



STAFF REPORT TO COMMITTEE

DATE OF REPORT July 25, 2019
MEETING TYPE & DATE Electoral Area Services Committee Meeting of August 7, 2019
FROM: Development Services Division
Land Use Services Department
SUBJECT: Application No. COV19C01 – Covenant Discharge
(1287 Mile End Road/PID 004-570-553)
FILE: COV19C01

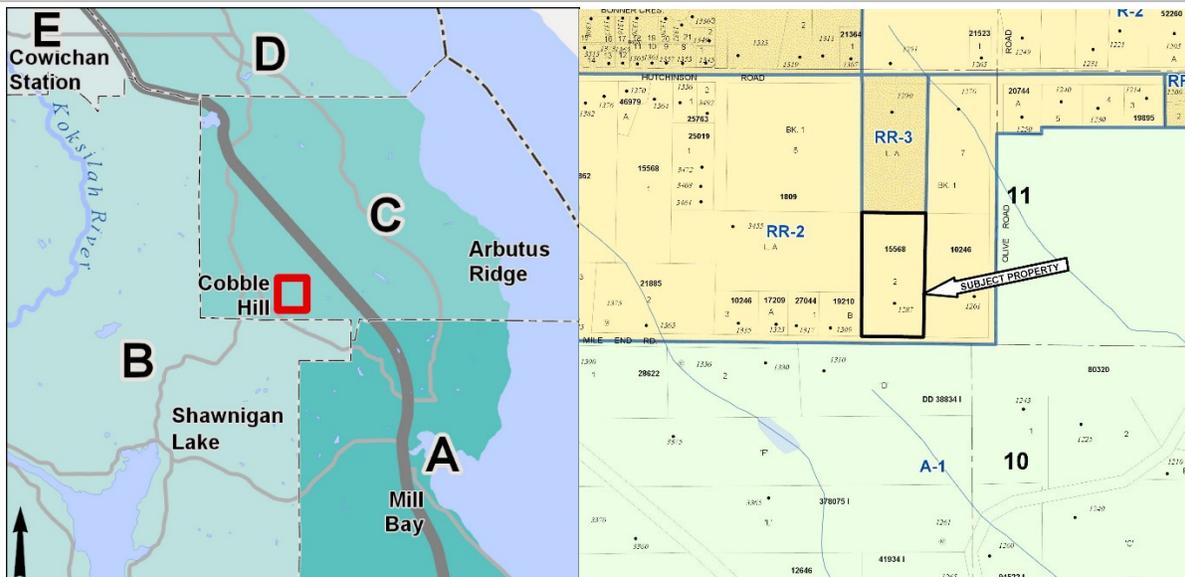
PURPOSE/INTRODUCTION

The purpose of this report is to consider a request to discharge a Second Dwelling Removal Covenant from 1287 Mile End Road

RECOMMENDED RESOLUTION

That it be recommended to the Board that Covenant #CA6129452 registered on the title for 1287 Mile End Road (PID 004-570-553), be discharged.

LOCATION MAP



BACKGROUND

Address: 1287 Mile End Road

Legal Description: Lot 2, Plan VIP 15568, Section 11, Range 6, Shawnigan Land District, Except VIP17209

Owner: Gordon & Lori Hamilton

Size of Land Parcel: 1.76 ha

Use of Property: Residential

Use of Surrounding Properties: Residential Properties; West, North and East, Agricultural A-1 South of subject property within the ALR.

Environmentally Sensitive Areas: None

OCP Designation: Rural Residential

Zoning: RR-2 Rural Residential 2

Site and Surrounding Area:

The subject property is centrally located within Electoral Area C - Cobble Hill. This rural residential parcel is heavily forested, surrounded by other similar properties to the east, north and west. There is a new principle dwelling on the property which has recently received occupancy, and is now occupied by the applicants. The previous home was demolished and passed inspection April 2, 2019.

Lands south of the subject property, opposite Mile End Road, are within the ALR and zoned A-1 (Agricultural Resource).

- **See Attachment A - Subject Property Map**

APPLICATION SUMMARY

The applicant has applied to the CVRD to release a “Second Dwelling Removal” covenant that was required in order for the property owners to occupy an existing dwelling during new house construction. Section 4.6.2 of South Cowichan Zoning Bylaw No. 3520 allows a building permit to be issued for the construction of a new principal dwelling, while permitting the owners to continue occupying the existing dwelling during construction of the new principal dwelling. Provided that the following conditions are met:

- a. the owner of the parcel agrees to enter into a restrictive covenant in favour of the CVRD pursuant to Section 219 of the *Land Title Act* to the effect that the owner undertakes to remove the existing dwelling or render it uninhabitable to the satisfaction of the Building Inspector following the granting of the Certificate of Occupancy for the new principal dwelling;
- b. the covenant also specifies that an irrevocable Letter of Credit, or other security satisfactory to the CVRD in the amount of \$5,000 be issued in favour of the CVRD by the owner, to be forfeited to the CVRD in the event that the other terms of the covenant are not complied with, in which case the CVRD shall use the \$5,000 to offset any costs of legal action to obtain compliance;
- c. that the actions required under Section 4.6.2.a be completed within a maximum time period of 2 years from the date of issuance of the building permit to completion and occupancy of the new principal dwelling, and that this time period be specified in the covenant.

All of the previously mentioned conditions (see above) have been met in full.

- **See Attachment B – Letter of Request from Applicant**
 - **See Attachment C – Covenant CA6129452 to be Released**
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COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS

This application was not referred to any external agencies or departments.

CVRD Building Inspection has issued an Occupancy Certificate for the new principal dwelling. A Hazardous Materials Survey report was conducted and all associated recommendations have been completed in full. Documentation has been received for the removal of asbestos-contaminated materials. In addition, an Air Clearance Certificate has been issued, clearing the area from the presence of asbestos concentrations above the WorkSafeBC criteria of 0.02 fibers/ml of air.

OFFICIAL COMMUNITY PLAN/POLICY CONSIDERATIONS

N/A

PLANNING ANALYSIS

This application has fulfilled all of the conditions as stated within South Cowichan Zoning Bylaw No. 3520, Section 4.6.2, insofar as the owners have entered a restrictive covenant pursuant to Section 219 of the *Land Title Act*, provided a security deposit of \$5,000, and completed the actions required under Section 4.6.2a within the maximum time period of 2 years, and thus fulfilling the conditions of the covenant. The Development Services Division has no to objection to the request to discharge the restrictive covenant.

The application is recommended for approval, as outlined in Option 1 below.

OPTIONS

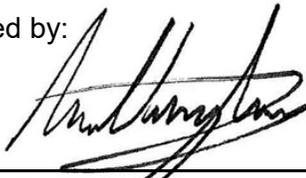
Option 1:

That it be recommended to the Board that Covenant #CA6129452 registered on the title for 1287 Mile End Road (PID 004-570-553), be discharged.

Option 2:

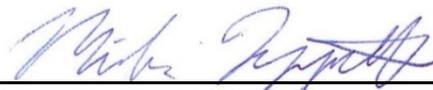
That it be recommended to the Board that Application No. COV19C01 (1287 Mile End Road) be denied.

Prepared by:



Anthony Price, BJRP
Planning Assistant

Reviewed by:



Mike Tippett, MCIP, RPP
Manager



Ann Kjerulf, MCIP, RPP
General Manager

ATTACHMENTS:

- Attachment A – Subject Property Map
- Attachment B – Letter of Request from Applicant
- Attachment C – Covenant CA3819417 to be Released