

## ADMINISTRATIVE REPORT



**TO:** Board of Directors

**FROM:** J. Zaffino, Chief Administrative Officer

**DATE:** July 25, 2024

**RE:** Official Community Plan (OCP) & Zoning Bylaw Amendment – Electoral Area “A” (A2018.207-ZONE)

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### Administrative Recommendation:

**THAT the applicant’s request for a six month extension until January 25, 2025 to obtain required approvals from the Ministry of Transportation and Infrastructure be refused;**

**AND THAT first, second and third readings of Electoral Area “A” Official Community Plan Amendment Bylaw No. 2905.01, 2023, and the Okanagan Valley Zoning Amendment Bylaw No. 2800.23, 2023, be rescinded and the bylaws be abandoned.**

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Folio: A-06748.300 Civic: 1750 Highway 3

Legal: Lot 15, District Lot 2709, SDYD, Plan 21789, Except Plan KAP90322

OCP: Large Holdings (LH) Zone: Large Holdings One (LH1)

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### Proposal:

The purpose of this report is seek direction from the Regional District Board regarding a request from the applicant for a six-month extension (i.e., until January 25, 2025) to obtain approval of Amendment Bylaw No. 2800.23, 2023 from the Ministry of Transportation and Infrastructure (MoTI).

In support of this request, the applicant has stated that:

*My application is still under review by MOTI. With reference to my email dated February 12, 2024 I can inform you that The Geotechnical Team with Ecora Engineering submitted their report requested by MOTI on February 26, 2024. This is a very extensive report consisting of 188 pages and addressed all geotechnical related concerns expressed by MOTI.*

*The application was forwarded to Regional in March 2024 for a safety assessment of the submitted engineered design for the teacup ... The submitted plan was forwarded to Dr. John Morrall with Canadian Highways Institute to review and complete the safety assessment. Based on the information that I received from the Principal Highway Safety Engineer yesterday they expect to have the report by Dr. John Morrall within the next 2 weeks. Under the assumption that they move forward with the teacup design the Principal Highway Safety Engineers forward their approval to District Development Services. They will then review the teacup design from a technical aspect and give final approval of my application from MOTI.*

*Once the Principal Highway Safety Engineer has received the report from Dr John Morrall I would guess that they can forward their report to District Development Services within a couple of weeks.*

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*This would then take us to the end of July. District Development Services should be able to review and approve the engineered design within one month. We should in theory have the final approval by MOTI by the end of August.*

**Site Context:**

The subject property is approximately 12.5 ha in area and is situated on the northeastern side of Highway 3. It is understood that the parcel is currently being developed for a single detached dwelling and access driveway.

The surrounding pattern of development is generally characterised by large rural parcels.

The easterly adjacent parcel (PID: 002-165-490) was previously acquired by the Southern Interior Land Trust Society (SILT) for conservation purposes.

**Background:**

At its meeting of May 20, 2021, the Regional Board resolved to postpone the consideration of A2018.207-ZONE to “allow for a hydrogeological assessment and an updated environmental assessment to be prepared.”

On August 6, 2021, the applicant submitted an updated environmental assessment.

As per Section 3.11.2 of the Regional District’s Development Procedures Bylaw No. 2500, 2011, if an application has been inactive for a period of six (6) months, the “application will be deemed to be abandoned and will be closed.” As such, the applicant was required to provide all the requested information by November 20, 2021.

Under Section 3.11.3 of the bylaw “upon written request by the applicant prior to the lapse of the application, the Board may extend the deadline for a period of six (6) months by passing a resolution to that affect”.

Following the Board’s decision to postpone the consideration of the file pending additional information, the applicant requested and was provided six-month extensions on three occasions (November 18, 2021, March 17, 2022, October 6, 2022) to allow for the completion and submission of the requested hydrogeological assessment.

Following the receipt of the hydrogeological assessment, and at its meeting of April 6, 2023, the Regional District Board gave 1<sup>st</sup> and 2<sup>nd</sup> readings to Amendment Bylaw Nos. 2905.01, 2023 and 2800.23, 2023, and directed that a public hearing be delegated to Director Pendergraft, and that staff schedule and notify of the public hearing.

The Regional District Board had also resolved that, prior to the scheduling of a public hearing, a statutory covenant be prepared for registration on the title of the subject property, prior to the adoption of Amendment Bylaw No. 2800.23, 2023, stipulating that no building permit will be issued until the 5.6 ha conservation lot has been donated to SILT for conservation purposes.

On June 20, 2023, a public hearing was held at 8505 68<sup>th</sup> Avenue, Osoyoos (the Sonora Community Centre), and was attended by the property owner and six (6) members of the public.

At its meeting of July 6, 2023, the Regional District Board gave 3<sup>rd</sup> reading to the amendment bylaws. As the proposed amendments involve lands within 800 metres of a controlled access highway (i.e., Highway 3), approval from the Ministry of Transportation and Infrastructure (MoTI) is required prior to adoption.

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In response to the referral of the bylaws to affected agencies, on October 25, 2019, MoTI provided Preliminary Approval of the rezoning for one year subject to the following condition:

*Applicant shall provide an engineered design to this Ministry clearly indicating how safe access into the property from Highway 3 will be achieved.*

Upon receipt of Amendment Bylaw No. 2800.23, 2023, Ministry staff advised Administration that the condition of Preliminary Approval had not been satisfied, and subsequently, the Ministry was not in a position to sign the final bylaw.

Given that approximately one year had passed since the Board's resolution to give 3<sup>rd</sup> reading to the amendment bylaws, and Ministry approval had not been obtained, Administration advised the applicant that, in accordance with Section 3.11.2 of the Regional District's Development Procedures Bylaw, the application would be deemed to be abandoned and would be closed. The applicant was also advised that, despite this, they may submit a written request to extend the deadline to obtain Ministry approval.

On July 9, 2024, the applicant requested a six-month extension (i.e. to satisfy MoTI's condition of Preliminary Approval and obtain the Ministry's subsequent approval of the amendment bylaw.

**Analysis:**

Administration recognizes that the applicant has made efforts to address information requests, and that the previously required statutory covenant has been prepared and signed by all required parties, with registration being contingent on the Ministry approving of the zoning amendment bylaw.

Despite this, it is noted that the subject application has been active for approximately five and a half years, with three extensions having previously been provided. At this time, it is uncertain what the Ministry's processing timeline will be, and whether the Ministry will accept the applicant's current plans or request amendments.

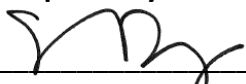
For this reason, Administration is recommending that the extension request be refused, and that 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> readings of Amendment Bylaw Nos. 2905.01, 2023, and 2800.23, 2023, be rescinded, and the application be closed.

Should the file be closed, the applicant may re-apply for the bylaw amendments upon obtaining the Ministry's approval for the provision of safe access to the site. In accordance with Section 3.12.1, re-application for a bylaw amendment that has been refused by the Board shall not be considered within a twelve month period immediately following the date of refusal; however, the applicant may submit a written request to the Board to waive this provision should the Ministry provide an approval within twelve months.

**Alternatives:**

1. THAT the applicant be provided an extension until January 25, 2025 to obtain required approvals from the Ministry of Transportation and Infrastructure.

**Respectfully submitted:**

  
Shannon Duong, Planner II

**Endorsed By:**

  
C. Garrish, Senior Manager of Planning

Attachments:

No. 1 – Context Maps

Attachment No. 1 – Context Maps

