



ATTACHMENT 6

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June 23, 2022

Steve Poznecov
3833 Gibbins Road
Duncan, BC

Via Email: pozz1@shaw.ca

Attention: Steve

Re: 3833 Gibbins Road Proposed Zoning Amendment

This letter is to review the subject property described as Lot 3, Section 16, Range 2, Quamichan District, Plan 2462, Except Parts in Plans 6403 and 380BL (3833 Gibbins Road); considering your proposed zoning amendment to allow a secondary detached dwelling.

Polaris Land Surveying completed a site survey of the property in October 2021, and a copy of the site plan was provided as part of your application to the Municipality of North Cowichan. With this site plan and research completed I can provide the following information about the property and land use policies impacting the proposed amendment.

1. Title and Parcel Area

Lot 3 was originally surveyed in 1921 under Plan 2462, and subsequently had a parcel subdivided from it (Lot 1 of Plan 6403), as well as a road widening (Plan 380BL). The remaining parcel contained within your Title is therefore made up from 3 different survey plans, and these must be pieced together in order to resolve the current boundaries of the property and determine its parcel area.

During the course of our survey, we measured the available legal survey monuments to define the property boundaries of the parcel, and along with the registered survey plans determined a **parcel area of 0.97 ha. (2.40 acres)**. Upon review of the road widening plan 380BL it was also determined that an area of 0.06ha (0.15 acres) was taken from this parcel – implying that the original parcel, before the road widening would have been approximately **1.03ha. (2.55 acres)**.



2. Land Use Policies affecting the parcel

It is understood that your proposed zoning amendment is to allow for a Secondary Detached Dwelling on the property. There are a number of land use policies impacting the application and these are reviewed here:

A) Land use bylaw

The property is zoned A2 which allows for (among other uses) a Single Family Dwelling, a Two-Family Dwelling or an Accessory Dwelling Unit. It is understood that both a Two-Family Dwelling and Accessory Dwelling Unit are required to be attached to another building on the property. A Secondary Detached Dwelling therefore requires a zoning amendment in order to allow for this to be permitted on your property.

It is noted that the total density of dwellings on the property would be the same using any of the 3 additional dwelling types reviewed – a Two-Family Dwelling, an Accessory Dwelling, or a Secondary Detached Dwelling. The expected population density and septic system requirements are therefore considered to be the same if any one of these three types of dwelling units were added to the property.

B) Order in Council – Amendments to the Agricultural Land Reserve Use Regulation

The property falls within the Agricultural Land Reserve (ALR) and is therefore subject to the ALR Use Regulation and the recent amendments as adopted July 12, 2021 by Order in Council, and made effective December 31, 2021. The recent amendments were established to “...allow property owners in the ALR increased housing flexibility, helping farmers and non-farmers support their families and businesses in their communities.” (ALC media release).

Section 34.3 of the ALR Use Regulation as amended states that an additional residence is permitted to be constructed after December 31, 2021. It further states that an additional residence will not be attached to, or part of the other residence, and that one residence must be 500 m² or less, while the other residence must be 90m² or less (for parcels less than 40 ha. in area).

It is understood from your proposed plans that the proposed new residence complies with the ALR Use Regulation, and Section 34.3.

C) Rural Lands Report – Municipality of North Cowichan

A report from North Cowichan Planning staff entitled “Second Dwellings on Lands Outside the Urban Containment Boundary, December 4, 2019” has been used in reviewing recent zoning amendments for rural properties before Municipal Council. The report outlines a process for reviewing detached suites and detached second dwellings on rural lands within the municipality, and establishes a recommended criteria for evaluating each proposal.

In summary this criterion provides guidance with recommended parcel sizes and limitations on the new building size. For a parcel without municipal water and sanitary service, the recommended minimum parcel size to allow a secondary detached dwelling is 1 ha. (2.47 acres). The parcel area figures used are directly related to the Vancouver Island Health Authority (VIHA)



Subdivision Standards which provide for septic field requirements and recommended parcel areas based on soil type and utility services available.

It is noted that the Rural Lands Report provides recommendations to council for dealing with zoning amendment applications on rural lands, and is not a part of the bylaw.

D) VIHA subdivision standards

The VIHA subdivision standards apply to proposed subdivisions that are referred to VIHA from the Ministry of Transportation and Infrastructure (MOTI). MOTI is the subdivision authority for rural lands within regional districts, and not within municipal boundaries. Municipalities have their own approving officers and authority to assess subdivision applications. The VIHA subdivision standards also clearly state that “Approving Officers of local governments, in consultation with the Island Health, may adopt these standards or if special considerations or concerns within the municipality are warranted, may adopt their own local subdivision bylaws.”

It is noted here that the VIHA standards provide recommended parcel area and density for reviewing subdivisions, and do not address the density of dwelling units per parcel which may be allowed under specific land use zoning, or ALC policies. Further to this, the septic field specifications are general in nature and don’t necessarily account for technological improvements and the current practices of septic field engineers and designers. They provide a high standard for natural septic field discharge areas, without contemplating designed or engineered fields.

Also, the overall intent of these subdivision standards is quoted here:

“It is the purpose of these standards to ensure that new lots created within the boundaries of Island Health will support a primary and reserve sewerage system. The intent is to provide a viable long-term solution for onsite wastewater, thereby eliminating the need for costly extension of municipal sewer systems. These standards are designed to address concerns of detrimental cumulative impact associated with increased density using onsite sewerage systems. The intent is to prolong the expected life of sewerage systems and safeguard the environment and public health.”

It is also noted that the parcel at 3833 Gibbins Road is not a part of a subdivision application, and that it was created prior to these regulations being adopted. The resulting area was determined when the road widening occurred and there is no proposed increase in density of the onsite sewerage systems.

E) North Cowichan Subdivision Bylaw

The Municipality of North Cowichan has adopted a Subdivision Bylaw to guide the review of subdivision applications within the municipality. Section 11 (1) of the bylaw is quoted here:

11. The approving officer may approve subdivisions with lots smaller than the minimum lot sizes permitted by “Zoning Bylaw 1997”, in the following situations: [BL2007, BL3011]



(1) Where part of a parcel is or has been required for road widening purposes, provided that the parcel size is reduced by no more than 10% in agricultural zones and 5% in all other zones

This section allows for some flexibility with the minimum parcel areas in the LUB when assessing subdivisions that were subject to road widenings. Understanding the intent of this section, there should be some flexibility in assessing the recommendations of the Rural Lands Report, given there is no proposed subdivision, and no proposed increase in parcel density and sewerage systems. Lot 3 is 3% less in area than the minimum of 1 ha. that is recommended and 6% of the original parcel area was taken for municipal road widening.

3. Summary and Conclusions

After review of the above policies in relation to your proposed application, I can provide the following conclusions:

- 1- The parcel area is currently 0.03 ha. (3%) less than the stated minimum area required by the Rural Lands Report – 0.97 ha. vs. 1.0 ha.
- 2- The original parcel was in fact 0.03 ha. (3%) larger than the minimum required area under the Rural Lands Report, and it was reduced by 0.06 ha. (6%) from a municipal road widening under Plan 380BL.
- 3- The minimum parcel areas in the Rural Lands Report are based primarily on the VIHA Subdivision Standards which are intended to limit the density of onsite sewage disposal systems, by limiting the density of land parcels created by subdivision.
- 4- The VIHA Subdivision Standards do not govern the permitted density of dwelling units within a parcel, and they also allow for local governments (municipalities) to adopt their own local subdivision bylaws for the review of subdivisions.
- 5- The Municipality of North Cowichan's Subdivision Bylaw allows the Approving Officer to approve subdivisions with Lots smaller than the minimum Lot sizes permitted by the Zoning Bylaw, where part of a parcel has been acquired for road widening purposes. In other words, flexibility is provided with assessing parcel areas for Lots that were subject to road widenings.
- 6- The parcel of land under review is currently zoned A2 and is not contemplated to be subdivided. Instead, the proposed zoning amendment is only to allow for a secondary detached dwelling unit as opposed to an attached dwelling unit. The proposed population density of this parcel would be the same for a detached dwelling or an attached dwelling. The number of onsite sewage disposal fields would not be increased with a detached dwelling vs. an attached dwelling. In both cases an updated septic system would be designed and installed to handle the septic needs of both dwellings.



- 7- The parcel is within the ALR, which is governed by provincial legislation. The ALR Use Regulations as approved by Provincial Order in Council specifically allow for a secondary detached residence on the property. This applies to all parcels within the ALR.

In summary, after completion of the site survey, and related research, I find that Lot 3, Section 16, Range 2, Quamichan District, Plan 2462, Except Parts in Plans 6403 and 380BL (3833 Gibbins Road) meets the intent and recommendations of the various land use guidelines regarding secondary dwellings, and that your proposal falls in line with the Provincial Order in Council to allow additional housing in the ALR. It is my opinion that the land use zoning can be amended to allow a secondary detached dwelling on the property and that this would not contravene the principles of the VIHA Subdivision Standards, the Rural Lands Report, nor the Municipal Subdivision Bylaw.

Please contact me directly for any further information.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Christian'.

Digitally signed by
Andrew Christian
Date: 2022.06.23
14:02:59 -07'00'

Andrew Christian, BCLS, CLS
Polaris Land Surveying Inc.