

Private Utilities Regulation Review

Planning & Development Committee

August 15, 2024

Application Status

Project Status:

- P&D Committee October 19, 2023;
- Public and Agency Engagement December 2023- January 2024;
- P&D Committee April 4, 2024;
- APC Consideration May – June 2024
- RDOS Board consideration (i.e. 1st/2nd reading) July 25, 2024
(deferred to September 5th request to exclude Electoral Area “H”).



Application Status

July 25th Board Consideration:

MOVED and SECONDED

THAT the matter of Regulating the creation of new private utilities (X2023.011-ZONE) be postponed until September 5, 2024 to allow for staff to review the bylaws.

Regulating Private Utilities



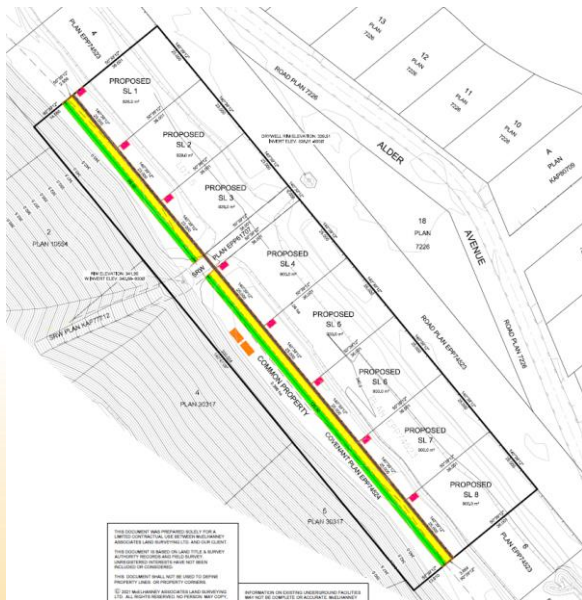
Background:

- Kaleden Sanitary Sewer Extension Project
- Referendum defeated by a vote of 91 to 65 (June 2021)

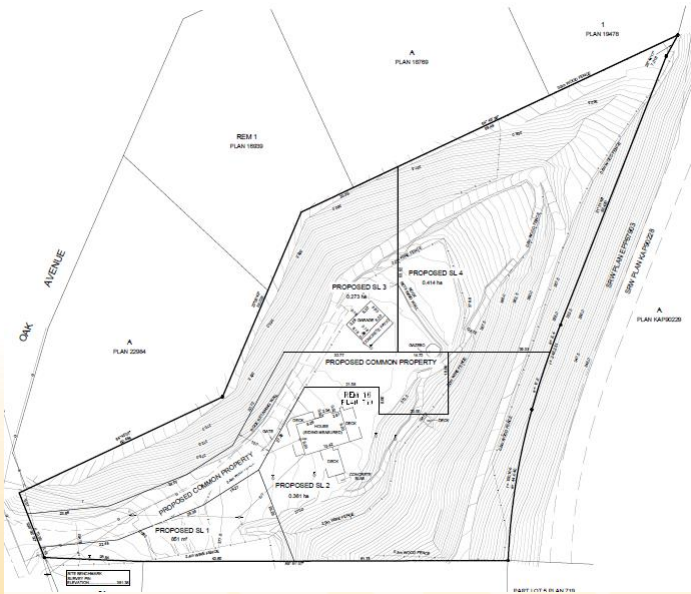
Regulating Private Utilities

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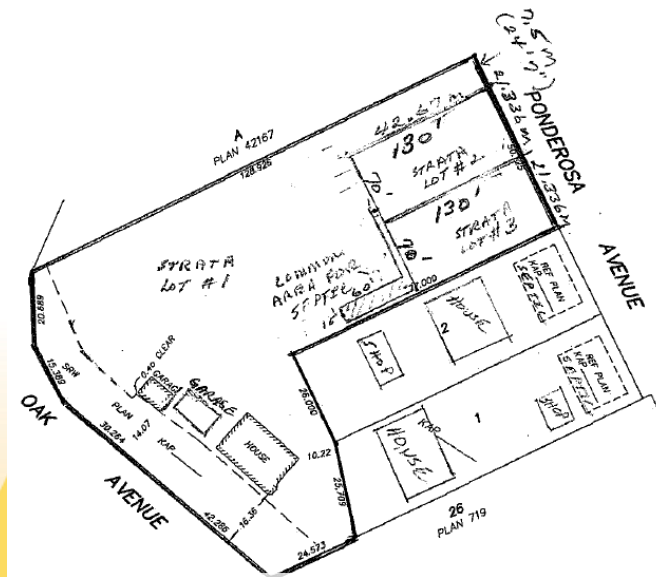
- Four (4) subdivision referrals received following referendum.
- All proposed the creation of individual strata sewer systems.



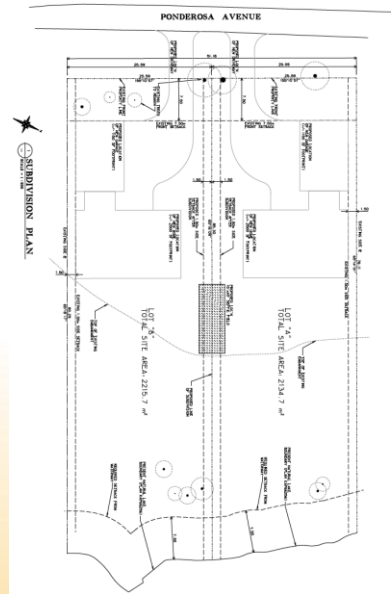
8-lot Strata



4-lot Strata



3-lot Strata



2-lot Strata

Regulating Private Utilities

Background:

- Electoral Area “I” Advisory Planning Commission (APC) resolved to recommend the following (March of 2022):

That the RDOS Board make a comprehensive review of Bareland Strata Bylaws to be performed in 2023, particularly concerning properties not serviced by sewer.

- The APCs concern is understood to be related to small lot subdivision and the creation of private sewer systems.

Regulating Private Utilities

Background:

- Administrative response to APC resolution is considered by P&D Committee of the Board in May of 2022:
 - RDOS does not have a “Bareland Strata Bylaw” to review;
 - Undertaking a zoning review is more appropriate option; and
 - Prohibiting private utilities would require more research.
- Recommended that a “Kaleden Zone Review” be considered as a strategic project in 2023.

Regulating Private Utilities

Background:

- Okanagan Basin Water Board (OBWB) employs a “1.0 ha Policy” in its grant funding criteria.
- The Policy is understood to apply to subdivisions, accessory dwellings and private utilities.
- RDOS has been deemed “somewhat compliant” with Policy due to its approach to “community sewer” and allowance of private systems.



Regulating Private Utilities

Sewer dispute halts development in Heritage Hills

Struggling Skaha sewer system takes step towards Regional District ownership

The RDOS has approved up to \$150k to study the Heritage Hills systems

Sewer owner rejects claim system at risk of 'catastrophic failure'

Some areas of Sage Mesa on permanent boil water notice

Water quality advisory and notice issued for the Sage Mesa area

'It's a disgrace': Willowbrook, B.C. residents without drinking water for two years, no end in sight

Regulating Private Utilities

Background:

- RGS Bylaw: *Encourage publically operated utilities and discourage the establishment of private utilities and services.*
- OCP Bylaws:
 - *Discourage the development of private systems for the provision of water and sewer services. (Objective)*
 - *Strongly discourages the creation of new private community sanitary sewer utilities. (Policy)*

Regulating Private Utilities

Background:

- Zoning Bylaw: [Not regulated]
- Subdivision Servicing Bylaw:
 - *“community sewer system” means a system of sewage collection, treatment and disposal ... operated and maintained by a provincial or local government ... or a strata corporation ... or an incorporated company.*

Regulating Private Utilities

Background:

- *essential services are best provided by government, where citizens can elect representatives interested in their well-being and will operate the service in the most effective and efficient manner possible.*
- *potable water and sanitary sewerage systems are determined to be essential to a high quality of life ...*



Water and Sewer Utility Acquisition Policy

Regulating Private Utilities

Considerations:

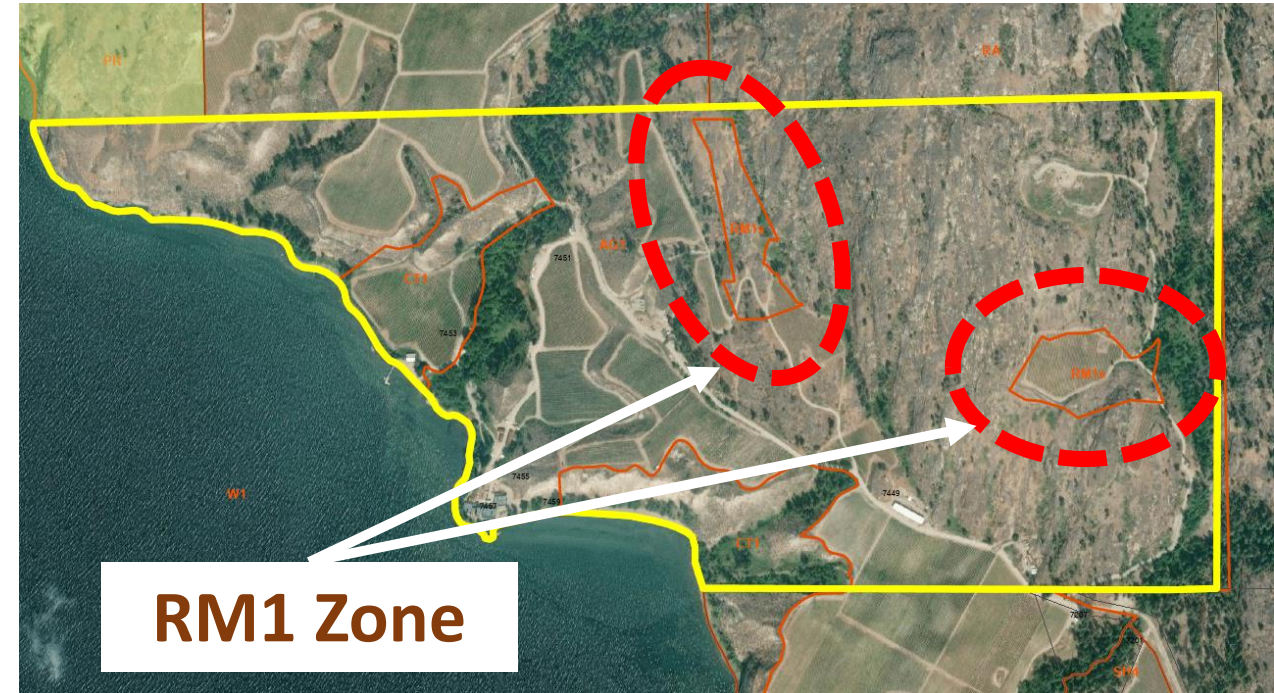
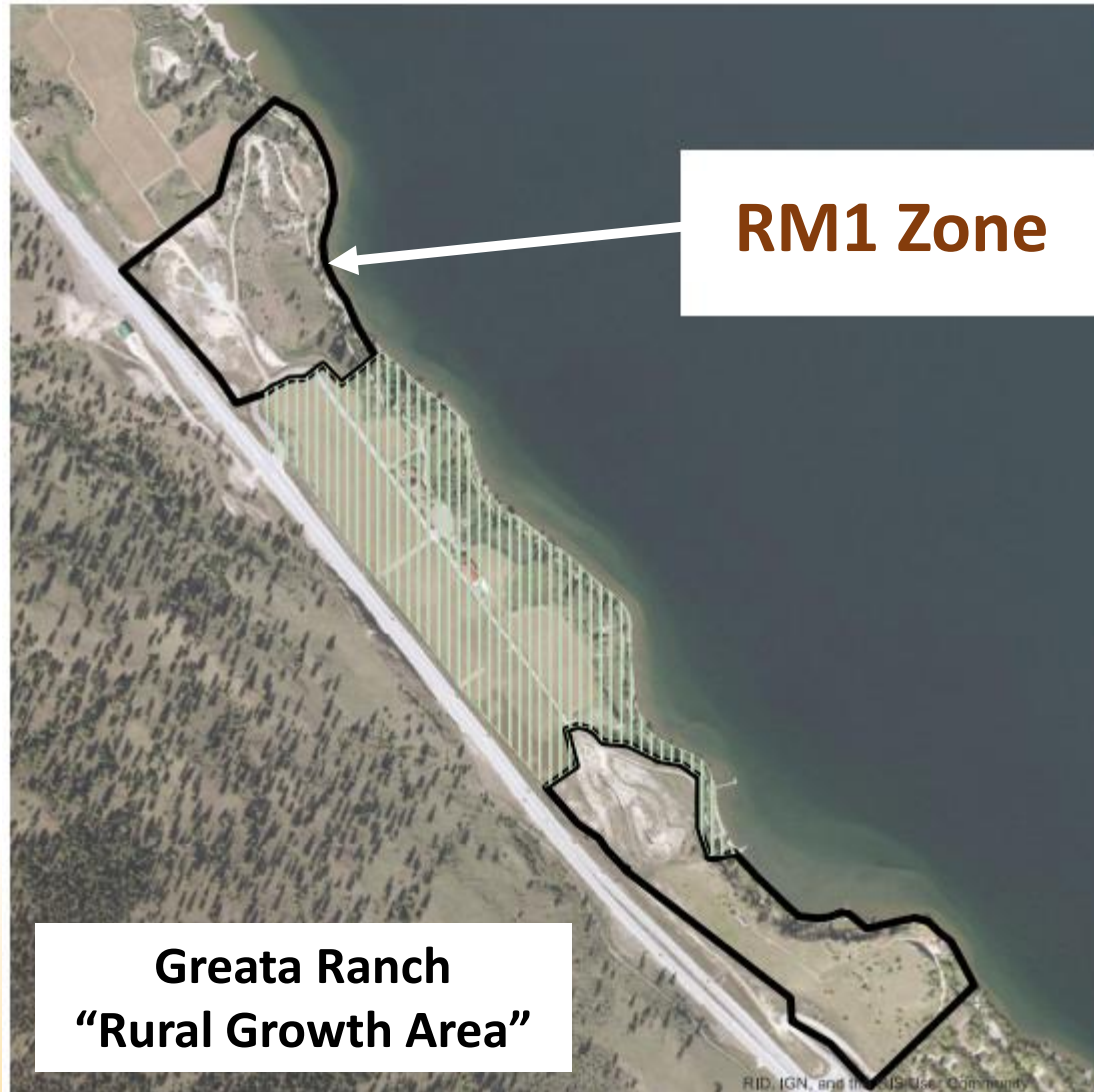
- There is seen to be a strong rationale for the Board to regulate in favour of publicly operated utility systems versus those operated by business or strata corporations or other private utilities.
- Principal change is to the definitions of community water and sewer systems (i.e. prohibit private and strata systems).
- Kaleden Zone Review *may* no longer be necessary.
- Merits of this approach warrant it being applied regionally.

Regulating Private Utilities

Issues:

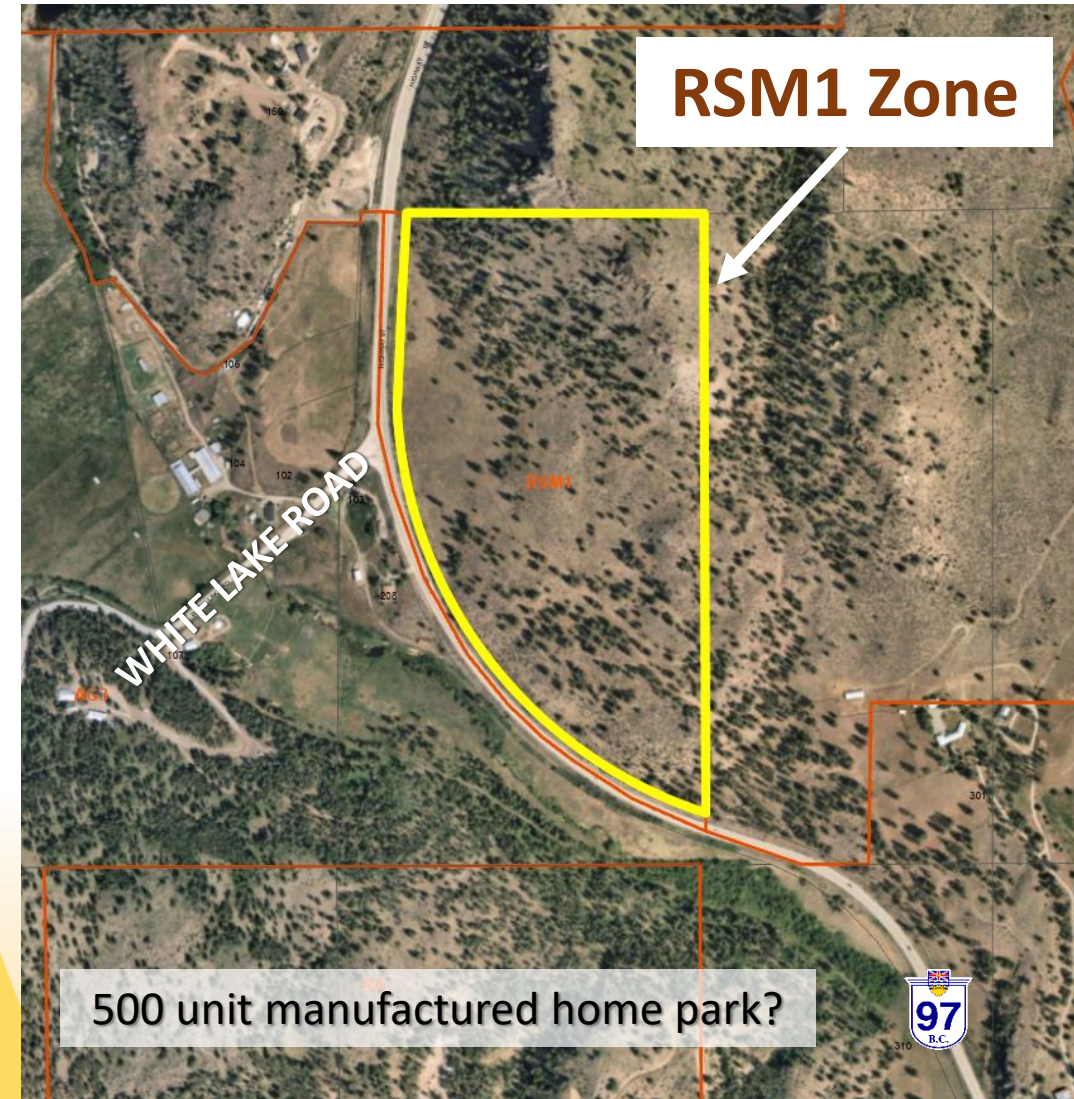
- Proposals to create new private utilities in future or to expand existing private systems would require Board approval (i.e. DVP).
- May result in pressure on Regional District to assume ownership of new systems in order to facilitate development.
- Acquisition of new systems is not contemplated in the draft amendments as this is subject to the Board's existing Acquisition Policy.

Regulating Private Utilities



Regulating Private Utilities

- Undeveloped 22.5 ha parcel outside of OK Falls Growth Area and existing water and sewer service areas.
- Manufactured Home Park zoning *could* allow upwards of 500 units.
- Development of the site will require a water and sewer system.



Proposal Details

Proposed OCP Amendments:

- Adding new Infrastructure and Servicing Policies:
 - *Does not support the creation of new private community water utilities, including those owned and operated by a strata corporation, utility or corporation.*
 - *Does not support the creation of new private community sewer utilities, including those owned and operated by a strata corporation, utility or corporation.*

Proposal Details

OKANAGAN VALLEY ZONING BYLAW



AREA "G" RURAL KEREMEOS



AREA 'H' SIMILKAMEEN VALLEY



Zoning Bylaw No. 2498, 2012 – Regional District of Okanagan-Similkameen

ZONING BYLAW

This Bylaw has been consolidated for
Convenience only and includes all
Amendments to the text up to:
July 22, 2021.



Proposed Zoning Amendments:

- To amend each of the zoning bylaws by adding new definitions that exclude works owned and operated by a strata corporation, private utility or business corporation for:
 - “community sewer system”
 - “community water system”
- To amend the Okanagan Valley Zoning Bylaw No. 2800,2022 by replacing minimum parcel size exceptions for subdivision to:
 - Require all new parcels less than 1.0 ha to be connected to both community water and sewer.

Proposal Details

Proposed Servicing Bylaw Amendments:

- To amend the subdivision and development servicing bylaw by adding new definitions that exclude works owned and operated by a strata corporation, private utility or business corporation for:
 - “community sewer system”
 - “community water system”

SUBDIVISION AND DEVELOPMENT



Regional District of Okanagan-Similkameen Bylaw No. 2900, 2024

SERVICING BYLAW

Proposal Details

Proposed Procedures Bylaw Amendments:

- To amend Development Procedures Bylaw No. 2500, 2011 by:
 - Requiring a “Utility Condition Assessment” from a qualified professional engineer to accompany Development Variance Permit (DVP) applications proposing a water or sewer system that does not comply with the regulations of the subdivision servicing bylaw.

DEVELOPMENT



PROCEDURES BYLAW

*This Bylaw has been consolidated for
Convenience only and includes all
Amendments to the text up to:
March 18, 2023*

Proposal Details

Utility Condition Assessment Requirements:

Utility Condition Assessments submitted in support of a (DVP) shall include:

- Drawings of the proposed system.
- Engineer's certification that the system design is equivalent to the standards of the subdivision servicing bylaw, or the current MMCD guidelines.
- Engineer's assessment of the current condition of any existing works.
- Engineer's certification that the system has capacity to support the intended development.

DEVELOPMENT



PROCEDURES BYLAW

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Regulating Private Utilities

Alternative No. 1:

Abandon the proposed amendment bylaws

- Should the Board elect to abandon the proposed amendment bylaws, it is recommended that consultation be initiated with the member municipalities regarding an amendment to the Regional Growth Strategy (RGS) Bylaw in order to revise Policy No. 3A-3.
- It is anticipated that supporting amendments to the various Electoral Area OCP Bylaws will also be required in order to remove current policies discouraging private utility systems.

Regulating Private Utilities

Alternative No. 2:

Status quo

- The status quo is not preferred as retaining RGS & OCP policies discouraging private utilities would be misleading and not representative of the Board's position on this matter if the proposed amendment bylaws are abandoned.
- Discouraging private utilities will be an ineffective policy in the absence of other, supportive regulations in the Regional District's land use bylaws.

Regulating Private Utilities

Questions?