

From: [McBurnie, Michael ALC:EX](#)
To: [Planning](#)
Subject: RE: Bylaw Referral - Greater West Bench Geotech Review (F2021.018-ZONE)
Date: January 14, 2022 1:27:33 PM
Attachments: [image001.png](#)
[image003.png](#)

Hi Lauri,

Thank you for referring this bylaw amendment to the ALC for review. I don't see any areas where this amendment overlaps with ALR land. The study area is adjacent to the ALR in a few areas. We typically recommend that local governments consider buffering between non-agricultural uses and ALR land when proposing any changes that may have an impact on adjacent agricultural land, but I don't believe that applies in this case. The measures proposed do not appear to contemplate any new uses that would affect adjacent ALR land.

If you have any further questions, please let me know.

Michael McBurnie (he/him)
Regional Planner, Northeast, Interior, and Okanagan Regions
Agricultural Land Commission
michael.mcburnie@gov.bc.ca | 236.468.3246



Feedback Form

Regional District of Okanagan Similkameen
101 Martin Street, Penticton, BC, V2A-5J9
Tel: 250-492-0237 / Email: planning@rdos.bc.ca

TO: Regional District of Okanagan Similkameen **FILE NO.:** F2021.018-ZONE

FROM: Name: John Chapman (please print)

Street Address: [REDACTED]

RE: West Bench Geotechnical Review Update
Electoral Area "F" Official Community Plan (OCP) Amendment Bylaw No. 2790.04
Electoral Area "F" Zoning Amendment Bylaw No. 2461.21

My comments / concerns are:

- I do support the proposed amendments to the Electoral Area "F" OCP and Zoning Bylaws.
- I do support the proposed amendments to the Electoral Area "F" OCP and Zoning Bylaws, subject to the comments listed below.
- I do not support the proposed amendments to the Electoral Area "F" OCP and Zoning Bylaws.

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To clarify, I support some of the proposed amendments, but I do not support all of them.

Specifically:

Area F OCP Amendment Bylaw No. 2790.04

- I support all proposed amendments except 17.4.1 Policy .3 which reads: (The Regional Board) "Supports restricting densities in the Greater West Bench Area due to geotechnical hazards by prohibiting accessory dwellings, secondary suites and establishing larger lot parcel sizes for the subdivision of land."

The West Bench/Sage Mesa area needs infrastructure improvements including sewer and better storm water management. I agree that densification should be limited without these infrastructure improvements, but feel specifying under what conditions densification will be permitted, will lead to these necessary improvements becoming a reality.

Protecting your personal information is an obligation the Regional District of Okanagan-Similkameen takes seriously. Our practices have been designed to ensure compliance with the privacy provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia) ("FIPPA"). Any personal or proprietary information you provide to us is collected, used and disclosed in accordance with FIPPA. Should you have any questions about the collection, use or disclosure of this information please contact: Manager of Legislative Services, RDOS, 101 Martin Street, Penticton, BC V2A 5J9, 250-492-0237.

This may be as simple as adding wording such as: ... “, unless such densification is serviced by sewer and stormwater management system.”. Such wording would also provide consistency with other sections of the current Area F OCP Bylaw.

Area F Zoning Amendment Bylaw No. 2461 .21

- I support proposed amendment 2. i) regarding prohibiting swimming pools, particularly in areas designated as High Hazard or lacking storm drainage infrastructure.

- I do not support proposed amendments 2. ii) and iii) regarding increasing minimum parcel size to 2.0 ha.

I question both the need for such increase, considering that MoTI is not approving subdivisions without the sewer and storm drainage management, and the deletion of the minimum parcel size subject to servicing (sewer/storm drainage).

Again, these infrastructure improvements are needed to address existing geotechnical concerns and, as in the current Area F OCP Bylaw, amendments and future Bylaws should reflect that.

Thank you for your consideration.



Feedback Form

Regional District of Okanagan Similkameen

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

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

TO: Regional District of Okanagan Similkameen

FILE NO.: F2021.018-ZONE

FROM: Name: M K Chapman

Street Address: [REDACTED]

RE: West Bench Geotechnical Review Update

Electoral Area "F" Official Community Plan (OCP) Amendment Bylaw No. 2790.04

Electoral Area "F" Zoning Amendment Bylaw No. 2461.21

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- Although the Geotechnical Report recommendations include limiting pools, which I support, the recommendations do not include increasing minimum lot size.
- We need sewer and other improvements and growth to make them affordable, so I cannot support Bylaw amendments that don't promote growth (with sewer)

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Feedback Form

Regional District of Okanagan Similkameen

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

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

TO: Regional District of Okanagan Similkameen

FILE NO.: F2021.018-ZONE

FROM: Name: Alex_Gardner _____
(please print)

Street Address: [REDACTED]
DR _____

RE: **West Bench Geotechnical Review Update**
Electoral Area "F" Official Community Plan (OCP) Amendment Bylaw No. 2790.04
Electoral Area "F" Zoning Amendment Bylaw No. 2461.21

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While I did find the report thorough and informative, I was less than impressed with what I felt a very arbitrary decision in the presentation of bylaws not allowing housing options for suites, carriage houses and accessory building dwellings. As there is a great need for accommodations in the greater Penticton area, I feel that making a blanket decision concerning allowing any rental properties lacks foresight. We are an empty nester household, our children have moved on and now the home that held 5 is just 2. Our septic system has been well maintained and we have never had any issues arise. If I was planning on applying for a TUP for short term rentals we would have the system certified. I am wondering why the same process could not be put in place for families who wish to rent a portion of their home or already completed outbuildings?

I believe it is time to draft new bylaws to allow suites which would allow for densification of our area in a measured approach. At present, renting out a suite or having in-laws is based on good will of neighbours not reporting infringements. By making the process legal in terms of following bylaws, then I think this would create more harmony within neighbourhoods.

We live in a great area, and it is changing with the times. I do despise the addition of the crazy size garages which have popped up and I certainly do not want to see mammoth sized suites or carriage houses being added. A measured approach regulated with bylaws would allow our area to keep the redeeming space and tranquility people so enjoy here and expand the availability of much needed housing.

Feedback Forms must be completed and returned to the Regional District prior to **January 14, 2022**.



Feedback Form

Regional District of Okanagan Similkameen

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

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

TO: Regional District of Okanagan Similkameen **FILE NO.:** F2021.018-ZONE

FROM: Name: _____ Heather Cooper _____
(please print)

Street Address: _____
[Redacted]

RE: West Bench Geotechnical Review Update
Electoral Area "F" Official Community Plan (OCP) Amendment Bylaw No. 2790.04
Electoral Area "F" Zoning Amendment Bylaw No. 2461.21

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I do not support the amendments to increase lot size as this is not part of the Geotechnical Report and is contradictory to provincial minimum lot size.

Sewer system and storm drainage should be installed in this area to ensure safety of both existing lots and future development.

Feedback Forms must be completed and returned to the Regional District prior to **January 14, 2022**.

From: [Niklaus Durisek](#)
To: [Riley Gettens](#); [Planning](#)
Cc: [Kate Durisek](#)
Subject: West Bench Geotechnical Review
Date: January 17, 2022 9:42:14 AM

To whom it may concern,

I am replying to proposed zoning changes for the West bench. After looking at the review, I had a few comments.

1. Looking at the 12 documented geohazards since 1992 (30 years), it seems like that is pretty minimal, and probably not too uncommon for the period of time for soil to shift. Of these events, most are events where animals or humans fell into a sinkhole most likely on the KVR trail that has been poorly maintained, if at all. A few of the others are due to broken irrigation pipes or water lines that sometimes go unnoticed for long periods of time, which makes sense that erosion would occur if left unattended. Some of the others are due to road construction in Sage Mesa. There are only 3 that involve properties with potential damage to the structures, with only one of these being a pool, with uneven ground underneath. This could most likely have been from poor planning from the contractor, not using enough crush to support the load of the pool.
2. Looking at the majority of the properties in the West Bench and Sage Mesa, very few are in the areas of highest concern. Most properties lie in the area of low land slide possibility as well as low to moderate chance for sinkholes. So to restrict all residence in the West Bench and Sage Mesa area does not make sense. Most of the areas of concern are along gullies, where most likely there is natural flow of run-off, which in turn overtime would have some type of erosion to occur.
3. The supposed count of 301 sinkholes from air, field work and anecdotal compared to the 97 confirmed with it being unclear why there is such a contrast, seems to be again trying to stretch the concern, especially since this over a 30 period with a majority of them being from the cliffs and or gullies in the area, which again is a very small area where there are few homes, properties or structures of concern.
4. Things that should be addressed is the volume of rock that is being pulled from the West Hills Aggregate, as well as the large dump trucks that are constantly driving up through the West Bench causing damage to the roads with the heavy loads and throwing rock and debris from the overfilled loads which can be seen all over the road on the path from West Hills Aggregate. In the 10 years that I have been a West Bench resident, I have noticed the increase of dump truck traffic as well as major decrease of rock and soil from the hillside that could also cause more land erosion issues. I feel that the Penticon Indian band should be more conscious of their potential of causing more damage to the area, and should be using their roads (WestHills Rd) to the industrial zone off of Green Mountain Road, instead of Bartlett and West Bench Hills Road.
5. The KVR trail which is used by not only West Bench and Sage Mesa residents but also other locals and visitors should be maintained better. Yes there are sinkholes, but to leave them unattended for years is not the answer. Who is responsible for taking care of the Trail? Is this PIB, RDOS, or does it fall under crown land? I feel that the buck to fix these issues is just pushed around with none of it ever being addressed. I have noticed that a few of the sinkholes are actually from improper drainage from the 3 bridges. During heavy rainfall, you can clearly see the drain pipes flowing directly onto the trail, which is causing it to erode. The drain pipes could easily be directly to gullies to help reduce the erosion along the trail ways.

6. I feel that denying any request for pool installation is unfair. We purchased our property in the West Bench due to the larger lot size which has the space for a pool. Not every resident in the West Bench wants to have a pool. How many residents are even considering putting in a pool? Maybe this question should be asked so that there is more clarity on the potential influx of water issues. My home is in an area of low landslide and moderate sinkhole development. I understand that some properties along the gullies or cliffs should not be allowed to have pools installed. I feel that it should be on a case by case basis, and if the property considering the development of pools or other structures could be required to have the land surveyed to see if there are any issues before developing. To say that no new pools or structures can be built in the entire West Bench and Sage Mesa area is unfair, and I appeal this consideration.

In closing, I feel that these restrictions should not be imposed without more research or more communication with the community on how we want to address these issues that have been slowly happening over the last 30 years.

Thank you for your time. I look forward to hearing your response.

Nik & Kate Durisek
204 Lower Moorpark Dr
Penticton BC V2A 8X4

RESPONSE SUMMARY

AMENDMENT BYLAW NOS. 2790.04 & 2461.21

Approval Recommended for Reasons Outlined Below

Interests Unaffected by Bylaw

Approval Recommended Subject to Conditions Below

Approval Not Recommended Due to Reasons Outlined Below

No comments.

Signature:  _____

Signed By: Tanya Osborne

Agency: Interior Health

Title: Community Health Facilitator

Date: Jan 10, 2022

From: [RONALD JOHNSON](#)
To: [Christopher Garrish](#)
Subject: RE: West Bench Geotechnical Review
Date: January 14, 2022 10:35:38 AM

Hi Chris, ... I would say that a 2 hectare subdivision limit is too much. The current 1 hectare has proven to be quite effective in shutting down subdivision. There is no need to increase this number. Please take my other remarks into consideration. Thanks, Ron Johnson.

Lauri Feindell

From: RONALD JOHNSON [REDACTED]
Sent: January 12, 2022 12:59 PM
To: Christopher Garrish
Cc: Riley Gettens
Subject: West Bench Geotechnical Review

Dear Director Gettens and all RDOS Directors and Staff,

Here I provide comments about the recent geotechnical review of the West Bench area.

Background:

The West Bench area contains hundreds of private properties with an estimated net worth of several hundred million dollars. A general report is needed to deal with geological hazards.

Site Specific Data:

As an owner of private property within the study area, I can clearly state that I had no idea that this engineering report was taking place and I have never given consent for any data being published about

my property to any person or company. Further, I question the accuracy of some of the site specific data. The report states that it is not meant to be site specific yet it published site specific data.

General Data:

As a member of the OCP committee I recall director Brydon saying that 51% of responding property owners were in favor of some sort of development presumably to have a few extra homes which would

support West Bench School. The report should address the wishes of the majority.

Liability of False Data and Legal Questions:

I advise the RDOS not to accept this report in its current form because it looks like the authors are asking for some sort of waiver over potential false data. As a taxpayer, I do not want the RDOS to

assume any liability over this report.

Recommendations:

1. Remove all site specific data unless written consent by individual private property owners is obtained.
2. Remove all site specific and general data from areas outside the study area.
3. Include all available data which supports geotechnical stability.
4. Allow individual private property owners to meet with the authors of the report to address their concerns.
5. Have the report peer reviewed.
6. Have the report spell out the criteria for development including carriage houses.
7. Send the report back for modification.

Sincerely, Ron Johnson [owner of 1400 Spartan Drive]

From: [Fox, Alison AFF:EX](#)
To: [Planning](#)
Cc: [Gyug, Phillip AFF:EX](#)
Subject: RE: Bylaw Referral - Greater West Bench Geotech Review (F2021.018-ZONE)
Date: January 14, 2022 2:17:42 PM
Attachments: [image001.png](#)
[image003.png](#)

Good afternoon,
Ministry staff consider the ministry's interests unaffected by the above noted OCP and Zoning Bylaw amendments. Please let me know if you have any questions, but otherwise we will not be providing a formal response to this referral.
Thank you for the opportunity to review the bylaw amendments.
Sincerely,

Alison Fox, P.Ag.
Land Use Agrologist
Strengthening Farming Program
BC Ministry of Agriculture Food and Fisheries
778 666-0566
Alison.Fox@gov.bc.ca

Ministry Mission: World leading stewardship of land, farm and food systems for the health and prosperity of British Columbians

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Feedback Form

Regional District of Okanagan Similkameen

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

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

TO: Regional District of Okanagan Similkameen **FILE NO.:** F2021.018-ZONE

FROM: Name: Curt Neumann
(please print)

Street Address: [REDACTED]

**RE: West Bench Geotechnical Review Update
Electoral Area "F" Official Community Plan (OCP) Amendment Bylaw No. 2790.04
Electoral Area "F" Zoning Amendment Bylaw No. 2461.21**

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RE: Bylaw 2461.21 - I feel there should be consideration for current landowners that are in areas rated as "low risk" (as per the 2021 geotechnical review). We purchased our property in 2017 and one of the reasons for purchasing the property was the ability to have a pool put in. We have had preliminary plans done and have now been on a wait list for over a year. We have invested time and money into this and I don't think it is fair to have a sweeping change to the bylaw that stops us from installing a pool. There is recent precedent on our street as (2) of our immediate neighbors have installed pools within the last year. They went through all the appropriate channels (permits, Geotech, etc) and to take that opportunity away from us now does not seem fair.

I do understand that for some areas it just may not be possible due to poor soil conditions. That being said, if we are in the "low risk" area and go through the motions of Geotech review and permitting, I don't see why a pool would be banned for us. If I Geotech review of our property deems our soil conditions safe and suitable, I feel that should be adequate.

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Perhaps if a "full ban" of all pools and water features on the West Bench is to be introduced, some consideration should be given to existing landowners vs future purchasers. Had we known this would be an issue, perhaps we may have not purchased this property.

Thank you for your consideration on this matter.

Sincerley

Curt Neumann

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Regional District of Okanagan Similkameen

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

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

TO: Regional District of Okanagan Similkameen

FILE NO.: F2021.018-ZONE

FROM: Name: Sarah Neumann

Street Address: [REDACTED]

RE: West Bench Geotechnical Review Update

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Electoral Area "F" Zoning Amendment Bylaw No. 2461.21

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Regarding Bylaw 2461.21 - I feel that there should be consideration for current landowners in areas rated as low risk (per 2021 geotechnical review) regarding prohibiting pools. We purchased our property in 2017 with the plans to put in a pool and have been on a waitlist for a pool installation for a year so far. We have had neighbours on our street install pools as recently as this past summer.

I believe pools properly installed with permits and geotechnical consultation, and proper drainage should be allowed in low risk areas. I disagree with having a sweeping bylaw that prohibits pools for all of the areas in the West Bench.

Thank you,

Sarah Neumann

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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:

Z2021.018-ZONE (West Bench Geotechnical Review)

FN Consultation ID:

L-211210-Z2021-018-ZONE

Consulting Org Contact:

Planning RDOS

Consulting Organization:

Regional District of Okanagan Similkameen

Date Received:

Monday, December 13, 2021

January 4, 2022

Attention: Christopher Garrish

File number: F2021.018-ZONE

RE: 40 (forty) day extension

Thank you for the above application that was received on 2021-12-13T00:00:00.

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.

liimlæmt,

Heather McDougall
Referrals Clerk
Natural Resources Department
Penticton Indian Band
P: 250-492-0411
Referrals.clerk@pib.ca



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
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Consulting Org Contact:

Planning RDOS

Consulting Organization:

Regional District of Okanagan Similkameen

Date Received:

Monday, December 13, 2021

File number:

F2021.018-ZONE

January 4, 2022

Attention: Christopher Garrish

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

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

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

1. Invoice Number: L-211210-Z2021-018-ZONE

Referrals Processing Fee

Sub Total \$ 500.00

Tax \$ 0.00

Total \$ \$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.

limlāmt,

Heather McDougall
Referrals Clerk
Natural Resources Department
Penticton Indian Band
W: 250-492-0411
Referrals.clerk@pib.ca
