

# Report

Date

December 6, 2023

File: 6480-30 23.01

Subject

**OCP Amendment Bylaw No. 3941 for first and second reading**

---

## **PURPOSE**

To consider an amendment to the Official Community Plan to facilitate a two-lot subdivision at 2839 Wedgewood Drive.

## **BACKGROUND**

The owners of 2839 Wedgewood Drive have applied to amend the Official Community Plan (OCP) to pursue a two-lot property subdivision.

The 0.5-hectare (ha) subject property (Attachments 1 & 2) is zoned Residential Rural Zone (R1), is situated within the Rural Residential land use designation under the OCP and is outside the Urban Containment Boundary (UCB) (Attachments 3 & 4). The site plan showing the proposed subdivision is provided in Attachment 5. The letter of rationale from the applicant is provided in Attachment 6.

To the east, south and west, neighbouring properties are residential in nature and zoned (R1). To the north are large agricultural parcels within the Agriculture Land Reserve, which are zoned Rural Zone (A2) and have an OCP land use designation of Agriculture, Forestry and Conservation.

## **DISCUSSION**

### **Official Community Plan – Bylaw 3900, 2022**

OCP Bylaw No. 3900, adopted in August 2022, identified the subject property land use designation as Rural Residential. The current Rural Residential land use designation policy generally does not support subdivision, although it may be considered by the Approving Officer where the parcels created are 2 ha or larger (see below, section 3.2.19 a):

*"3.2.19 The Municipality will strive to:*

*a. Generally not allow subdivision, although it may be permitted where the parcels created are 2 ha or larger" (Official Community Plan, Bylaw 3900, 2022).*

This property is outside the UCB, where subdivision and stratification are generally not encouraged (see policy on p. 48 of the OCP). The subject property is over 2.5km from the nearest UCB boundary in the south end. Further, low-density auto-dependent subdivisions are generally discouraged in rural areas outside the UCB (see OCP section 3.1.4 c).

*"3.1.4... c. Discourage all low-density auto dependent subdivisions ..." (Official Community Plan Bylaw, 3900, 2022)*

Although the subject property is zoned R1, with a minimum parcel size that would allow it to be subdivided, since the adoption of the new OCP in August of 2022, the Approving Officer has generally advised that subdivisions of lands in the Rural Residential designation are against the public interest unless the size of the parcels to be created by subdivision is 2 ha or larger, or subdivision applications were submitted before the new OCP was adopted. In this case, the Approving Officer has advised that an OCP amendment is necessary before further consideration of this subdivision application as this parcel's subdivision will create a lot smaller than 2 ha in area.

No existing land use designation can be applied to the subject property to facilitate the proposed subdivision without compromising the intent and vision of the OCP. While it is possible to create an OCP 'spot-designation' for the subject property from Rural Residential to a land use designation where densification is encouraged (e.g. Residential Neighbourhood) and include the property within the UCB, that approach is inconsistent with the intent of the OCP, that seeks to direct infill to the growth centres to support "... *mixed use walkable complete communities ... protection of environment and agricultural areas ... improved management and efficiency of municipal infrastructure ...*" (see OCP s. 3.1, p. 40). It is important to recognize that the policy context for higher-density areas is predicated on the availability of municipal sewer service in such areas.

Further, this proposal is fundamentally problematic as it would undermine the OCP's core direction regarding housing development patterns if approved. While creating new housing is of great importance, the fundamental tenet of the UCB (see OCP s. 2.3 Goals; 3 Thoughtful Growth Management) is to achieve focused growth in urban growth centres (inside the UCB), thus furthering community walkability to mixed uses, improved management, and efficient use of municipal infrastructure, while also being mindful toward protecting the environment and the potential for rural properties to remain useable for small-scale farming. These considerations informed the development of the Rural Residential land use designation, noting that allowing accessory dwelling units on these parcels can still respond to the housing supply imperative with a significantly reduced negative impact in terms of these other considerations.

There is no uncomplicated way to accommodate this proposal within the existing OCP and its land use policies. Should Council nevertheless wish to entertain the proposal, staff recommend applying a stand-alone "Special Exemptions" designation to the subject property. This designation could support the subdivision of the subject property without altering the UCB's current location.

However, it should be highlighted that the purpose of the proposed "Special Exemptions" designation, as proposed by staff, is to provide Council with an option to amend the OCP to the minimum extent necessary to enable the Approving Officer to consider subdivision. The proposed designation does not otherwise suggest a more intensive land use policy vision to the property.

Finally, there is a risk that the Special Exemptions designation could be used elsewhere to circumvent the OCP's overall direction, thus undermining the purpose of the OCP. If there is a significant mismatch between the OCP policy and Council's preferred direction or expectations, the OCP policy should be amended rather than maintained and exempted on a case-by-case basis.

The Draft OCP Amendment Bylaw No. 3941 is provided in Attachment 7.

## OCP Amendment Legislative Requirements

Procedural requirements for amending an OCP are set out in Part 14, Division 4 of the *Local Government Act*. 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 (3)) 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.

## Consultations & Council Resolutions

Sections 475 and 476 of the *Local Government Act* outline procedural requirements for consultation with persons, organizations, and authorities it considers affected by an application to amend an OCP. These sections also require procedures related to the order of these consultations in the adoption process.

With regards to OCP amendments and in addition to a Public Hearing, these sections require that a local government:

- Provide one or more opportunities for consultation,
- Consider whether the opportunities for consultation should be early and ongoing,
- Specifically consider consultation with the following:
  - o Regional District
  - o Adjacent municipality
  - o First Nations
  - o Boards of Education
  - o Provincial, federal agencies,
- Consult the Board of Education for school districts where the amendment is located.

Should Council wish to proceed with consideration of this OCP amendment, staff recommend consultation with only School District 79 (SD79), given the localized nature of the proposal.

A referral was sent to SD79, and a response was received stating they had no comment on the proposed OCP amendment and subdivision as it is not anticipated to impact their operations.

## CONCLUSION

An OCP amendment is required to redesignate the subject property from Rural Residential to a “Special Exemptions” designation for the Approving Officer to consider the proposed two-lot subdivision. Legislated procedural requirements for amending the OCP are very involved and listed in the body of this report.

Should Council consider consultation with SD79 adequate given the localized nature of the proposal (and the response) and further give first reading to OCP Amendment Bylaw 3929, Council would direct staff to complete the procedural steps required after first reading and before scheduling a public hearing.

This OCP amendment application does not have staff support as a subdivision to create parcels less than 2 hectares in the area is actively discouraged under the Rural Residential designation. Further, new residential housing is primarily intended to be within the UCB for reasons stated earlier in this report. While approval of this application through due process would provide a legally defensible route for the Approving Officer to consider the subdivision, staff do not recommend proceeding with the suggested OCP amendment. Council was recently presented with a similar application (in terms of circumstances) for a 5-lot subdivision at 6409 Wicks Road and chose to deny the application.

Alternatively, Council may give first reading to this bylaw to initiate the OCP amendment process and receive public input, reserving the decision after the public hearing on whether to proceed to adoption, amend the bylaw, or abandon it.

## OPTIONS

1. **(Recommended Option)** THAT Council deny application OCP00023 to amend Official Community Plan No. 3900, 2022, to redesignate 2839 Wedgewood Drive from Rural Residential to a land use designation that would facilitate a two-lot subdivision.
2. (Alternative Option) Under this option, each motion must be considered separately.
  - (1) THAT Council has:
    - a) considered the January 2021 Housing Needs Assessment report for the Municipality of North Cowichan in relation to Official Community Plan Amendment Bylaw No. 3941, 2023;
    - b) considered consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3941, 2023 and have determined that the interests of School District 79 may be affected and should receive a written request for consultation;
    - c) considered consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3941, 2023, and have determined that the consultation under that section does not need to be early and ongoing; and

- 
- d) consulted under Section 476 of the *Local Government Act* with School District 79 in relation to Official Community Plan Amendment Bylaw No. 3941, 2023;
- (2) THAT Council give first reading to Official Community Plan Amendment Bylaw No. 3941, 2023.
- (3) THAT Council:
- a) consider Official Community Plan Amendment Bylaw No. 3941, 2023, in conjunction with the North Cowichan 2022 Five-Year Financial Plan; and,
  - b) consider Official Community Plan Amendment Bylaw No. 3941, 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.
- (4) THAT Council:
- a) give second reading to Official Community Plan Amendment Bylaw No. 3941, 2023.
  - b) schedule a public hearing for Official Community Plan Amendment Bylaw No. 3941, 2023.
3. (Alternative Option)
- (1) THAT Council:
- a) refer Official Community Plan Amendment Bylaw No. 3941, 2023 to the Committee of the Whole to further:
    - i) consider the January 2021 Housing Needs Assessment report for the Municipality of North Cowichan in relation to Official Community Plan Amendment Bylaw No. 3941, 2023;
    - ii) consider consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3941, 2023 and determine that **in addition to** those of School District 79, 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]
    - iii) consider consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3941, 2023, and determine that the consultation under that section does not need to be early and ongoing;
    - iv) direct staff to consult under Section 476 of the *Local Government Act* with School District 79 in relation to Official Community Plan Amendment Bylaw No. 3941, 2023.
  - b) direct staff to return Official Community Plan Amendment Bylaw No. 3941, 2023 for first reading after consultation is completed or the 30-day consultation period has lapsed.

## IMPLICATIONS

Should Council deny application OCP00023 the Rural Residential land use designation will be maintained, and subdivision of the property would not be supported by OCP Policy. The subject property could be developed for land uses specified in the existing Rural Residential (R1) Zone. The current zoning allows for a secondary suite or second dwelling (duplex) to be added, or the property owners could apply for a site-specific zoning amendment to allow a detached accessory dwelling unit.

If Council wishes to proceed with consideration of OCP Amendment Bylaw No. 3941 to redesignate 2839 Wedgewood Drive from Rural Residential to Special Exemptions and is satisfied with the consultation that has occurred, the procedural steps set out in Option 2 should be considered and passed.

If Council wishes to undertake further consultation before considering Bylaw No. 3941 the application should be referred to Committee of the Whole.

**RECOMMENDATION**

THAT Council deny application OCP00023 to amend Official Community Plan No. 3900, 2022, to redesignate 2839 Wedgewood Drive from Rural Residential to a land use designation that would facilitate a two-lot subdivision.

Report prepared by:

*Sarah Foulkes*

---

Sarah Foulkes, MCP  
Development Planner

Report reviewed by:



---

Rob Conway, MCIP, RPP  
Director, Planning and Building

**Approved to be forwarded to Council:**



---

Ted Swabey  
Chief Administrative Officer

Attachments:

1. Location Map
2. Orthophoto
3. Zoning
4. OCP Designation
5. Site Plan
6. Rationale
7. Draft OCP Amendment Bylaw 3941, 2023