

# Request for Decision



<b>To:</b>	Council	<b>File No:</b>	2360-20
<b>Meeting Date:</b>	January 16, 2023	<b>Submission Date:</b>	January 6, 2022
<b>From:</b>	Peter de Verteuil, CAO		
<b>Reviewed By:</b>	Paige MacWilliam, Director of Corporate Services		
<b>Subject:</b>	Fortis Statutory Right of Way Over Municipal Lot		

## **RECOMMENDATION:**

**That Council authorize the disposition of a portion of the rear parking area near the ice arena at the Cowichan Community Centre, legally described as Lot 1, Plan VIP82333 (PID 026-922-142), in the form of a Statutory Right of Way, substantially located in the area identified by the black dashed line in Appendix A to the January 16, 2023 report from the Chief Administrative Officer, to Fortis BC, in exchange for Fortis BC paying all costs associated with completing the survey and registration of the Statutory Right of Way with the LTSA Land Title Office, and subject to the Council for the Municipality of North Cowichan approving the terms of this disposition.**

## **BACKGROUND:**

Fortis has determined that the most effective way to provide natural gas service to the new high school is from its existing works located on property jointly owned by the Municipality of North Cowichan, and City of Duncan, which is located across University Way, in the rear parking area of the Cowichan Community Centre ice arena. This would require a Statutory Right of Way (SRW) over a small portion of that property to complete the service.

The location of the proposed works and extent of the right of way is shown in Appendix A. The SRW requested is 1.5 metres by 5 metres. All of the works will be underground.

## **ANALYSIS:**

Several years ago, the City agreed to a streamlined process of natural gas servicing in exchange for an annual lump sum payment based on gas use in an agreement with Fortis. Staff believe that this request is in keeping with the agreement. The gas main along University Way is the only nearby location from which to service the new high school.

As an SRW on title is considered a property disposition, a public notice of property disposition, in accordance with sections 26 and 94 of the *Community Charter* is required before Council can approve the SRW. Public notice was included in the Cowichan Valley Citizen newspaper on January 5 and January 12, 2023. No public comments have been received.

The consideration received by Fortis for approval of this SRW shall include all costs associated with the preparation and registration of this SRW (i.e., legal document preparation, survey work, notice advertising costs, and land title SRW registration costs).

**IMPLICATIONS:**

A statutory right of way will “run with the land” in perpetuity. However, the area in question is utilized for parking at the Cowichan Community Centre and municipal utilities making it unfeasible to repurpose to anything that would be impacted by the statutory right of way.

<b>Financial:</b>	Advertising costs per legislative requirements
<b>Policy/Legislation:</b>	Community Charter Sec. 24 & 94
<b>Strategic Priority:</b>	N/A
<b>Sustainability:</b>	Future of new high school
<b>Communication:</b>	Legislative requirements as set out in the Community Charter Sec. 24 & 94 Post notice in the local newspaper, and City’s website.
<b>Staffing Implications:</b>	Corporate Services department ensures the legislative requirements for advertising are followed.

**ALTERNATE OPTION:**

That Council refer the Fortis Statutory Right of Way Over Municipal Lot to the Committee of the Whole for further discussion.

**APPENDICES:**

Appendix A: University Way Fortis SRW Design Document  
Appendix B: Notice of Disposition