



Agricultural Land Commission
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April 8, 2021

Reply to the attention of Sara Huber
ALC Issue: 52168
Local Government File: A2018.207-ZONE

JoAnn Peachey
Planner 1, RDOS
planning@rdos.bc.ca

**Re: Regional District of Okanagan Similkameen Electoral Area A Official
Community Plan and Zoning Amendment Bylaw Nos. 2450.14 and 2451.27**

Thank you for forwarding a draft copy of Regional District of Okanagan Similkameen (RDOS) Electoral Area A Official Community Plan (OCP) and Zoning Amendment Bylaw Nos. 2450.14 and 2451.27 (the "Bylaws") for review and comment by the Agricultural Land Commission (ALC). The following comments are provided to help ensure that the Bylaws are consistent with the purposes of the *ALC Act*, the Agricultural Land Reserve (ALR) General Regulation, the ALR Use Regulation, and any decisions of the ALC.

The Bylaws propose to amend the OCP land use designation from Large Holdings (LH) to Small Holdings (SH) and Conservation Area (CA) and the amend the zoning from Large Holding One Zone (LH1) to Small Holdings Three Zone (SH3) and Conservation Area (CA) on the property identified as 1750 Highway 3E; PID: 002-165-481 (the "Property") in order to facilitate a bareland strata subdivision of five residential lots and one conservation lot.

Proposal Map:



The ALC recognizes that the Property is not within the ALR and while separated by Highway 3, is adjacent to ALR lands. In particular, Strata Lot 1 and 2 are adjacent to the Highway. For this reason, ALC staff recommends considering the setback and buffer requirements outlined in the [Guide to Edge Planning](#), including up to a 30 m building setback from the ALR boundary, and an associated 7.5 m vegetated buffer to reduce the potential for urban/agricultural conflicts.

The ALC strives to provide a detailed response to all referrals affecting the ALR; however, you are advised that the lack of a specific response by the ALC to any draft provisions cannot in any way be construed as confirmation regarding the consistency of the submission with the ALCA, the Regulations, or any decisions 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 A2018.207-ZONE

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

52168m1



March 26, 2020

File: 0280-30

Local Government File: A2018.207-ZONE

JoAnn Peachy, Planner 1
Regional District Okanagan Similkameen
101 Martin Street
Penticton, B.C. V2A 5J9
Via E-mail: planning@rdos.bc.ca

Dear JoAnn Peachy:

Re: Rezoning Application for 1750 Highway 3 East (PID: 002-165-481)

Thank you for providing B.C. Ministry of Agriculture, Food and Fisheries staff the opportunity to comment on the above noted application to accommodate a five lot residential subdivision. We note that the property is located outside of the Agricultural Land Reserve (ALR), but is adjacent to the ALR, although separated by Highway 3.

Large rural residential lots adjacent to the ALR tend to be one of the least compatible land uses with agricultural production. In this case, the highway does provide some separation from intensive orchard or vineyard use that is adjacent. We recommend that edge planning consistent with the Ministry's Guide to Edge Planning be implemented. In particular we recommend a continuous 7.5 metre vegetative buffer be put in place along the road frontage for proposed Strata Lots 1 and 2.

If you have any questions, please contact us directly at the numbers and email addresses below.

Sincerely,

Alison Fox, P.Ag.
Land Use Agrologist
BC Ministry of Agriculture
Alison.Fox@gov.bc.ca
(778) 666-0566

Chris Zabek, P.Ag.
Regional Agrologist
B.C. Ministry of Agriculture – Kelowna
E-mail: Chris.Zabek@gov.bc.ca
Office: (250) 861-7680

Email copy: Sara Huber, Regional Planner, Agricultural Land Commission

RESPONSE SUMMARY

AMENDMENT BYLAW NOS. 2450.14 & 2451.27

- Approval Recommended for Reasons Outlined Below
- Interests Unaffected by Bylaw
- Approval Recommended Subject to Conditions Below
- Approval Not Recommended Due to Reasons Outlined Below

To explain our objection to the proposal, some background is needed.

The Osoyoos Irrigation District (OID) provides water for domestic (residential) and agricultural irrigation purposes on the east bench of Osoyoos. We currently service 154 residences, with more residences under construction. During the summer season, when agricultural irrigation for our over 200-hectare area is in operation, our water source is Lake Osoyoos, which is unsuitable for drinking despite the chlorination we use. In the winter period, when demand is lower, since no irrigation occurs, water from our well (which currently can be consumed without treatment) is used to serve the residences. However, this source is insufficient to meet residential demand, and during winter the well water often must be supplemented with water from the lake.

Due to this use of lake water during both seasons, which is unsuitable for drinking, the OID operates on a year-round boil-water advisory. Interior Health, and the legislation that governs our activities, requires us to move towards getting off the boil-water advisory. Our only effective solution for so doing is to drill another well, so that we have greater supply of drinking water and can therefore avoid using lake water during the winter months, and eventually to twin our distribution system to separate drinking water (from the wells) from water obtained from the lake that would continue to be used for agricultural purposes.

Any development activity that could potentially reduce the water available in our well that is used to serve residences in the winter, and potentially year-round in the future, can only serve to prevent the OID ever being able to successfully move away from our year-round boil-water advisory. The current land use designation of the property in question allows one single-detached dwelling, with a swimming pool, that would have to be supplied by water from a well that could potentially affect the operation of our well. Expanding this, as the application proposes, to 5 residential lots, each of which may, in the future, also include swimming pools, would likely necessitate the drilling on that land of 5 wells, or possibly a community well to service all 5 residential lots. Either way, this would involve a much greater use of well water than is likely at the site under its current status. To the extent that such wells utilize the same well-water source used by the OID, this could severely impact our ability to provide drinkable water to our residents.

To summarize, the OID is opposed to the application, and does not recommend approval due to the likely adverse effects on our drinking water of the additional water use, potentially from the same source as our well, that would be required on the subdivided land with the additional planned housing. Year-round boil-water advisories are a serious matter that have elicited national headlines for the seriousness of the situation they impose on residents. Our attempts to move off the year-round boil-water advisory under which we currently operate could be severely affected by the proposal.

Signature: David L Ryan

Signed By: David Ryan

Agency: Osoyoos Irrigation District

Title: Treasurer

Date: 16 March 2021



March 15, 2021

File: 2021004
Your File: A2018.207-ZONE

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

Attention: JoAnn Peachey

Re: Amend OCP and zoning designations to create 5 residential strata lots and 1 conservation area located at 1750 Highway 3 E, east of Osoyoos, B.C.

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 to amend OCP and zoning designations to facilitate a bareland strata subdivision of 5 residential lots and 1 conservation area lot at the subject property.

According to our records, the proposed development area contains the following sensitive values:

- Very high conservation ranking
- Potential Critical Habitat for:
 - Tiger Salamander
 - Lewis's Woodpecker
- Bank swallow nesting area

There are a few concerns with the environmental assessment prepared by Ecora, titled "Environmental Assessment for Proposed Strata Subdivision at 1750 Highway 3, Regional District of Okanagan-Similkameen" and dated November 20, 2020 ("the EA") that should be addressed before we are able to recommend the approval of proposed rezoning. This includes:

- In order to declare a stream absent or not applicable under the RAPR, strong evidence must be presented to show there is never flow that connects with a fish-bearing stream. In this case, such evidence does not appear to have been provided in the case of the mapped unnamed tributaries to Haynes Ck on the subject property.

- Additionally, the cleared and grubbed landing created mid-stream may be subject to flooding and/or require a culvert under Sec. 11 of the Water Sustainability Act
- While exact development footprint in each lot may be unknown at this time, a detailed investigation of sensitive species and habitat values in each proposed lot should be completed before effects of rezoning can be properly evaluated. Without identifying location of these values it is not possible to determine whether the number of lots proposed is appropriate for this location.
- Critical habitat has not been mapped on the subject property to show that areas proposed for development will minimize impacts to this habitat
 - This includes wildlife trees for Lewis' Woodpecker. These should be mapped to show that lots can be developed without impacting potential nesting or forage areas.
- It is unclear how destruction of swallow colony nesting area was able to proceed without a development permit but still under the supervision of a QEP

For these reasons we do not recommend supporting the rezoning application at this time, and recommend the QEP address the outstanding issues in the EA.

We appreciate the opportunity to contribute to this application as part of the Ministry's One Land Manager model. 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 250-490-8294 if you have further questions or require additional information.

Sincerely,



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

JL/jl

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> Interior Health Authority (IHA) | <input checked="" type="checkbox"/> Ministry of Transportation and Infrastructure | <input checked="" type="checkbox"/> Anarchist Mtn Fire Department |
| <input checked="" type="checkbox"/> Ministry of Environment & Climate Change Strategy | <input checked="" type="checkbox"/> School District #53 | <input checked="" type="checkbox"/> Fortis |
| <input checked="" type="checkbox"/> Town of Osoyoos | <input checked="" type="checkbox"/> Osoyoos Indian Band (OIB) | <input checked="" type="checkbox"/> Environment Canada |
| <input checked="" type="checkbox"/> Canadian Wildlife Service | | |

Concil considered this at the February 9th, 2021 Council meeting with the following staff recommendations see below:

Regional District of Okanagan Similkameen (RDOS) Bylaw Referral (A2018.207-Zone 1750 HWY 3 East)

Proposed 5 lot bare land strata subdivision (plus conservation area)

- Report from Director of Planning and Development Services

Moved by Councillor Rhodes

Seconded by Councillor Bennett

That Council direct staff to respond to the RDOS Bylaw Referral (A2018.207-Zone 1750 HWY 3 East) as follows:

APPROVAL NOT RECOMMENDED for the following reasons:

- The visual impact of the proposed road network and building sites is unclear from the information provided to date.
 - Proposal is not consistent with the policies of the Regional Growth Strategy.
 - Proposal is inconsistent with the minimum lot sizes as outlined in the current RDOS Area "A" OCP as well as the new (draft) OCP for Area "A".
- CARRIED

Gina MacKay, MCIP, RPP

Title: Director of Planning and Development

Agency: Town of Osoyoos

Date: February 16, 2021



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January 29, 2021

JoAnn Peachey
Planner I
Regional District of Okanagan-Similkameen
101 Martin Street, Penticton, BC V2A 5J9

Re: Comments regarding file A2018.207-ZONE

Dear JoAnn,

On behalf of the South Okanagan Similkameen Conservation Program (SOSCP), please consider this our formal referral comments for file A2018.207-ZONE.

*Keeping Nature in Our Future*¹, a Biodiversity Conservation Strategy undertaken by SOSCP and partners in 2012, identified an approach to conserving and protecting sensitive ecosystems in the Okanagan region including within the boundaries of the Regional District of Okanagan-Similkameen (RDOS). Highlighted in the strategy is a strong piece on maintaining habitat and wildlife corridor connectivity, high conservation value areas, and key zones of biodiversity.

The lands subject to the application noted above (1750 Highway 3) are noted within the Biodiversity Conservation Strategy for their Very High Conservation Ranking, Very High Relative Biodiversity, and High Habitat Connectivity. Less than two kilometres north of the subject lands is the Anarchist Protected Area, a 467 hectare refuge for sensitive ecosystems and species at risk. The subject lands tie into a large habitat corridor that runs east to Anarchist Mountain following Bourguiba Creek and then northeast to Baldy Mountain. Fragmenting habitat and disrupting corridors adversely impacts wildlife populations and degrades the overall functioning of these ecosystems. Continued development in this region will further disrupt these corridors and diminish their role in wildlife movement.

SOSCP recommends that the Regional District of Okanagan-Similkameen refuse the rezoning and Official Community Plan (OCP) amendment application for the following reasons:

- 1) Several goals and objectives in the South Okanagan Regional Growth Strategy² (RGS) support the refusal of this application including:
 - a) Goal 1 encourages development to focus in designated Primary Growth Areas and Rural Growth Areas. This goal aims to protect ecologically sensitive areas and promote compact urban development. This application does not fall into any of these designated areas and does not align with the objectives of this goal.

¹ <https://soscp.org/about-soscp/biodiversity/resources/>

² <https://www.rdos.bc.ca/assets/bylaws/planning/AreaX/2770.pdf>



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- b) Goal 2 is to protect the health and biodiversity of ecosystems in the South Okanagan. This goal further encourages developments to locate in Primary Growth Areas to protect ecologically sensitive sites and maintain wildlife corridor connections. This application significantly impacts an area of high environmental values, as highlighted in the Biodiversity Conservation Strategy.
- 2) The RDOS Official Community Plan for Area "A" Osoyoos Rural³ does not support the application based on several policies and objectives including:
 - a) 8.2.1 and 8.2.2 which encourages development to be directed to Growth Areas and to minimize impacts from residential development on the natural environment.
 - b) 13.3.1.1 which encourages the protection of lands designated as Environmentally Sensitive Development Permit Area (ESDPA), of which the entire subject property is currently designated. There is also an adjacent portion of land abutting the property that is designated as an Important Ecosystem Area.
 - c) 13.3.2.4 which states that parcels of land designated as ESDPA should remain as large as possible to protect habitat.
- 3) In reviewing the Rationale Document (RD) submitted by the applicant, the following issues are noted:
 - a) The RD states the north and south channels (ephemeral watercourses) should be Environmentally Sensitive Area 1 (ESA) yet the 2020 Environmental Assessment (EA) states there are no ESA 1 areas on the property. In the 2020 EA, the north channel is partially designated as ESA 2 while the south channel has no ESA designation. Pg. 21 of the 2020 EA makes a reference to ESA 1 but there is no mention anywhere else in the document as to any portion of the site being designated as such.
 - b) The RD and EA state that the riparian areas in the two ephemeral drainage channels do not require any Riparian Areas Protection Regulations (RAPR) approvals. Despite this, any changes or alterations to them likely require Water Sustainability Act (WSA) approval.
 - c) The RD and EA state the strata will own SL 6. If the application is approved and the subdivision proceeds, consideration should be given to a land dedication to the municipality as per OCP Parkland Dedication Policy 12.4 and 13.3.2.7.
 - d) The RD states that the property is not in a growth area yet the EA states that the proposed rezoning and subdivision is supported by the Regional Growth Strategy. These documents appear to conflict one another. The RGS checklist provided by the applicant notes several policy areas where the development is in conflict with or does not align with the intentions of the strategy, particularly policies 1C-3 and 1C-4. This is confirmed by staff in their November 21, 2019 Administrative Report to the Board of Directors.

³ <https://www.rdos.bc.ca/assets/bvlaws/planning/AreaA/2450A.pdf>



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- 4) Though densification and intensification are appropriate strategies to avoid urban sprawl, this generally applies to existing built areas i.e. infill development. The RDOS's OCP encourages these types of developments but only within the Primary Growth Areas and Rural Growth Areas. Though the applicant presents their subdivision as an improvement to the current on-site low-density development, this type of intensification generally leads to further intensification and development in the surrounding area. Once approvals of strata subdivisions occur in low-density residential development zones, it increases the likelihood that the approving authority will continue to support these applications. Continued approval of similar applications contributes to the cumulative effects of continued higher density development in areas not suitable or appropriate to intensification, leading to the gradual deterioration of ecosystems through the loss of habitat and disruption of connectivity.
- 5) The surrounding lots continue to be predominantly large holdings residential properties, many of them larger parcels. A higher density residential strata subdivision is not suitable or compatible with the surrounding developments. Neighbourhood and residential character is an important component of livability and identity for residents and cumulative non-compatible development in the area degrades this.
- 6) The entirety of the property is designated as an Environmentally Sensitive Development Permit Area and abuts an Important Ecosystem Area. This means that if the zoning is approved, the municipality is endorsing the partial destruction of the ESDPA. Though the municipality is not obligated to approve the subdivision once applied for, there is a tacit understanding that a zoning approval is a de facto approval of any subsequent subdivision and/or development application (since without the zoning, the subdivision cannot be considered). Permitted uses receive approval subject to the appropriate bylaws but a landowner can by right undertake a permitted use on their property. Considering the limited development potential on the site, and the high ecological values present, there is minimal justification for the proposed application. A subdivision on this property would cause ESDPA destruction, impede a wildlife corridor and habitat connectivity, may potentially cause issues with slope stability, and is overall not a suitable use for this site.

In addition to the policy considerations described above, SOSCP has several recommendations, comments and concerns with the 2020 Environmental Assessment. If the current application is approved, the 2020 EA should be amended to address these issues prior to issuance of an Environmentally Sensitive Development Permit (ESDP) for subdivision:

- 1) Though the RDOS Development Procedures Bylaw⁴ prescribes how ESAs are determined, it would be beneficial to have an explanation of how these areas were mapped, what attributes were assessed, and why they differ from the previous mapped

⁴ <https://www.rdos.bc.ca/assets/bylaws/planning/AreaX/2500.pdf>



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ESAs submitted for the 2014 ESDP and those shown in Appendix A. Confirmation of whether this mapping was done remotely and/or on site should be stated as well.

- 2) The project area is within Mule Deer winter range and the range for Bighorn Sheep as identified by the provincial government. Though regulations for Mule Deer winter range apply only to Crown Land, consideration should be given to how the proposed subdivision will impact wildlife corridors and movement for these species.
- 3) Environmentally valuable resources have not been clearly identified or mapped on the property, only generally referred to within the body of the EA. This includes the mapping of Critical Habitat attributes, wildlife trees, rare plant surveys and formal wildlife surveys. Detailed concerns about this are noted below.
- 4) There have been numerous discussions with Environment and Climate Change Canada (ECCC) on the Bank Swallow colony formed on the exposed cliff face formed due to road construction. The EA states that the QEP, applicant, and construction firm would consult with the Canadian Wildlife Service (CWS) and ECCC on suitable replacement habitat since the current colony impedes road construction. SOSCP followed up with ECCC and CWS. They strongly discourage the destruction and replacement of habitat but stated that if the applicant does so, they must adhere to all applicable regulations including the Species at Risk Act (SARA) and the Migratory Birds Act (MBA). As of a site inspection from the Highway 3 shoulder on January 23rd (photos can be provided), the colony has been destroyed. ECCC did not mention that any discussions had taken place yet with the applicant regarding habitat replacement. There is significant concern as to whether this colony destruction abided by the legal requirements of SARA and the MBA.
- 5) The EA was reviewed against the RDOS Development Procedures Bylaw and the following sections appear to be missing or incomplete:
 - a) 1.c.3.b.i) - location of plant species is not shown on the site maps and plant communities are only generally identified according to Sensitive Ecosystems Inventory (SEI) and Terrestrial Ecosystem Mapping (TEM).
 - b) 1.c.3.b.iii) - a list of found species is not provided except for those from a Conservation Data Centre (CDC) Query and none are shown on the site maps
 - c) 1.c.3.b.iv) - area of expected/potential terrestrial/aquatic wildlife use are not shown on the site maps and are only generally described in the EA with no delineation of wildlife corridors or areas of use
 - d) 1.c.3.b.v) - observations and/or recorded locations of federally listed, provincially ranked, or regionally significant plant communities and species or their habitats are not shown on site maps and no formal wildlife or vegetation surveys were undertaken



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- e) 1.c.3.b.vii) - other existing environmentally valuable resources, including wildlife connectivity corridors, wildlife trees, and hibernacula are not show on site maps and do not appear to have been mapped or inventoried
 - f) 1.c.3.b.viii) - landforms, site stability, geological and topographical features are not shown on site maps and geological and topographical features are only briefly discussed in the EA
 - g) 1.c.3.b.ix) - adjacent lands and uses are not shown on site maps and are only briefly discussed in the EA
 - h) 1.c.3.b.x) - cross sections for sites with slopes greater than 20% are not shown on site maps
 - i) 1.c.3.c - though endangered species records are attached as a CDC Query, this subsection states that if rare and endangered species potentially utilize the site, a species specific inventory must be conducted in the appropriate seasons
 - j) 1.c.3.f - the identification of environmentally valuable resources occurring within the study area is required to determine ESA boundaries. It is unclear from the EA what process, procedures and methodology was utilized to map these areas. As per the requirements of this subsection, there are many considerations that go into determining each ESA category. These are missing from the EA other than noting what the Development Procedures Bylaw states. What site features and attributes were included in the mapping the ESAs? Do they include Critical Habitat attributes, wildlife trees, known occurrences or incidental observations of wildlife or rare plants, snake or bat hibernacula, sensitive ecosystems, etc.? Further details need to be provided on how the ESA were determined and what they include. Each ESA should have a dedicated section within the EA explaining each component required under Subsection 1.c.3.f which then provides the rationale for their classification between ESA 1 thru 4.
 - k) 1.c.4 - the entirety of this section on Impact Assessment & Mitigation was completed. The concern is that the recommendations are very general in nature and not specific to the proposed development on each lot. While understandable, as this is often undertaken at the time of site development, there should be more detailed requirements and recommendations based on the location of ESA 2 area on each lot, the location of each dwelling (which the EA states is generally known), and that many environmentally valuable resources should be known but have not been assessed and detailed in the EA. With this existing and additional information, recommendations for the entire development and each lot should be provided.
- 6) Despite the existence of a valid ESDP for the proposed single residence, best practices would suggest that work should be paused until a determination has been made on this application and the ESDP for the proposed subdivision. This is because changes to lot layout, road construction, mitigation measures, and environmental considerations may all significantly change the course and outcome of the current road and dwelling



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construction. It is advisable that the applicant cease construction until such time as a decision has been issued on their current application to avoid potential lost time and increased costs if requirements for the development change.

- 7) As noted above, the QEP recommends that site specific recommendations for development be undertaken at the time of an ESDP for each future residence. Typically this would be the approach undertaken for a subdivision development. There are significant concerns with this approach based on proposed bylaw amendments to all OCPs which will remove ESDP requirements at the time of development. If this bylaw is approved, there will be no protections or provisions in place for requiring site specific EAs to be undertaken at the time of development. Therefore there is a strong recommendation that this current EA be as comprehensive as possible, including site specific recommendations for each lot, in case the proposed OCP amendments pass before development proceeds in this subdivision.
- 8) The QEP appears to have made all efforts to design the lot layouts such that the impacts to ESA 2 areas is reduced and the majority of ESA 2 is captured within SL 6 which will be zoned Conservation Area. SL 3 and 4 contain several smaller portions of ESA 2 and consideration should be given to adjusting lot boundaries to avoid impacts to these ESA areas by either consolidating the lots or removing them from the plan.
- 9) Section 3.1.1 notes the mapped TEM and SEI ecological communities on the property. A description of each of these communities should be provided in the EA.
- 10) Section 3.2.1 states that there are no defined antelope-brush steppe ecosystems on the property as the antelope-brush present is sporadic and relatively sparse in abundance. In light of the rarity of antelope-brush ecosystems, all efforts should be made to avoid this species on the property. The seral stage of this ecosystem is not described and continued existence on the property may increase establishment and gradual succession to an identifiable antelope-brush steppe ecosystem if left undisturbed.
- 11) Some of the mapping deficiencies are noted above as not meeting the requirements of the RDOS Development Procedures Bylaw. It should be emphasized again that Critical Habitat (CH) attributes needs to be delineated and defined on site. This should be done at the time of subdivision since lot layout may be impacted based on the location of CH. If a particular lot contains an abundance of CH and the layout is already approved, it will be difficult to mitigate or establish a low impact developable area. If done at the time of subdivision, the lots can either be consolidated or dedicated as part of SL 6. All of the features described within section 3.3 should be mapped and inventoried as well. Impacts to CH and these features need to be discussed and steps to mitigate those impacts should be detailed in the EA.



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- 12) The QEP confirms that two out of the three watercourses on site do not fall within the definition of a stream and therefore are not subject to a RAPR assessment. Was a RAPR assessment submitted to the provincial government for Bourguiba Creek?
- 13) Section 3.4 notes that there are not expected to be fish present in any of the streams due to their ephemeral nature. Confirmation of this should be undertaken when a species site inventory is completed.
- 14) Section 4.1 notes that the areas planned for future houses within each of the proposed lots appear to be suitable. These development pockets should be shown on one of the figures within the EA and associated site prep (contingent on the geotechnical report) should be discussed in the mitigation section.
- 15) Section 5 discusses Mitigation and Recommendations. There should be consideration given to compensation and conservation offsets based on the level of development impact. In addition, species specific mitigation strategies should be provided.
- 16) Section 5.2 discusses Reduced Risk Timing Windows. In addition to federal government guidelines, the QEP should also adhere to recommended provincial timing window guidelines.⁵
- 17) Section 5.2.2 Aquatic Resources appears to conflict with earlier statements in the EA which noted that Bourguiba Creek would not be impacted by the development.
- 18) Section 5.2.3 does not mention potential impacts of grading or soil disturbance to reptiles and amphibians that may be present on the property, including several snake species and particularly spadefoots.
- 19) Section 5.3. states that storage areas, including the stockpiling of materials, must be situated at least 30 metres away from watercourses and drainage features. Based on aerial photos of the site and Figure 6.0, there appears to be an existing stockpile site directly situated within the ephemeral draw that bisects the middle of the property. This should be rectified as soon as possible as it appears to be a contravention of the Water Sustainability Act.
- 20) Specific comments for each map figure:
 - a) Figure 2.0 is missing a descriptor for BGxh1 and RZ is described in the body of the EA as road but Urban on this figure. It is unclear as to what the non-coloured

5

<https://www2.gov.bc.ca/gov/content/environment/air-land-water/water/water-licensing-rights/working-around-water/regional-terms-conditions-timing-windows/okanagan-timing-windows>



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area of this figure represents. Is it deemed Not Sensitive? This non-coloured area is listed as RZ (road) as per TEM yet the road only occupies a small portion of this polygon.

- b) Figure 3.0 is very difficult to read. Separating it out into separate figures would allow for it to be more easily understood.
- c) The subdivision lot layout shown in several figures as overlaid on the aerial imagery should be adjusted such that the access road for SL 1, 2, and 3 is aligned with the existing disturbed road area leading to the stockpile site.
- d) The blue colours in Figure 6.0 make it difficult to distinguish between Stormwater and Proposed Nest Relocation. The Proposed Nest Relocation is not described or referenced anywhere else in the EA, which is a concern. There is mention of colony re-establishment but not relocation. The Riparian Assessment Area referenced in the legend is not shown anywhere in the figure.
- e) Appendix A shows the slope cut for the approach and driveway as encroaching on the adjacent property. Has this been discussed with and approved by the adjacent landowner? This appendix also references an EOA in the legend. Can this acronym be defined?

21) A Development Permit Variance was submitted on December 22, 2020 to the RDOS for a height variance to a proposed retaining wall. This request was done due to concerns about impacting a Telus right-of-way and the Bank Swallow colony. Since the Bank Swallow colony has now been destroyed, it is unclear if this variance is still justified. This would need to be assessed against the geotechnical report and in consultation with ECCC and the CWS.

Based on the information above, and the application details provided by the Regional District of Okanagan-Similkameen, SOSCP recommends that file A2018.207-ZONE be refused. With many provincially and federally listed species at risk potentially present on the property or occupying habitat within this area, maintaining the intactness of this sensitive ecosystem should be a top priority for the RDOS. This recommendation is supported by the RDOS's policies and bylaws noted above.

If you have any questions regarding this recommendation, do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Misener".

Benjamin Misener, CPT, RTAg
On behalf of the South Okanagan Similkameen Conservation Program



Canadian Wildlife Service
5421 Robertson Road, RR 1
Delta, BC V4K 3N2

June 12, 2020

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

Re: Amendment of the Electoral Area "A" OCP Bylaw No. 2450, 2008, & Zoning Bylaw No. 2451, 2008

Dear Mr. Garrish,

Environment and Climate Change Canada's Canadian Wildlife Service recently received a report of an active Bank Swallow colony at 1750 Highway 3, which is the site of Amendment of the Electoral Area "A" OCP Bylaw No. 2450, 2008, & Zoning Bylaw No. 2451, 2008. We wanted to take this opportunity to remind the Regional District of Okanagan-Similkameen of their obligations under the *Migratory Birds Convention Act* and the *Species At Risk Act*. Based on our review of the available information on the proposed amendment of Electoral Area "A" OCP Bylaw No. 2450, 2008, & Zoning Bylaw No. 2451, 2008, we are concerned that development could result in the damage, disturbance and/or permanent removal of nests/residences for Bank Swallows (*Riparia riparia*).

You may not know that the destruction and disturbance of Bank Swallows, their nests and their eggs is prohibited under two pieces of federal legislation, and under the provincial *Wildlife Act* if the nest is active.

The Bank Swallow is afforded protection as a migratory bird under the *Migratory Birds Convention Act* (MBCA) and is also listed as Threatened under Schedule 1 of the *Species at Risk Act* (SARA).

The MBCA and corresponding Regulations (section 6) prohibit the damage, destruction or disturbance of migratory bird nests and eggs, and applies to all lands and waters in Canada (http://laws.justice.gc.ca/eng/regulations/C.R.C.,_c._1035/FullText.html#h-4). For species like Bank Swallows, prohibitions on destruction and disturbance of nests applies during the breeding season, so an individual would be in violation of the Regulations if he or she damages, destroys or disturbs a nest during this period. Generally speaking, active nesting occurs in your region between late March and mid-August. Here is a link to the [General Nesting Periods of Migratory Birds in Canada](#).

Similarly, SARA (section 33 & 36) prohibits the damage or destruction of residences (e.g., nest) of species listed as Endangered or Threatened (<http://laws-lois.justice.gc.ca/eng/acts/s-15.3/page-4.html#h-14>). For migratory bird species at risk, these prohibitions apply to all nests, regardless of land ownership. Under SARA, Bank Swallows have a residence description, which outlines that the nest is considered a residence when the burrow is occupied (<https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry/residence-descriptions/bank-swallow.html>). The federal recovery strategy for Bank Swallow is currently in development, which will include the identification of critical habitat across its range in Canada, and we would recommend that the Regional District monitor the Species at Risk Public Registry if the project goes ahead to maintain awareness of new responsibilities and obligations that may arise if critical habitat is identified in the area.



Any activity that impairs the function of the nest would constitute damage or destruction of the residence under SARA. This would include, but is not limited to, any activity that:

- disturbs the adult pair that are excavating the nest, incubating eggs or bringing food to the nestlings such that one or both members of the adult pair are disturbed to the point where the nest may be abandoned, or, if present, the eggs or young perish inside the nest for lack of parental care, and
- blocks access to the nest by the birds.

Section 34 of B.C.'s Wildlife Act

(http://www.bclaws.ca/civix/document/id/complete/statreg/96488_01#section34) specifically protects birds and their eggs from possession, molestation or destruction; the nests of eagles, peregrine falcons, gyrfalcons, ospreys, herons, and burrowing owls year-round; and the nests of all other birds when the birds or their eggs are in the nest.

One way to prevent harm to migratory birds, their nests and eggs is to develop and implement appropriate prevention measures to minimize the risk and to help maintain populations for migratory bird species. It is your responsibility to plan your activities well ahead of the breeding season to avoid harming migratory birds upon their return. For more information, please consult our website (www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reducing-risk.html).

The federal recovery strategy for Bank Swallow is currently in development, which will include the identification of critical habitat across its range in Canada. Therefore, we would recommend that the Regional District monitor the Species at Risk Public Registry if the project goes ahead, to maintain awareness of new responsibilities and obligations that may arise if critical habitat is identified in the area.

Bank Swallows show high fidelity to nest sites, often returning yearly to reuse the same site for breeding and foraging. Bank Swallows are declining across Canada and in British Columbia (~3.3%/year), and are one of the few aerial insectivores (species that eat flying insects) that are likely limited by availability of nesting sites (https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry/cosewic-assessments-status-reports/bank-swallow.html#_03_1). In addition to ensuring the Bank Swallow colony is not disturbed during the breeding season, we are recommending the Regional District of Okanagan-Similkameen maintain the existing bank year-round, such that the persistence of the colony of Bank Swallows at the site can be maintained over the long-term, if zoning changes go ahead. Availability of sites such as this for nesting colonies are essential to maintain populations and potentially reverse these declines. By taking part in the protection of Bank Swallows and their residences, the Regional District of Okanagan-Similkameen can be part of tangible and measureable conservation benefits for species at risk and migratory birds.

Sincerely,

Lake,
Randal

Digitally signed
by Lake, Randal
Date: 2020.06.12
11:39:07 -07'00'

Randal Lake
Head, Regulatory Affairs
Canadian Wildlife Service, Pacific Region
RR1, 5421 Robertson Road
Delta, BC V4K 3N2

RESPONSE SUMMARY

AMENDMENT BYLAW NOS. 2450.14 & 2451.27

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: P. S. Abrahamian

Signed By: SURRA PALIAPPA

Agency: SD 53

Title: SECRETARY TREASURER

Date: 15 / 1 / 20



Interior Health
Every person matters

October 18, 2019

JoAnn Peachey
Regional District of Okanagan-Similkameen
101 Martin St
Penticton, BC V2A 5J9
<mailto:planning@rdos.bc.ca>

Dear JoAnn Peachey:

RE: File #: A2018.207-ZONE
Our interests are unaffected

The IH Healthy Built Environment (HBE) Team has received the above captioned referral from your agency. Typically we provide comments regarding potential health impacts of a proposal. More information about our program can be found at [Healthy Built Environment](#).

An initial review has been completed and no health impacts associated with this proposal have been identified. As such, our interests are unaffected by this proposal.

However, should you have further concerns, please return the referral to hbe@interiorhealth.ca with a note explaining your new request, or you are welcome to contact me directly at 1-855-744-6328 then choose HBE option.

Sincerely,

Mike Adams, CPHI(C)
Team Leader, Healthy Communities
Interior Health Authority



RESPONSE SUMMARY

AMENDMENT BYLAW NOS. 2450.14 & 2451.27

- 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: _____

P.S. Subramanian

Agency: _____

SD 53

Date: _____

16 October 2019

Signed By: _____

SUBRA PALIAPPA

Title: _____

SECRETARY TREASURER

Lauri Feindell

From: Danielson, Steven <Steven.Danielson@fortisbc.com>
Sent: November 6, 2019 12:25 PM
To: Planning
Subject: Highway 3 East, 1750 (A2018.207-ZONE)

With respect to the above noted file,

There are FortisBC Inc (Electric) ("FBC(E)") primary distribution facilities along Highway 3 East. **Bringing electrical service to the proposed lots will require significant extension work the cost of which may be substantial. To date, arrangements have not been completed to meet the requirements to service the proposed subdivision.** The applicant is responsible for costs associated with changes to the proposed lots' existing service, if any, as well as the provision of appropriate land rights where required.

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

FortisBC Overhead Design Requirements

<http://fortisbc.com/ServiceMeterGuide>

FortisBC Underground Design Specification

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

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

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

Otherwise, FBC(E) has no concerns with this circulation.

It should be noted that additional land rights issues may arise from the design process but can be dealt with at that time, prior to construction.

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

Best Regards,

Steve Danielson, AACI, SR/WA

Contract Land Agent | Property Services | FortisBC Inc.

2850 Benvoulin Rd

Kelowna, BC V1W 2E3

Mobile: 250.681.3365

Fax: 1.866.636.6171

FBCLands@fortisbc.com



Johnson/Senar



RESPONSE SUMMARY

AMENDMENT BYLAW NOS. 2450.14 & 2451.27

- Approval Recommended for Reasons Outlined Below
- Interests Unaffected by Bylaw
- Approval Recommended Subject to Conditions Below
- Approval Not Recommended Due to Reasons Outlined Below

Thank you for the opportunity to provide a health perspective to this referral..

Interior Healthy Communities recommends that these bylaws remain as existing, since this change in land use is not in keeping with the Regional Growth Strategy.

Housing that is good quality, accessible, appropriate and affordable can support the health and well-being of individuals and communities, contributing to an increased sense of safety, decreased crime, greater social connection and improved quality of life. Interior Health recognizes the work that the Regional District of Okanagan Similkameen is doing to balance housing opportunities in the region while maintaining high quality and safe housing for everyone.

Safe and connected active transportation routes support physical and mental health and allow people to be active on a daily basis.

Active transportation infrastructure yields many additional community benefits including efficient transportation improved air quality

(due to less vehicle travel), reduced GHG emissions and improved vibrancy and livability.

Interior Health aims to improve health and wellness by working with regional governments and community partners to create policies and environments that support good health.

This residential development would promote the use of single use vehicles due to the distance and safety to access daily amenities.

Thank you for providing us with the opportunity to review and comment.

Signature: Clare Audet

Signed By: Clare Audet

Agency: Interior Health - Healthy Communities

Title: Environmental Health Officer

Date: February 9, 2021



Your File #: A2018.207-ZONE
(Johnsen)

eDAS File #: 2019-06041

Date: October 25, 2019

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

Attention: Lauri Feindell, Planning Secretary

**Re: Proposed Zoning Amendment Bylaw 2451.27 for:
Lot 15, District Lot 2709, SDYD, Plan 21789, except Plan KAP90322
1750 Highway 3, Osoyoos, BC**

Preliminary Approval is granted for the rezoning for one year pursuant to section 52(3)(a) of the *Transportation Act*, subject to the following condition(s):

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

The lane configuration on Highway 3 adjacent to this property is such that any southbound left turn movement into the proposed strata would be very unsafe and not supported by the Ministry of Transportation & Infrastructure.

Once the Ministry has reviewed and subsequently accepts an engineered solution to the left turn movement off Highway 3, we will be prepared to approve the zoning amendment bylaw after 3rd reading.

If you have any questions please feel free to call Rob Bitte at (250) 490-2280.

Yours truly,

Rob Bitte
Development Officer

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

Lauri Feindell

From: Gillis, Joel FLNR:EX <Joel.Gillis@gov.bc.ca>
Sent: May 18, 2020 8:49 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: Active Bank swallow colony under threat of development in osoyoos.

Hi Melissa - I'll add Chloe Boynton from EC to this thread. This is her jurisdiction. I will contact biologists in the Okanagan tomorrow.

Thanks for the concern.

Regards,

Joel

Sent from the forest

> On May 18, 2020, at 15:22, Melissa H [REDACTED]
>
> Hi I was just here on HWY 3
> on May 18,2020 and see a notice of development sign and there is an
> active bank swallow colony here https://urldefense.proofpoint.com/v2/url?u=https-3A__goo.gl_maps_d1CiGNHxLMRuz9oR9&d=DwIGaQ&c=euGZstcaTDIIVimEN8b7jXrwqOf-v5A_CdpnVfiiMM&r=HVgumXI9fhabHa6vLxv0NXfGwA9uxtbxgaEdAm282s&m=OZ5lc-Ec8T83GzB3rDXgE49z8F6pRLAJSoDRxiCaePo&s=tPZsJbxZby1rLXoQv30pcTAjskPwDu3YhDrSNbogaqg&e= of at least 200 Bank Swallows. One of the larger colonies I know of so want to make sure it's protected at they aren't disturbed at minimum at least until all young have fledged.
>
> These birds are protected under SARA (species at risk act) as they are federally listed. Their nests and birds are also protected under bc wildlife act. They are also protected under the migratory birds act.
>
> I have several photos of the colony and of the notice of development and a video I will send.
>
> I've cc'd Dick Cannings who is on COSEWIC and lives nearby. Also Myles Lamont and Joel Gillis and Trevor Castagner from federal wildlife enforcement.
>
> Thank you
> Melissa Hafting
[REDACTED]
>
> <https://urldefense.proofpoint.com/v2/url?u=http-3A__image1.JPG&d=DwIGaQ&c=euGZstcaTDIIVimEN8b7jXrwqOf-v5A_CdpnVfiiMM&r=HVgumXI9fhabHa6vLxv0NXfGwA9uxtbxgaEdAm282s&m=OZ5lc-Ec8T83GzB3rDXgE49z8F6pRLAJSoDRxiCaePo&s=lgCcYXHb_ElC6RGjPVPgddUxwVul9jSzPxL4TzJ6lLU&e=>
>
> <https://urldefense.proofpoint.com/v2/url?u=http-3A__image1.JPG&d=DwIGaQ&c=euGZstcaTDIIVimEN8b7jXrwqOf-v5A_CdpnVfiiMM&r=HVgumXI9fhabHa6vLxv0NXfGwA9uxtbxgaEdAm282s&m=OZ5lc-Ec8T83GzB3rDXgE49z8F6pRLAJSoDRxiCaePo>



JoAnn Peachey

From: Cheryl Bird [REDACTED]
Sent: April 30, 2021 1:10 PM
To: JoAnn Peachey
Subject: Re: Rezoning application info - 1750 Highway 3

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Jo Anne,

I wish to address the Board regarding : 1750 Hwy 3 rezoning application

My list of concerns are as follows:

Since I am the direct neighbouring large holding acreage I am extremely concerned about this intended proposed development.

I purchased my large holding acreage because I was told it had to stay that way and that there would not be any future developments nor permission to subdivide.

This would protect my property investment and also that of other neighbouring parcels. It would allow privacy and peacefulness and ensure the natural beauty of the beautiful Osoyoos topography would remain unharmed from developmental scarring. This environmentally sensitive mountain side is a well known and cherished view for all of us who enjoy the surrounding scenery of the Town of Osoyoos.

I bought my large acreage because I enjoy the quiet of the country and all the wildlife that I share with nature and the appreciation of a delicate treasured ecosystem.

My major and foremost concern is the draw of my natural water reserves could definitely be depleted. If all of these lots are permitted to build I could find that there is no water left for me when I go to build because of additional residences consuming the hillside. We are all aware of the low water supply and concerns of water depletion of Anarchist Mtn ever since day one when all the residential subdivision building lots were created higher up the mtn. I have been paying for my Water Rights ever since I purchased my property and I intend to be able to use my adequate supply of it for myself and future dwelling.

Will the owner/developer be prepared to bring in large water reservoir tanks to supply all these residents with adequate water?

Or one large cistern that they ALL draw water from? Or is there going to be 5 or 6 separate Wells drilled for each and every property?

These are very very important questions to consider. Some properties further up Anarchist have had to rely on reservoirs for lack of water.

I also have a concern with drilling and rock blasting and the damage it can do to existing water wells in the immediate area and the disturbance of underground streams or water veins that could become blocked or disrupted by the drilling and blasting which could cause detrimental repercussions and terminate natural water supply.

In most cases, people purchase acreages to enjoy it for their own privacy and the appreciation of nature and the beauty and tranquility it has to offer and get away from cramped city residential lots. The building and construction of all these additional properties over the years could mean considerable on going noise and disturbances to the peaceful hillside and cause irreversible damage to the landscape and ecosystem.

One would not generally think of doing something so radical as to purchase large beautiful serene view acreage only to subdivide and turn it into a small strata subdivision.

However, here we are!

I am aware that the configuration of the residential parcels within the Small Holdings area may change and that is also a concern for my privacy. If the maps portray the proposed plan why should it deviate from that plan? Small Holding

acreages are definitely not compatible with the landscape of the existing LH acreages. It will look out of place. I am definitely not in favour of a multi housing subdivision going up beside me and I very strongly disagree with the proposed rezoning application.

I believe it would be a shame to carve up and deface the post card setting of the Osoyoos hillside that the town of Osoyoos and residents and tourists have enjoyed the beauty of for decades.

My conclusion with this rezoning application

Is hopefully to be in everyone's best interest and I think that this environmentally sensitive area should be deemed 'not for profit' and remain unscathed.

Thank you JoAnn and the Board for allowing me to express my feelings and concerns regarding this rezoning application.

Kind Regards
Cheryl Bird

Sent from my iPhone

On Mar 8, 2021, at 2:22 PM, JoAnn Peachey <jpeachey@rdos.bc.ca> wrote:

Hi Cheryl,

Thanks for chatting with me today about the OCP amendment/rezoning application for 1750 Highway 3.

More information about the application can be found on our webpage for the application here:

<https://www.rdos.bc.ca/development-services/planning/current-applications-decisions/electoral-area-a/a2018207-zone/>

As discussed, this application is seeking a split designation/zoning on the property with:
Conservation Area / Conservation Area for a 5.6 hectare (13.83 acre) portion of the land
Small Holdings / Small Holdings Three (SH3) for a 6.93 hectare (17.12 acre) portion of the land.

Their plans are to subdivide the Small Holdings portion to create 5 residential lots. The Conservation Area would be its own conservation lot. The site plan shows each residential lot approximately 1 hectare in size each (2.47 acres).

I've made some notes on the attached site plans by highlighting the residential lots and by marking your property.

Please note that this site plan is a draft site plan. The area in the bylaw for the conservation area (CA) will remain undeveloped (shown as "Proposed SL 6" in the site plan). The configuration of the residential parcels within the Small Holdings area may change.

Your property is highlighted in yellow below and 1750 Highway 3 is highlighted in blue. You can see the driveway location which will align with the access roadway marked on the plan.

<image005.jpg>

If you have any questions, please let me know.

As I also mentioned, you are welcome to provide written comments and I will include those comments as part of the Board agenda package when this application is reviewed by the Board. (Please note your comments will be made public as part of the agenda package).

Regards,

<image001.png>**JoAnn Peachey** • Planner I
Regional District of Okanagan-Similkameen
101 Martin Street, Penticton, BC V2A 5J9
p. 250.490.4384 • tf. 1.877.610.3737 • f. 250.492.0063
jpeachey@rdos.bc.ca • [RDOS](#)
[FACEBOOK](#) • [YOUTUBE](#) • Sign up for [REGIONAL CONNECTIONS](#)

<20210308140524127.pdf>

<20210308140511980.pdf>

JoAnn Peachey

From: Jim Zaffino
Sent: March 16, 2021 8:31 AM
To: JoAnn Peachey
Subject: RE: Bylaw Re-Referral - A2018.207-ZONE (SWMP or Financial Plan Comments)

Follow Up Flag: Follow up
Flag Status: Flagged

Hello JoAnn

I have no issues

Thank you for asking

Sincerely,



Jim Zaffino • Manager of Finance
Regional District of Okanagan-Similkameen
Okanagan-Similkameen Regional Hospital District
101 Martin Street, Penticton, BC V2A 5J9
p. 250.490.4230 • tf. 1.877.610.3737 • f. 250.492.0063
www.rdos.bc.ca • jzaffino@rdos.bc.ca

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From: JoAnn Peachey <jpeachey@rdos.bc.ca>
Sent: March 15, 2021 3:09 PM
To: Jim Zaffino <jzaffino@rdos.bc.ca>; Cameron Baughen <cbaughen@rdos.bc.ca>
Subject: Bylaw Re-Referral - A2018.207-ZONE (SWMP or Financial Plan Comments)

Hi Jim and Cameron,

Below is an OCP amendment bylaw for your review – please forward any comments you may have. The link below should direct you to the bylaw and related info.

Under the *Local Government Act*, when considering an amendment to an OCP, the Regional District must:
After first reading of a bylaw under subsection (1), the local government must, in sequence, do the following:

- (a) *consider the plan in conjunction with*
 - (i) *its financial plan, and*

JoAnn Peachey

From: Cameron Baughen
Sent: March 15, 2021 3:48 PM
To: JoAnn Peachey; Jim Zaffino
Subject: RE: Bylaw Re-Referral - A2018.207-ZONE (SWMP or Financial Plan Comments)

Follow Up Flag: Follow up
Flag Status: Flagged

Hi JoAnn. As per my last referral the ability to service residential homes for curbside collection in that dangerous stretch of Hwy 3 should be considered by the developer. They should be consulted that this is a potential issue.

Cameron Baughen, Solid Waste Management Coordinator
Regional District of Okanagan-Similkameen
101 Martin St, Penticton, BC V2A 5J9
Phone: 250-490-4203 Toll Free: 1-877-610-3737

From: JoAnn Peachey <jpeachey@rdos.bc.ca>
Sent: March 15, 2021 3:09 PM
To: Jim Zaffino <jzaffino@rdos.bc.ca>; Cameron Baughen <cbaughen@rdos.bc.ca>
Subject: Bylaw Re-Referral - A2018.207-ZONE (SWMP or Financial Plan Comments)

Hi Jim and Cameron,

Below is an OCP amendment bylaw for your review – please forward any comments you may have. The link below should direct you to the bylaw and related info.

Under the *Local Government Act*, when considering an amendment to an OCP, the Regional District must:
After first reading of a bylaw under subsection (1), the local government must, in sequence, do the following:

- (a) consider the plan in conjunction with*
 - (i) its financial plan, and*
 - (ii) any waste management plan that is applicable in the municipality or regional district;*

If you could please review the proposed amendment in the context of the RDOS Waste Management Plan or Financial Plan and advise of any concerns or if the amendment bylaw is considered to be consistent.

<https://www.rdos.bc.ca/development-services/planning/current-applications-decisions/electoral-area-a/a2018207-zone/>

This bylaw was previously referred to Cam and John (see attached comments). Given the time lapse, I am re-referring to receive current comments.

Thanks!

JoAnn Peachey

From: Cameron Baughen
Sent: October 16, 2019 8:58 AM
To: Lauri Feindell; John Kurvink
Cc: JoAnn Peachey
Subject: RE: Agency Referrals-A2018.207-ZONE (Johnsen)

Follow Up Flag: Follow up
Flag Status: Completed

No issue with Solid Waste Management Plan.

Collection of garbage will be an issue with this subdivision due to the steep highway access. The developer can contact me to discuss as it will be incumbent on the property to allow the vehicle to pull over safely to collect garbage, recycling and yard waste.

Cameron Baughen, RDOS Solid Waste Management Coordinator

101 Martin Street, Penticton BC
Ph 250-490-4203 TF 1-877-610-3737
cbaughen@rdos.bc.ca www.rdos.bc.ca

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From: Lauri Feindell <lfeindell@rdos.bc.ca>
Sent: October 16, 2019 8:27 AM
To: John Kurvink <jkurvink@rdos.bc.ca>; Cameron Baughen <cbaughen@rdos.bc.ca>
Cc: JoAnn Peachey <jpeachey@rdos.bc.ca>
Subject: FW: Agency Referrals-A2018.207-ZONE (Johnsen)

Good Morning,
Another bylaw referral for your comments/concerns,
Thank you,
Lauri

From: Lauri Feindell
Sent: October 15, 2019 4:23 PM
To: HBE <HBE@interiorhealth.ca>; ReferralAppsREG8@gov.bc.ca; jcvitko@sd53.bc.ca; firechief@amfd.org; 'fbclands@fortisbc.com' <fbclands@fortisbc.com>; 'enviroinfo@ec.gc.ca' (<enviroinfo@ec.gc.ca>) <enviroinfo@ec.gc.ca>; tosoyoos@osoyoos.ca; referrals@oib.ca
Cc: JoAnn Peachey (<jpeachey@rdos.bc.ca>) <jpeachey@rdos.bc.ca>
Subject: FW: Agency Referrals-A2018.207-ZONE (Johnsen)

Re: Project No. A2018.207-ZONE
Bylaw No.s 2450.14 and 2451.27
1750 Highway 3 East, Osoyoos

Please find attached a Bylaw Referral along with a link to the documentation in relation to the amendment Bylaw. If you have any questions, please do not hesitate to contact JoAnn Peachey, file manager at jpeachey@rdos.bc.ca.

Garnett and Marieze Tarr

Osoyoos

BC

VOH 1V6

February 22nd, 2021

Dear Board Members or whom it may concern

Concerns re: OCP Amendment and Rezoning of 1750 Highway 3 East

We own a LH parcel located at [REDACTED] directly below the proposed subdivision and we are deeply concerned about the impact of this proposed subdivision on our water supply.

We have lived at this address and drilled a well in 2000 and had a very high yield well until July of 2010 when the East Bench Irrigation District drilled a well just below us and caused this well to run dry. During the course of the East Bench Irrigation Districts development of this high production well for residential use we engaged the services of Mr. Remi Allard (Hydrogeologist/ Groundwater Engineer) of Sustainable Subsurface Solutions to evaluate our well and the impact that the East Bench Irrigation Districts well was having on our water supply. Mr. Allard comments quite scientifically on the issue of sustainable water supply in the area and we include this for the Boards review.

We subsequently drilled a second high volume well which was again likely impacted by the volume of water extracted by the East Bench Irrigation District Well.

We have since had to drill a third well which is giving us a reliable water supply. This is as far outside of the effect of the East Bench Irrigation District Well as we could go.

Our concern is that the new subdivision with 5 lots all capable of having two dwellings all requiring wells and adequate water may jeopardize our water supply to the point that we have little or no water negatively impacting the value of our property and future options for finding water.

We understand that the applicant will be using some of the land for a nature conservation area but it is important to note that our 10 acres below has also been left untouched by ourselves and provides a natural habitat for many endangered species including rattlesnakes, spadefoot toads, Nuttalls Cottontail rabbit, Western Screech Owl and is situated in the Bunchgrass Biogeoclimatic zone.

In closing please note the attached report by Mr. Allard (page 5 and 6) where he clearly states that the volume of water extracted by all of the wells combined upslope from our property "is close to or exceeds the annual recharge of the aquifer" and that a "higher demand (more wells) could result in a net deficit of water balance for the area. It is important to remember that

there is a fine balance between withdrawing water and recharging of the aquifers and that allowing this subdivision the water supply of many residents, not just ourselves, could be negatively impacted.

Yours Sincerely

A large black rectangular redaction box covering the signature area. A small, faint circular mark is visible above the top edge of the redaction.

Garnett and Marieze Tarr

A small black rectangular redaction box covering the address area.



Sustainable Subsurface Solutions

31 January 2011

FILE: 10-025

Mr. & Mrs. Garrett Tarr
[REDACTED]

Re: Third Party Hydrogeological Review - Impacts of Pumping from a Water Well Constructed by Osoyoos Irrigation District on a Domestic Well located at [REDACTED]

Further to your request, we are pleased to provide this independent [third party] hydrogeological assessment regarding a domestic well located at [REDACTED] y changes in the water levels and yield of the well thought to have changed as a result of impacts imparted on the aquifer in the area due to pumping the nearby well recently constructed by the Osoyoos Irrigation District [OID]. Our understanding is that the owners of the domestic well, Mr. and Mrs. Tarr, experienced problems in 2010 during the two occasions when testing was completed on the new OID well and that there is concern regarding the continued ability of their well to meet the water demands for their property.

In response to these concerns, information regarding the construction and testing of the well has been provided for review by OID and their hydrogeological consultant, EBA Engineering Consultants Ltd [EBA] of Kelowna. Sustainable Subsurface Solutions was subsequently retained by Mr. & Mrs. Tarr to complete this review. The review is limited in scope to the assessment of available driller's reports for the wells in the immediate area, as well as a review of the data from the pumping tests completed on the OID Well. EBA was notified of this third party review as per the requirements of the Engineers and Geo-Sciences Act of British Columbia. In addition to review of information provided, some dialogue was undertaken with Mr. Dan Watterson of EBA and with Mr. Randy Woods of Aquatech Services, which is the company that completed the pumping tests. As discussed with Mr. & Mrs. Tarr, the scope of work of this assignment is limited by time and budget constraints and is presented without prejudice or malice against EBA, Aquatech and OID.

I. PHYSICAL SETTING AND REVIEW OF HYDROGEOLOGY

As shown in **Figure 1**, the Study Area is located along the eastern flank of the Okanagan Valley in the area of Osoyoos, where the climate is hot and dry in the summer and cool, as well as moderately moist in the winter. The average temperature in the area is 10.1 °C, with daily mean temperatures

ranging from a minimum of -2.1°C in January to a maximum of 21.7°C in July. A significant moisture deficit exists in the area and within the base of the Valley due to high evaporation and low precipitation. The mean annual total precipitation for the area is approximately 317 mm, with a monthly mean total precipitation ranging from 16 mm in September to 37 mm in May.

The surficial geology of the Okanagan Valley [the Valley] is dominated by glacial and post-glacial deposits derived from the erosion of the bedrock in the Valley and adjacent upland areas, followed by various stages of deposition. The resultant landforms along the edges of, and in the base of, the Valley are complex and include alluvial fans, deltas and associated gullies and stream channels [Nasmith, 1962]. According to the British Columbia Water Resource Atlas [WRA], the bedrock geology in the area is dominated by Middle Jurassic Granitic intrusions consisting of porphyritic granite, granodiorite and monzonite. The majority of bedrock within the Study Area is covered by Quaternary [recent] glacial and post-glacial sediments and is therefore not visible. However, bedrock outcrops are present along the eastern portion of and to the east of the Study Area.

Previous work by Golder Associates Ltd. in 2007 included a review of information available from the WRA and the water wells database [WELLS]. Golder reported that the eastern flank of the Valley is underlain by two aquifers including a sand and gravel aquifer [BCMoE Aquifer No. 194] of moderate productivity, moderate water demand, and high vulnerability to surface contamination. This Aquifer is underlain by BCMoE Aquifer No. 808, which is a bedrock aquifer characterized as having moderate productivity, moderate water demand, and a moderate vulnerability to surface contamination. Typically, wells in sand and gravel are significantly higher yielding than wells in bedrock. This is because wells in bedrock source water from fractures, which typically represent a very small volume in comparison to the volume of massive [unfractured] bedrock.

In the higher elevation uplands, to the east of the Study Area, much higher precipitation and cooler temperatures provide for surplus moisture, which is the principal driving mechanism of the water cycle in the Okanagan Basin. Groundwater recharge and subsurface flow are topographically-driven by the substantial elevation difference between the uplands and the base of the Valley. Spring snowmelt [freshet surface water runoff] produces significant seasonal variability in stream flow and in turn, groundwater recharge through infiltration from stream losses.

Based on information available from the WRA, there are approximately 25 water wells known to exist to the east on the flank of Anarchist Mountain and within the watershed that contributes recharge to the Study Area. A cursory review of the yields for these wells indicates that the highest reported yield is 3.2 Litres/ second [L/s], equivalent to 50 USgpm. Coincidentally the highest reported yield is for the Tarr's Well. The average yield is approximately 0.3 L/s [6 USgpm]. Of particular note is that many of the wells have a reported yield of less than 0.1 L/s [2 USgpm].

Submission of water well reports by drillers to Government is still on a voluntary basis in British Columbia. A review of 2009 satellite imagery for the area indicates that there are several dwellings, presumably homes, for which no corresponding well record exists in the WRA. On the assumption that

[122 ft], or approximately 6.7 m [22 ft] lower than when the well was drilled in 2000. As with the OID Well, the difference in static level is presumed to be due to seasonal precipitation variation in the area, or a difference in the collective volume pumped from the aquifer by all users in the area. We believe that the lower static water level in the Tarr's Well [as compared to the level in 2000] is the result of increased stress on the aquifer due to more wells having been drilled in the area.

During the second test, the Tarr's Well was operated in a similar manner as would occur during the summer. This included intermittent pump cycling for domestic use, as well as prolonged pumping for supply to irrigation sprinklers. **Figure 3**, presents plots of time drawdown response for the two wells during the constant rate testing completed on the OID Well. The response in the OID Well is shown in the top plot, whereas the response in the Tarr's Well is shown in the lower plot. The two plots are aligned such that the vertical dashed lines connect the same time point during the testing period.

The first part of the pumping test shows the drawdown in the OID Well and an almost immediate response [lowering of water levels] in the Tarr's Well. With the OID Well pumping continuously and the Tarr's Well intermittently, the rate of drawdown is relatively constant in both wells for the majority of the test. Once the discharge rate was turned up to approximately 1.3 L/s [20 USgpm] in the Tarr's Well [to supply irrigation sprinklers], the rate of drawdown increased dramatically. This rate of pumping is not sustainable when the OID is also operating at 3.2 L/s [50 USgpm]. This is because the intake on the pump in the Tarr's Well is set at approximately 49 m depth and the pump will break suction within 2-3 days.

5. COMMENT ON SUSTAINABLE WATER SUPPLY IN THE AREA

Regional districts and municipalities within the Okanagan Basin utilize subdivision servicing bylaws to monitor residential development outside of water service areas, specifically for the approval of domestic water wells as being capable of providing a sustainable daily volume of water. This process however does not account for the impacts of cumulative withdrawals from aquifers due to on-going rural property development, including densification [subdivisions] of lots. It is therefore prudent to establish a water balance for these rural areas to roughly determine the amount of groundwater available in relation to the amount that is currently being used, or for comparison against a projected volume that would be used in the area due to future growth.

Fortunately, such a water balance was completed for the Study Area by Golder et al [2008, 2009]. Based on this study it was determined that the catchment area contributing recharge to the Study Area covers approximately 16.7 km² on the flank of Anarchist Mountain, which forms the eastern limits of the Okanagan Valley. For the purposes of the study completed, the catchment was denoted as Aquifer 208A, which is not the same as the previously referenced BCMoE Aquifer 808. The footprint of bedrock aquifer 208A, which includes the catchment area that contributes recharge, roughly extends northeast to approximately 1500 meters above sea level, at a point roughly 5000 m east of the Tarr

Property. For reference, the Tarr Property is at approximately 440 meters above sea level. The average annual precipitation over this upland catchment has been estimated at roughly 590 mm/yr [23 in]. This is significantly more than the annual precipitation in the base of the Valley. For Aquifer 208A, approximately 10 % of the precipitation reports to the subsurface, which is further apportioned as 90 % to alluvium [above bedrock] and 10 % to bedrock. Multiplying the total recharge over the entire aquifer results in roughly 59 mm/yr. The total flow through Bedrock Aquifer 208A is therefore estimated to be approximately 3.3×10^5 m³/yr. Flow in the portion of the aquifer that underlies the immediate area of the Tarr Property was determined by multiplying the total flow amount by a factor accounting for the width [in the direction of flow] of the Property [240 m] as compared to the overall width of Aquifer 208A [4800 m]. The estimated total annual flow beneath the Tarr Property, based on climate data, is therefore 16,500 m³/yr, or approximately 4.4×10^6 US Gallons/year.

Without a detailed reconnaissance of all wells adjacent to and up-gradient of the Tarr Property, it is difficult to quantify the current total annual groundwater extraction. However, a preliminary approximation was made by assuming each of the known wells utilizes the amount of water required in RDOS Subdivision servicing Approval Bylaw, which is 2,300 litres/day, or 0.5 USgpm over 24 hours. Therefore, based on the 25 known wells pumping continuously at 2.3 m³/day [0.5 USgpm], the total annual withdrawal would be approximately 21,000 m³/yr, or approximately 5.5×10^6 US Gallons/year. For the same wells pumping at only 12 hrs/day, the total annual withdrawal would be 10,500 m³/yr, or 2.75×10^6 US Gallons/year.

In either case, these very preliminary water balance calculations infer that the volume of water extracted by all of the wells combined upslope of the Tarr Property is close to, or exceeds, the annual recharge to the portion of the aquifer that is available for the Tarr Well. The implications of this are that the aquifer could already be over-subscribed and further development of residential lots on the hillside should only be considered if a more detailed water balance study of the aquifer indicates there is surplus water. It should also be noted that the area considered for the water balance includes the OID Well. In summary, while the pumping test on the OID Well appears to have been of sufficient duration to identify well hydraulics and yield, longer term pumping will be required to truly see if the yield of the well is sustainable.

As previously noted, there could be many more wells located upslope of the Tarr Property [that are currently unreported] that could potentially contribute to a higher demand and therefore a greater net deficit in the water balance for the area.

The water balance estimate does not account for other sources of recharge such as contributions from sewage [septic field] disposal to ground and irrigation return flow, neither of which is expected to contribute significantly to flow in bedrock.

decreasing efficiency over time due to precipitation of dissolved chemicals or sedimentation in the well. Periodic maintenance of wells may alleviate these problems. Sustainable Subsurface Solutions makes no prediction concerning the possible effect of decreasing well efficiency on well yields, nor on the potential for newly-drilled wells in the area to cause mutual drawdown interference. Furthermore, any chemical analysis, based on either sampling completed as part of field investigations on this assignment, or on water quality information provided by others, is intended to provide a snapshot only of the existing water quality available from the aquifer and only at the locations specified. The spatial and temporal water quality within the aquifer may vary as the aquifer is stressed or impacts occur due to other influences.

8. CLOSURE

We trust that the professional opinions and advice presented in this document are sufficient for your current requirements. Please note that there are restrictions and limitations that apply to the scope of our services, which will be outlined in our final report for this project. Should you have any questions, or if we can be of further assistance in this matter, please contact the undersigned.

SUSTAINABLE SUBSURFACE SOLUTIONS



Remi Allard, M. Eng., P. Eng.
Principal Hydrogeologist, Groundwater Engineer

RA/ra/pa

Attachments including references, standard report limitations, figures, tables and appendices

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RESPONSE SUMMARY

AMENDMENT BYLAW NOS. 2450.14 & 2451.27

Approval Recommended for Reasons Outlined Below

Interests Unaffected by Bylaw

Approval Recommended Subject to Conditions Below

Approval Not Recommended Due to Reasons Outlined Below

Council considered this at the November 4th Council meeting with the following staff recommendations see below:

Staff recommend the following:

Approval not recommended for the reasons outlined below:

1. The RDOS is currently undertaking a review of the Electoral Area A OCP. This proposal is best reviewed in the context of the OCP review.
2. The visual impact of the proposed road network and building sites is unclear from the information provided to date.
3. Proposal is not consistent with the policies of the Regional Growth Strategy.

Signature: _____



Signed By: Gina MacKay, MCIP, RPP

Agency: Town of Osoyoos

Title: Director of Planning and Development

Date: November 6, 2019





BOARD DATE: NOV 21, 2019
ADDITIONAL ITEM
AGENDA ITEM D.1
A2018.207-ZONE (JOHNSON)

November 20, 2019

File: 2019081
Your File: 2019-03-20

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

Attention: Lauri Feindell

Re: Amend OCP and zoning designations to create 5 residential strata lots and 1 conservation area located at 1750 Highway 3 E. east of Osoyoos, B.C.

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 to amend OCP and zoning designations to facilitate a bareland strata subdivision of 5 residential lots and 1 conservation area lot at the subject property.

According to our records, the proposed development area contains the following sensitive values:

- Very high conservation ranking
- Critical Habitat for:
 - Western Rattlesnake
 - Great Basin Gophersnake
 - Desert Nightsnake
- Potential Critical Habitat for:
 - Tiger Salamander
 - Lewis's Woodpecker

We do not recommend supporting the application because it proposes greater density of development outside of a Regional District designated Primary or Rural Growth Area.

We appreciate the opportunity to contribute to this application as part of the Ministry's One Land Manager model. 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 250-490-8294 if you have further questions or require additional information.

Ministry of
Forests, Lands,
Natural Resource Operations
and Rural Development

Resource Management
Thompson Okanagan Region
102 Industrial Place
Penticton, BC V2A 7C8

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