

Report

Date October 4, 2023

File: 3360-20 22.15

Subject **Zoning Amendment Bylaw No. 3927 for first and second reading**

PURPOSE

To introduce Zoning Amendment Bylaw No. 3927, which proposes to amend Zoning Bylaw 1995, No. 2950 to add a definition of "Animal Shelter" and add "Animal Shelter" as a site-specific permitted use at 7550 Bell McKinnon Road in the Rural Zone (A2).

BACKGROUND

Property Details

The subject property is 2.0 ha (4.94 acres) in area, is designated in the Official Community Plan as "Agriculture, Forestry & Conservation," and is located within the Agricultural Land Reserve (ALR). The subject property is zoned Rural Zone (A2). The location and orthophoto of the subject property are identified in Attachment 1 & 2. A zoning map is provided in Attachment 3.

Land Use Context

Lands surrounding the subject property are primarily forested, with agricultural lands within the ALR to the north and east and rural residential uses to the south. The Trans Canada highway borders the subject property to the west.

Proposal

The BC SPCA is a not-for-profit organization serving sick, neglected, abused and homeless animals, and their mission is to protect and enhance the quality of life for domestic, farm and wild animals in BC. The Cowichan location of the BC SPCA has operated at the existing location at 7550 Bell McKinnon Road since 1997, prior to the adoption of Zoning Bylaw 2950, 1997 (the 'current zoning bylaw'). The three buildings on the site include a two-storey shelter building, a dog kennel building, and a storage shed. The BC SPCA notes that the existing buildings are aging and can no longer serve the community as intended.

The BC SPCA would like to replace the aging buildings by constructing a new animal shelter at 7550 Bell McKinnon Road to support animals and better serve the community. The new shelter building, as proposed, will maintain the same functionality as the existing shelter by providing space for dogs, cats and small animals, along with administration spaces to provide animal welfare services. This branch will also be the BC SPCA's first purpose-built centre for animals with behavioural challenges, acting as a transition space for dogs and cats from neglected homes to prepare them for adoption. The new facility is proposed to be a single-storey 917 m² building designed with sustainability in mind.

However, the scale and range of uses of the proposed Cowichan SPCA exceed the intent of the definition of the “kennel” use under which these uses had previously been permitted (prior to the adoption of the current zoning bylaw) as the proposed uses include reception, offices, multi-purpose rooms, a real-life room, storage, delivery, and medical intake. Additionally, a kennel is intended for dogs only, while the Cowichan SPCA will include dogs, cats, and small animals. For clarity:

“kennel” means a structure on and/or a use of land for the purpose of sheltering, boarding, and/or breeding four or more dogs [Part 3 Definitions; section 12, Zoning Bylaw 2950]

To align the existing and proposed uses of the BC SPCA, an amendment to the current Zoning Bylaw is proposed that would add a new definition for “animal shelter” and then apply this new use to the A2 zone at the site-specific location at 7550 Bell McKinnon Road.

The current A2 zone is provided in Attachment 4. The proponent’s letter of intent (Rationale) and Site Plan are provided in Attachments 5 and 6. Site Photos are provided in Attachment 7.

DISCUSSION

Official Community Plan (OCP)

The property is designated as “Agriculture, Forestry & Conservation” in the Official Community Plan. The Cowichan SPCA has a unique position as a not-for-profit that provides a resource for the area by assisting in the care and well-being of the region’s vulnerable animals. While not specified within the Official Community Plan, an animal shelter is compatible with rural uses, assists in providing diverse rural activities and opportunities, and provides a necessary community resource.

The following sections of the OCP include policies in support of the proposed “animal shelter” use:

Section 3.2.16 The undeveloped rural and natural character of these areas remains fundamentally intact; however, in addition to farming and forestry, there are opportunities for other rural development activities that provide economic opportunity on the rural land base. These may include roadside produce stands, home-based businesses, or localized commercial and light industrial activities authorized through a temporary use permit or site-specific zoning amendment. Smaller parcels within the designation are well-suited to small-scale and part-time farming. Further subdivision of parcels within the Rural designation is strongly discouraged, but opportunities that support agricultural and rural economic activity are supported, as are housing options that allow rural landowners to accommodate family and farm labour or generate a modest income to support the upkeep of rural land.

Section 3.2.17 d. Allow small-scale neighbourhood commercial uses such as general stores, farm restaurants, pubs, equestrian uses, agricultural support services, community halls, or small tool repair shops consistent with this designation and consistent with ALR regulation (where relevant). Zoning changes may only be permitted where rural character is maintained, and the impacts on residents and the natural environment is comparable to other uses and activities permitted within the Rural designation.

Zoning Bylaw: Proposed Permitted Use & Setbacks (A2 Zone)

Proposed Animal Shelter Use

The A2 Rural Zone permits a wide range of land uses that fit within rural locations. While not currently included in the zone, many permitted land uses are similar to an animal shelter. For example, land uses of an animal-related nature (i.e., agriculture, kennel, riding stable) and land uses that provide a community service (i.e., assisted living, community care facility) are permitted within the A2 zone. However, the BC SPCA can be readily defined as an animal shelter, and the “animal shelter” use could be applied to other properties by Council as may be needed in the future. The following land use is proposed to be defined in the Zoning Bylaw:

“animal shelter” - means a facility providing shelter and care for animals awaiting placement.

The “animal shelter” land use is proposed to be added to the A2 Rural Zone but permitted only as a site-specific amendment at 7550 Bell McKinnon Road.

Proposed Setbacks – Building & Outdoor Land Uses

The minimum permitted building setback proposed for an animal shelter is 20 metres from all property lines to facilitate the site layout of the BC SPCA buildings as proposed (see Attachment 6 - Site Plan).

Outdoor enclosures, such as runs, pens, and cages, will be subject to a setback requirement of 30 metres from residentially zoned properties and will be reviewed during the building permit process. Currently, there are no additional dog runs proposed for the site.

The BC SPCA intends to redevelop the site, maintaining a naturalized approach and preserving as many trees as possible. The maintenance of mature trees and natural forested areas provides a better acoustic buffer, stabilizes the hillside, and provides infiltration opportunities for stormwater drainage.

Agriculture Land Reserve

The property is located within the Agriculture Land Reserve. Feedback provided by the Agriculture Land Commission (ALC) confirmed that the existing and proposed land use of the Cowichan SPCA is considered a “Permitted Non-Farm Use” as per Part 3, Section 23 of the Agriculture Land Reserve Regulations.

Additionally, ALC staff noted that the proposed building and related site development may require approval by the ALC for soil removal/fill placement and a Notice of Intent (NOI) application to the ALC by the applicant. Municipal development and building permit approvals require that the ALC soil removal and fill placement requirements are fulfilled prior to municipal permit issuance.

Servicing & Infrastructure

Staff are satisfied that water, septic, and stormwater services can be supplied for or on the subject property for the proposed land use. Specific to septic service, the applicant has provided an assessment conducted by a Registered Onsite Wastewater Practitioner, confirming that the site and soil conditions are suitable for the installation of a system to serve the proposed development in conformance with the BC Standard Practice Manual.

Draft Zoning Amendment Bylaw 3927 is provided in Attachment 8.

Future Development Approvals

A development proposal on the subject property could require a development permit for the protection of aquifer vulnerability (DPA-3 Natural Environment).

Development approvals must be obtained before building permits are issued. Infrastructure works are provided at the building permit stage.

CONCLUSION

The BC SPCA has proposed a new building to replace the existing shelter buildings at 7550 Bell McKinnon Road. The scale and range of use require an amendment to the Zoning Bylaw; thus, a new definition for "Animal Shelter" and a site-specific amendment is proposed.

Staff recommend the draft zoning amendment bylaw as presented (Attachment 8) as it provides the Municipality with a robust definition of "Animal Shelter" for the Zoning Bylaw, permits the animal shelter use at 7550 Bell McKinnon Road (application ZB000192), and it could apply to other parcels in the future should the land use be required by Council in time. Additionally, the requested land use of the Animal Shelter is consistent with the OCP's Agriculture, Forestry & Conservation designation. Approval of the zoning amendment application is recommended.

OPTIONS

1. (Recommended Option)

THAT Council:

- (1) give first and second reading to Zoning Amendment Bylaw No. 3927, 2023; and
- (2) authorize a public hearing for Zoning Amendment Bylaw No. 3927, 2023.

2. (Alternative Option)

THAT Council deny zoning amendment application ZB000192 to permit animal shelter use in the A2 zone at 7550 Bell McKinnon Road.

IMPLICATIONS

Should Council deny this application, the existing uses of the building and land by the BC SPCA would continue as lawful non-conforming use. However, buildings on the site could not be replaced or expanded. A new building with enhanced animal shelter uses (within the building or on the land) would not comply with the current zoning bylaw and, therefore, would not be permitted.

Should Council approve the zoning amendment bylaw, the "Animal Shelter" use would be a formalized land use within the Zoning Bylaw and would be applied to the subject property at 7550 Bell McKinnon Road. The BC SPCA could apply for Development and Building Permits for the proposed new facility.

RECOMMENDATION

THAT Council:

- (1) give first and second reading to Zoning Amendment Bylaw No. 3927, 2023; and
- (2) authorize a public hearing for Zoning Amendment Bylaw No. 3927, 2023.

Report prepared by:

Angela Davies

Angela Davies, MCIP, RPP
Development Planner

Report reviewed by:



Rob Conway, MCIP, RPP
Director, Planning and Building

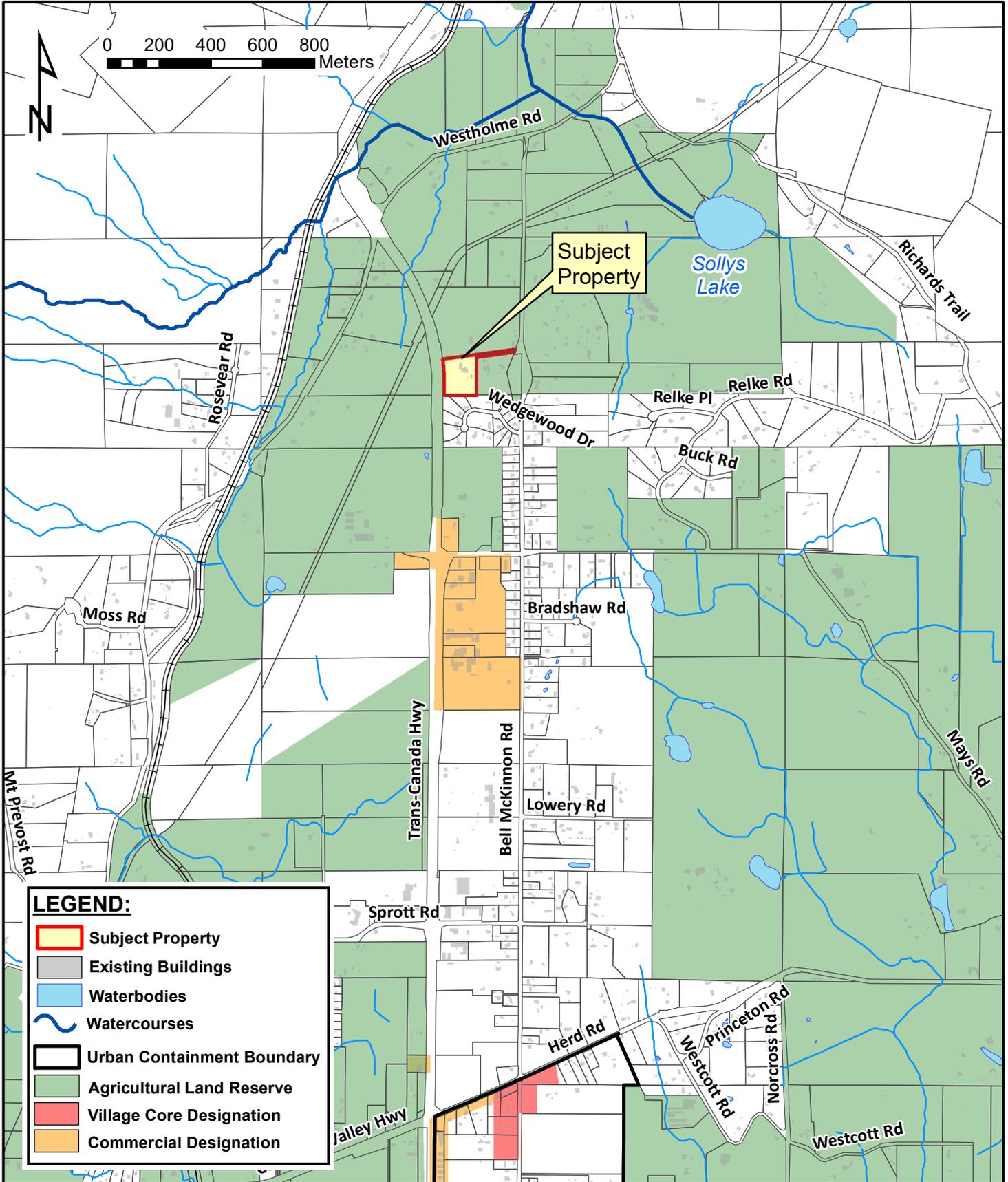
Approved to be forwarded to Council:



Ted Swabey
Chief Administrative Officer

Attachments:

- (1) Location Map
- (2) Orthophoto
- (3) Zoning Map
- (4) Current A2 Zone
- (5) Rationale
- (6) Site Plan
- (7) Site Photos
- (8) Draft Zoning Amendment Bylaw No 3927, 2023

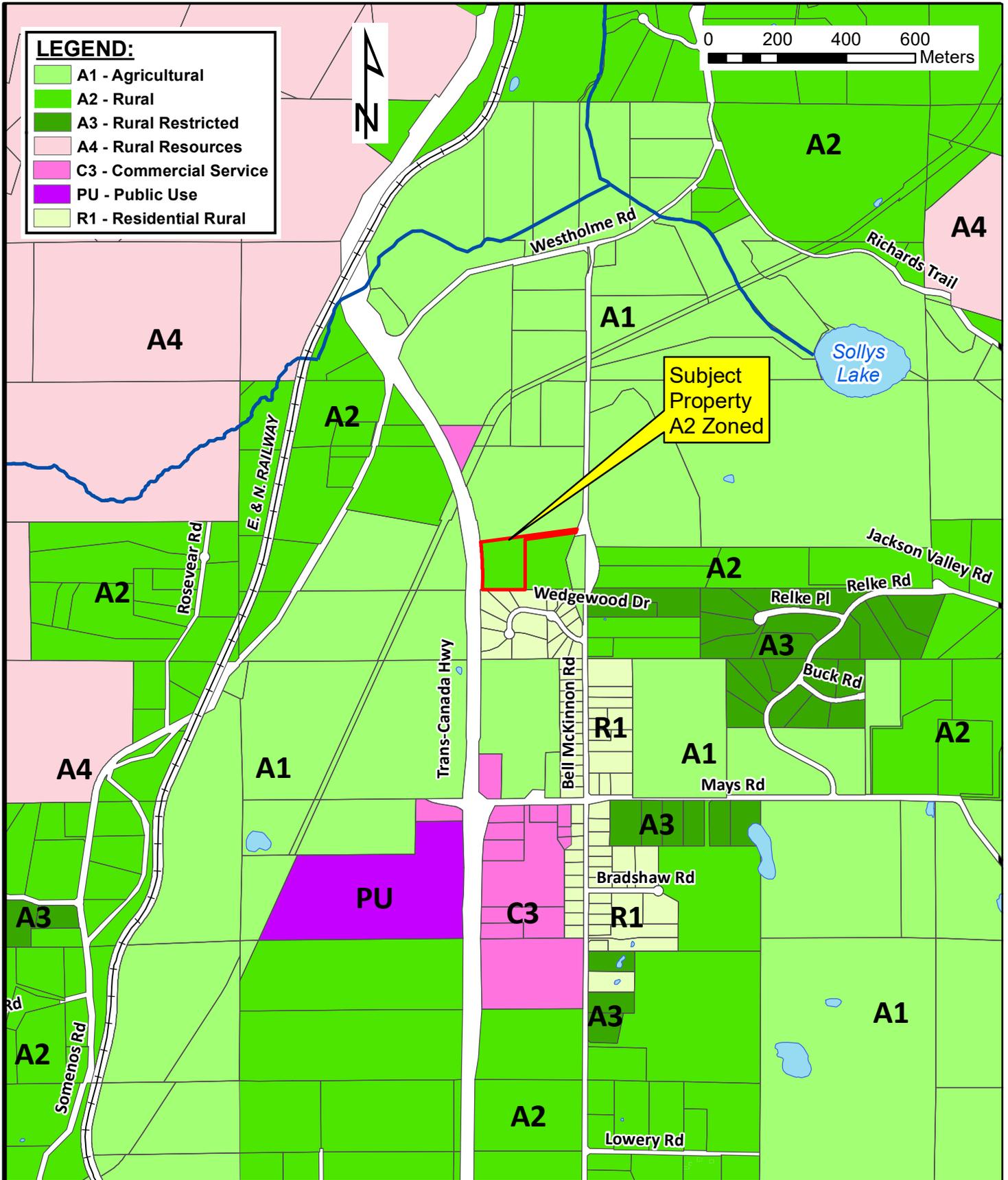


	LOCATION MAP	DATE:	May 31, 2023
	7550 Bell McKinnon Road	TYPE:	Zoning Amendment
		FILE#:	ZB000192



ORTHOPHOTO MAP
 (Orthophoto is from 2019 aerial photography)
 7550 Bell McKinnon Road

DATE:	May 31, 2023
TYPE:	Zoning Amendment
FILE#:	ZB000192



ZONING MAP	
7550 Bell McKinnon Road	

DATE:	May 31, 2023
TYPE:	Zoning Amendment
FILE#:	ZB000192

Rural Zone (A2)

Permitted Uses

- 52 (1) The permitted uses for the A2 zone are as follows:
- Accessory Dwelling Unit
 - Agriculture
 - Agricultural Storage
 - Assisted Living
 - Bed and Breakfast
 - Community Care Facility
 - Craft Distillery
 - Forestry Use
 - Greenhouse
 - Home-based Business
 - Kennel
 - Manufactured Home
 - Riding Stable
 - Single-Family Dwelling
 - Supportive Housing
 - Temporary Mobile Home (subject to the Temporary Mobile Home Permit Bylaw). [BL3754]
 - Two-Family Dwelling [BL3302, BL3457, BL3520]

Minimum Lot Size

- (2) The minimum permitted lot size for the A2 zone is 2 hectares (4.94 acres).

Minimum Frontage

- (3) The minimum permitted frontage for the A2 zone is 75.0 m (246.06').

Density

- (4) The maximum permitted density for the A2 zone is as follows:
- (a) The number of residential buildings per lot shall not exceed one.
 - (i) Despite the foregoing, where land is two hectares (4.94 acres) or larger in area, a total combined maximum of two dwelling units within a maximum of two residential buildings is permitted, where the smaller residential building shall be accessory to the principal dwelling and contain a dwelling unit not exceeding 90m² of gross floor area.
 - (ii) Despite the gross floor area maximum of 90m² in part (i) above, in the case of replacing a previously-existing dwelling legally authorized by the Municipality prior to September 21, 2022 the smaller residential dwelling may not exceed either 90m² or the gross floor area of the previously-existing dwelling, whichever is the greater.
 - (b) No accessory dwelling (other than a suite integral to a principal dwelling) nor a two-family dwelling shall be located on a parcel unless the owner of such parcel has, prior to the issuance of a building permit by the Municipality, registered a covenant under Section 219 of the *Land Title Act*: prohibiting registration of a strata plan under the *Strata Property Act*.
 - (c) Despite section 52(4)(b) above, a covenant is not required where the accessory dwelling or two-family dwelling were legally authorized by the Municipality prior to September 21, 2022, or where a building strata already exists.
 - (d) Despite section 52(4)(b) above, a covenant is not required where the accessory dwelling or two-family dwelling were legally authorized by the Municipality prior to September 21, 2022.

- (e) Despite section 52(4)(a) above, a maximum of two residential buildings with a total combined maximum of three dwelling units is permitted on 941 Arbutus Avenue (PID 000-232-556).
- (f) Despite section 52(4)(a) above, a maximum of two residential buildings with a total combined maximum density of two dwelling units is permitted on the following properties:
 - (i) 3252 Gibbins Road (PID 006-360-378);
 - (ii) 3286 Gibbins Road (PID 004-555-562);
 - (iii) 3276 Gibbins Road (PID 002-343-789);
 - (iv) 3240 Gibbins Road (PID 002-742-501);
 - (v) Lot 1..., Plan 21749, Banks Road (PID 002-705-087);
 - (vi) B-3228 Gibbins Road (PID 001-252-267);
 - (vii) Lot 4..., Plan 8636, Cliffs Road (PID 005-586-429);
 - (viii) 3088 Cliffs Road (PID 005-586-445);
 - (ix) Lot 5..., Plan 8636, Cliffs Road (PID 005-586-437);
 - (x) Part of Lot 11..., Plan 2785, Banks Road (PID 006-360-742);
 - (xi) Part of Lot 1..., Plan 9537 (PID 005-338-859);
 - (xii) A-3228 Gibbins Road (PID 000-041-874);
 - (xiii) repealed;
 - (xiv) 3246 Gibbins Road (PID 028-738-080);
 - (xv) Lot A..., Plan 10506 (PID 005-267-412);
 - (xvi) 3186 Gibbins Road (PID 005-409-292).
 - (xvii) 2772 Herd Road (PID: 002-831-732)
 - (xviii) 1379 Maple Bay Road (PID 004 893 409)
 - (xix) 7167 Bell McKinnon Road (PID 005-465-621)
 - (xx) 3833 Gibbins Road (PID: 006-570-208)

[BL3287, BL3754, BL3697, BL3757, BL3819, BL3822, BL3871, BL3876, BL3883.]

Maximum Lot Coverage

- (5) The maximum permitted lot coverage for the A2 zone is 10% of the lot area.

Minimum Setbacks

- (6) The minimum permitted setbacks for the A2 zone are as follows:
 - (a) Single-Family Dwellings and Two-Family Dwellings
 - Yard, Front, 6.0 m (19.68')
 - Yard, Side, 3.0 m (9.84')
 - Yard, Rear, 8.0 m (26.25')
 - (b) Mobile Homes
 - Yard, Front, 30.0 m (98.42')
 - Yard, Side, 12.0 m (39.37')
 - Yard, Rear, 12.0 m (39.37')
 - (c) All Other Principal Buildings
 - Yard, Front, 25 m (82.02')
 - Yard, Side, 15 m (49.21')
 - Yard, Rear, 15 m (49.21)'".
 - Yard, Abutting Residentially Zoned Property, 30 m (98.42') [BL3767]
 - (d) Accessory Buildings and Structures (Excluding Fences)
 - Yard, Front, 8.0 m (26.25')
 - Yard, Side, 3.0 m (9.84')
 - Yard, Rear, 8.0 m (26.25')
 - (e) Temporary Mobile Homes
 - To be sited in accordance with the provisions of the Temporary Mobile Home Permit

- Bylaw. [BL3754]
 (f) Kennel
 Yard, Front, 30 m (98.43')
 Yard, Side, 30 m (98.43')
 Yard, Rear, 30 m (98.43') [BL3758]

Maximum Building Height

- (7) (a) The maximum permitted building height for buildings, containing one or more dwelling units, within the A2 zone is 9.0 m (29.53').
 (b) Despite the foregoing, the height of other farm buildings is subject to the provisions of the ACNBC Farm Building Code 1995.

Conditions of Use

- (8) The conditions of use for the A2 zone are as follows:
- (a) Bed and breakfast uses may have no more than six sleeping units and may be conducted in a maximum of one accessory building (with no kitchen) and/or one dwelling unit.
- (b) Limited farm sale of agricultural products may be sold directly to the public provided that:
- (i) a minimum of 50% of the agricultural products offered for sale are produced on the land;
- (ii) the covered retail sales area does not exceed 100 m² (1076.4 sq. ft.); and
- (iii) the retail sales are clearly ancillary to the farm use.
- (c) Assisted Living, Supportive Housing, and Community Care Facilities may be permitted provided that
- (i) the number of residents does not exceed ten, including resident staff,
- (ii) the use is within a single-family dwelling unit only, which for clarity does not include a two-family dwelling,
- (iii) approval from the Agricultural Land Commission is obtained, where the property is within the Agricultural Land Reserve,
- (iv) valid health permits for septic systems or on-site wastewater treatment systems are obtained, and
- (v) each single-family dwelling unit may contain this use where the property is two hectares (4.94 acres) or greater and has two single-family dwelling units.
- (d) despite section 52 (1), "campground (seasonal)" is a permitted use on 3042 River Road, and "campground (short-term)" is a permitted use on 8701 Chemainus Road, 8682 and 9090 Trans-Canada Highway, and 3800 Gibbins Road for a maximum of 25 campsites during a gathering for an event. [BL3662]
- (e) [Repealed; BL3697].
- (f) a maximum of 14 gatherings for an event with up to 150 attendees, and 20 events with up to 20 attendees, are permitted per year on 3800 Gibbins Road.
 [BL3083, BL3302, BL3323, BL3521, BL3554, BL3662]
- (g) A kennel must not be located on a lot less than 8000 m² (1.98 acres) in area. [BL3758]

July 18, 2022

Rob Conway, MCIP, RPP
Director of Planning and Building Planning and Building Department
Municipality of North Cowichan
7030 TransCanada Highway, Duncan, BC

Dear Mr. Conway,

RE: 7550 Bell McKinnon Road Zoning Amendment

On behalf of the BC SPCA, we are applying for a zoning amendment to 7550 Bell McKinnon for the existing BC SPCA Animal Shelter.

Due to the age and condition of the existing shelter on site, there is a dire need of a replacement facility to better serve not only the animals, but also the staff, volunteers and community. This replacement facility is the top priority for BC SPCA's capital projects.

Please consider this letter as the official request for zoning amendment to the existing A2 Rural zoning to permit the existing function on the property, which has been serving the community for 24 years as the BC SPCA Cowichan Branch Animal Shelter.

During our initial correspondence with the planning and building department in 2019, we advised the building/planning department that the BCSPCA would be pursuing either an extensive renovation and addition or a new build, at 7550 Bel McKinnon Rd. We had been advised that the "existing building had been approved as a shelter and would have occupancy D at the time". No concern of legally non-conforming was identified at the time of request for information, from the department.

We now understand that the existing animal shelter (cats and dogs and small animals) is legally non-conforming and should the BC SPCA wish to replace the aging facility, a zoning amendment is required. The Planning department has further confirmed that the zoning bylaw does not currently include an animal shelter designation.

The replacement shelter will maintain the same functionality of the existing shelter, which provides kennels for dogs and cats and administration spaces. This branch will also be BC SPCA's first purpose-built centre for animals with behavioural challenges. This shelter will act as a transition space for dogs and cats that have come from neglected homes to prepare the animals for adoption. The behavioural centre will also provide spaces for community engagement with respect to animal welfare.

The existing shelter is a 2 storey main building (2,950 SF) with a separate single storey dog kennel building (+/- 3015 SF) for a total of approx. 6,000 SF, plus outside dog runs as well as other structures on site

The replacement shelter will maintain the existing programs/spaces, as noted below:

- Offices
- Cat rooms/cages
- Public engagement classrooms
- Kitchen
- Medical exam room
- Storage
- Washrooms
- Laundry room
- Mech/electrical rooms
- Outdoor covered deck cat areas
- Dog kennels
- Outdoor dog runs

The new facility will be designed with sustainability in mind and will be a single storey facility of approximately 7,000 SF. With the advance in animal welfare and with the mandate to build and temporarily house animals in fear free environments, the BC SPCA seeks to expand the public engagement classroom and to create a larger multipurpose space to train and to modify animal behavioural issues through positive reinforcement training. As a not-for-profit organization, which has a strong tie to Cowichan, the BC SPCA seeks full support from the Planning Department, in the continued delivery of much needed animal welfare services to the Municipality of Cowichan.

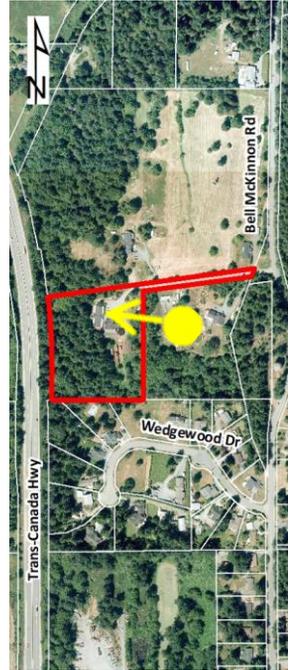
We thank you for considering this application for zoning amendment to 7550 Bell McKinnon Road.

Sincerely,



Sarah Bjornson, Architect AIBC, Partner







The Corporation of the District of North Cowichan

Zoning Amendment Bylaw

BYLAW NO. 3927

A bylaw to amend Zoning Bylaw 1997, No. 2950, to add the site-specific use of 'animal shelter' to the A2 zone at 7550 Bell McKinnon Road.

The Council of The Corporation of The District of North Cowichan, enacts in open meeting assembled, as follows:

Citation

1 This Bylaw may be cited as *"Zoning Amendment Bylaw No. 3927, 2023"*.

Amendment

2 That Zoning Bylaw 1997, No. 2950, Section 12 [Definitions] is amended by inserting the following:

""animal shelter" means a facility providing shelter and care for animals awaiting placement;"

3 That Zoning Bylaw 1997, No. 2950, Section 52 (1) [Permitted Uses in the Rural Zone (A2)] is amended by inserting the following:

"Animal Shelter (subject to the Conditions of Use set out in Section 52(8)(h) and (i))"

4 That Zoning Bylaw 1997, No. 2950, Section 52(6) [Minimum Setbacks in the Rural Zone (A2)] is amended by adding the following subsection:

*“(g) Animal Shelter
Yard, Front, 20.0 m (65.62’)
Yard, Side, 20.0 m (65.62’)
Yard, Rear, 20.0 m (65.62’)”*

5 That Zoning Bylaw 1997, No. 2950, Section 52(8) [Conditions of Use in the Rural Zone (A2)] is amended by adding the following subsections:

“(h) An “Animal Shelter” is a site-specific permitted use on 7550 Bell McKinnon Road exclusively.

(i) Despite section 52(6)(g), the minimum permitted setback for outdoor animal enclosures (e.g., runs, pens, cages) is 30.0 m (98.43’) from residentially zoned properties.”

READ a first time on

READ a second time on

This bylaw was advertised on the municipality's _____ site on _____, in the Cowichan Valley Citizen and the Chemainus Valley Courier on _____, and was posted to the municipality's public notice places on _____.

CONSIDERED at a Public Hearing on _____.

READ a third time on _____.

RECEIVED the approval of the Minister of Transportation and Infrastructure on _____.

ADOPTED on _____.

CORPORATE OFFICER

PRESIDING MEMBER