



STAFF REPORT TO COMMITTEE

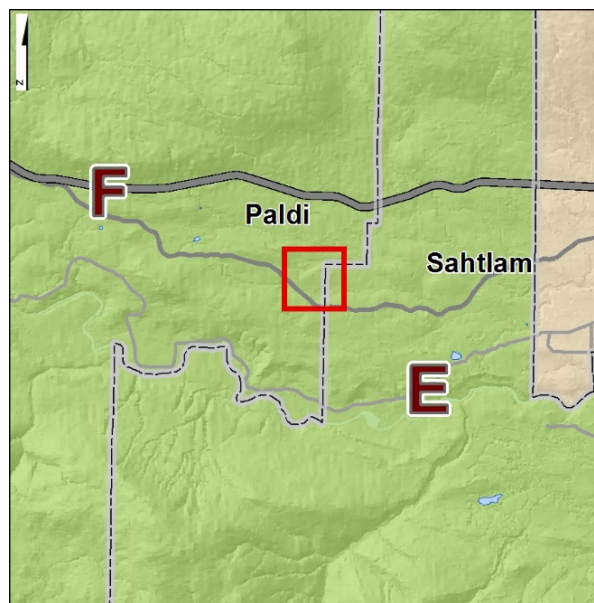
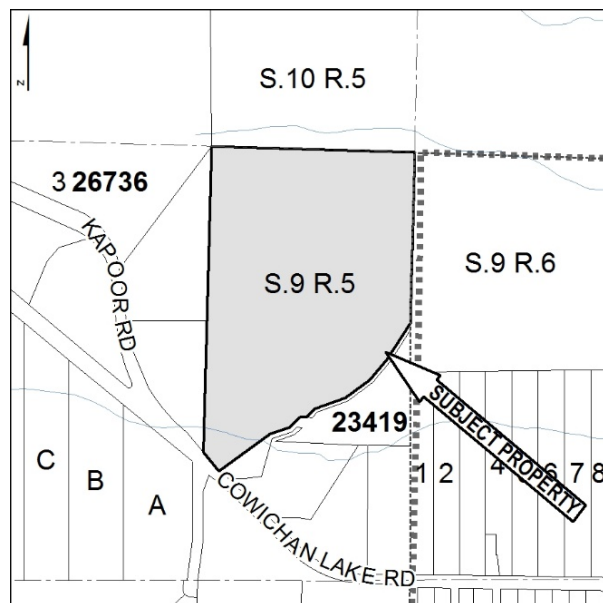
DATE OF REPORT July 25, 2019
MEETING TYPE & DATE Electoral Area Services Committee Meeting of August 7, 2019
FROM: Development Services Division
Land Use Services Department
SUBJECT: Application No. 02-F-17RS (PID: 009-845-526 - Cowichan Lake Road)
FILE: 02-F-17RS

PURPOSE/INTRODUCTION

The purpose of this report is to present the Electoral Area Services Committee with a revised application for property located along Cowichan Lake Road (PID: 009-845-526). The applicant had previously requested both OCP and Zoning Bylaw amendments but is now only requesting a Zoning Bylaw amendment.

RECOMMENDED RESOLUTION

1. That Zoning Amendment Bylaw No. 4289 (PID: 009-845-526) for Application No. 02-F-17RS be forwarded to the Board for consideration of 1st and 2nd readings.
 2. That it be recommended to the Board:
 - a. That, prior to consideration of adoption of Zoning Amendment Bylaw No. 4289, for Application No. 02-F-17RS (PID: 009-845-526), restrictive covenants be prepared and registered on title, with all associated costs for covenant preparation and registration to be borne entirely by the applicant, to secure the following:
 - i. Design and details for a static water source with a minimum capacity of 10,000 gallons, prepared by a qualified professional, for the purpose of firefighting, to the satisfaction of the CVRD Public Safety Division;
 - ii. Dedication of a 7 m wide public trail corridor along the east parcel boundary, to the satisfaction of the CVRD Parks & Trails Division;
 - iii. A habitat protection and tree retention plan, prepared by a Registered Professional Biologist, to secure critical habitat areas and wildlife corridors;
 - iv. A wildland urban interface assessment be completed by a qualified professional, and assessment report provided to the CVRD; and
 - v. A restriction on future development to a maximum of three (3) lots.
 - b. That the original referrals for Bylaw No. 4289 to BC Transit, Cowichan Tribes, Island Health, Ministry of Transportation, and Sahtlam Volunteer Fire Department be accepted; and
 - c. That a public hearing be waived in accordance with Section 464(2) of the *Local Government Act* as the proposed zoning amendment is consistent with the Cowichan – Koksilah Official Community Plan.
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Location:	Cowichan Lake Road (no civic address)
Legal Description:	The East ½ of Section 9, Range 5, Sahtlam District, Except Part in Plan VIP85260, VIP85984 & EPP23419 (PID: 009-845-526)
Owner(s):	Paul Cooper
Size of Land Parcel:	19.4 ha (48 acres)
Use of Property:	Vacant
Use of Surrounding Properties:	
North :	Forest Resource Zone (F-1)
South:	Rural Residential Zone (R-1)
East:	Forest Resource Zone (F-1) and Transmission Line
West:	Rural Residential Zone (R-1)
Existing Water:	No service on-site
Existing Sewage Disposal:	No service on-site
Existing Drainage:	No service on-site
Environmentally Sensitive Areas:	None
Fire Protection:	Sahtlam Fire Rescue
Wildfire Hazard Rating:	High
ALR:	Out
Development Permit Area:	Riparian Areas Regulation DPA

Existing OCP Designation:	Forestry (F)
Existing Zoning:	Forest Resource 1 Zone (F-1)
Proposed Zoning:	Forestry/Residential Zone (F-2A)
Proposed Water:	Private wells
Proposed Sewer:	Private septic systems
Proposed Drainage:	Private on-site drainage

BACKGROUND

Subject Property Context

The subject property is located on the north side of Cowichan Lake Road, near Kapoor Road. The lot is not currently utilized, is heavily treed, and is approximately 19.4 hectares (48 acres) in area. There are 2 large residential lots that abut the entire west parcel line of the site. There is a 100 m wide transmission line right-of-way, with a significant portion of the right-of-way on the eastern side of the subject property. Hawkhill Park is located next to the subject property to the southeast. Provincial Crown land (forestry zoned lands) abut the property to the north and along the upper eastern boundary. There are no water, sewer, or drainage services in the area.

- **See Attachment A – Aerial Photo**
- **See Attachment B – Site Photos**

APPLICATION SUMMARY

The applicant has submitted a revised application to rezone the property from Forest Resource 1 Zone (F-1) to Forestry/Residential Zone (F-2A) and intends to subdivide the property into 3 lots, including two lots of 4 hectares (10 acres) each and one lot with an area of 11.3 hectares (28 acres). There is an existing vehicle access point off of Cowichan Lake Road that provides access to the neighbouring property (Lot 3) adjacent to the subject property. The applicant owns Lot 3 and proposes to construct a new road that follows the existing driveway road to provide access to the proposed new lots on the subject property. Future road location will also be reviewed by the Ministry of Transportation and Infrastructure. A sketch using google maps was provided by the applicant to demonstrate the proposed concept, and is attached. If the rezoning is successful, more technical plans will be required through the subdivision stage. Also attached is the applicant's wildlife corridor plan showing existing areas that could be considered wildlife corridors, and the applicant's rationale for the revised application.

- **See Attachment C – Proposed Subdivision Concept**
- **See Attachment D – Potential Wildlife Corridors**
- **See Attachment E – Applicant Rationale**

COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS

Past (2006) OCP Amendment & Rezoning Application (01-F-06RS)

The subject property is a result of a past OCP and rezoning application submitted in 2006 (01-F-06RS), where the applicant had applied to re-designate the 32 hectare parent parcel from Forestry to Suburban Residential and to rezone the same area from Forestry Resource (F-1) to Suburban Residential (R-2). Through the process the applicant revised the application and removed a large tract of land from the proposal. The applicant was successful with the revised application and was able to create 3 new R-1 zoned lots, and donated land for park. Those lots

were registered in 2013, which included the 19.5 hectare tract of land (remainder lot) that was not rezoned. The 19.5 hectare remainder lot is now the subject of this current rezoning application (02-F-17RS). Please note that it is difficult for staff to ascertain, from the minutes of the past Advisory Planning Commission (APC) and Electoral Area Services Committee (EASC) meetings, why the 19.5 hectare area was removed from the 2006 application.

Current Application 02-F-17RS

This application was submitted originally as a rezoning for the purpose of creating a 9-lot residential subdivision that also included an OCP amendment to re-designate the property from Forestry to Suburban Residential. The application was considered by the EASC on July 18, 2018, and was referred back to staff to review options for R-1 zoning, identification of potential wildlife corridor issues, and to arrange a site visit. However, the applicant has decided to revise the application and is now proposing to rezone the property from Forest Resource (F-1) to Forestry/Residential (F-2A). The applicant believes that an OCP amendment is no longer needed due to existing policies within the Forestry designation that may support the proposed rezoning.

- **See Attachment F – Minutes from EASC Meeting held July 18, 2018**

Advisory Planning Commissions (APC)

The subject property is subject to the Electoral Area E & Part of F (Cowichan-Koksilah) Official Community Plan Bylaw No.1490. Therefore, the original application (for a 9 lot subdivision) was forwarded to both the Area E and Area F APCs. The revised application (for a 3 lot subdivision) has not been forwarded for further review by the APC's. The minutes of the previous meetings are attached.

- **See Attachment G – Minutes of Previous APC Meetings**

Agency Referrals

The original application for the 9 lot subdivision was referred to various external agencies and internal CVRD Departments/Divisions. All received responses have been compiled and are attached. Should the proposed bylaw for this revised application receive 1st and 2nd reading a referral notifying all external agencies will be issued prior to the public notice period.

- **See Attachment H – Previous Referral Responses**

OFFICIAL COMMUNITY PLAN/POLICY CONSIDERATIONS

Official Community Plan (OCP) Bylaw No. 1490

Electoral Area E & Part of F (Cowichan-Koksilah) OCP

The subject property is currently designated Forestry (F). The applicant is no longer requesting an OCP designation change. In terms of Development Permit Areas (DPA's) within the OCP, the *Riparian Areas Regulation* DPA applies to the site.

Existing Forestry (F) Designation:

The Forestry designation is used to indicate lands reserved primarily for timber production and forest based recreation. The majority of F designation policies are not relevant in the context of this application. However, several policies are further discussed in the Planning Analysis below.

Riparian Areas Regulation Development Permit Area (DPA)

Any future subdivision of the site is subject to the *Riparian Areas Regulation* DPA. As such, a Development Permit (for the purpose of protecting riparian areas only) would be required prior to final subdivision approval.

- **See Attachment I – Map of Existing OCP Designations**
- **See Attachment J – Forestry Designation**

Zoning Bylaw No. 2600

Electoral Area F (Cowichan Lake South/Skutz Falls) Zoning Bylaw

The applicant has applied for an amendment to the Cowichan Lake South/Skutz Falls Zoning Bylaw to change the zoning of the property from Forest Resource (F-1) to Secondary Forest Residential (F-2A).

Existing Zoning: Forest Resource 1 Zone (F-1)

The subject property is currently zoned Forest Resource (F-1), which reflects the current Forestry designation in the OCP. The principal uses permitted in the zone are agriculture, silviculture, and a single family dwelling. For the purpose of subdivision, the minimum parcel size is 80 hectares. Currently, the zoning bylaw permits 1 single family dwelling, and 1 secondary suite or secondary dwelling unit, on the lot. Subdivision of the parcel is not possible with the current zoning.

Proposed Zoning: Forestry/Residential Zone (F-2A)

The applicant proposes to rezone the property to Forestry/Residential Zone (F-2A). The permitted uses in the zone include forestry activities, single family dwelling, and agriculture. The minimum lot size is 3.5 hectares. The bylaw also allows for a 'Secondary Dwelling Unit' with a maximum size of 95 m² on each of the proposed lots.

- **See Attachment K – Map of Existing Zoning**
- **See Attachment L – Existing F-1 Zone**
- **See Attachment M – Proposed F-2A Zone**

PLANNING ANALYSIS

As mentioned above, this application was presented to the EASC on July 18, 2018, with a concept subdivision plan of 9 lots. The Committee referred the application back to staff to review options for R-1 zoning, identification of potential wildlife corridor issues, and to arrange a site visit. Please note that the applicant revised their application and therefore the R-1 zone has not been discussed in this report; the issue of wildlife corridors is discussed below; and a site visit was arranged with the applicant. With the applicant revising their application, the focus of this report is on the revised application.

The applicant submitted a rationale explaining their reasons for revising their application. The applicant now proposes to rezone the land to the Forestry/Residential Zone (F-2A) and intends to subdivide the parcel into a total of 3 lots.

Forestry Policy

Staff agrees that an OCP amendment is no longer required for the revised rezoning proposal. The existing Forestry (F) designation policies state that forestry related uses shall be given priority on lands designated Forestry, however other subordinate uses may also be permitted, which includes using land for residential purposes. In addition, Policy 5.1.3 states that “...*those lands which are designated Forestry in the Plan map but are not suitable for forestry use due to poor forest growth capabilities or proximity to conflicting land uses may be zoned Secondary Forestry with an applicable minimum parcel size of 4.0 hectares, or Forestry/Residential with an applicable minimum parcel size of 3.5 hectares.*” The applicant has not submitted any documentation regarding the suitability of the property for forestry use. However, it could be argued that the subject property is within close proximity to conflicting land uses, such as the residentially zoned properties to the east and west of the site as well as Hawkhill Park to the southeast.

In terms of rezoning policies, Policy 5.1.8 states that no Forestry lands be rezoned where land is within a tree farm license, provincial forest land, or classified as private Managed Forest under the *Assessment Act* (or classified as such within the last 5 years). None of the listed conditions apply to the property, which has been confirmed with BC Assessment, therefore, the property is not

constrained by this policy. There are no other rezoning criteria policies in the F designation beyond those stated above in Policies 5.1.3 and 5.1.8.

However, Forestry Policy 5.1.14 is relevant to the application and states “*Forestry lands will be increasingly important for the continued sequestration of carbon emissions in the Plan area, and the CVRD will strive to protect and enhance forestry lands in partnership with the provincial government and private landowners.*” This policy speaks to the value of natural forest land beyond just resource extraction, although it is staff’s opinion that the policy does not go far enough in recognizing the complexity of forest ecosystems and the importance of having forests remain as forests for habitat, biodiversity protection, water regulation, nutrient cycling, among other benefits.

While the land is proposed to remain in the Forestry designation with a Forestry/Residential zone, there is little opportunity for long term, managed, forestry operations on such small lots; with the exception of a tree farm or similar use. The OCP policy allowing for small forestry lots should be used cautiously as it erodes the general purpose of the designation, especially if too many areas convert to small lots. Creating more small forestry/residential lots will lead to increased potential for land use conflicts with future forestry operations in the area. This OCP or plan area is now 25 years old and should be updated to provide better guidance and mapping on future growth areas, including transition areas between potential conflicting land uses.

As there is no tree bylaw in the CVRD, a property owner could remove all trees from the lots without having to replant or manage the land for forestry purposes. This may benefit the owner financially, but could impact the natural cycles of the land and wildlife habitat in the area. It is anticipated that these lots will be used primarily for residential purposes and therefore staff encourages tree retention to protect ecosystems to the greatest extent possible. Retaining trees also adds to the visual rural character and amenity of the area, and their intrinsic value should be acknowledged.

The last policy relevant to the application is found under Policy 5.1.16 that states “*Given the uncertainties related to climate change impacts, consideration of urban wildfire interfaces should be considered, which take into account forestry objectives, biodiversity and public safety in a holistic and strategic way.*” The property has a high wildfire hazard rating, which could be further addressed as development proceeds, however as there are no wildfire development permit guidelines that apply in this area, requirements would need to be secured through the rezoning process.

Wildlife Corridors

The CVRD Environmental Services Division confirmed that the CVRD does not currently have a budget, nor the mandate, to investigate wildlife corridors and therefore no information is available directly through the CVRD. The Cowichan Tribes referral response indicated that elk migrate through the property. The applicant has provided a conceptual plan showing existing wildlife corridors through the property, however a Registered Professional Biologist (wildlife specialist) was not engaged by the applicant.

Trail Connection

The Parks & Trails Division requested that a trail connection be provided along the upper east parcel boundary and provided the following comments, “*The long term plan for the CVRD Parks & Trails is to have a trail connection from the end of the previously dedicated trail corridor to continue north to connect to the Cowichan Valley Trail (CVT) to provide a complete connection for the community to access the CVT. The intent of the original dedication of this corridor was to continue acquiring a trail corridor when opportunities arise.*” The trail would be 7 metres wide along 315 metres of the east parcel boundary. The area required for the trail would not affect the ability of the applicant to create 3 lots on this property. Park dedication would not be required at the subdivision stage as per the *Local Government Act*; therefore, should a trail be required by the

Board, it would need to be secured through this rezoning application. The applicant has specifically objected to providing a trail on their property as an amenity contribution, due to the ability to access the CVT through adjacent Crown land. The Committee will need to consider whether or not a trail should be a requirement of this development.

Final Comments

The revised application has been reduced to 3 lots and fits within the context of the existing Forestry designation. Fewer lots should also result in fewer impacts to the area, including water resources, wildlife corridors, wildfire risk, drainage, and the like. The larger lot sizes, approximately 4 hectares (10 acres) and 11 hectares (27 acres) would fit with the rural character of the area. The subject property is situated between existing residential lots. Staff supports the proposed rezoning, subject to the following conditions being secured with one or more covenants registered on title:

- Firefighting Water Source – A static water source is needed to enable the Sahtlam Fire Department to access a reliable water source and reduce time to transport water to a fire scene. At a minimum, a static water source with a capacity of 10,000 gallons would be needed in a stable and accessible area. The design and details would be vetted through the Public Safety Division. The covenant would require this information be provided to the satisfaction of the CVRD prior to final bylaw adoption and subsequently incorporated into the subdivision requirements.
- Tree Retention Plan – Forestry designation policy, as noted above, recognizes the important role of forests in carbon sequestration and the need to protect and enhance these lands. Staff recommends that trees be retained on the property to help protect the ecological value of the land, and to contribute to the rural character of the area and forestry lands. Existing trees also play a significant role in storm water management. Overall, this measure is an attempt to retain trees that would have traditionally remained in a forestry management cycle, to reduce the potential for the lots to be stripped of trees unnecessarily, and to help provide a buffer between remaining forestry lands in the area. As such, it is recommended that a tree retention plan be required prior to final bylaw adoption to identify future building and yard areas on each of the proposed lots and the areas of tree retention. The plan would be subsequently registered on title to apply to all future lots, and should also include specific exemptions where tree removal may be possible, such as for a commercial agricultural use and the like.
- Wildland Urban Interface Assessment – As there are no development permit guidelines to address wildfire interface issues and the property is in an area with a high wildfire hazard rating, it is recommended that a wildland urban interface assessment be required prior to final bylaw adoption and subsequently incorporated into the subdivision requirements.
- 3 Lot Maximum – The applicant has put forward an application with the intent of creating a total of 3 lots. However, the proposed zone allows for a minimum lot size of 3.5 hectares which would potentially amount to 5 new lots. An increase in the number of lots increases the complexity of the future subdivision and would put the CVRD at a disadvantage due to the relatively narrow scope of authority that the CVRD has at the time of subdivision review (within the current regulatory framework). If more lots are intended, this would need to be declared now to ensure sufficient information has been provided, for example, a more detailed site plan, a biologist review of wildlife corridors, park dedication considerations, and a hydrological study. Therefore, a covenant to restrict the subdivision to a maximum of 3 lots is also recommended, prior to final bylaw adoption.

In order to address the above noted items as requirements of a future subdivision, Staff recommends that the above items be secured with a registered covenant prior to adoption of the zoning amendment bylaw. The zoning amendment bylaw has been drafted and is attached.

- **Attachment N – Draft Amendment Bylaw**

As the proposed zoning amendment is consistent with the OCP, staff recommends that a public hearing be waived and a zoning amendment notice be posted as prescribed in Section 467 of the *Local Government Act*.

Staff recommends Option 1 below, however, should the Committee wish to conduct a public hearing, the Committee would need to choose Option 2.

OPTIONS

Option 1

1. That Zoning Amendment Bylaw No. 4289 (PID: 009-845-526) for Application No. 02-F-17RS be forwarded to the Board for consideration of 1st and 2nd readings.
2. That it be recommended to the Board:
 - a. That, prior to consideration of adoption of Zoning Amendment Bylaw No. 4289, for Application No. 02-F-17RS (PID: 009-845-526), restrictive covenants be prepared and registered on title, with all associated costs for covenant preparation and registration to be borne entirely by the applicant, to secure the following:
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 - iii. A habitat protection and tree retention plan, prepared by a Registered Professional Biologist, to secure critical habitat areas and wildlife corridors;
 - iv. A wildland urban interface assessment be completed by a qualified professional, and assessment report provided to the CVRD; and
 - v. A restriction on future development to a maximum of three (3) lots.
 - b. That the original referrals for Bylaw No. 4289 to BC Transit, Cowichan Tribes, Island Health, Ministry of Transportation, and Sahtlam Volunteer Fire Department be accepted; and
 - c. That a public hearing be waived in accordance with Section 464(2) of the *Local Government Act* as the proposed zoning amendment is consistent with the Cowichan – Koksilah Official Community Plan.

Option 2

1. That Zoning Amendment Bylaw No. 4289 (PID: 009-845-526) for Application No. 02-F-17RS be forwarded to the Board for consideration of first and second readings.
2. That it be recommended to the Board:
 - a. That, prior to consideration of adoption of Zoning Amendment Bylaw No. 4289, for Application No. 02-F-17RS (PID: 009-845-526), restrictive covenants be prepared and registered on title, with all associated costs for covenant preparation and registration to be borne entirely by the applicant, to secure the following:
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 - iv. A wildland urban interface assessment be completed by a qualified professional, and assessment report provided to the CVRD; and
 - v. A restriction on future development to a maximum of three (3) lots.

- b. That the original referrals for Bylaw No. 4289 to BC Transit, Cowichan Tribes, Island Health, Ministry of Transportation, and Sahtlam Volunteer Fire Department be accepted; and;
- c. That a public hearing be scheduled with Directors from Electoral Areas E, F, H as delegates.

Option 3


That Rezoning Application No. 02-F-17RS (PID: 009-845-526) be denied and a partial refund of application fees be provided in accordance with the CVRD's Development Application Procedures and Fees Bylaw No. 4267.\

Prepared by:



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Reviewed by:



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ATTACHMENTS:

- Attachment A – Aerial Photos
- Attachment B – Site Photos
- Attachment C – Proposed Subdivision Concept
- Attachment D – Potential Wildlife Corridors
- Attachment E – Applicant Rationale
- Attachment F – Minutes from July 18, 2019, EASC Meeting
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