

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: March 3, 2022

RE: Official Community Plan (OCP) & Zoning Bylaw Amendment – Electoral Area “F” (F2021.018-ZONE)

Administrative Recommendation:

THAT the Electoral Area “F” Official Community Plan Amendment Bylaw No. 2790.04, and Electoral Area “F” Zoning Amendment Bylaw No. 2461.21, 2022, be read a first and second time and proceed to public hearing; and

THAT the Board of Directors considers the process, as outlined in the report from the Chief Administrative Officer dated March 3, 2022, to be appropriate consultation for the purpose of Section 475 of the *Local Government Act*; and

THAT, in accordance with Section 477 of the *Local Government Act*, the Board of Directors has considered Amendment Bylaw No. 2790.04, 2022, in conjunction with its Financial and applicable Waste Management Plans; and

THAT the holding of the public hearing be delegated to Director Gettens; and

THAT staff schedule the date, time, and place of the public hearing in consultation with Director Gettens; and

THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.

Proposal:

The proposed amendments to the Electoral Area “F” Official Community Plan (OCP) Bylaw and Zoning Bylaw are to give effect to recommendations contained within the *Greater West Bench Geotechnical Review* (2021).

Background:

At its meeting of September 20, 2018, the Regional District Board adopted the Electoral Area “F” Official Community Plan (OCP) Bylaw No. 2790, 2018. The OCP Bylaw included a policy to “support an updated technical assessment of geotechnical hazards in the West Bench / Sage Mesa area using new technologies (e.g., LiDAR) that were not available when the area was last assessed.”

At its meeting of October 21, 2021, the P&D Committee of the Board resolved that the “Greater West Bench Geotechnical Review – Electoral Area “F” be received as a guiding document and go to the Electoral Area “F” Advisory Planning Commission.”

Referrals:

Approval from the Ministry of Transportation and Infrastructure (MoTI) is required prior to adoption as the proposed zoning amendment bylaw as the proposed amendments involve lands within 800 metres of a controlled access highway (i.e. Highway 97).

Pursuant to Section 476 of the *Local Government Act*, the Regional District must consult with the relevant School District when proposing to amend an OCP for an area that includes the whole or any part of that School District. In this instance, School District No. 67 has been made aware of the proposed amendment bylaw.

Pursuant to Section 477 of the *Local Government Act*, after first reading the Regional Board must consider the proposed OCP amendment in conjunction with Regional District's current financial and waste management plans. The proposed OCP amendment has been reviewed by the Public Works Department and Finance Department, and it has been determined that the proposed bylaw is consistent with RDOS's current waste management plan and financial plan.

Pursuant to Section 475 of the *Local Government Act*, the Regional District must consult with the Agricultural Land Commission (ALC) when proposing to amend an OCP which might affect agricultural. Both the ALC and the Ministry of Agriculture have been made aware of the proposed amendment bylaws.

Public Process:

December 7, 2021 - an electronic Public Information Meeting (PIM) was held via the Webex platform and was attended by 45 members of the public.

November 22, 2022 - the Electoral Area "F" Advisory Planning Commission (APC) recommended that the subject development application be supported.

The written notification of affected property owners, the public meetings as well as formal referral to the agencies listed at Attachment No. 1 should be considered appropriate consultation for the purpose of Section 475 of the *Local Government Act*. As such, the consultation process undertaken is seen to be sufficiently early and does not need to further ongoing.

All comments received to date in relation to this application are included on the Board Agenda.

Analysis:

In response to the recommendations contained within the *Greater West Bench Geotechnical Review*, a series of amendments are being proposed to the Electoral Area "F" OCP Bylaw and include the following:

- a revised Section 17.0 (Hazard Lands) to include the following sub-sections:
 - "Geotechnical Hazard Management", that includes, amongst other things, reviewing the geotechnical hazards in the area on a 10-20 cycle, support for the creation of a web-based reporting tool, restricting densities, reporting requirements for geotechnical studies, and preparation of a soil removal and deposition bylaw;
 - "Flood Hazard Management", that includes, amongst other things, a new policy encouraging the Okanagan Basin Water Board (OBWB) to prepare model floodplain regulations to support the Okanagan Mainstem Floodplain Mapping (2020), so that both

the mapping and regulations can be incorporated into the electoral area zoning bylaw(s);
and

- “Radon Gas Hazard Mitigation” (NOTE: no new policies related to this item are proposed).
- replace the information contained in Schedule ‘D’ (Hazard Lands – Soil) with the “Geotechnical Constraints Zone” (Map 6.0) from the Review report; and
- introduce a new Schedule ‘G’ (Hazard Lands – Floodplain Map) based on data from the 2020 OBWB floodplain mapping project.

The proposed amendments to the Electoral Area “F” Zoning Bylaw relate to two items; minimum parcel size for subdivision and the installation of swimming pools.

Subdivision:

At present, the current 0.25 ha and 500 m² minimum parcel sizes (subject to servicing) that apply to properties in the West Bench suggest that the Regional District considers subdivision feasible, where sufficient land area is present.

The 1992 Klohn Leonoff Geotechnical Hazard Report generally recommended against further subdivision within its area of study until sanitary and storm sewers were installed. To date, sanitary and storm sewers have not been installed in the West Bench area there have been few, if any, subdivisions in the area since the 1992 Geotechnical Hazard Report was completed.

The proposed 2.0 ha minimum parcel size for subdivision is to more accurately reflect the challenges of subdividing in the West Bench and would mitigate expectations around the advisability of subdividing lands in this area.

Swimming Pools:

The proposed prohibition on swimming pools is already an existing policy in the Electoral Area “F”:

Will not support further development of swimming pools due to geotechnical hazard areas in the West Bench/Sage Mesa area until further study is provided on the risks and hazards can be adequately mitigated.

It is also noted that the 1992 Klohn Leonoff Geotechnical Hazard Report identified swimming pools as a trigger for subsurface erosion and sinkhole development and recommended that these be prohibited within the study area. The 2021 Review has confirmed that pools continue to represent a “high risk land use activity” and should be regulated.

It is proposed to list “swimming pools” as a prohibited form of land use within the West Bench through the zoning bylaw. If implemented, existing pools within the West Bench will enjoy non-conforming status (i.e. “grandfathering”) under the *Local Government Act*.

Alternatives:

1. Proceed with only the amendments to the OCP Bylaw and not the Zoning Bylaw, or vice-versa.
2. Do not amend the OCP and Zoning bylaw

Alternatives:

1. THAT the Electoral Area "F" Official Community Plan Amendment Bylaw No. 2790.04, and Electoral Area "F" Zoning Amendment Bylaw No. 2461.21, 2022, be read a first and second time and proceed to public hearing; and

THAT the Board of Directors considers the process, as outlined in this report from the Chief Administrative Officer dated March 3, 2022, to be appropriate consultation for the purpose of Section 475 of the *Local Government Act*; and

THAT, in accordance with Section 477 of the *Local Government Act*, the Board of Directors has considered Amendment Bylaw No. 2790.04, 2022, in conjunction with its Financial and applicable Waste Management Plans; and

THAT the holding of a public hearing be scheduled for the Regional District Board meeting of April 7, 2022; and

THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.

2. THAT the Electoral Area "F" Official Community Plan Amendment Bylaw No. 2790.04, and Electoral Area "F" Zoning Amendment Bylaw No. 2461.21, 2022, be defeated at 1st Reading.

Respectfully submitted:



C. Garrish, Planning Manager

Attachments: No. 1 – Agency Referral List

Attachment No. 1 – Agency Referral List

Referrals have been sent to the following agencies as highlighted with a , regarding Amendment Bylaw No. 2790.04:

<input checked="" type="checkbox"/>	Agricultural Land Commission (ALC)	<input type="checkbox"/>	Fortis
<input checked="" type="checkbox"/>	Interior Health Authority (IHA)	<input checked="" type="checkbox"/>	City of Penticton
<input checked="" type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	District of Summerland
<input type="checkbox"/>	Ministry of Energy, Mines & Petroleum Resources	<input type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Municipal Affairs & Housing	<input type="checkbox"/>	Town of Osoyoos
<input checked="" type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Ecosystem Section)	<input type="checkbox"/>	Town of Princeton
<input checked="" type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Archaeology Branch)	<input type="checkbox"/>	Village of Keremeos
<input type="checkbox"/>	Ministry of Jobs, Trade & Technology	<input checked="" type="checkbox"/>	Penticton Indian Band
<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure	<input type="checkbox"/>	Environment Canada
<input type="checkbox"/>	Integrated Land Management Bureau	<input type="checkbox"/>	Fisheries and Oceans Canada
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Canadian Wildlife Services
<input type="checkbox"/>	School District #53 (Areas A, B, C, D & G)	<input type="checkbox"/>	OK Falls Irrigation District
<input type="checkbox"/>	School District #58 (Area H)	<input type="checkbox"/>	Kaleden Irrigation District
<input checked="" type="checkbox"/>	School District #67 (Areas D, E, F, I)	<input type="checkbox"/>	Irrigation District / improvement Districts / etc.
<input type="checkbox"/>	Central Okanagan Regional District	<input type="checkbox"/>	Kootenay Boundary Regional District
<input type="checkbox"/>	Thompson Nicola Regional District	<input type="checkbox"/>	Fraser Valley Regional District