

Report

Date July 19, 2023

File: 6480-30 23.04

Subject **OCP Amendment Bylaw No. 3914 and Zoning Amendment Bylaw No. 3915 for first reading**

PURPOSE

To consider amendments to the Official Community Plan and Zoning Bylaws to facilitate future residential development of approximately 32 to 50 housing units, inclusive of secondary suite potential, at 1771 Robert Street.

BACKGROUND

In June 2021, the Municipality received a zoning amendment application to increase residential density at 1771 Robert Street (PID: 001-147-544). The 2.37-hectare (5.87 acres) subject property is zoned Rural Zone (A2) (Attachment 1 – Location Map & Attachment 2 - Orthophoto). It is situated within the Rural Residential land use designation outside the Urban Containment Boundary (UCB) of the Official Community Plan (OCP) and immediately adjacent to the community of Crofton (Attachment 3 – OCP Map; Attachment 4 – Zoning Map).

Lands surrounding the subject property are primarily forested, with rural residential uses to the west and forested lands on municipal property to the south and within the Agriculture Land Reserve (ALR) to the north. One and two-family residential uses are situated within the UCB to the east. Community services, a public school, and recreation trails are located within one kilometre of the subject property.

DISCUSSION

1. OCP Bylaw Amendment

Since OCP Bylaw 3900 was adopted in August 2022, the proposal for the subject property has been inconsistent with the guiding Rural Residential land use policy to include “very little housing growth” and generally no subdivision of lots less than 2 hectares (s. 3.2.18/19 p. 51). As any change in land use requires consistency with the OCP (*Local Government Act* s. 478), an amendment to the OCP is needed before a rezoning proposal to increase residential density can be considered for approval for the subject property.

Prior to adopting OCP Bylaw 3900 in August 2022, the subject property was located within the UCB, where the growth management policy considered increased residential density. As the proposal associated with Draft Zoning Amendment Bylaw 3915 for increased residential density was based on the growth management policy of the previous OCP (Bylaw 3450), Council directed staff to initiate an amendment to the current OCP (Bylaw 3900) to consider including 1771 Robert Street within the UCB and adjusting its land use designation, so it could consider the rezoning proposal originally submitted under application ZB000133 (Attachment 5 – Council Minutes 2023-02-21).

1.1 OCP & Crofton Local Area Plan

Should Council amend the OCP to redesignate the subject property from Rural Residential to Residential Neighbourhood and include it within the UCB, the proposed land use and density would be consistent with the objective of the Residential Neighbourhood designation for sensitive infill and "gentle densification" (p. 45).

The proposal is also generally consistent with the land use policy of the Crofton Local Area Plan (LAP) (i.e., designation PA4 CDZ, p. 61) for low to medium residential density and cluster housing appealing to young families and seniors.

1.2 OCP Amendment Legislative Requirements

Procedural requirements for amending an OCP are set out in Part 14, Division 4 of the *Local Government Act* (LGA). These include that a local government must, in relation to an OCP Amendment Bylaw:

(s. 473) Content and process requirements

- Consider the most recent housing needs report and the housing information on which the report is based 2.1 b).

(s. 475) Consultation during development of OCP

- Provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected.
- Consider whether the opportunities for consultation with one or more of the persons, organizations and authorities should be early and ongoing.

(s. 476) Consultation on planning for school facilities

- Consult with the boards of education for those school districts within which it applies.

(s. 477) Adoption procedures for official community plan

- After first reading and prior to a public hearing in the following indicated order, consider it in conjunction with
 - i) The Municipality's financial plan, and
 - ii) Any waste management plan under Part 3 [Municipal Waste Management] that is applicable in the municipality.

1.3 Consultations & Council Resolutions

In response to statutory procedural requirements related to OCP amendments, a request for consultative input was sent to the following organizations and agencies:

- a) School District 79 (SD79);
- b) Agriculture Land Commission (ALC); and,
- c) Ministry of Agriculture (MoA).

Referral responses were received from the ALC and MoA, with no concerns identified. A response was received from SD79 stating that an increase in student enrolment at Crofton Elementary School could result in some students being reallocated to the school in Chemainus (Attachment 6).

Statutory procedural requirements are reflected in the Council resolutions included in the Options section of this report and as may be applicable in subsequent reports.

2. Zoning Bylaw Amendment

The LGA states that local governments may consider an OCP amendment in conjunction with any other land use planning (s. 477):

(4) In addition to the requirements under subsection 3 ... a local government may consider a proposed official community plan in conjunction with any other land use planning ... that the local government considers relevant.

For Council's consideration and concurrent with the OCP amendment, this report introduces the applicant's request to rezone the subject property to increase residential density at 1771 Robert Street. **Proposal**

The application requests to rezone the subject property from A2 (Rural) to R3 (Residential One and Two-Family) and R3-MF (Residential Medium Density Multi-Family) Zone to facilitate subdivision for residential development that could yield approximately 32 single-family, duplex and multi-family dwelling units up to 50 units inclusive of secondary suite potential (Attachment 7 – Concept Site Plan).

2.2 Policy

2.2.1 OCP

In addition to the proposal's general consistency with the land use policy of the OCP Residential Neighbourhood designation and Crofton LAP (see section 1.1 OCP & Crofton LAP above), the rezoning proposal is generally consistent with:

- Recreation policy by dedicating lands and proposing to construct approx. 700m² of public trail (s. 4.4.1.a & Parks and Trails Master Plan/PTMP, p. 91);
- Biodiversity policy by protecting open drainage/watercourse for green space and biodiversity contiguity (s. 4.4.1.c);
- Appropriate density (proposed R3) that also includes housing diversity with townhouse cluster (proposed R3-MF) (s. 5.1.2.d and g); and,
- Proximity to community services within 1km (cycling/transit) and to transit within 300m (walk) from the site to the closest transit stop at Chaplin and Crofton Rd., contributing to policy direction for compact communities (s. 3.1.4.d).

In addition, OCP policy 5.2.2.d seeks to incorporate “affordable housing” within new developments or, in the absence of direct provision of affordable units, a cash-in-lieu contribution to the Municipality’s Affordable Housing Reserve Fund. While the proponent has offered a cash contribution of \$2,500 per R3 lot and \$5,000 for the R3-MF lot in response to this policy, the amount offered falls significantly below both the approximate per unit amount represented in recent rezoning proposals (e.g., Paddle Road land-assembly zoned CD22 & Ford/Drinkwater Road land-assembly zoned CD23) and the guideline amount contained within the emerging draft affordable housing policy.

It is recommended that Council seek a more robust amenity contribution towards affordable housing by directing staff to continue discussions with the applicant to arrive at an appropriate contribution that could be formally accepted or refused by Council at the time of second reading of Zoning Amendment Bylaw 3915, should it get that far. To guide these discussions, the emerging affordable housing policy (Committee of the Whole agenda July 11, 2023) provides a formula-based approach that seeks 2% of the total market value of the proposed development, according to benchmark prices as determined by the Vancouver Island Real Estate Board. Applying these figures to the development concept facilitated by the rezoning:

- 16 x single-family dwellings, benchmark price \$759,450
- 9 x duplex units, benchmark price \$538,000
- 10 x apartment units, benchmark price \$360,000

yields a total market value of \$20,593,200; 2% of this is \$411,864, or an average of **\$11,770 per unit**.

In recognition of the fact that the affordable housing policy is emerging policy in draft form, the other amenity contributions offered as part of this development, and the approximate size of the affordable housing amenity contribution from another significant development in recent times, a target average amenity contribution for affordable housing of \$7,000 per unit is suggested.

2.2.2 SITE ADAPTIVE PLANNING

Council Policy “Site Adaptive Planning in Urban Rural Interface” identifies properties within the Municipality, which includes the subject property, on which future development is expected to consider and accommodate environmental and hazard features. As open drainage, watercourse and ALR vegetated buffer protection, and the site’s topography was considered and reflected in the site design. Further, as environmental and farmland protection and steep slopes hazard development permits will be required prior to development, it is the opinion of staff that the proposal is consistent with the intent of this policy (Attachment 8 – Site Adaptive Planning).

2.3 Servicing & Infrastructure

A public roadway with civil servicing is proposed to be provided for access and site servicing. A public roadway would be designed and constructed in accordance with municipal design standards, including traffic calming, active transportation features, rainwater/green infiltration, and pedestrian crossing where appropriate. Road widening and frontage improvements would occur on Robert Street.

Staff are satisfied that water, sanitary, and stormwater service can be supplied to the subject property for the land use requested; however, downstream stormwater service capacity may require significant upgrades to accommodate future residential development of the site. The owner has acknowledged they are responsible for analysis and onsite stormwater management based on the property's previous state prior to mature tree removal, as well as potential upgrades to the downstream municipal stormwater service and in accordance with Engineering standards (Attachment 9). The owner further acknowledges that, given municipal engineering onsite stormwater management requirements, the number of lots/units as indicated on the Concept Site Plan may not be achieved (Attachment 7).

2.4 Future Development Approvals

SECTION 11 STREAM CROSSING: A change approval from the province under Section 11 of the *Water Sustainability Act* is required should future development contemplate a stream-crossing to the northwest corner of the site. Should appropriate provincial permits not be issued, the area that proposes multi-family housing could remain undeveloped.

DPA1/6: Multi-family housing development under the proposed R3-MF zone would require a development permit for its form and character (DPA1, MF/intensive residential; DPA6 GHG Reduction, Energy and Water Conservation).

DPA3: A development permit for the protection of the natural environment (DPA3, riparian) would be required prior to development. A preliminary assessment of the drainage course running through the property was conducted by a Qualified Environmental Professional (QEP), who determined that the watercourse would not be defined under the Riparian Area Protection and Enhancement Regulation. However, at the advice of the QEP, the owner has committed to replanting a 5-metre no-disturbance area on either side of the watercourse and protecting this vegetation into the future by registering a s. 219 (*Land Title Act*) protective covenant over this area. Further, a minimum setback of 15 metres for structures and fill is required from the watercourse (per Zoning Bylaw, sec. 13).

DPA4: A development permit for steep slope hazard areas would be required prior to development. This would require a Qualified Professional to assess the hazards related to the lands and provide any conditions that may pertain to the future development of those lands for ensuring they are safe for the intended use.

DPA5: A development permit for the protection of farmland would be required at the time of development. The applicant has demonstrated on their site plan that building and vegetated setbacks from agricultural lands to the north can be achieved.

2.5 Commitments & Amenity Contributions

The owner is willing to enter into a covenant agreement registered on the title of the property as a condition of successful rezoning, which would secure the following commitments and amenity contributions (Attachment 10 – Owner Commitments):

- a. Trail construction (3m) and dedication (4.5m) to the Municipality in the general location shown on the Concept Site Plan (Attachment 7);
- b. Registration of a vegetation management plan over a 5-metre no disturbance area on either side of the watercourse and over the ALR buffer with vegetation restoration by the owner;

- c. Public roadway design standards that include sidewalks, active transportation, pedestrian crossings, and traffic calming where appropriate;
- d. One tree per lot (front), \$300 security provided at the time of Building Permit;
- e. A financial contribution of \$2,500 per R3 lot and \$5,000 per R3-MF lot (\$57,500 - \$60,000) to be allocated to the Municipality's Affordable Housing Reserve Fund;
- f. 5% cash in lieu of parkland contribution, calculated as per the LGA;
- g. Infrastructure, including dedication for a new public roadway with construction and civil servicing works and statutory rights of way where required
- h. A 3.0m (approx.) dedication for road widening and improvements on Robert Street provided at the subdivision

As discussed above, the sufficiency of item (e) is in question when compared to the contributions provided by another development in recent times and the target amounts identified in the emerging affordable housing policy. This is reflected in the recommendation to seek a higher sum prior to second reading; however, if Council is satisfied that the ~\$60,000 offered is a sufficient affordable housing amenity contribution, Option 3 below enables Council to give both first and second readings to the OCP and Zoning amendment bylaws and schedule a public hearing.

3. Conclusion

An OCP amendment is required to include it within the UCB and redesignate it from Rural Residential to Residential Neighbourhood for Council to consider a Zoning Amendment Bylaw to increase residential density at the subject property. Procedural requirements for amending the OCP set out in the LGA are:

1. Consider the most recent housing needs report.
2. Provide opportunities for persons, organizations and authorities whose interests Council considers affected, how to consult with them, and whether consultation should be early and ongoing.
3. Seek the input of SD79 on the proposed OCP amendment.
4. After first reading, consider the proposed OCP amendment in conjunction with the financial plan and any waste management plan under Part 3 of the *Environmental Management Act*.
5. Conduct a public hearing.

While the subject property is not currently designated for the proposed uses and densities such that the proposal would be aligned, there are valid reasons for considering OCP and Zoning Bylaw amendments that would allow the subject property to be developed as proposed. These include:

- The rezoning proposal generally complies with the use and density policies of the Residential Neighbourhood land use designation of the OCP to which the subject property is proposed to be reclassified.
- The applicant has committed to community amenities and development features generally supported by planning policies in the OCP (although it is recommended that a higher contribution is sought).
- The Crofton LAP supports the proposed uses and densities.
- The property is immediately adjacent to residential uses similar to those proposed.
- The property can be serviced with Municipal water and sewer.
- The proposal's location is within one kilometre of transit, a school, and community services.

- The proposal accommodates a vegetated buffer from agricultural lands to the north in accordance with Ministry of Agriculture and Food guidelines and secures the revegetation and protection of open drainage.

While there are justifications for the proposed OCP amendment, any expansion of the UCB should be undertaken cautiously, and proximity to the UCB boundary alone should not justify amending the OCP. That said, it should also be recognized that the OCP review and update process that concluded with the adoption of OCP Bylaw 3900 did not involve a detailed property-by-property analysis when assigning OCP land use designations. The OCP amendment application process allows for a more considered review of property attributes that are not practical for land use planning at a larger scale—the reasons above support redesignating the subject property to Residential Neighbourhood and including it within the UCB.

The recommendation is to proceed with first reading of the attached amendment bylaws and seek a higher affordable housing amenity contribution commitment prior to consideration of second reading. If Council does not wish to request a higher contribution, it may proceed to give both first and second readings, as per Option 3 below. It may also specify a different target figure by amending the recommendation option accordingly.

Draft OCP Amendment Bylaw No. 3914 is provided in Attachment 11.

Draft Zoning Amendment Bylaw No. 3915 is provided in Attachment 12.

OPTIONS

1. (Recommended Option)

(1) THAT Council:

- a) consider the January 2021 Housing Needs Assessment report for the Municipality of North Cowichan in relation to Official Community Plan Amendment Bylaw No. 3914, 2023;
- b) consider consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3914, 2023 and determine that the interests of School District 79, the Ministry of Agriculture and Food, and the Agriculture Land Reserve may be affected and should receive a written request for consultation;
- c) consider consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3914, 2023, and determine that the consultation under that section does not need to be early and ongoing;
- d) consult under Section 476 of the *Local Government Act* with School District 79 in relation to Official Community Plan Amendment Bylaw No. 3914, 2023;
- e) consider Official Community Plan Amendment Bylaw No. 3914, 2023, in conjunction with the North Cowichan 2022 Five-Year Financial Plan; and,
- f) consider Official Community Plan Amendment Bylaw No. 3914, 2023, 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.

(2) THAT Council give first reading to Official Community Plan Amendment Bylaw No. 3914, 2023.

(3) THAT Council give first reading to Zoning Amendment Bylaw No. 3915, 2023.

- (4) THAT Council direct staff to continue discussions with the proponent regarding affordable housing community amenity contributions, to seek an increase in the amount offered prior to Council's potential consideration of second reading of Zoning Amendment Bylaw No. 3915, 2023, to a target amount of \$245,000 for affordable housing.

2. (Alternative Option)

(1) THAT Council:

- a) consider the January 2021 Housing Needs Assessment report for the Municipality of North Cowichan in relation to Official Community Plan Amendment Bylaw No. 3914, 2023;
- b) consider consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3914, 2023 and determine that **in addition to** those of School District 79, the Ministry of Agriculture and Food and the Agriculture Land Reserve the interests of **the following persons, organizations and authorities are affected** and should receive a written request for consultation **within 30 days**:
 - [Council to identify]
- c) consider consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3914, 2023, and determine that the consultation under that section does not need to be early and ongoing;
- d) consult under Section 476 of the *Local Government Act* with School District 79 in relation to Official Community Plan Amendment Bylaw No. 3914, 2023;
- e) consider Official Community Plan Amendment Bylaw No. 3914, 2023, in conjunction with the North Cowichan 2022 Five-Year Financial Plan; and,
- f) consider Official Community Plan Amendment Bylaw No. 3914, 2023, 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.

- (2) THAT Council postpone consideration of first and second reading of Official Community Plan Amendment Bylaw No. 3914, 2023 until after consultation is completed or the 30-day consultation period has lapsed.

3. (Alternative Option)

(1) THAT Council:

- a) consider the January 2021 Housing Needs Assessment report for the Municipality of North Cowichan in relation to Official Community Plan Amendment Bylaw No. 3914, 2023;
- b) consider consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3914, 2023, and determine that the interests of School District 79, the Ministry of Agriculture and Food, and the Agriculture Land Reserve may be affected and should receive a written request for consultation;
- c) consider consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3914, 2023, and determine that the consultation under that section does not need to be early and ongoing;
- d) consult under Section 476 of the *Local Government Act* with School District 79 in relation to Official Community Plan Amendment Bylaw No. 3914, 2023;
- e) consider Official Community Plan Amendment Bylaw No. 3914, 2023, in conjunction with the

North Cowichan 2022 Five-Year Financial Plan; and,

- f) considers Official Community Plan Amendment Bylaw No. 3914, 2023, 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.
- (2) THAT Council give first and second reading to Official Community Plan Amendment Bylaw No. 3914, 2023.
- (3) THAT Council give first and second reading to Zoning Amendment Bylaw No. 3915, 2023.
- (4) THAT Council direct staff to schedule a public hearing for Official Community Plan Amendment Bylaw No. 3914, 2023, and Zoning Amendment Bylaw No. 3915, 2023.

4. (Alternative Option)

THAT Council deny Zoning Amendment Application ZB000133 to facilitate future residential development at 1771 Roberts Street.

IMPLICATIONS

Should Council be satisfied with its consideration of the recent housing needs report received under section 585.31 of the LGA, i.e., Sub-Regional Report, January 21, and be satisfied that there is no need for consultation opportunities to be early and ongoing and that consultations as conducted by staff for which referral responses were received, are satisfactory (Attachment 6), OCP Amendment Bylaw No. 3914 can be considered for first reading, followed by first reading of Zoning Amendment Bylaw No. 3915.

Should Council not be satisfied with consultation with SD 79, the Ministry of Agriculture and Food, and the ALC and decide that additional persons, organizations and authorities are considered affected by OCP Amendment Bylaw No. 3914, the OCP amendment bylaw could be deferred until Council identified consultations were completed, after which first and second reading could be scheduled.

Pending the items above, should Council wish to consider Zoning Amendment Bylaw 3915 for first reading, Council could direct staff to engage the property owner toward a higher amenity contribution for the Affordable Housing Fund than what the owner currently offers, or an alternative as may be decided by Council. Alternatively, Council could accept the contributions as submitted (see Attachment 10).

If Council is not supportive of the proposed land use change, denial of the application would result in abandonment of OCP Amendment Bylaw No. 3914 and Zoning Amendment Bylaw No. 3915 and any use and development of the subject property would be subject to the provisions of the Rural (A2) Zone.

RECOMMENDATION

- (1) THAT Council:
 - a) consider the January 2021 Housing Needs Assessment report for the Municipality of North Cowichan in relation to Official Community Plan Amendment Bylaw No. 3914, 2023;
 - b) consider consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3914, 2023, and determine that the interests of School District 79, the Ministry of Agriculture and Land, and the Agriculture Land Reserve may be affected and should receive a written request for consultation;
 - c) consider consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3914, 2023, and determine that the consultation under that section does not need to be early and ongoing;
 - d) consult under Section 476 of the *Local Government Act* with School District 79 in relation to Official Community Plan Amendment Bylaw No. 3914, 2023;
 - e) consider Official Community Plan Amendment Bylaw No. 3914, 2023, in conjunction with the North Cowichan 2022 Five-Year Financial Plan; and,
 - f) consider Official Community Plan Amendment Bylaw No. 3914, 2023, 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;
- (2) THAT Council give first reading to Official Community Plan Amendment Bylaw No. 3914, 2023;
- (3) THAT Council give first reading to Zoning Amendment Bylaw No. 3915, 2023;
- (4) THAT Council direct staff to continue discussions with the proponent regarding affordable housing community amenity contributions, to seek an increase in the amount offered prior to Council’s potential consideration of second reading of Zoning Amendment Bylaw No. 3915, 2023, to a target amount of \$245,000 for affordable housing.

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Approved to be forwarded to Council:



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Chief Administrative Officer

Attachments:

- (1) Location Map
- (2) Orthophoto
- (3) OCP Map
- (4) Zoning Map
- (5) Council Minutes 2023-02-21
- (6) Referral Responses
- (7) Concept Site Plan
- (8) Site Adaptive Planning
- (9) Owner Acknowledgement
- (10) Owner Commitments
- (11) Draft OCP Amendment Bylaw 3914
- (12) Draft Zoning Amendment Bylaw 3915