

# Report

Date May 3, 2023

File: 3360-20 22.04  
ZB000181

Subject Zoning Amendment Bylaw No. 3909, 2023, for first and second readings

---

## PURPOSE

To introduce Zoning Amendment Bylaw No. 3909, 2023, which proposes to amend Zoning Bylaw No. 2950, 1997, to permit a detached accessory dwelling unit (ADU) at 7245 Bell McKinnon Road.

## BACKGROUND

### Property Details

The subject property is located at 7245 McKinnon Road and is 0.797 hectares (1.97 acres) in size. It is located within the Rural Restricted (A3) Zone (Attachments 1 & 2) and is designated Rural Residential in the Official Community Plan, i.e., outside of the Urban Containment Boundary (UCB) (Attachment 3).

The property is serviced by community water, a private on-site sewage disposal system (septic) and on-site stormwater management.

The predominant land uses surrounding the subject property are as follows:

- *North: Rural Residential (R1)*
- *East: Rural (A2) "Rural" designation*
- *South: Rural Residential (R1)*
- *West: Commercial Service (C3) Commercial designation*

### Proposal

The applicant is requesting a text amendment to the A3 Zone (Attachment 10) to permit an ADU (garden suite) on the subject property. The applicant has based their application on the maximum size provisions of the Second Dwelling Rural Lands Policy (Attachment 9) and has designed and purchased the ADU to meet a maximum habitable floor area of 92m<sup>2</sup> specified in the policy.

A survey of the subject property (Attachment 4) identifies the existing buildings, structures, and environmental features (pond and watercourse). The site plan identifies the location of the proposal, associated site upgrades and the environmentally sensitive areas as determined by a Qualified Environmental Professional (QEP) (Attachment 5). The applicant provided a letter of rationale along with signed letters of support from neighbouring property owners (Attachment 6 & 7).

The proposed ADU will be accessed from an extension of the existing driveway, is planned on the south side of the subject property and is set back 16m from the adjacent pond. The ADU will be serviced by municipal water, a new private septic system, and a stormwater system (storm-tech infiltrator or the like).

## **DISCUSSION**

### Development Permit Area (DPA) 3 – Environmental Protection

Since the proposed ADU is within 30m of a water feature connected to a fish habitat, environmental protection guidelines “B” as per Schedule J of Zoning Bylaw No. 2950, must be satisfied through the issuance of a development permit prior to development activities occurring on the site. A letter of opinion was prepared for the application by a QEP (Attachment 8) to demonstrate how the proposed development will fulfill provincial and municipal requirements, protecting the adjacent environmentally sensitive feature (the pond).

### Zoning Bylaw No. 2950 – Rural Accessory Dwelling Units and Density

On October 4, 2022, Council adopted Bylaw No. 3876 (Rural Accessory Dwelling Units), which updated Zoning Bylaw No. 2950 to closely align with Agricultural Land Commission Regulations for most A-zoned parcels (A1, A2, A3, and A5). The proposed amendment authorizes parcels two hectares or larger in area to have a detached ADU up to 90m<sup>2</sup> of gross floor area, with the registration of a covenant prohibiting future stratification and subdivision of the subject property. This bylaw amendment preserved the existing maximum density permitted while providing further housing options for rural property owners. In addition, this amendment codified the maximum size of an ADU (90 m<sup>2</sup>) and how it is measured (gross floor area).

Staff note that the A3 zone allows a maximum density of two dwelling units in the form of a two-family dwelling (duplex). The requested zoning amendment would allow for the construction of a detached ADU on the subject property and will not increase the maximum permitted density under the zoning (i.e., two dwelling units).

### Second Dwelling Rural Lands Policy

On December 4, 2019, Council adopted the Second Dwelling Rural Lands Policy (Attachment 9), which established criteria for site-specific zoning amendment applications for second dwellings (now referred to as ADUs) outside the UCB. Further to Attachment 9, the proposal meets the policy criteria for land area and servicing, with the registration of a covenant restricting future subdivision and stratification of the subject property.

Now that the maximum size of an ADU is identified in the zoning bylaw, the size of the ADU as identified in the policy (92m<sup>2</sup>) and the previous convention of measuring the ADU by habitable floor area is no longer aligned with current standards. To achieve consistency with the Zoning Bylaw, staff recommend an amendment to the policy to specify that the size of the ADU is restricted to a maximum gross floor area of 90m<sup>2</sup>.

### Official Community Plan No. 3900 (OCP) Designation and Policies

The following OCP policies are applicable to the proposal:

#### ***Rural Residential Designation***

*Policy 3.2.19 The municipality will strive to:*

- c. Configure zoning to maximize housing potential without further subdivision to permit detached accessory dwellings where servicing connections are available, or in the alternative, adequate on-site common septic treatment and water supply can be achieved.*
- h. Require new dwellings or commercial buildings to incorporate rainwater storage systems.*

***Diverse Housing Mix***

*Policy 5.1.2 The Municipality will strive to:*

- b. Assess and consider how proposals for new housing meet the needs identified in the most recent Housing Needs Assessment Report.*
- h. Explore and encourage different housing types that are suitable to aging in place...*

Section 53(4)(b) of Zoning Bylaw No. 2950 fulfills the policy requirements mentioned above through the registration of a S.219 covenant prohibiting subdivision and stratification prior to building permit issuance.

**ANALYSIS & CONCLUSION**

Detached ADUs up to a maximum gross floor area of 90m<sup>2</sup> are now permitted as of right on most A-zoned parcels that are two hectares or larger in area. Now that the maximum size of an ADU is formalized in the Zoning Bylaw, staff recommendations for rural ADU zoning amendment applications will align with zoning bylaw provisions. This will provide consistency for applicants and staff while minimizing the need for additional zoning provisions (clutter) in Zoning Bylaw No. 2950.

Further to the policies mentioned above, the covenant will prohibit unauthorized stratification and subdivision of the subject property. Additional covenant provisions, such as requiring a shared septic system with the principal building, are not recommended due to site constraints.

As mentioned in the letter of rationale (Attachment 6), detached ADUs can support intergenerational housing. This type of housing is often used by young adults, single and two-person households, individuals with special needs, and the elderly. ADUs are more affordable than conventional single-family housing and can contribute positively to the available rental housing stock.

The Housing Needs Assessment Report (2021) provides information on North Cowichan residents' housing needs. The report identified that the average household size has decreased, and there is an increased need for more one-bedroom dwelling units. There is also a significant demand for affordable rental housing, with 41% of North Cowichan's renter households in core housing need and 13% in extreme core housing need.

Applications for ADUs in rural areas are considered case-by-case through the zoning amendment application process. Council supported this approach when it established the Second Dwelling Rural Lands Policy in December 2019. In October 2022, the adoption of Bylaw No. 3876 (Rural Accessory Dwelling Units) helped to expand the variety of housing forms permitted on most A-zoned parcels but fell short of authorizing detached ADUs on all rural properties that comply with minimum parcel size requirements of the applicable zone. Additional provisions for ADUs on rural properties will be considered as part of the Zoning Bylaw review project. With the OCP Bylaw No. 3900 complete and several detached ADU zoning amendment applications completed, a consistent approach for ADU development on rural lands is being followed. However, there is now some inconsistency between provisions in the Zoning Bylaw and Second Dwelling Rural Lands Policy that should be corrected through an amendment to the Policy.

As the application is compliant with OCP policy and the Second Dwelling Rural Land Policy, staff recommend approval of the application. If Council pursues Option 2, the size of the ADU will be inconsistent with Zoning Bylaw provisions for ADUs but will allow the proposed to proceed without a variance to the 90 m<sup>2</sup> gross floor area regulation in the Zoning Bylaw. A second draft bylaw to address the applicant's original proposal is provided in Attachment 11 should Council support Option 2.

## OPTIONS

1. (Recommended Option) Under this option, the bylaw Council is considering is Attachment 10, which is consistent with the maximum limit for second dwellings (90 m<sup>2</sup>) under the Zoning Bylaw.

THAT Council:

- (1) Give first and second readings to "Zoning Amendment Bylaw No. 3909, 2023;"
- (2) Authorize a Public Hearing for "Zoning Amendment Bylaw No. 3908, 2023" and notification in accordance with the *Local Government Act*; and,
- (3) Amend subsection 3(a) of Second Dwelling Rural Lands Policy by striking out "92 m<sup>2</sup> (990.28 ft<sup>2</sup>) or less" and inserting "90 m<sup>2</sup> (968.75 ft<sup>2</sup>) or less of gross floor area" in its place.

2. Under this option, the bylaw that Council is considering is Attachment 11, which creates an exception to the maximum limit for second dwellings under the Zoning Bylaw by permitting it to be 92 m<sup>2</sup>.

THAT Council:

- (1) Give first and second readings to "Zoning Amendment (Section 53 exemption) Bylaw No. 3909, 2023;"
- (2) Authorize a Public Hearing for "Zoning Amendment (Section 53 exemption) Bylaw No. 3909, 2023" and notification in accordance with the *Local Government Act*; and,
- (3) Amend subsection 3(a) of Second Dwelling Rural Lands Policy by striking out "92 m<sup>2</sup> (990.28 ft<sup>2</sup>) or less" and inserting "90 m<sup>2</sup> (968.75 ft<sup>2</sup>) or less of gross floor area" in its place.

3. THAT Council deny Zoning Amendment Application ZB000181 to permit a detached accessory residential dwelling at 7245 Bell McKinnon Road.

## IMPLICATIONS

If Council gives first and second readings to Zoning Amendment Bylaw No. 3908 and forwards the application to a public hearing, owners and occupants of properties within a 60-metre radius of the subject property will be notified, as per section 1(a) of Public Notice Bylaw No. 3406, and advertisements will be placed in the local newspaper in accordance with the requirements of the *Local Government Act* and the Community Charter. Adoption of the recommended option may instigate the applicant to pursue a variance with the pending development permit application to increase the maximum gross floor area of the proposed ADU.

If Council pursues option two, the proposal will proceed as originally intended without the need for a variance but would be inconsistent with regulations for ADUs in the Zoning Bylaw.

If the application is denied, the property owner retains the ability to construct a two-family dwelling on the subject property but would not be permitted to construct a detached accessory dwelling unit.

**RECOMMENDATION**

THAT Council:

- (1) Give first and second readings to Zoning Amendment Bylaw No. 3909, 2023;
- (2) Authorize a Public Hearing for Zoning Amendment Bylaw No. 3909, 2023 and notification in accordance with the *Local Government Act*; and,
- (3) Amend subsection 3(a) of Second Dwelling Rural Lands Policy by striking out "92 m2 (990.28 ft2) or less" and inserting "90 m2 (968.75 ft2) or less of gross floor area" in its place.

Report prepared by:



---

Anthony Price, BURPI  
Development Planner

Report reviewed by:



---

Rob Conway, MCIP, RPP  
Director, Planning and Building

**Approved to be forwarded to Council:**



---

Ted Swabey  
Chief Administrative Officer

Attachments:

- (1) Location Map
- (2) Orthophoto Map
- (3) Zoning Map
- (4) Survey
- (5) Site Plan
- (6) Letter of Rationale
- (7) Neighbours Letters of Support
- (8) QEP Letter of Opinion
- (9) Second Dwelling Rural Lands Policy
- (10) Draft Zoning Amendment Bylaw (90m2 GFA)
- (11) Draft Zoning Amendment Bylaw (92 m2 habitable floor area)