

Report

Date November 1, 2023

File: 5630-01

Subject South End Waterworks District Amendment Bylaw No. 3939, 2023, for first three readings

PURPOSE

To introduce South End Waterworks District Amendment Bylaw No. 3939, which proposes connecting two lots outside the Urban Containment Boundary (UCB) along Donnay Drive South to the South End Water Local Area Service.

BACKGROUND

When Donnay Drive South was constructed, two non-conforming lots were created on the west side of the new road dedication. Referring to Figure 1, Subject Property 1 is outlined in green, and Subject Property 2 is outlined in red. Detailed information on each property is listed below the figure.

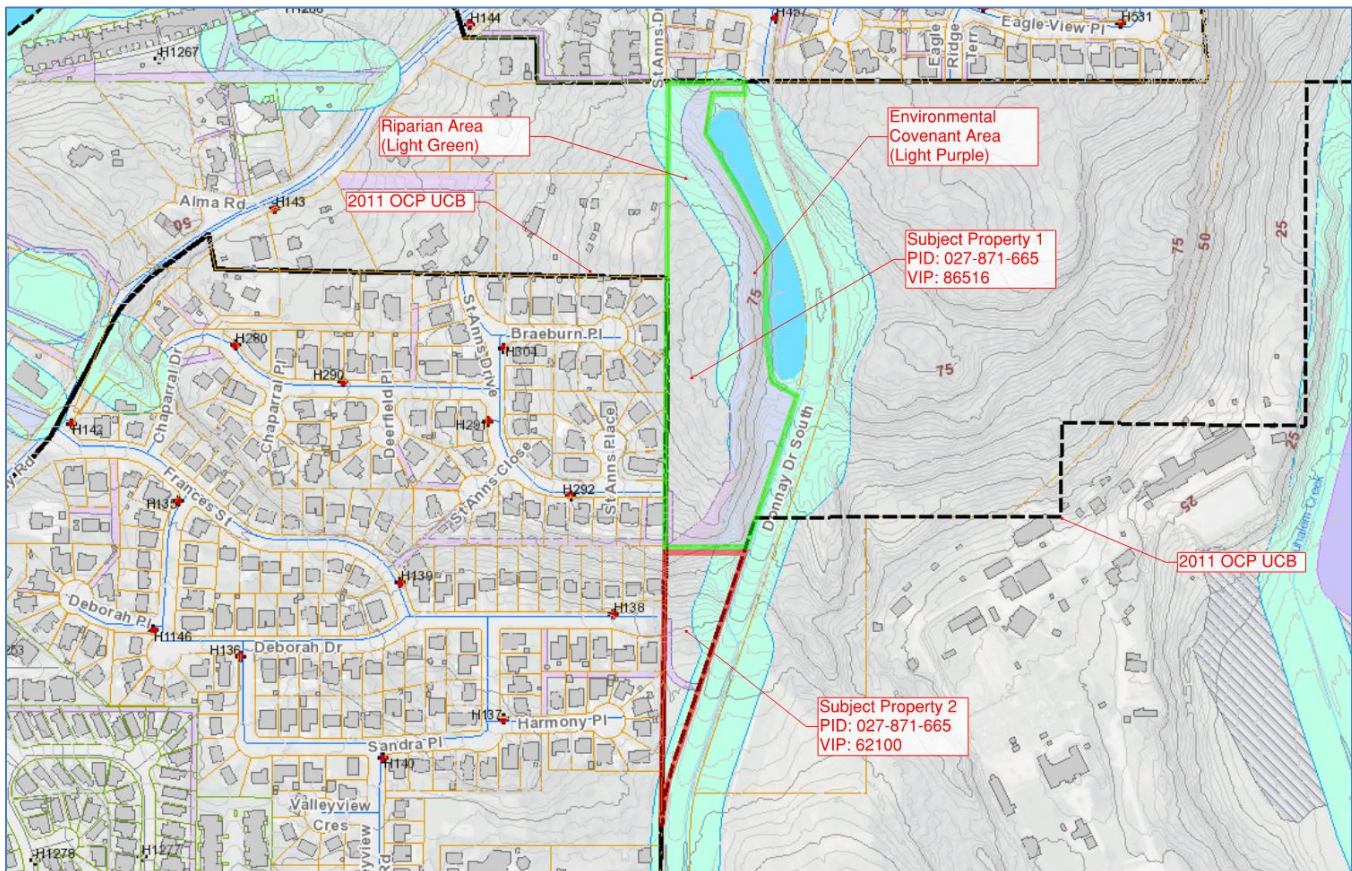


Figure 1

Report

Subject Property 1

- Zoning – A1
- Access point – St. Annes Drive
- Within UCB - no
- Within ALR – no
- Within South End Sewer Local Area Service - yes
- Access to potable water – St. Annes Drive, service line from main to property line
- Lot Size – 3.1 ha
- Lot surface coverage – a mixture of trees, grass/marshland

Subject Property 2

- Zoning – A1
- Access point – Deborah Drive
- Within UCB - no
- Within ALR – no
- Within South End Sewer Local Area Service - yes
- Access to potable water – Deborah Drive, service line from main to property line
- Lot Size – 0.7 ha
- Lot surface coverage – treed with pond bordering Donnay Drive South

A1 zoning has several permitted uses, which are detailed in Attachment 1. Subject Properties 1 and 2 are non-conforming and do not meet the minimum lot size (12 hectares) under the Zoning Bylaw. The non-conforming lots were created when the Municipality negotiated a road dedication for Donnay Drive in the early 2000s. Due to this, no further subdivision of the land can occur. The zoning has a variety of setbacks depending on the proposed use. Based on the stipulated setbacks, each lot could host all the uses except for a slaughterhouse or kennel.

The applicant, Vancouver Island Providence Community Association (VIPCA), applied in 2021 to be added to the South End Water Service Area (Attachment 2). Before adopting Official Community Plan (OCP) Bylaw No. 3900, the properties were within the UCB, and staff presented South End Waterworks District Amendment Bylaw No. 3861 for consideration of first three readings at the February 16, 2022, Council meeting. However, on February 15, 2022, Cowichan Tribes submitted a letter to Council (Attachment 3) raising their concerns with the development of these properties. As a result of the letter received from Cowichan Tribes, Council referred Bylaw No. 3861, 2022, back to staff for review. The application was put on hold while staff attempted to contact Cowichan Tribes. On February 21, 2022, staff were notified that the Board of VIPCA was placing a hold on its application to investigate the assertions made by Cowichan Tribes. South End Waterworks District Amendment Bylaw No. 3861 was subsequently abandoned by Council on March 2, 2022.

On August 17, 2022, Council adopted the new OCP. As a result of the adoption of OCP Bylaw No. 3900, these properties are now located outside of the UCB.

In January 2023, the applicant requested that their application move forward so that the subject properties could access potable water. In May of 2023, the applicant advised staff that they had communicated with Cowichan Tribes and that Cowichan Tribes no longer objected to this application.

DISCUSSION

In terms of alignment with the OCP and with respect to relevant OCP policies, the following are notable under Section 9.1 – Water Systems:

1. OCP Policy 9.1.1 (d) states that the Municipality will consider the requirements and impacts of development proposals on fire flows within the water system.
2. OCP Policy 9.1.2 (a) states that the Municipality will ask developers and landowners to provide a report setting out how fire flows have been calculated. VIMPC has not provided this information as land use has not been determined.

While the OCP is clear that further extension of the sanitary sewer service area to rural parts of the Municipality is not supported, it needs to be clarified as to future extensions of the water service areas.

The A1 zoning allows various potential uses, some of which would necessitate upgrades to the water and possibly the sanitary systems. These potential upgrades would typically be the responsibility of the property owners. The Municipality has been undergoing a water and sanitary model updating exercise for all our systems. The upgraded water models will allow staff to confirm the water system's capacity to deliver fire flows and meet consumption demands based on current zoning and for the build-out scenario set out in the OCP. The models are now in place and calibrated, so staff used the new modelling to assess this site for servicing to confirm the ability to deliver fire flows to each site.

It is our understanding that connection to the water distribution system and the sanitary system would occur after the properties have been sold. So, it is not possible at this time to know the end-use of the two parcels. This information is necessary to determine if the water system can meet the end-use's fire flow and consumption requirements. Similarly, assessing impacts to the sanitary collection system is impossible. Consequently, VIPCA offered to register a covenant on both parcels, limiting the use to one single-family or two-family dwelling on each parcel. Knowing the use, staff have confirmed that the water system can provide sufficient fire flow to both lots based on the abovementioned use with conditions. The sanitary system has sufficient capacity for the addition of up to four additional residential dwelling units.

If Council approves the two subject properties being included in the South End Water Service Area, staff recommend requiring the registration of the following covenants on the subject properties.

- 1) Subject Property 1:
 - a) Staff recommend registering a covenant restricting the use to one single-family or one two-family dwelling.
 - b) Depending where the new dwelling is located on the site, there may be insufficient water pressure to meet the minimum service pressure requirement of 40 psi at the dwelling. Staff recommend registering a covenant requiring that, prior to issuing a building permit, the proponent engage a qualified professional to confirm that the dwelling will have sufficient pressure and, if not, that the proponent provide for a private booster pump designed by a qualified professional.
 - c) Staff recommend securing by covenant the provision of a new hydrant at the end of St. Anne's Drive at the time of building permit if the distance from the existing hydrant (H292) to the center of the building site is more than 150 m.

- 2) Subject Property 2:
- a) Staff recommend registering a covenant restricting the use to one single-family or one two-family dwelling.
 - b) There is a covenant registered on the title on Subject Property 1 restricting access to St. Anne's Drive only (no access is permitted off of Donnay Drive). There is no such covenant on Subject Property 2. Staff recommend that a similar covenant be registered on Subject Property 2. Access will be off the existing cul-de-sac at the end of Deborah Drive.

A benefit of approving the two subject properties coming into the South End Water Local Area Service with the use limited to one single-family or two-family dwelling on each lot is that the other permitted uses are no longer an option. This will ensure that the subject properties', when developed, will have a similar end-use to that of the surrounding area.

OPTIONS

1. **(Recommended Option)** THAT Council:
 - (1) Give first, second and third reading to South End Waterworks District Amendment Bylaw No. 3939, 2023;
 - (2) Defer further consideration of South End Waterworks District Amendment Bylaw No. 3939, 2023 until staff has received confirmation that Cowichan Tribes is supportive of this application; and,
 - (3) Direct that the following covenants be registered on title prior to consideration of adoption of South End Waterworks District Amendment Bylaw No. 3939, 2023:
 - (a) Lot A, Section 19, Range 2, Cowichan District, Plan VIP86516, Parcel Identifier 027-871-665:
 - (i) The use is limited to one single-family or one two-family dwelling.
 - (ii) If the water pressure to the new dwelling is below 40 psi, then the owner must install a private booster pump system designed by a qualified professional. The design will be required prior to the issuance of a building permit.
 - (iii) If the distance to the centre of the new dwelling is greater than 150 m from a municipal hydrant the owner must provide a hydrant at the property line. Provision of funds for the hydrant will be required prior to the issuance of a building permit.
 - (b) Lot A, Section 18, Range 1, Cowichan District, Plan VIP62100, Parcel Identifier 023-216-573:
 - (i) The use is limited to one single-family or one two-family dwelling.
 - (ii) Access to the property will be off the existing cul-de-sac at the end of Deborah Drive.
 - *This option reflects that this request meets the requirement under OCP Policies 9.1.1 (d) and 9.1.2 (a).*
 - *This option ensures that the potable water system has the capacity to service subject properties 1 and 2.*
 - *This option has the side benefit that the end-use of the subject properties is consistent with that of the surrounding area.*
 - *This option will allow the subject properties 1 and 2 to connect to the South End Water Local Area Service once the bylaw is adopted.*
2. THAT Council deny the request from Vancouver Island Providence Community Association to include Lot A, Section 19, Range 2, Cowichan District, Plan VIP86516, Parcel Identifier 027-871-665

and Lot A, Section 18, Range 1, Cowichan District, Plan VIP62100, Parcel Identifier 023-216-573 within the South End Water Local Area Service.

- *This option reflects that this request does not meet the requirement under OCP Policy 9.1.2 (a).*
- *This option will not exert additional load on the South End Water System.*
- *This option will allow for all of the uses permitted by the A1 zone that can meet the requirements set out in the zoning bylaw.*

IMPLICATIONS

Financial

Each subject property would be responsible for paying the fees and charges associated with connecting to the potable water system. The subject properties would also be responsible for the costs for upgrades to the potable water system if the purposed usage impacts the ability of the system to deliver consumption and fire flows.

The fees and charges (based on 2023 rates) are:

- 1) Connection fee: \$3,195 to connect the property from the property line to the main
- 2) Capital cost contribution:
 - a) \$2,501 for a single-family home
 - b) \$1,100 for the additional duplex unit (if the proponent exercises the multi-family option)
- 3) Local Area Service (parcel) tax: \$215 per year
- 4) User fee: \$188 per year per unit

Charges 1) and 2) are one-time costs. Charges 3) and 4) are recurring. The rates will be those applicable at the time the charge is incurred.

Environmental

There are covenants registered on Subject Property 1 that limit activities over the covenant area to protect the environment (see Figure 1; light purple shaded area). Restrictions include provisions that prohibit activities such as erecting structures, altering the topographical contours, cutting down trees without approval from the Municipality, and modifying the hydrology with approval from the Municipality.

There is also a riparian protection area on both subject properties 1 and 2 (see Figure 1; light green shaded area).

Social

Inclusion of the subject properties in the South End Water Local Area Service with the proposed restrictions on use will result in the end-use of the properties being that which is similar to the surrounding land uses, eliminating the risk of other uses currently permitted in the A1 zoning from being exercised.

RECOMMENDATION

THAT Council:

- (1) Give first, second and third reading to South End Waterworks District Amendment Bylaw No. 3939, 2023;
- (2) Defer further consideration of South End Waterworks District Amendment Bylaw No. 3939, 2023 until such time as staff has received confirmation that Cowichan Tribes is supportive of this application; and,
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 - (iii) If the distance to the centre of the new dwelling is greater than 150 m from a municipal hydrant the owner must provide a hydrant at the property line. Provision of funds for the hydrant will be required prior to the issuance of a building permit.
 - (b) Lot A, Section 18, Range 1, Cowichan District, Plan VIP62100, Parcel Identifier 023-216-573:
 - (i) The use is limited to one single-family or one two-family dwelling.
 - (ii) Access to the property will be off the existing cul-de-sac at the end of Deborah Drive.

Report prepared by:



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Report reviewed by:



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Approved to be forwarded to Council:



Ted Swabey
Chief Administrative Officer

Attachments:

- (1) South End Waterworks District Amendment Bylaw No. 3939, 2023
- (2) Zoning Bylaw No. 2950, Agricultural Zone (A1)
- (3) 2022-02-16 Staff Report with Attachments
- (4) 2022-02-15 Letter from Cowichan Tribes