner?
- How was the proposal/QEP report subsequently modified?
- What did the final REA or EA report require and/or suggest?
- What did local government staff suggest?
- What was required in the approved Development Permit?
- Were Development Permit requirements implemented?
- Are Critical Habitat attributes apparent on the site? Were they identified/missed?
- What evidence is there of avoidance, mitigation or enhanced management of species-at-risk; Critical Habitat and/or ESAs?

⁴ Regional District of Okanagan-Similkameen Development Procedures Bylaw No. 2500, 2011

- Are there apparent additional opportunities to improve protection of or physically enhance species-at-risk habitats or ESAs?

File selection was not random. Sites were selected to focus on recent files with designated or proposed federal Critical Habitat mapping identified on them. The review sample was selected from ESDPs issued over the period 2017 to 2018.

CONCLUSIONS AND SUGGESTIONS:

- 1. There is confusion about which assessment process to use, REA or EA, and what to include.**
 - *To avoid confusion, and to achieve full benefit of both the REA and EA processes, ESDP applicants and QEPs appear to need guidance on which process to use in what circumstances, and clearer direction on essential content in each report type.*
- 2. Areas of mapped Critical Habitat are often described as lacking attributes, and loss of known attributes within mapped Critical Habitat is sometimes considered insignificant.**
 - *To help standardize identification and support methodical assessment of Critical Habitat attributes, specific training and guidance (e.g. photographic examples) may be required for QEPs. There is evidence that QEPs need direction from senior governments to define the limits of the use of discretion in facilitating impacts to Critical Habitat and appropriate processes to use in avoiding impacts, mitigating damage, or improving habitat. Reliance on professional judgment may not yet be enough to support desired protection of Critical Habitat attributes.*
 - *QEPs could consider seeking additional advice from ECC Canada and other regulators to resolve uncertainty or to devise management responses that avoid potential destruction of Critical Habitat.*
- 3. Site developments generally conform to QEP recommendations but not always.**
 - *For improved conformance with actions required to avoid and mitigate impacts to Critical Habitat and Environmentally Sensitive Areas, reports and checklists could have a dedicated section that includes a separate, itemized list of concise “must do” and/or “should do” requirements and recommendations in each REA or EA report.*
 - *The REA “checklist” could be improved by including a standardized list of typical mitigation strategies that apply to the site (e.g., do not cut or disturb wildlife trees; grass seed exposed soils). The REA checklist could be revised such that all information required to issue a development permit was contained within the form. Maps submitted with the development permit application could identify the specific location of important habitat features and mandatory management actions.*
 - *Clarity for work windows would be improved by standardizing the format for providing work windows. A coloured “bar chart” calendar could be provided for use by QEPs in each REA or EA to clearly explain open and closed windows for time restricted development activities (e.g., vegetation clearing, excavation, tree removal, etc.).*
- 4. Opportunity to extend protection of Critical Habitat attributes and sensitive areas are missed.**
 - *Consider the use of cost-effective generic signage to permanently mark important trees for protection. Simple but permanent fencing could also be used to delineate and protect sensitive areas.*

- *Consider training and collaborating with QEPs in using conservation covenants to add perpetual and monitorable legal status to areas recommended for protection as compensation for development impacts elsewhere.*
 - *Consider enacting a tree protection bylaw to regulate and monitor the protection and conservation of valuable trees.*
- 5. Opportunities for avoiding environmental impacts are sometimes missed or not discussed.**
- *Government's intent regarding avoidance of environmentally sensitive areas may not be clear enough. QEPs may benefit from additional guidance about their discretion to suggest moving or modifying a development proposal to avoid or reduce impacts to Critical Habitat and high-value ESAs.*
 - *ESA identification is not required in the REA process, however, QEPs could identify and document discussions with landowners about options for avoidance of impacts to environmentally sensitive areas. At a minimum, to benefit approval-agencies, a REA or EA report could include clear findings of impact and of potential legal implications where development footprints are proposed in environmentally sensitive areas, together with identifying alternate, lower-impact location(s).*
- 6. Additional habitat mitigation and enhancement strategies are available but not prescribed.**
- *There may be value in holding an applied-biology workshop and providing guidance documents to QEPs on simple and cost-effective habitat improvement techniques designed to manipulate food, cover, water and living space for at-risk species.*
 - *QEPs could consider what habitat structures or features may be in short supply at a development site, and prescribe additional, cost-effective mitigation or enhancement techniques, especially where the materials needed (e.g. rock, wood debris) are a by-product of site development.*
- 7. It is uncertain who is responsible for development permit monitoring and what expectations there may be for monitoring.**
- *There appears to be an opportunity to clarify expectations for monitoring of development permit conditions to help inform ongoing improvement and effectiveness of ESDP processes. It also appears worthwhile to provide guidance and/or support as appropriate to QEPs to ensure that desired monitoring is completed and reviewed.*
 - *Including ESDP conditions requiring later submission of an environmental monitoring report would help ensure that environmental monitoring occurs.*

SOSCP gratefully acknowledges financial support for this project from the following:



Environment
Canada

Canadian Wildlife
Service

Environnement
Canada

Service Canadien
de la faune





TO: Planning and Development Committee

FROM: B. Newell, Chief Administrative Officer

DATE: May 23, 2019

RE: Environmentally Sensitive Development Permit (ESDP) Area
24 Month Review – Proposed OCP Bylaw & Development Procedure Bylaw Amendments

Administrative Recommendation:

THAT the Environmentally Sensitive Development Permit (ESDP) Area designations in the Okanagan Electoral Area Official Community Plan Bylaws be amended;

AND THAT the Development Procedures Bylaw No. 2500, 2011, be amended in order to update the requirements related to ESDPs.

Purpose:

The purpose of this report is to provide the Board with an overview of the Environmentally Sensitive Development Area (ESDP) as it has been operating following the adoption of new guidelines, mapping and processing procedures in June of 2017.

In addition, Administration is proposing a number of amendments to the ESDP Area designation to address issues identified with the new permitting process.

Background:

At its meeting of April 1, 2010, the Board adopted the South Okanagan Sub-Regional Growth Strategy Bylaw No. 2421, 2007, which included, amongst other things, a recommendation to:

Support the development of an inter-regional Biodiversity Conservation Strategy by collaborating with ecosystems experts, including those with traditional ecological knowledge, and balance ecosystems interests with economic and social sustainability.

At its meeting of September 5, 2013, the Planning and Development (P&D) Committee of the Board resolved to “accept *Keeping Nature in Our Future: A Biodiversity Conservation Strategy for the South Okanagan-Similkameen* as a guiding document for the Regional District of Okanagan-Similkameen and the amendment of Official Community Plans.”

A key policy direction included within this Strategy was to “Establish new, or update existing land use policies and regulations to ensure that development processes integrate biodiversity conservation considerations” (Strategic Direction 1.1).

Based upon this direction, Administration undertook a review of the ESDP Area designations in the Okanagan Electoral Area OCP Bylaws between 2014 and 2017. This involved the following updates:

- mapped areas (using mapping contained in *Keeping Nature in Our Future*);
 - OCP policies which support the designation of ESDP Areas;
 - ESDP Area Guidelines; and
 - application requirements and processing procedures.
-

At its meeting of June 15, 2017, the Board adopted Amendment Bylaw 2710, 2017, which incorporated the ESDP Area updates summarized above into the Okanagan Electoral Area OCP Bylaws.

At that time, Administration committed to bring forward a review of the new ESDP Area designation and how it was operating within 12 months (i.e. by June 15, 2018). Due, however, to un-foreseen work volumes and available staff resources in 2018, this review was delayed.

On November 15, 2018, and in anticipation of this review, a Workshop with RDOS staff, Provincial government staff, SOSCP Program Manager and Environmental Planner, and area Qualified Environmental Professionals (QEPs). Items discussed at this meeting included feedback on the ESDP process, possible revisions and the overall efficacy of Rapid Environmental Assessments.

Analysis:

Based upon the consultation undertaken with local QEPs and provincial staff involved in environmental management in late 2018, it is Administration's understanding that the current ESDP process is helping inform development and reducing impacts to sensitive ecosystems and species at risk.

QEPs have also advised that they believe the new ESDP guidelines to be useful and better than the past approach (i.e. exempting all residential development at the building permit stage).

While enforcement and compliance with development permit provisions continues to be an issue, regulating residential development is seen to further the objectives and policies endorsed by the Regional District Board in its various land use bylaws as well as in its Vision statement:

We envision the Regional District of Okanagan-Similkameen as a steward of our environment, sustaining a diverse and livable region that offers a high quality of life through good governance.

The ESDP Area designation also assists the Regional District with the protection of Critical Habitat consistent with the requirements of the federal *Species at Risk Act* (i.e. protecting migratory bird habitat), which is over-riding federal legislation that local governments are expected to uphold to.

Finally, the ESDP Area designation is seen to be ensuring that good environmental information is being considered as part of the development planning process.

That said, and after 2 years of working with the current ESDP Area guidelines and processing procedures, Administration believes that there a number of improvements that can be made. These are outlined below along with some basic statistics regarding recent permit issuance:

Permitting Statistics:

Prior to 2017, the average number of ESDP's issued by the Regional District in a year was 1-2 total, which increased to approximately 30+ per year after 2017 following the removal of the building permit exemption for all types of residential development:

| | Area "A" | Area "C" | Area "D" | Area "E" | Area "F" | Area "I" | Total |
|------|----------|----------|----------|----------|----------|----------|-------|
| 2017 | 3 | 2 | 9 | 1 | 0 | [N/A] | 15* |
| 2018 | 10 | 7 | 17 | 2 | 2 | 1 | 39 |
| 2019 | 5 | 1 | 1 | 2 | 3 | 1 | 13† |

| | | | | | | | |
|--------------|-----------|-----------|-----------|----------|----------|----------|-----------|
| Total | 18 | 10 | 27 | 5 | 5 | 2 | 67 |
|--------------|-----------|-----------|-----------|----------|----------|----------|-----------|

* ESDP's issued from June 15th to December 31st of 2017

† ESDP's received from January 1st to May 15th of 2019

Of the 26 ESDP's issued between 1997 and 2017, a majority were issued for subdivisions with the remainder being related to non-residential development (i.e. motel, campground, tennis court and water reservoir).

After June 15, 2017, 76.1% issued ESDP's have been for single detached dwellings or related residential structures (i.e. garages) with the remainder related to subdivisions (16.4%) and other non-residential development (7.5%).

Of the ESDP's issued since 2017, 86.6% have been actioned under the Expedited ESDP option through the submission of a "Rapid Environmental Assessment" (REA) by qualified environmental professionals (NOTE: this option did not exist prior to 2017).

For reference purposes, an overview of all ESDPs issued since June 15, 2017, is provided in Attachment No. 1.

Checklist vs. Template:

The option of a "Rapid Environmental Assessment" (REA) for residential buildings and structures was introduced in 2017 as a way to provide a cost-effective alternative to traditional "Environmental Impact Assessments" (EIA) in light of the proposed removal of the building permit exemption for residential development.

The REA is premised on the completion of a checklist by a QEP that is primarily concerned with the identification of "environmentally valuable resources" (EVRs) within 100 metres of an area proposed for residential development.

If no EVRs are identified by a QEP, the Regional District issues an ESDP in much the same way it issues "Expedited" Watercourse Development Permits (WDPs) for development in riparian areas. If, however, a QEP identifies EVRs and is unable to mitigate the impact of the proposed residential development, an EIA would be required prior to the issuance of an ESDP.

Administration did not anticipate in 2017 that the REA option would become the principal form in which QEP's submit ESDP's to the Regional District, and is further concerned the REA option is being mis-used by QEP's to facilitate complex subdivisions and developments that the checklist was not designed to address.

There also appears to be confusion amongst QEP's as to the level of information required to support a REA with reports ranging in size from 2 pages to 40 pages with length seemingly unrelated to the complexity of a development.

To address this, Administration considers there to be merit in replacing the current REA checklist with a standardised report template that will specify key issues to be addressed and reporting requirements to be met by QEP's. The benefits of this revision would be:

- streamline development permit review, by ensuring that required information is presented more efficiently;
- clarification about what residential development thresholds/circumstances would result in the need for a full environmental impact assessment (EIA), instead of an expedited review;

-
- clarification of timing restrictions that may impact an environmental assessment (including REAs) to help property owners understand that these assessments cannot be completed when significant snow is on the ground, of when other timing requirements may be imposed (e.g. where inventory is needed);
 - creating consistency in the quality and effectiveness of assessments being submitted by QEP's in support of development permits; and
 - improving the information provided by QEPs regarding monitoring and evaluation conditions to be used in development permits.

Subdivisions:

The subdivision of land is considered a complex form of development that is not suited for assessment through a REA.

This is due to the requirement that an environmental assessment not only consider the proposed layout of parcels and road dedication (including the placement of utilities and storm water management), but also confirm that within each proposed parcel exists a suitable building envelope capable of accommodation residential development (i.e. dwelling, driveway & septic system), and that such development be able to occur without the need for additional ESDPs.

For this reason, it is being proposed to exclude subdivisions as a form of development that can be submitted as an Expedited ESDP.

REA Title:

QEP's have expressed concern regarding use of the name Rapid Environmental Assessments to described the checklist and the expectation it creates amongst property owners that an assessment of their property can be completed in a quick manner (i.e. "rapid").

According to QEPs, this is leading property owners to provide insufficient time between the preparation of a building permit application and the obtaining of an environmental assessment.

To address this, QEPs have requested that the "Rapid Environmental Assessment" name be replaced. In response, and reflecting the other changes outlined above, Administration is proposing that the new report template be referred to as the "Environmental Screening Report".

Mapping Corrections:

In incorporating the mapping from *Keeping Nature in Our Future*, parcels zoned low, medium and high density residential were excluded from the ESDP Area as were parcels in the Agricultural Land Reserve (ALR) or Crown land – unless significant topographical features existed on a site.

Similarly, where a developed footprint could be identified on a parcel this area was excluded from an ESDP Area. Due to the volume of properties being reviewed, oversights occurred where an existing developed area was inadvertently retained within the ESDP Area (see Attachment No. 2).

Administration has identified a number of such properties since 2017 and is proposing to update the mapping to address these by excluding the developed footprint.

Public Representation (Electoral Area "A"):

While Administration has not yet sought public input regarding the operation of the ESDP Area over the previous two years, a representation from a property owner at Anarchist Mountain in Electoral Area "A" has been received and is included in Attachment No. 3.

In summary, this representation is advocating for the removal of the ESDP Area and the implementation of a voluntary approach to environmental protection by individual property owners with educational support provided by the Regional District.

While Administration is concerned that such an approach would be less effective than the current model of utilising ESDPs for retaining biodiversity values, it does raise a question of the extent to which the ESDP Area should be applied. As a suggestion, the Board may wish to consider if parcels less than 2.0 ha in area should be excluded from the ESDP Area designation if these properties have been previously developed (as is the case for the Anarchist Mountain community).

Alternatives:

- .1 THAT the Environmentally Sensitive Development Permit (ESDP) Area guidelines, mapping and development procedures in the Okanagan Electoral Area Official Community Plan Bylaws not be amended; or
- .2 THAT consideration of amending the Environmentally Sensitive Development Permit (ESDP) Area guidelines, mapping and development procedures in the Okanagan Electoral Area Official Community Plan Bylaws be deferred.

Respectfully submitted:


C. Garrish, Planning Manager

Endorsed by:


B. Dollevoet, General Manager of Development Services

- Attachments: No. 1 — ESDP's submitted to RDOS since June 15, 2017
No. 2 — Representative Example of Proposed Mapping Correction
No. 3 — Public representation — (March 8, 2019)

Attachment No. 1 — ESDP's submitted to RDOS since June 15, 2017

| No. | Permit No. | Applicant | Type | Development |
|-------------|----------------|--------------------|-----------|-----------------------------------|
| 2017 | | | | |
| .1 | D2017.116-ESDP | Dyck | Expedited | New dwelling |
| .2 | D2017.125-ESDP | Pyrozyk | Expedited | New dwelling |
| .3 | A2017.127-ESDP | Strouts & Miller | Expedited | New accessory structure |
| .4 | E2017.131-ESDP | Cleveland | Regular | New dwelling |
| .5 | D2017.132-ESDP | Hoeger | Expedited | New dwelling |
| .6 | D2017.136-ESDP | Briscoe | Expedited | New dwelling |
| .7 | D2017.137-ESDP | Jacques | Expedited | New dwelling |
| .8 | D2017.146-ESDP | Burke | Expedited | New Dwelling |
| .9 | A2017.149-ESDP | Visser | Expedited | New Dwelling & Workshop |
| .10 | D2017.153-ESDP | Gratton | Expedited | New well and pipe to dwelling |
| .11 | D2017.158-ESDP | Schmidt | Expedited | New roof over shipping containers |
| .12 | D2017.162-ESDP | McClelland | Expedited | New workshop |
| .13 | C2017.167-ESDP | Vaillancourt | Expedited | New dwelling & septic |
| .14 | C2017.171.ESDP | Lindsay | Expedited | Subdivision (2-lot) |
| .15 | A2017.178-ESDP | Quintal | Expedited | Subdivision (1-lot) |
| 2018 | | | | |
| .1 | D2018.008-ESDP | Balla & Paul | Expedited | New dwelling |
| .2 | D2018.016-ESDP | Marti | Expedited | Subdivision (3-lot) |
| .3 | D2018.018-ESDP | Thew | Expedited | New Dwelling |
| .4 | C2018.019-ESDP | Chamberland | Expedited | New Dwelling |
| .5 | D2018.025-ESDP | Kenyon & Hitchcock | Expedited | New dwelling |
| .6 | E2018.034-ESDP | Mathias & Born | Expedited | New dwelling, shed & septic |
| .7 | D2018.037-ESDP | Schmidt | Expedited | New dwelling & garage |
| .8 | D2018.043-ESDP | OK Falls RV Resort | Regular | Residential development |
| .9 | D2018.046-ESDP | Kwakernaak/Wood | Expedited | New dwelling |
| .10 | C2018.055-ESDP | T262 Enterprises | Expedited | Subdivision (31-lot) |
| .11 | A2018.056-ESDP | Blomme | Expedited | New dwelling & garage |
| .12 | D2018.067-ESDP | Mide | Expedited | Subdivision (1-lot) |
| .13 | D2018.068-ESDP | Regina & Chidley | Expedited | New dwelling |
| .14 | F2018.073-ESDP | Vaisanen | Regular | Subdivision (1-lot) |

| | | | | |
|-------------|----------------|------------------------|-----------|--------------------------------------|
| .15 | F2018.077-ESDP | Dolan | Expedited | New dwelling & septic |
| .16 | D2018.087-ESDP | Kildaw | Regular | Subdivision (2-lot) |
| .17 | D2018.096-ESDP | Pardell | Regular | New dwelling |
| .18 | A2018.097-ESDP | Teichroew | Expedited | New garage |
| .19 | D2018.101-ESDP | Cesla | Expedited | New dwelling, driveway & septic |
| .20 | E2018.107-ESDP | Schroeder | Regular | New dwelling, garage and garden |
| .21 | D2018.112-ESDP | Elkjar | Expedited | New garage |
| .22 | A2018.117-ESDP | De Goede Newfield | Expedited | New dwelling, garage, pool & septic |
| .23 | C2018.122-ESDP | Marsel | Expedited | New dwelling & driveway |
| .24 | D2018.131-ESDP | Baker | Expedited | New dwelling |
| .25 | A2018.134-ESDP | Larose Winery | Regular | New winery |
| .26 | C2018.136-ESDP | Warren | Expedited | New dwelling, workshop, etc. |
| .27 | C2018.139-ESDP | Oliveira | Expedited | Subdivision (2-lot) |
| .28 | A2018.145-ESDP | Kappel | Expedited | New dwelling & workshop |
| .29 | C2018.151-ESDP | Cotter | Expedited | New accessory structure and septic |
| .30 | A2018.152-ESDP | Trueman | Expedited | New dwelling |
| .31 | A2018.154-ESDP | Gagnon | Expedited | New dwelling |
| .32 | D2018.155-ESDP | Twin Lakes Golf Course | Expedited | Garlic Farm |
| .33 | D2018.157-ESDP | Kribernegg | Expedited | New dwelling & septic field |
| .34 | D2018.167-ESDP | Russell | Expedited | New dwelling |
| .35 | C2018.173-ESDP | Oldfield | Expedited | New dwelling |
| .36 | D2018.176-ESDP | Plensky & Palmer | Expedited | New dwelling |
| .37 | A2018.200-ESDP | Osoyoos Mt. Estate | Regular | Subdivision (1-lot) |
| .38 | I2018.201-ESDP | Zenger | Expedited | New dwelling |
| .39 | A2018.206-ESDP | Premerl & Velghe | Expedited | New dwelling |
| 2019 | | | | |
| 1. | A2019.001-ESDP | Kramer | Expedited | New dwelling, driveway & septic |
| 2. | E2019.002-ESDP | Noble | Expedited | New pool |
| 3. | I2019.003-ESDP | Thomson & Sanche | Expedited | New dwelling |
| 4. | C2019.004-ESDP | UBC | Expedited | Demolition & New Buildings |
| 5. | A2019.005-ESDP | 424940 BC Ltd. | Expedited | New dwelling & accessory building |
| 6. | D2019.006-ESDP | London | Expedited | New dwelling, garage & acc. dwelling |
| 7. | E2019.007-ESDP | Grace Estates | Expedited | Subdivision (11-lot) |
| 8. | A2019.008-ESDP | Walker | Expedited | New dwelling, shed and septic |
| 9. | A2019.009-ESDP | Hinz & Clark | Expedited | New garage |

| | | | | |
|-----|----------------|-------------|-----------|-----------------------------------|
| 10. | I2019.010-ESDP | Gibney | Regular | Quonset & wells |
| 11. | A2019.011-ESDP | Pendergraft | Expedited | Subdivision (boundary adjustment) |
| 12. | F2019.012-ESDP | Matheson | Expedited | New dwelling |
| 13. | I2019.013-ESDP | Mielke | Expedited | New dwelling |

Attachment No. 2 — Representative Example of Proposed Mapping Correction



Attachment No. 3 – Public Representation

My name is Bernie Langlois. My wife Eileen and I purchased lot 1 (3.5 acres) on Bullmoose Trail extension in 2012 and started building our retirement home and developing the property. At the time there was no restrictions, directives, charges or caveats on title (other than Fortis right of ways) as to what we could, or could not do with our property. As we continue to develop the property we have since been informed that this property is now in an environmentally sensitive area and comes with numerous restrictions.

I have read the document “Keeping Nature in our Future” that was adopted as the basis for the RDOS strategic biodiversity policies and the Official Community Plan (OCP). Some of the Key findings in this scientific study are:

1. “More than 20% of the study area is classified as having high or very high relative biodiversity i.e., the region has many healthy natural areas supporting a diversity of wildlife
2. The electoral areas and municipalities with the greatest proportion of very high and high relative biodiversity are Area A (Rural Osoyoos), Area B (Cawston), Area C (Rural Oliver), Area D (Okanagan Falls), and the municipalities of Osoyoos and Oliver.
3. The valley bottom is very important, even though it is a smaller part of the region. Nearly half of the very high and high biodiversity values occur in the valley bottom. The results show that a significant amount of habitat in the valley has already been lost, as reflected by the high proportion of low and very low relative biodiversity found there
4. Since upland areas do not have the same intensity of land conversion as the valleys they represent an opportunity for land managers to retain biodiversity values, although protection of these lands is not comparable or interchangeable with protection of valley bottoms.”

I fully agree that the unique properties of the Okanagan valley and more specifically the northern part of the Sonora Desert must be preserved because of the specific flora and fauna that a desert environment brings. However as stated, the desert in the valley bottom has already been destroyed through development and agriculture.

My major concern and objection is to the plan that was adopted to protect the environment, specifically to our area. It is flawed for the following reasons:

1. The plan targets and focuses on only selective areas and individuals.
 - a. When one looks at the RDOS map that has been designated as environmentally sensitive (red zoned) it is only a small fraction of the entire regional district. The most sensitive areas (the desert areas) are not red zoned. Area B which is a very high to high in biodiversity is not deemed an environmentally sensitive area.
 - b. The largest red zone on the whole map is a big square at the southeast corner of Area A which includes the Regal Ridge development. The whole area is being treated

equally despite the fact that there are several different eco systems and topography within the area. Low risk area is being treated the same as high risk. Anarchist Mountain is not the Sonoran Desert and as such has different biodiversity values.

- c. RDOS was well intentioned to preserve the biodiversity in the Okanagan but designed a plan that puts all the accountability on the individuals while collecting permit fees for RDOS and creating a healthy source of income for QEP/biologists. How is RDOS accountable and how does the environment benefit from this plan. Who is monitoring and measuring and who gets the accolades?

2. Implementation Plan less than adequate

- a. When the plan was about to become policy, a series of town halls were scheduled. The town hall meeting planned for Area A was set up outside of Area A, one week before Christmas between 5:00PM and 7:00PM (when many residents were away for Christmas, and the time of Dinner hour) This was great timing to not garner good attendance.
- b. We know from the experience in the valley that degradation from human activity is real and detrimental to biodiversity values. Although the plan isn't meant to discourage development and growth, it must contain elements to protect the environment. If this was adopted by RDOS in 2005, why was Regal Ridge allowed to develop as it did without designation on title that this area was environmentally sensitive. Our lot had not even been developed then and even when it was, there were no caveat or descriptors associated with or declared on title.
- c. The method used for ESDP mapping in Regal Ridge was to exclude already disturbed areas based on an interpretation of available aerial photos. In our case there was already a trailer on the western edge of the lot that was not excluded. There was no checking in person on any of these lots. I also find in looking at the whole area that there are inconsistencies to the mapping interpretation. Huge areas are excluded with no evident land disturbance.
- d. We have 2 Fortis right -of -ways on our property. We understand that Fortis can access those right of ways and scrape, dig and basically change the landscape without regard to the flora or fauna and without permission or an ESDP from RDOS. Conversely as the land owner, I am not allowed to do any of these activities without great costs and permission from RDOS. Either the environment is sensitive for all these activities or it isn't.
- e. The current plan for ESDP is to have land/lot owners pay a QEP/biologist (\$1,500 to \$2,000)to do an assessment and provide a report to both RDOS and the lot owner as to the environmental values of the stated development area and mitigative measures to offset any impact the development might have to the environment. This report comes

in the form of recommendations and is not followed up by RDOS nor are the corrective measures enforced (ie Has there been 2 trees planted for every tree that is cut)? This plan also does not address the following:

- i. If no environmental values are impacted, are the QEP fees refunded by RDOS or the QEP?
- ii. If there is major environmental impact such as the private development otherwise known as, “the scar on the mountain” just above Osoyoos and Hwy #3, is the development not approved or stopped?
- iii. The triggers for an ESDP as per Section 18.2.5 of the OCP bylaw are 1) subdivision development, 2) construction, 3) the “alteration of land, including grading, removal of vegetation, deposit or moving of soil, paving, installation of drainage or underground services”. For all practical purposes subdivision development obviously would trigger an ESDP as would many building permits but certainly not all outbuildings. Least of all RDOS would not be apprised by individual lot owners for any of the activities in section 3. In fact Fire Smarting activity exclusions within 10 meters of a building contravenes the recommended guidelines for interface fire hazard mitigation. Anarchist Mountain (mostly Regal Ridge residents) have had Firesmart Recognition status for the past 6 years and were one of the first communities in BC to be recognized. This is because we, as a community and individual land owners care about the environment and the destruction to flora and fauna that a major fire would create, therefore we have raked, scraped the ground and picked up dead brush beyond the 10 meters of our buildings and in common areas. Where is the consistency and how effective is the plan to the overall strategy. What does an individual ESDP for Bernie Langlois or the general “John Smith” do for preserving biodiversity in the Okanagan Valley?
- iv. What about the deforestation and clear cutting of trees adjacent to the Environmentally Sensitive area? How does that interface with this program?
- v. One of the purposes of this program is to protect and encourage growth in all wildlife by protecting their habitat , food and water sources. What good is that if hunters are allowed to come and destroy both animals and habitat within or in close proximity to this environmentally sensitive area?

3. Accountability

- a. AS mentioned the accountability from this plan rests solely on those individuals who are coerced (with a threat of not getting a building permit) into getting an ESDP and hopefully they abide or adopt the recommendations in the report. All others in the community know nothing or very little about conservation other than their own

intuitive methods. How does this meet the objectives of “Keeping Nature in our Future”

- b. Not complying with the ESDP process results in an enforcement procedure that includes putting a notice on title of a non-permitted building on the property. No one is against getting a building permit . It is the ESDP that is questionable and onerous. Many residents are avoiding the whole building permit process for outbuildings because of ESDP. Enforcement is inconsistent by RDOS and unfairly tasked RDOS inspectors.
- c. The plan is erroneous, unfairly burdens land owners financially and is punitive in its’ approach as opposed to collaborative. RDOS are not a fully vested partner in the process but only the body that makes the rules and to get recognition from senior biodiversity groups and provincial government.

What is the alternative

The “Keeping Nature in our Future” document provides numerous directives, strategies and recommendations as follows:

Page 6 . Strategic Directions for Senior Government

2) Improve implementation of conservation initiatives; promote interagency cooperation, and enforcement of senior legislation, regulations and standards.

3) Manage ecological values on provincial and federal crown lands in a manner that leads by example.

4) Improve the efficiency and effectiveness of environmental mitigation and compensation programs.

6) Support land owners, managers and other stakeholders to conserve biodiversity with financial and technical assistance.

Page 54. Examples of Incentives for Landowners and Developers

- Providing resources to help landowners and developers understand the financial benefits of ecological development approaches
- Exempting eligible riparian property from property taxes if a property is subject to a conservation covenant registered under section 219 of the Land Title Act
- Reducing fees for applications that meet certain environmental criteria
- Providing free technical assistance and recognition for land conservation.

Page 71. Regional Growth Strategy Support for the Biodiversity Conservation Strategy

- 1) Meet with environment partners to develop a regional approach to biodiversity conservation and work with the RDOS Board toward coordinated biodiversity conservation and ecosystems protection.

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- 2) Support the development of an inter-regional Biodiversity Conservation Strategy by collaborating with ecosystems experts, including those with traditional ecological knowledge, and balance ecosystems interests with economic and social sustainability.
 - 4) Monitor the effectiveness of Regional Growth Strategy ecosystems actions, including annual indicators for key ecosystems measures.

These are only some of the suggestions, directives and strategies that I do not see within the current plan.

Suggestions

- Scrapping the current ESPD system including redoing the red zoning maps to exclude private property and focus on community initiatives described below.
- A collaborative approach where all stakeholders prepare the strategies for a particular area/municipality/community/ neighborhood and share in the executive actions and reap the rewards would be much more effective than the punitive approach on individual land owners. The stakeholders would be RDOS, ecosystem experts, community leads and other interested and committed individuals.
- An approach similar to the FireSmart program where objectives for achieving status are outlined to the community. Experts are brought in to explain criteria and what needs to be done. Every year the same and new objectives are added in order to achieve status and maintain designation.
- A number of rewards and incentives could be designed and offered to communities or neighborhoods that achieve proposed biodiversity objectives including public recognition in the form of plaques/signs/announcements, tax deductions for ESDP for every individual in the community, grants for environmental projects for the following year, etc...
- It is critical that a system of monitoring and measurement be established to provide a baseline and gauge on-going progress.