

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: J. Zaffino, Chief Administrative Officer

DATE: March 7, 2024

RE: Environmentally Sensitive Development Permit (ESDP) Area Review (X2020.009-ZONE)

Administrative Recommendation:

THAT the Regional District of Okanagan-Similkameen Environmentally Sensitive Development Permit Area Update Official Community Plan Amendment Bylaw No. 2912, 2023, be read a third time

Proposed Development:

The proposed amendments to the Electoral Area "A", "C", "D", "E", "F", "H" & "I" Official Community Plan (OCP) Bylaws will update the policies and guidelines related to the Environmentally Sensitive Development Permit (ESDP) Area in order to remove land alteration and construction as development requiring a development permit.

The proposed amendments to the Development Procedures Bylaw No. 2500, 2011, will update the application requirements for ESDPs and support the proposed amendments to the OCP Bylaws.

Background:

At its meeting of December 7, 2023, the Regional District Board resolved to approve first and second reading of the amendment bylaws and scheduled a public hearing ahead of its meeting of December 21, 2023.

At its meeting of December 21, 2023, the Regional District Board resolved to defer consideration of Amendment Bylaw No. 2912, 2023.

Analysis:

Administration is aware that the South Okanagan-Similkameen is recognized as a region that combines a wide range of natural habitat areas with a large number of unique species, many of which are not found elsewhere in the province or in Canada. That the area is also home to the largest number of endangered and threatened species of plants and animals in BC and Canada.

Administration is further aware that the Board has adopted a vision for the Regional District "as a steward of our environment, sustaining a diverse and livable region that officers a high quality of life through good governance."

Administration is committed to helping the Board fulfill this vision for the Regional District and is supportive of this projects and initiatives that help in a meaningful way.

Importantly, and based upon the experience of the past 6 years, Administration is concerned that the development permit area designation has significant limitations, including:

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- the supremacy of the electoral area zoning bylaws (i.e. an ESDP designation cannot be used to prohibit a use or density allowed by zoning);
 - the uncertainty that exists around the authority of a local government to ticket for infractions against an ESDP;
 - the uncertainty around authority to require post-approval monitoring reports;
 - the limitations of relying on landscaping bonds to achieve compliance (i.e. seen to be the “cost of doing business”, expense of having a biologist confirm landscaping may exceed value of bond);
 - reliance on the Professional Reliance Model and lack of internal resources / expertise to undertake monitoring and compliance; and
 - absence of performance measuring criteria (i.e. it is presently unknown if ESDPs are meeting their objective of minimizing the impacts of development on the environment).

Administration is further concerned that the stated objective of the ESDP Area designation; “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”, is overly broad and provides inadequate guidance to QEPs regarding the Regional District’s goals for the ESDP Area designation.

For these reasons, Administrations supports the proposed amendments contained in Amendment Bylaw No. 2912 to re-focus the ESDP Area designation on the subdivision stage and that greater policy emphasis on environmental values be considered by the Board at the rezoning stage.

Alternatives:

Conversely, the option of maintaining the current ESDP Area designation unchanged remains available to the Board and can be achieved by rescinding 1st & 2nd reading of the amendment bylaws.

Alternatives:

1. THAT first and second reading of the Regional District of Okanagan-Similkameen Environmentally Sensitive Development Permit Area Update Official Community Plan Amendment Bylaw No. 2912, 2023, and Regional District of Okanagan-Similkameen Development Procedures Amendment Bylaw No. 2500.17, 2023, be rescinded and the bylaws abandoned.

Respectfully submitted:



C. Garrish, Senior Manager of Planning