



Environmentally Sensitive Development Permit Area Review

PUBLIC INFORMATION MEETING

TUESDAY FEBRUARY 22, 2022

Review of ESDP Areas

Presentation Outline:

- What is a Development Permit
- 2017 ESDP Update
- Overview of Amendment Bylaw No. 2912
- Limitations of Development Permits
- History of Development Permits in the RDOS
- Case Studies
- Summary
- Next Steps

Development Permits What are they?

Review of ESDP Areas

A development permit area must include **four (4)** key elements:

- 1. Purpose:** *“to minimize the impact of development on the natural environment.”*
- 2. Guidelines:** to protect grasslands, wetlands, etc. Professional Reliance Model.
- 3. Triggers:** subdivision, building permits and land disturbances.
- 4. Areas Affected:** maps of environmentally sensitive areas.



Review of ESDP Areas

2017 ESDP Update

Review of ESDP Areas

Issue: Were ESDPs meeting the Board's objective of minimizing the impact of development on the natural environment?

- ESDP mapping suggested that large parts of the Regional District were subject to environmental protection;
- Almost all forms of development exempt from the need for a permit.

Review of ESDP Areas

ESDP Updates (2017):

- new mapping and guidelines introduced;
- residential exemptions revised;
- Rapid Environmental Assessment (REA) introduced; and
- assessments to be completed by Registered Professional Biologists (RPBio).

Review of ESDP Areas

ESDP issuance prior to 2017:

- 73% subdivisions;
- 27% non-residential development;
- 0% residential development

ESDP issuance after to 2017:

- 6.7% subdivisions;
 - 7.5% non-residential development;
 - 82.3% residential development;
- * 89% of ESDP's have been "Expedited".

[percentages calculated based 2019-20 permit numbers]

Proposed Changes to the ESDP Area designation (Amendment Bylaw No. 2912)

Review of ESDP Areas

RDOS Board Motion – September 3, 2020

1. that ESDPs shall only apply to subdivisions and rezonings;
2. that options be brought forward to make ESDPs more effective at the subdivision and rezoning stage; and
3. that ESDPs should not prevent the *FireSmarting* of properties.

Review of ESDP Areas

1. ESDPs only apply to subdivisions and rezonings:

- Not triggered by rezoning;
- Environmental Impact Assessment (EIA) can be requested;
- Such requests are based upon mapping of environmentally sensitive areas (e.g. ESDP Maps).

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2. ESDPs be made more effective at the subdivision and rezoning stage:

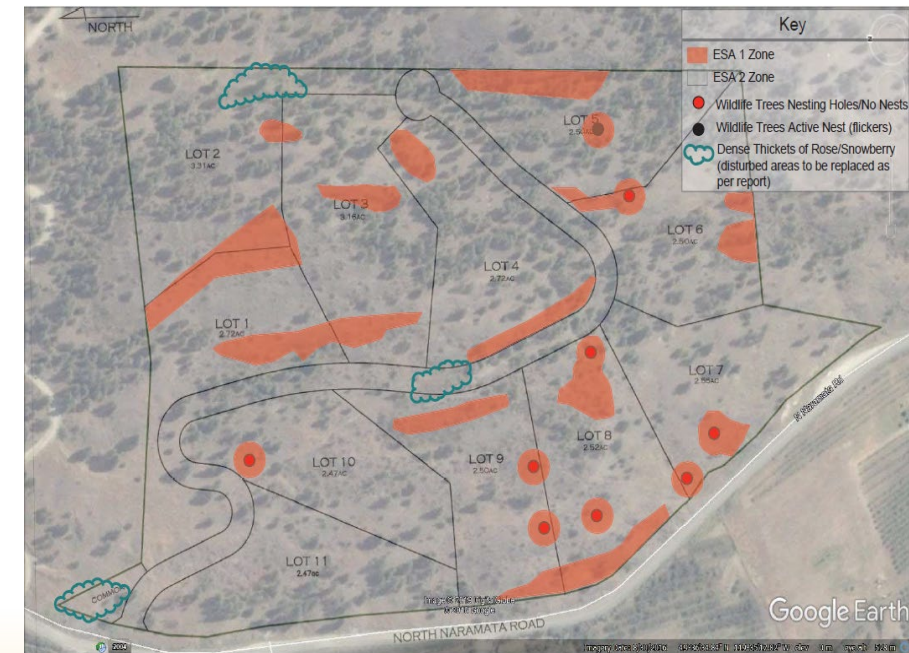
Will not support ... [rezoning] where it is determined that the proposed development is contrary to the ESDP Area Guidelines of this Plan and the impact cannot be mitigated to a level acceptable to the Regional Board.



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2. ESDPs be made more effective at the subdivision and rezoning stage:

Subdivision should be planned, designed and implemented to protect environmentally sensitive areas. Habitats that provide for at-risk species, at-risk ecological communities and keystone species should be given priority for protection.



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3. ESDPs not prevent the *FireSmarting* of properties:

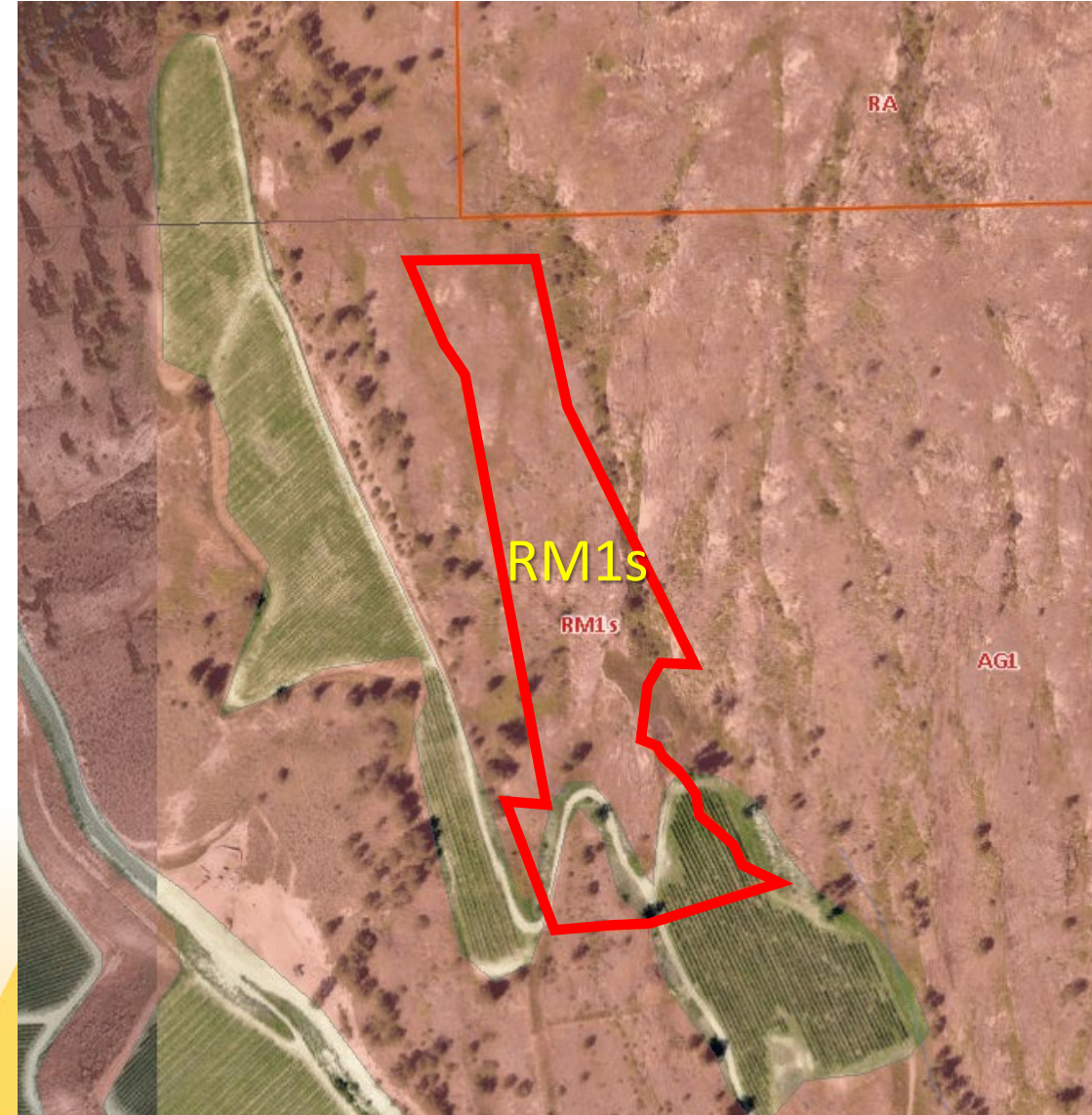
If the vegetation and land disturbance is removed as an ESDP trigger, the Board's direction that "ESDPs should not prevent the *FireSmarting* of properties" becomes moot.



The Limitations of Development Permits

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- Development Permit Guidelines are not regulations (i.e. more akin to suggestions);
- an ESDP designation cannot be used to prohibit a use or density allowed by zoning.



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- A Development Permit cannot be denied!
- *It's not "no", it's "not yet"*.
- A "refusal" must be accompanied by measures a property owner can take in order to meet the DP guidelines and obtain issuance of a permit.



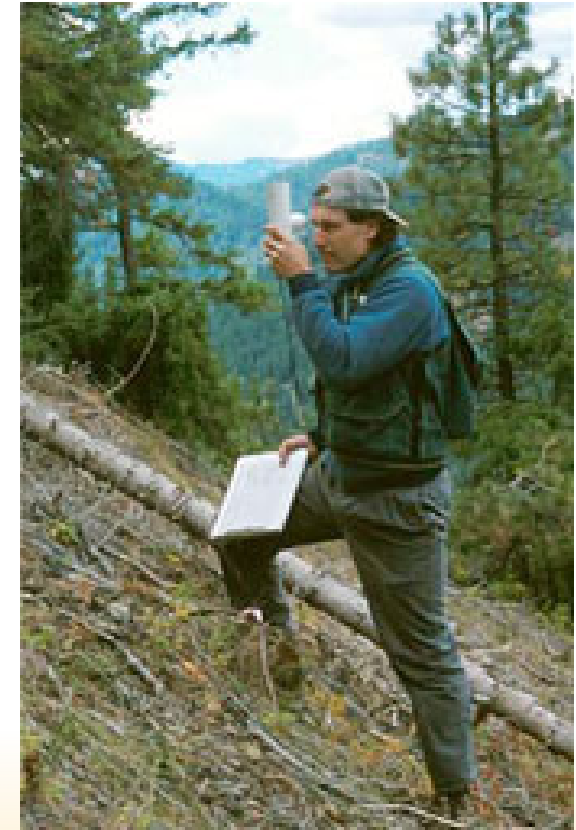
Review of ESDP Areas

- It is an open question as to whether local governments can issue tickets for infractions in a development permit area.
- UBCM has lobbied provincial government to provide this authority.
- Provincial government believes this authority already exists.
- Principal recourse is injunctive action at BC Supreme Court (costly & time consuming).



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- There is no authority under the Act to require post-approval monitoring;
- Landscaping bonds are rarely effective (“cost of doing business”, expense of having Biologist confirm landscaping exceeds value of bond);
- RDOS does not have capacity to monitor or undertake remediation.



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Professional Reliance Model

- Has the Regional District drafted ESDP Guidelines that provide sufficient guidance for QEPs to achieve outcomes in the “public interest”? (i.e. ... *minimize the impact of development ...*)
- QEPs cannot compel property owners to follow their recommendations (this is a local government responsibility);
- Given limitation of DPs, QEP latitude to direct development is limited.

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Measuring Performance

- it is unknown if ESDPs are actually minimizing impacts of development on the environment;
- focus of ESDPs is building permits whereas successful environmental protection is understood to be prevention of fragmentation of sensitive lands (i.e. rezoning stage);
- anecdotal evidence suggests benefit of ESDP Area is in educating property owners of ESAs on their property, but this is not the objective of the ESDP Area.

History of Development Permits in the RDOS

Review of ESDP Areas

Other RDOS Development Permit Area designations:

- **Environmentally Sensitive Development Permit (ESDP)**
 - introduced between 1997-2017, revised in 1997 & 2017
- **Watercourse Development Permit (WDP)**
 - provincially mandated, revised in 2013, 2019 & 2022 ...
- **Wildfire Hazard Development Permit (WHDP)**
 - Not pursued in 2021 (DP considered an ineffective tool)
- **Hillside Development Permit (HDP)**
 - revised in 2018 to only apply to subdivisions

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Other Development Permit Area designations:

- **Protection of Farming Development Permit (PFDP)**
 - revised in 2017 to only apply to subdivisions
- **Commercial / Light Industrial (“form & character”)**
 - abandoned in 2005.
- **Radio Frequency Interference (RFI)?**
 - Observatory / concept only / never pursued legislatively.

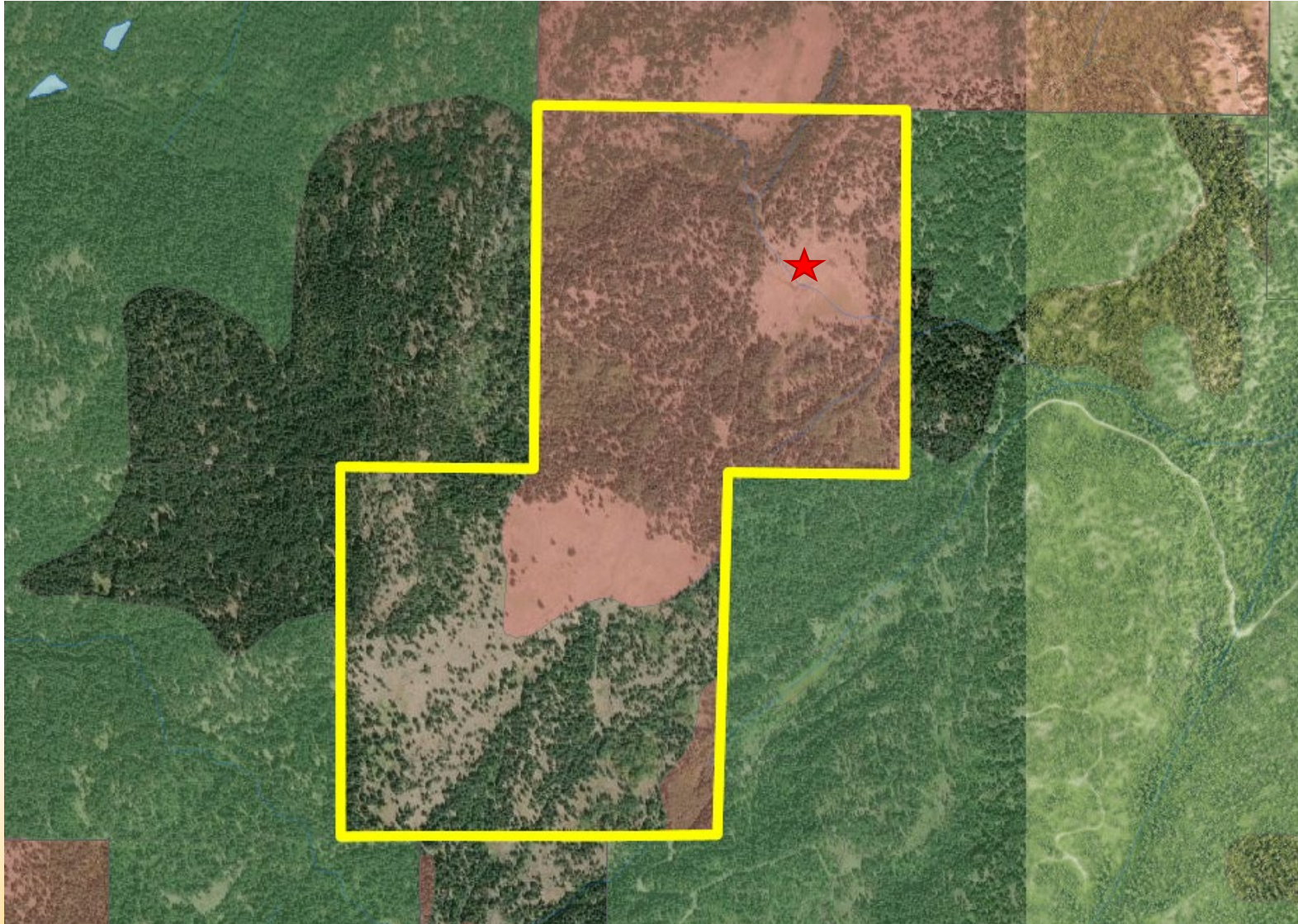
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Case Studies

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- 135 ha parcel (334 acres).
- Approx. 2/3 of the property is ESDP.
- Applied to build a house with a footprint of 280 m² (3,016 sq. ft.).
- Staff time spent discussing best location for the house.

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- Gravel Extraction.
- Not contemplated by approved ESDP.
- Enforcement by written letter(s).
- QEP recommended mitigation.
- Amended ESDP issued.

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Un-permitted earthworks in an ESDP Area (rock crushing facility).

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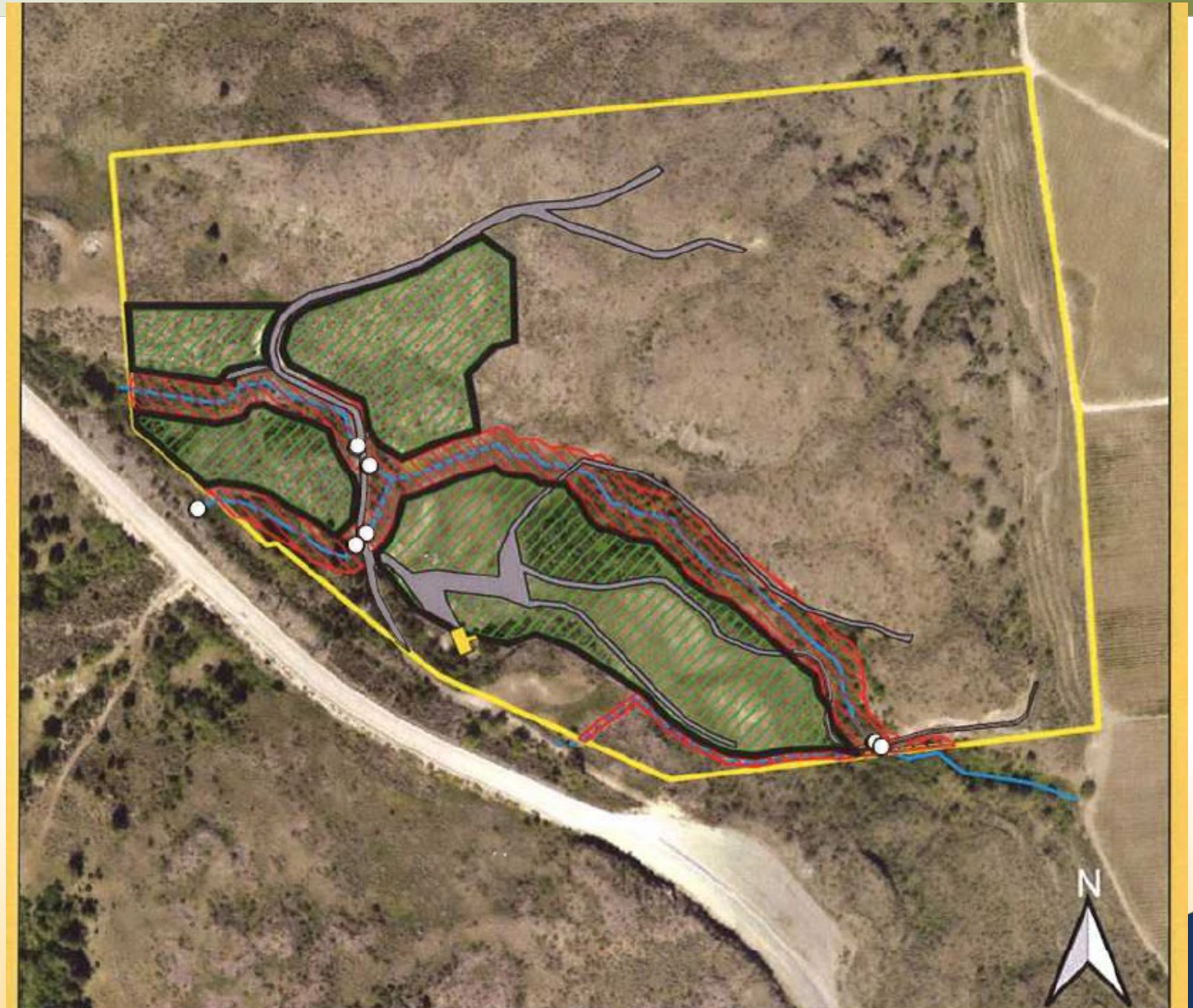
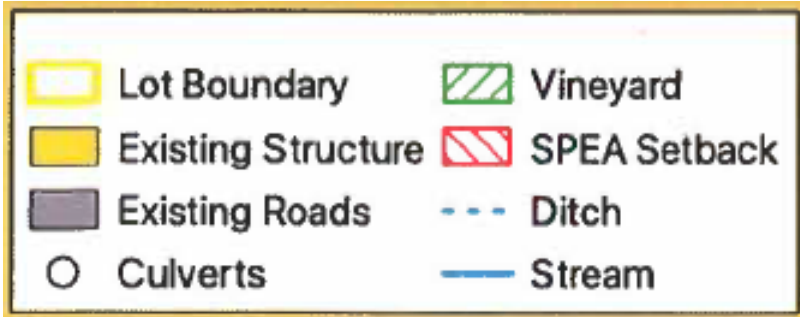
Legend

- Road
- Trellis Vines
- Goblet Vines
- Property Line
- Gully
- 20m Contour

2008 ESDP

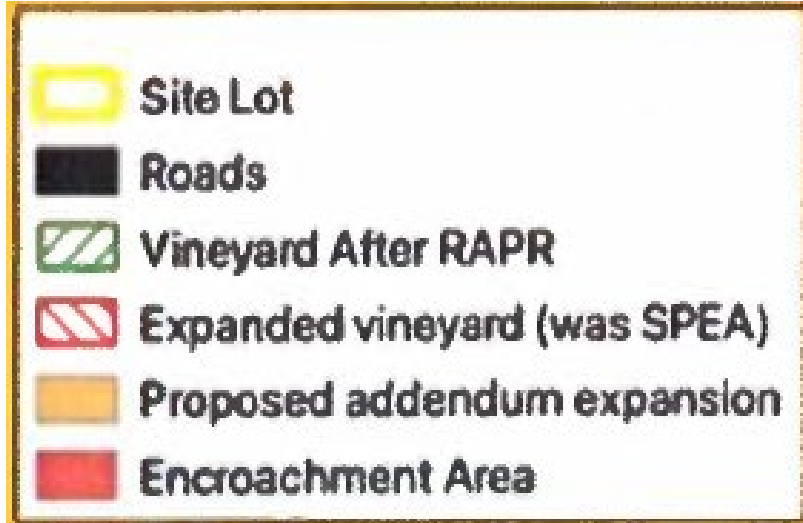


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2021 ESDP

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**2021 ESDP
Amendment**

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Summary

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Summary:

- development permits have significant limitations;
- not clear that a DP can limit impacts of development on the environment (e.g. supremacy of zoning);
- 2017 Amendments refocused ESDPs on the BP stage (i.e. has this created an ineffective “paper-pushing” scheme?);
- Staff support re-orienting ESDPs to subdivision and focusing on the environmental consequences of rezoning proposals.

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Next Steps

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Next Steps

Tonight: Question and Answer (Q&A) Session

- Submit feedback on amendments by **February 25, 2022**
- planning@rdos.bc.ca

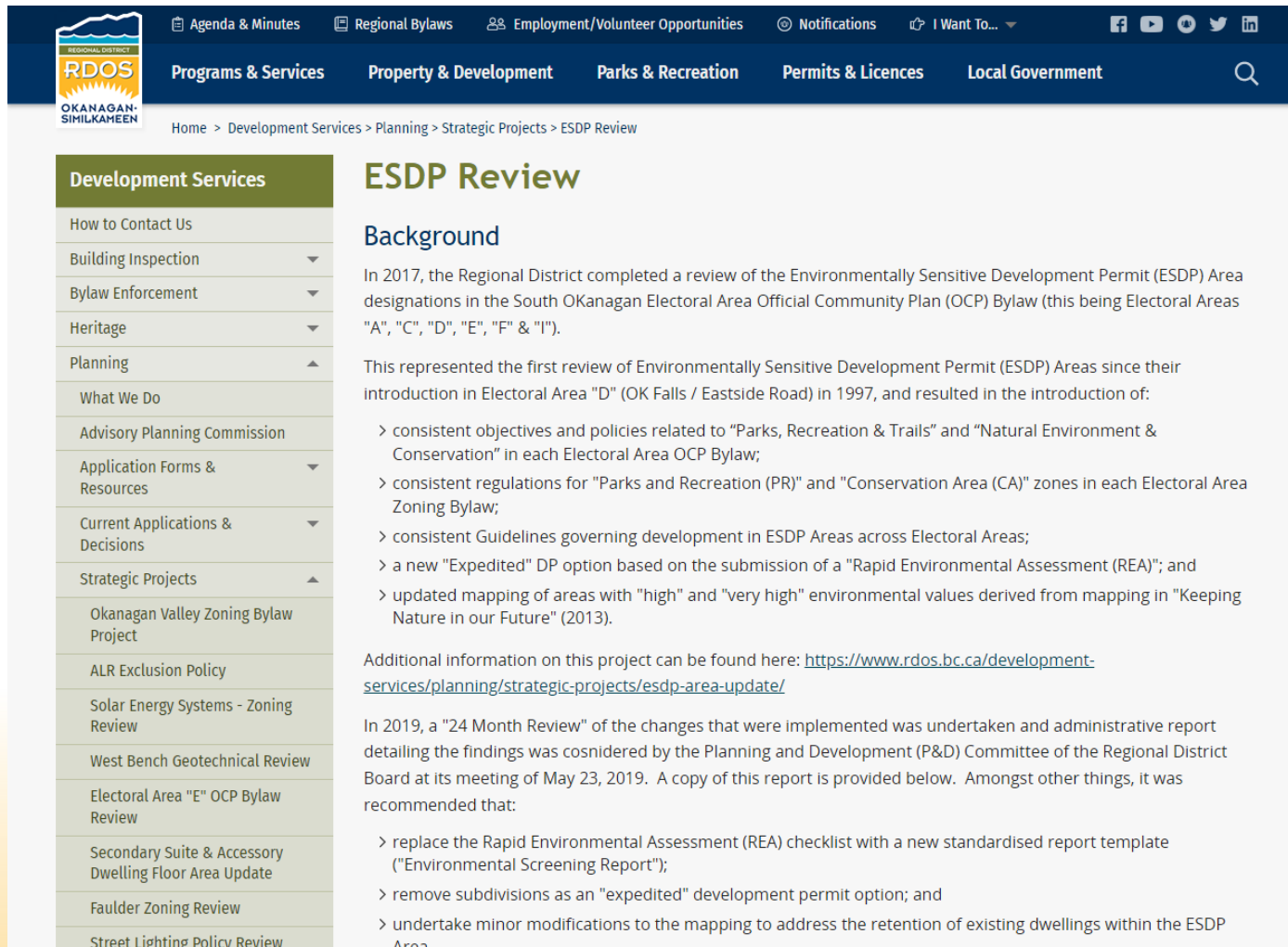
Board consideration of Amendment Bylaw No. 2912:

- 1st reading **tentatively** scheduled for **March 3, 2022.**

Review of ESDP Areas

Stay up-to-date

Review of ESDP Areas



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- Okanagan Valley Zoning Bylaw Project
- ALR Exclusion Policy
- Solar Energy Systems - Zoning Review
- West Bench Geotechnical Review
- Electoral Area "E" OCP Bylaw Review
- Secondary Suite & Accessory Dwelling Floor Area Update
- Faulder Zoning Review
- Street Lighting Policy Review

ESDP Review

Background

In 2017, the Regional District completed a review of the Environmentally Sensitive Development Permit (ESDP) Area designations in the South OKanagan Electoral Area Official Community Plan (OCP) Bylaw (this being Electoral Areas "A", "C", "D", "E", "F" & "I").

This represented the first review of Environmentally Sensitive Development Permit (ESDP) Areas since their introduction in Electoral Area "D" (OK Falls / Eastside Road) in 1997, and resulted in the introduction of:

- > consistent objectives and policies related to "Parks, Recreation & Trails" and "Natural Environment & Conservation" in each Electoral Area OCP Bylaw;
- > consistent regulations for "Parks and Recreation (PR)" and "Conservation Area (CA)" zones in each Electoral Area Zoning Bylaw;
- > consistent Guidelines governing development in ESDP Areas across Electoral Areas;
- > a new "Expedited" DP option based on the submission of a "Rapid Environmental Assessment (REA)"; and
- > updated mapping of areas with "high" and "very high" environmental values derived from mapping in "Keeping Nature in our Future" (2013).

Additional information on this project can be found here: <https://www.rdos.bc.ca/development-services/planning/strategic-projects/esdp-area-update/>

In 2019, a "24 Month Review" of the changes that were implemented was undertaken and administrative report detailing the findings was considered by the Planning and Development (P&D) Committee of the Regional District Board at its meeting of May 23, 2019. A copy of this report is provided below. Amongst other things, it was recommended that:

- > replace the Rapid Environmental Assessment (REA) checklist with a new standardised report template ("Environmental Screening Report");
- > remove subdivisions as an "expedited" development permit option; and
- > undertake minor modifications to the mapping to address the retention of existing dwellings within the ESDP Area

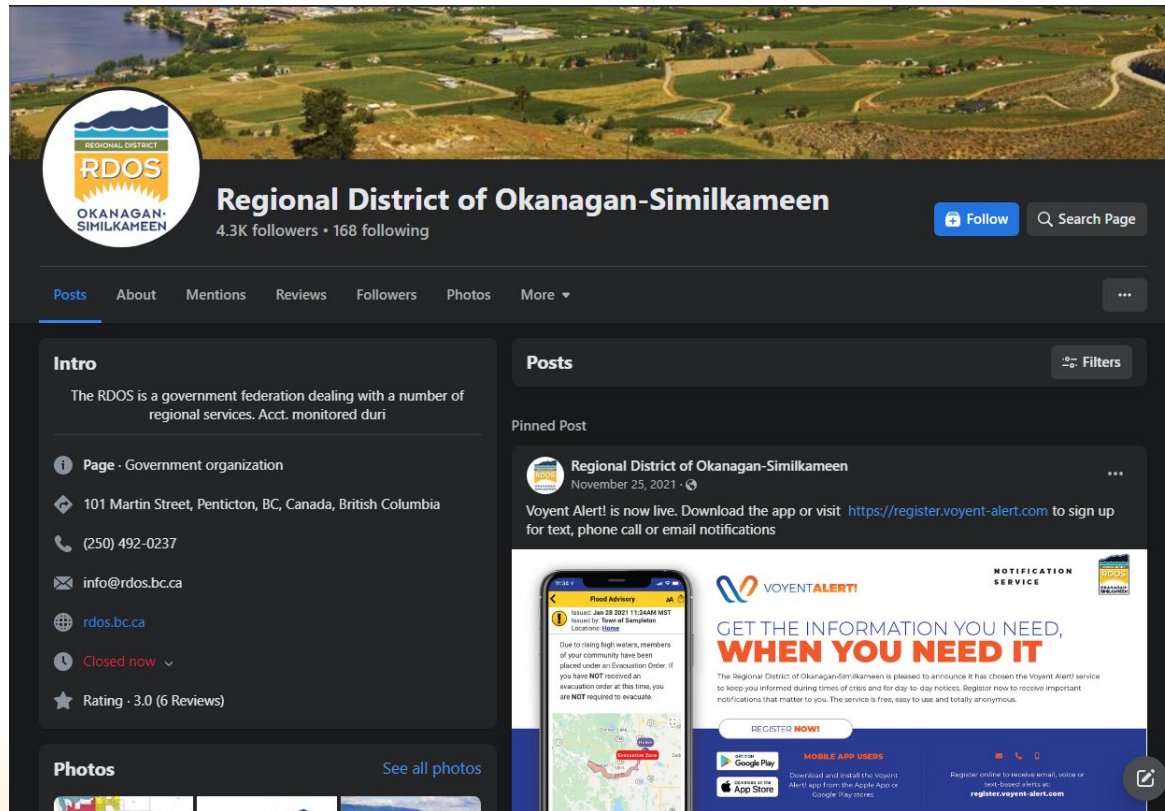
Project web-page:

www.rdos.bc.ca

“Property & Development” →
 “Planning, Zoning & Subdivision” →
 “Strategic Projects” →
 “ESDP Review”.

- Draft documents
- Status updates
- Upcoming RDOS Board dates

Review of ESDP Areas



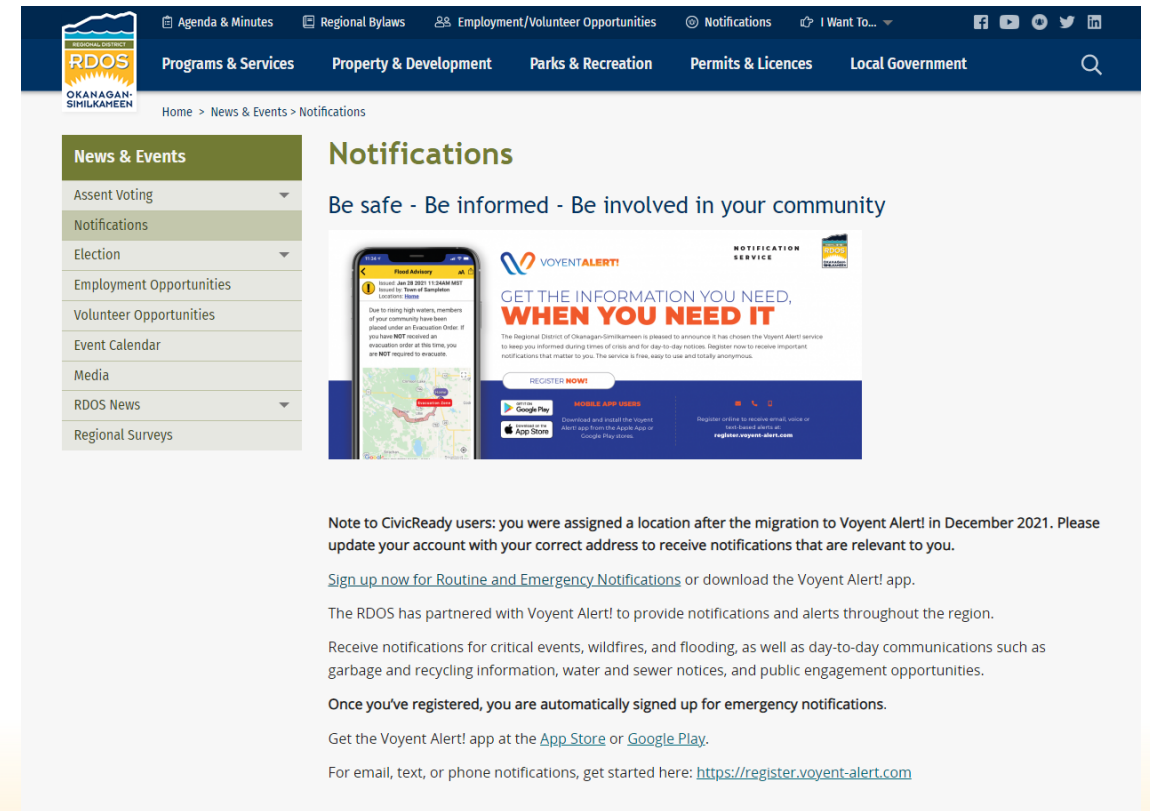
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Intro
The RDOS is a government federation dealing with a number of regional services. Acct. monitored dur...

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Note to CivicReady users: you were assigned a location after the migration to Voyent Alert! in December 2021. Please update your account with your correct address to receive notifications that are relevant to you.
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Receive notifications for critical events, wildfires, and flooding, as well as day-to-day communications such as garbage and recycling information, water and sewer notices, and public engagement opportunities.
Once you've registered, you are automatically signed up for emergency notifications.
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- Will take questions in turn;
- To indicate you want to speak, raise your “hand”;
- If you called in, press *3 to “raise hand”;
- If using a computer, press the “raise hand” button on the Webex screen;
- You will be unmuted when it is your turn to speak; and
- After you are done, press *3 or the raise hand button to take your hand down.

