

Report

Date June 15, 2022

File: OCP00019

Subject Consultation for Official Community Plan Amendment Bylaw No. 3869, 2022

PURPOSE

To complete the required statutory steps following first reading and prior to second reading of Official Community Plan (OCP) Amendment Bylaw No. 3869, 2022.

BACKGROUND

At the May 18, 2022 Regular Council Meeting, first and second reading was given to OCP Amendment Bylaw No. 3869 (Bylaw 3869). If adopted, the bylaw would change the OCP designation of lands north of Drinkwater from Commercial and Regional Shopping Centre to Growth Centre and allow Council to rezone lands in the subject area to medium and high-density residential use.

DISCUSSION

Statutory Process:

Procedural requirements for amending an Official Community Plan are set out in Part 14, Division 4 of the *Local Government Act*. These include:

(s. 475) Consultation during development of OCP [and OCP amendments]

During the development of an official community plan, or the repeal or amendment of an official community plan, the proposing local government must provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected...

The local government must consider whether the opportunities for consultation with one or more of the persons, organizations and authorities should be early and ongoing, and specifically consider whether consultation is required with the following:

- (i) *the board of the regional district in which the area covered by the plan is located, in the case of a municipal official community plan;*
- (ii) *the board of any regional district that is adjacent to the area covered by the plan;*
- (iii) *the council of any municipality that is adjacent to the area covered by the plan;*
- (iv) *first nations;*
- (v) *boards of education, greater boards and improvement districts;*
- (vi) *the Provincial and federal governments and their agencies.*

(s. 476) Consultation on planning for school facilities

(1) If a local government has adopted, or proposes to adopt or amend, an official community plan for an area that includes the whole or any part of one or more school Districts, the local government must consult with the boards of education for those school districts

- (a) *at the time of preparing or amending the official community plan, and*
- (b) *in any event, at least once in each calendar year.*

For consultation under subsection 1 (above), the local government must seek the input of the boards of education on the following:

- (a) *the actual and anticipated needs for school facilities and support services in the school districts;*
- (b) *the size, number and location of the sites anticipated to be required for the school facilities referred to in paragraph (a);*
- (c) *the type of school anticipated to be required on the sites referred to in paragraph (b);*
- (d) *when the school facilities and support services referred to in paragraph (a) are anticipated to be required;*
- (e) *how the existing and proposed school facilities related to existing or proposed community facilities in the area.*

(s. 477) *Adoption procedures for official community plan*

(3) After first reading of a bylaw under subsection (1), the local government must do the following in the indicated order:

- (a) *First, consider the proposed official community plan in conjunction with*
 - i) *Its financial plan, and*
 - ii) *Any waste management plan under Part 3 [Municipal Waste Management] of the Environmental Management Act that is applicable in the municipality or regional district;*
- (b) *Next, if the proposed official community plan applies to agricultural land in the agricultural land reserve, refer the plan to the agricultural land commission for comment;*
- (c) *Next, hold a public hearing on the proposed official community plan in accordance with Division 3 [Public Hearings on Planning and Land Use Bylaws] of this Part.*

In addition to the requirements under subsection 3 [above], a local government may consider a proposed official community plan in conjunction with any other land use planning and with any social, economic, environmental or other community planning and policies that the local government considers relevant.

Before adopting Bylaw 3869, it is necessary to demonstrate that the above statutory requirements have been satisfied.

Analysis:

Purpose of OCP Amendment:

Bylaw No. 3869, if adopted, would change the OCP designation on lands on the north side of Drinkwater Road, between Paddle Road and Ford Road, from "Commercial" and "Regional Shopping Centre" to "Growth Centre" (Attachments 1 & 2). The amendment is necessary because the existing OCP designation for those lands is not entirely consistent with residential land use designations in the Bell McKinnon Local Area Plan (BMLAP). As Section 478 of the *Local Government Act* requires all bylaws enacted by Council to be consistent with the OCP, Council cannot adopt two zoning amendment applications that are before it without first amending OCP Bylaw 3450:

- Zoning Amendment Bylaw No. 3867 (6478, 6494, 6493, 6489 Paddle Road from R1 & 6495 Paddle Road from CD10, to CD22), 2022; and,
- Zoning Amendment Bylaw No. 3868 (3005, 3011 Drinkwater Road and 6455 Ford Road from R1 to CD23), 2022.

It should be noted that Council has given first reading to Official Community Plan Bylaw 3900 (the new OCP). If Council adopts that bylaw in its current form before the above referenced zoning amendments are adopted, Bylaw 3869 can be abandoned because the zoning amendments would be consistent with the new OCP.

Recommended Consultation:

Bylaw 3869 is intended to achieve consistency between the land use designations of the OCP and the BMLAP. Consultation was undertaken with the BMLAP, including with Cowichan Tribes and School District 79, when that plan was developed. Broad consultation has also occurred with the new OCP, which proposes land use designations for the subject area that are consistent with what is proposed in Bylaw 3869. Therefore, consultation is recommended to be limited to School District 79, as Section 476 of the *Local Government Act* makes that mandatory. It is recommended that the consultation be undertaken with a letter sent to School District 79 inviting input on the proposed amendment with a 30-day response period. The letter would also advise that staff are available to meet to discuss the proposed amendment.

Financial and Waste Management Plans:

During the development of the new OCP, financial and waste management implications were actively considered, with finance and utilities staff reviewing the OCP draft and providing input. The designation of the subject area for medium and high-density residential use was not identified as creating a conflict with the 2022 Financial Plan because financial implications, where they exist, result largely from the implementation of the plan and its various discretionary projects. The land use designations themselves do not result in identifiable financial implications. In other words, there are no identified conflicts between Bylaw 3869 and the 2022 Financial Plan.

With respect to waste management, the OCP contains policies regarding liquid and solid waste, and those policies are unaffected by the proposed OCP amendment. There are no identified implications of the OCP amendment that would conflict with Cowichan Valley Regional District (CVRD) liquid and solid waste management plans.

Rescinding Second Reading

Section 477 of the *Local Government Act* requires that Council consider proposed OCP amendments in conjunction with applicable financial and waste management plans following first reading. As Council gave both first and second reading to Bylaw 3869 on May 18, 2022, it is necessary for Council to rescind second reading before the Bylaw is considered in conjunction with the financial and waste management plans.

OPTIONS

Option 1 (Recommended)

THAT Council:

- (1) rescind second reading of "Official Community Plan Amendment Bylaw No. 3869, 2022";
- (2) has considered the consultation requirements of s. 475 of the *Local Government Act* in relation to "Official Community Plan Amendment Bylaw No. 3869, 2022";
- (3) is satisfied that consultation under Section 475 of the *Local Government Act* in relation to "Official Community Plan Amendment Bylaw No. 3869, 2022" does not need to be early and ongoing;
- (4) is satisfied that given the narrow focus of the proposed amendment, that specific consultation on "Official Community Plan Amendment Bylaw No. 3869, 2022" with persons, organizations, and authorities identified in s. 475(2)(b) of the *Local Government Act* is not required;
- (5) direct that "Official Community Plan Amendment Bylaw No. 3869, 2022" be referred to School District 79 with a 30-day response period;
- (6) has considered "Official Community Plan Amendment Bylaw No. 3869, 2022" in conjunction with the Cowichan Valley Regional District Solid Waste Management Plan (as amended) and the Cowichan Valley Regional District Central Sector Liquid Waste Management Plan and finds no significant conflicts;
- (7) has considered "Official Community Plan Amendment Bylaw No. 3869, 2022" in conjunction with the North Cowichan 2022 Five Year Financial Plan and finds no significant conflict;
- (8) give second reading to "Official Community Plan Amendment Bylaw No. 3869, 2022"; and,
- (9) direct staff to schedule a public hearing for "Official Community Plan Amendment Bylaw No. 3869, 2022" and to issue notice in accordance with the *Local Government Act*.

Option 2 (Alternate)

That Council:

- (1) Identify those persons, organizations and authorities it wishes to consult with regarding "Official Community Plan Amendment Bylaw No. 3869, 2022", and if those consultations are to be early and ongoing [... to be identified by Council]; and,
- (2) Direct staff to report back to Council with further information regarding [... to be identified by Council].

IMPLICATIONS

The recommended option will allow Council to proceed with a public hearing and to consider third reading and adoption of Bylaw 3869. Adoption of the Bylaw will then allow Council to consider rezoning applications for medium and high-density residential uses in the subject area.

The alternate option (Option 2) would direct staff to undertake a consultation on Bylaw No. 3869 with persons, organizations and authorities specified by Council. It could also provide direction for staff to come back with additional information for Council regarding the financial plan, CVRD waste management plans, or other information requested by Council.

RECOMMENDATION

THAT Council:

- (1) rescind second reading of "Official Community Plan Amendment Bylaw No. 3869, 2022";
- (2) has considered the consultation requirements of s. 475 of the *Local Government Act* in relation to "Official Community Plan Amendment Bylaw No. 3869, 2022";
- (3) is satisfied that consultation under Section 475 of the *Local Government Act* in relation to "Official Community Plan Amendment Bylaw No. 3869, 2022" does not need to be early and ongoing;
- (4) is satisfied that given the narrow focus of the proposed amendment, that specific consultation on "Official Community Plan Amendment Bylaw No. 3869, 2022" with persons, organizations, and authorities identified in s. 475(2)(b) of the *Local Government Act* is not required;
- (5) direct that "Official Community Plan Amendment Bylaw No. 3869, 2022" be referred to School District 79 with a 30-day response period;
- (6) has considered "Official Community Plan Amendment Bylaw No. 3869, 2022" in conjunction with the Cowichan Valley Regional District Solid Waste Management Plan (as amended) and the Cowichan Valley Regional District Central Sector Liquid Waste Management Plan and finds no significant conflicts;
- (7) has considered "Official Community Plan Amendment Bylaw No. 3869, 2022" in conjunction with the North Cowichan 2022 Five Year Financial Plan and finds no significant conflict;
- (8) give second reading to "Official Community Plan Amendment Bylaw No. 3869, 2022"; and,
- (9) direct staff to schedule a public hearing for "Official Community Plan Amendment Bylaw No. 3869, 2022" and to issue notice in accordance with the *Local Government Act*.

Report prepared by:



Rob Conway, MCIP, RPP
Director, Planning and Building

Report reviewed by:

George Farkas

George Farkas
General Manager, Planning, Development and
Community Services

Approved to be forwarded to Council:



Ted Swabey
Chief Administrative Officer

Attachments:

- (1) OCP Amendment Bylaw No. 3869
- (2) May 18, 2022 Staff Report
- (3) Local Government Act Excerpts