

Report

Date October 4, 2022

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Subject Zoning Amendment Bylaw No. 3883, 2022 for first and second readings

PURPOSE

To introduce Zoning Amendment Bylaw No. 3883, 2022, which proposes to amend Zoning Bylaw No. 2950, 1997, to permit a detached accessory dwelling unit (garden suite) at 3833 Gibbins Road. A staff presentation will be provided at the meeting.

BACKGROUND

Property Details

The subject property (PID: 006-570-208) is a 0.97 hectare (2.4 ac) parcel outside of the Urban Containment Boundary (UCB) and within the Agricultural Land Reserve (ALR) (Attachments 1 & 2). The parcel is zoned Rural A2 and currently contains a single-family dwelling, an accessory shop and a small farm building (Attachments 3 & 4).

The property is serviced with a private well and septic system.

Land Use Context

Lands surrounding the subject property are zoned A2 and are also within the ALR. Surrounding land uses generally consist of one and two-storey rural homes on properties 2428 m² (0.6 acres) and larger.

Proposal

The applicant is requesting a text amendment to the A2 Zone (Attachment 12) to permit an 89m² (958ft²) single-storey detached accessory dwelling (garden suite) to accommodate an elderly family member.

A survey was prepared to identify the location of the proposal (Attachment 4) and a letter of rationale was provided in support of the application (Attachment 5). The proposed accessory dwelling is to be sited next to the existing driveway on lawn further back from the principal single-family dwelling. The proposed garden suite will be serviced through a new shared-sewage treatment system (Attachment 8) and an existing on-site well.

The applicant has pre-emptively registered a Section 219 covenant that is required for adoption of the proposed zoning amendment bylaw (Attachment 9). In addition, staff has received three letters of support from adjacent property owners (3795, 3849, and 3854 Gibbins Road) (Attachment 10).

DISCUSSION

Policy Context

- Agricultural Land Commission Regulations

On December 31, 2021, new Agricultural Land Commission (ALC) regulations came into force pertaining to residential buildings on ALR lots. These regulations adopt a more permissive

approach, whereby up to three dwelling units (two accessory) contained within two separate buildings will be permitted. ALC approval is no longer required, but local governments may choose to further restrict housing on ALR lands.

- Second Dwelling Rural Lands Policy

On December 4, 2019, Council adopted the Second Dwelling Rural Lands Policy, which established the following criteria for site-specific zoning amendment applications for second dwellings outside the UCB:

- a. *That size of the proposed second dwelling be restricted by covenant to 92 m² (990.28 ft²) or less;*
- b. *That subdivision be restricted by covenant to prevent subdivision including strata subdivision;*
- c. *That the size of the parcel be a minimum of;*
 - i. *1 ha (2.5 acres) where no Municipal sewer or water exists;*
 - ii. *0.4 ha (1 acre) where no Municipal sewer exists;*
 - iii. *0.2 ha (0.5 acres) where Municipal water and sewer exist; and,*
- d. *That siting of second dwellings on agricultural lands be established and restricted by covenant to preserve agricultural land.*

In support of the proposal, Polaris Land Surveying prepared a memo reviewing the history and policy context of the subject property (Attachment 6). This memo identified that the subject property was created in 1947 and had an original land area of 1.03 ha. In 1951 through Bylaw No. 430 and plan 380BL (Attachment 11), the Municipality expropriated lands to expand Gibbins Road. The result of the land expropriation reduced the subject property by 0.06 ha or 6% to its present-day size of 0.97 ha. The decision to expand Gibbins Road brought the subject property out of compliance with the Second Dwelling Rural Lands Policy.

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

On August 17, 2022, Council gave third reading of Bylaw No. 3876 (Rural Accessory Dwelling Units), which will, upon adoption, update Zoning Bylaw No. 2950 to more closely align with the new ALC 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 accessory dwelling unit up to 90m² with the registration of a covenant prohibiting future stratification and subdivision of the subject property. This bylaw amendment retains the current maximum density permitted while providing further flexibility for housing options for property owners.

Staff note that the A2 zone allows a maximum density of two dwelling units in the form of a two-family dwelling (duplex), or a single-family dwelling with a secondary suite. The requested zoning amendment would allow for the construction of a detached accessory dwelling unit (garden suite) on the subject property. It will not cause an increase to the maximum permitted density under the zoning (i.e. two dwelling units).

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

The subject property is designated "Agriculture, Forestry and Conservation (Rural)" within the OCP.

The following OCP policies are applicable to the proposed:

Agriculture, Forestry & Conservation (Rural) Designation

Policy 3.2.17 *The Municipality will strive to:*

- a. *Maximize housing options without subdividing or urbanizing land, through zoning agricultural land reserve parcels that allow up to three permanent dwelling units per parcel, within no more than two separate buildings, and subject to servicing criteria or conditions that preserve natural features or agriculture.*

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...*
- p. *Encourage housing solutions to support agriculture.*

Protect farming and the agricultural land base

Policy 7.2.2 *The Municipality will strive to:*

- g. *Consider up to three dwelling units per parcel, within no more than two separate buildings on farmland where:*
 - *It supports the agricultural use of the property.*
 - *It will preserve and/or protect an environmental feature.*
 - *Driveway access, parking areas and utilities are generally shared.*
 - *The positioning and design complement the rural character of the immediate area.*
 - *The ALC has granted approval, or the housing is permitted by ALC policy and regulation.*

As demonstrated through the applicant's site plan (Attachment 4), the letter of rationale (Attachment 5) and building plans (Attachment 7), the proposal complies to policy 3.2.17 (a) and fulfills the requirements identified under policy 7.2.2 (g):

- agricultural activities are on the opposite side of the subject property and will not be impacted;
- the subject property is free of protected environmental features, the location of the proposed is on an existing grassed area and doesn't require the removal of trees;
- the existing driveway will be shared by all occupants;
- the design of the proposed will complement the principal dwelling and is sited further back from the road preserving the scenic rural character of the area; and,
- as previously mentioned, authorizations by the ALC are not required.

The request as presented complies with OCP policy.

ANALYSIS & CONCLUSION

This application is compliant with the OCP and fulfills the intentions of the Second Dwelling Rural Lands Policy. The historic expropriation of lands along Gibbins Road brought the subject property out of compliance with the Second Dwelling Rural Lands Policy by 300m² or 3% of the total parcel area. This policy deviation is anticipated to have little impact on the rural character of the subject property and the land's ability to service the proposed dwelling unit.

The proposed location is on an existing lawn, will share the driveway, and is clustered near the principal single-family dwelling, will include an ,pgraded septic system, and well lines; which will decrease construction costs and impacts on the land. Furthermore, the proposed will not diminish the existing agricultural activities on the remainder (easternmost) section of the property.

In anticipation of Council's review and the public hearing, three neighbours have provided written letters in support of the proposed and the property owner has registered the S.219 covenant that is required through the Second Dwelling Rural Lands Policy.

Detached accessory dwellings can provide housing for young adults, single and two-person households, individuals with special needs, and the elderly. It is generally more affordable than conventional single-family housing and can contribute positively to the available rental housing stock.

The Housing Needs Assessment Report (2021) provides relatively current 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, with 13% in extreme core housing need.

Applications for second dwellings in rural areas are being considered on a case-by-case basis through the rezoning application process. Council supported this approach when it established the Second Dwelling Rural Lands policy in December 2019. This was an interim measure until the OCP update and Zoning Bylaw review projects are completed. With the new OCP Bylaw No. 3900 complete, staff have further clarity on the communities housing needs and preferences, including detached accessory dwelling development on rural lands.

As the application complies with OCP policy and the Second Dwelling Rural Land Policy, with the exception of the subject property being slightly under the recommended area of 1 hectare, approval of the application is recommended.

OPTIONS

1. (Recommended Option)

THAT Council:

- (1) Give first and second readings to "Zoning Amendment Bylaw No. 3883, 2022" to permit a detached accessory residential dwelling at 3833 Gibbins Road; and,
- (2) Authorize a Public Hearing for "Zoning Amendment Bylaw No. 3883, 2022" and notification in accordance with the *Local Government Act*.

2. THAT Council deny Zoning Amendment Application ZB000169 to permit a detached accessory residential dwelling at 3833 Gibbins Road.

IMPLICATIONS

If Council gives first and second readings to Zoning Amendment Bylaw No. 3883 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. Advertisements will be placed in the local newspaper in accordance with the requirements of the *Local Government Act*.

If the application is denied, the property owner retains the ability to add a secondary suite to the house or construct a two-family dwelling to accommodate their elderly family member.

The social implication of this application is the potential for an additional rental housing unit. This is supportive of Council's goal for '*providing housing choices for all*' as identified in the 2019-2022 Council Strategic Plan.

RECOMMENDATION

THAT Council:

- (1) Give first and second readings to "Zoning Amendment Bylaw No. 3883, 2022" to permit a detached accessory residential dwelling at 3833 Gibbins Road; and,
- (2) Authorize a Public Hearing for "Zoning Amendment Bylaw No. 3883, 2022" and notification in accordance with the *Local Government Act*.

Report prepared by:



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Report reviewed by:



Rob Conway
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Approved to be forwarded to Council:



Ted Swabey
Chief Administrative Officer

Attachments:

- (1) Location Map
- (2) Orthophoto Map
- (3) Zoning Map
- (4) Site Plan
- (5) Letter of Rationale
- (6) BCLS Property History and Policy Review Memo
- (7) Building Plans
- (8) Septic Filing 2022-06-22

- (9) Second Dwelling Covenant
- (10) Neighbours Letters of Support
- (11) Bylaw No. 430 Gibbins Road Widening
- (12) Draft Zoning Amendment Bylaw No. 3883