

# Report

Date July 17, 2024

File: 3360-20 21.26

Subject **Zoning Amendment Bylaw No. 3968 for first, second, third reading and adoption at 2950 Elm Street**

## PURPOSE

To consider a text amendment to the Chemainus Artisan Village Comprehensive Development Zone (CD6) of Zoning Bylaw 1997, No. 2950 to add residential density and optimize multi-family residential use at 2950 Elm Street.

## BACKGROUND

The subject property (PID: 001-195-930) is located at 2950 Elm Street in the community of Chemainus. The property is situated within the Urban Containment Boundary (UCB) of the Official Community Plan (OCP) and within the Chemainus Artisan Village Comprehensive Development Zone (CD6) (Attachment 1, 2 & 3). The CD6 Zone is provided in Attachment 4.

The CD6 Zone is based on the Artisan Village Comprehensive Development Plan (CDP) adopted by Council in 2010 and forming part of the OCP. In 2015, an amendment to the Artisan Village CDP and CD6 Zone accordingly was adopted by Council to add single, two-family, and secondary suite residential uses to Area 1.

The 10.2-hectare (25.2 acre) subject property is situated within three OCP land use designations, which correspond with the Areas of the CD6 Zone (indicated in brackets):

- Agriculture, Forestry and Conservation (Area 4 of the CD6 Zone),
- Village Residential (Area 2 of the CD6 Zone), and,
- Village Core (Area 3 of the CD6 Zone).

Residential and agricultural uses are located to the south, and residential uses to the north, east, and west. Askew Creek runs northward through the subject property.

## Rezoning Proposal

The property owner proposes the following amendments to Areas 2 & 3 of the CD6 Zone:

1. Reduce apartment building setbacks from the rail corridor, lot coverage, landscaped open area, and the number of landscaped areas between parking stall clusters;
2. Increase apartment building heights to:
  - Correct the current maximum apartment building height provisions and accommodate the topography,
  - Improve half-storey zoning restrictions to achieve full storeys, e.g., 4.5 to 5 storeys (Area 2) and 3.5 to 4 storeys (Area 3), and,

- Achieve a flexible apartment building roof design standard, e.g., replace 'mansard roof' (see Discussion).

To improve consistency of the CD6 Zone with the Village Residential and Village Core land use designation of the OCP and expectations of the Artisan Village CDP (Bylaw 3588), staff requested, and the applicant is willing to:

1. Add a minimum required floor area of 600 m<sup>2</sup> in Area 3 for permitted commercial uses already listed in the CD6 zone; and,
2. Increase the number of storeys from 4.5 to 6 within a proposed subarea 2A of Area 2.

The applicant's Zoning Proposal is provided in Attachment 5.

A 'redline' version of the draft Zoning Amendment Bylaw showing the proposed amendments to the CD6 Zone is provided in Attachment 6.

## DISCUSSION

### Official Community Plan

The proposal aligns with the OCP growth management, land use, and housing policies, demonstrating:

- ❖ Improved efficient use of the site for high density residential apartment use, whereby especially in the Village Residential designation "significant new housing growth" is anticipated (OCP sec. 3.2);
- ❖ Flexibility to accommodate updated apartment building roof design standards (OCP sec. 5.1.3 c);
- ❖ Required minimum floor area for commercial uses in Area 3 (3.2.1 *Defining Success*, p. 43); and
- ❖ Improved consistency with surrounding land uses by permitting 6-storey apartment use in a subarea of Area 2 located adjacent to Chemainus Road (and generally not immediately adjacent to existing lower density development) (OCP sec. 3.2.4 a).

### Proposed Zoning Bylaw Amendments: CD6 Zone

Key elements of the proposed zoning amendment are discussed below.

#### *Proposed building height changes & Zone correction*

The proposal seeks Council approval to increase the maximum building height to achieve full storeys, i.e., from 4.5 to 5 storeys in Area 2 and from 3.5 to 4 storeys in Area 3. Note that a **4.5-storey building includes five floors**, the uppermost of which is typically located within a roofline.

For clarity, a "STOREY, HALF means a storey under a sloping roof, the walls of which, on at least two opposite walls, are not more than 0.6 m above the finished floor of such a storey" (Lake Country, Zoning Bylaw; excerpt only). A half-storey can also be located partially below ground.

Typically, half-storeys require what is called a 'mansard roof,' depicted on the left in Figure 1 below. The applicant prefers to build a different roof design, such as depicted on the right in Figure 1. To achieve this, two provisions of the CD6 Zone would require amendment, for example (Area 2):

- Increase the maximum number of storeys from 4.5 to 5, and,
- Increase the maximum building height.

Note, the maximum apartment building heights (e.g., 14 metres in Area 2; 11 metres in Area 3) as currently permitted in the CD6 Zone, provide insufficient clearance to practically accommodate the half-storey of the apartment use in each Area. For example, as shown with the heavy red dotted line in Figure 1, even with 8-foot ceilings, an apartment with a mansard roof could require a building height variance to achieve the half-storey (left). A preferred roof design requires additional height (right).

The request to increase the apartment building height both corrects the CD6 zone and provides additional height to accommodate the preferred roof design.

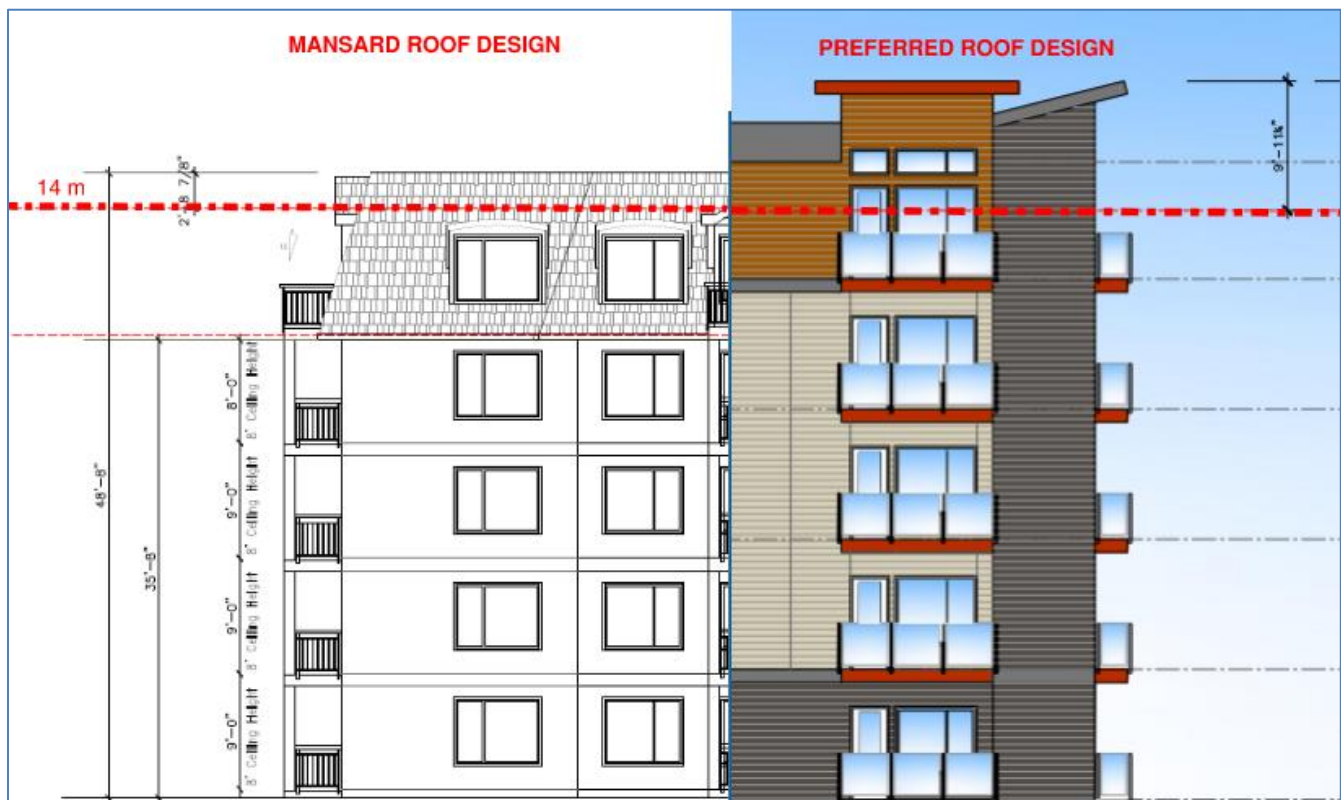


Figure 1. **Two buildings are shown with 5 floors.** On the left is a 4.5-storey building with 8' ceilings that requires greater than the maximum 14-metre building height of the CD6 zone to be constructed, as shown. On the right is a 5-storey building with 9' ceilings that requires an increase in building height to be constructed, as shown.

#### *Removing Eaveline Height & Roof Slope: May affect apartment roof form and character*

The Chemainus Artisan Village CDP provides building form policy advice toward “expressive sloping roofs” (p.17). Removing the maximum eaveline height and the minimum roof slope provisions for apartments to allow for the flexibility to construct apartment building roofs as preferred (Figure 1) would alter the form and character of the roof design for apartments if constructed as such.

By contrast, the eaveline height of the townhouse and the stacked townhouse is not proposed to change. When constructed, these building typologies are anticipated to remain consistent with the building form expectations of the Chemainus Artisan Village CDP (see Figure 2).



Figure 2. From Bylaw 3588 Chemainus Artisan Village Comprehensive Development Plan (CDP), the building forms shown above show the CDP’s policy expectations for “expressive sloping roofs” (CDP p.17). The zoning amendment proposes to remove the maximum eaveline height and roof slope provisions for apartments only and would not be removed for the townhouse and stacked townhouses (CDP, Figure 20, p.22).

*Sub-areas: For different maximum Principal Building heights*

To manage differences in maximum required apartment building heights to accommodate topography, underground vs. surface parking, and with some at 6-storeys, sub-areas are proposed for the CD6 Zone. Figure 3 below summarizes the proposed apartment building heights and storeys for each sub-area.

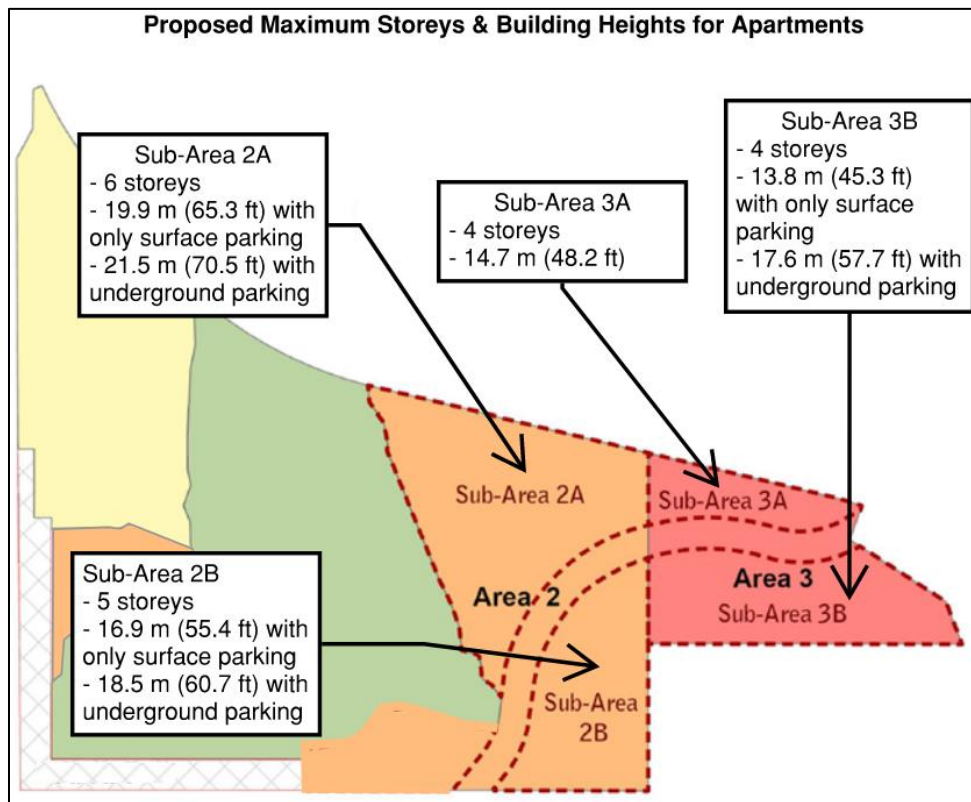


Figure 3. Proposed storeys and apartment building heights are shown per sub-area. The remainder of Area 2 not located within a sub-area remains per the current CD6 Zone, i.e., 14 m and 4.5 storeys in Area 2.

### *Rail Corridor setback*

Development permit guidelines indicate a 15-metre minimum setback noise buffer for multi-family residential uses from rail corridors (Zoning Bylaw, DPA-1, sec. 1.4.3, p. 162). However, since no other zones indicate a minimum setback standard from a rail corridor and existing residential dwellings are located within this distance along the E & N railway, the applicant requests a reduction in the setback.

The rail corridor itself provides an estimated 15-metre buffer between the railway and the adjacent residential property boundaries, and the 6-metre setback requested by the applicant would provide an additional buffer. Existing principal residential dwellings and multi-family buildings are sited between approximately 3 to 11 metres from the corridor. The request for a 6-metre principal building setback would be consistent with other residential properties abutting the rail corridor.

However, stakeholder feedback on the rezoning proposal by the Island Corridor Foundation iterated rail corridor policies for a 30-metre building setback from mainlines and 15 metres from secondary lines. Five (5) metre reductions are considered acceptable with construction of barriers (p. 27) (*Guidelines for New Development in Proximity to Railway Operations*, May 2013; Railway Association of Canada & Federation of Canadian Municipalities).

Staff are supportive of the proposal on the basis that the:

- Minimum 10-metre principal building setback unnecessarily constrains the development of sub-area 3A given its narrow shape,
- Grade difference between the rail corridor and sub-area 2A would deter future residents from interfacing with the rail corridor, and,
- Developer is willing at time of development to construct a fence along the corridor and enter into a covenant agreement to inform future property owners of rail noise nuisance should the railway become operational.

### **Relevant Legislative Changes: Public Hearing Prohibited**

Changes introduced by the *Housing Statutes (Residential Development) Amendment Act* place limitations on previous requirements for local governments to hold public hearings. Section 464(3) of the *Local Government Act* prohibits a public hearing for a zoning bylaw that is consistent with the OCP and in which the residential component accounts for at least half the gross floor area of the proposed development.

A public hearing is prohibited for Amendment Bylaw 3968 since the associated rezoning proposal is:

- Consistent with the OCP Village Residential/Village Core land use designations with increased building heights and minimum required commercial floor area for permitted commercial uses, respectively; and,
- Allocates an estimated floor area of 3,300 m<sup>2</sup> to multi-family residential use with the additional storey (i.e., 6-storey) in sub-area 2A, which is greater than 50% of the required minimum floor area of 600 m<sup>2</sup> for permitted commercial uses in Area 3 of the proposal.



## Community Amenity Contributions & Area 4 Zoning Boundary Change

Community amenities, such as parkland and trails, major infrastructure for intersection improvements, as well as a Housing Agreement for affordable housing contributions calculated on a *per unit* basis (e.g., rental units provided at a rate of 1 per 15 units; or alternatively, \$1,000 per residential unit; Bylaw 3590, 2015) were secured by bylaw or agreement (under section 219, *Land Title Act*) with the original rezoning in 2010, and as amended in 2015.

Since an estimated 3,300 m<sup>2</sup> floor area of residential apartment use and a minimum required floor area of 600 m<sup>2</sup> floor area of commercial permitted uses is proposed on lands already zoned for apartment and commercial use, and previously negotiated community amenities related to residential units are calculated on a *per unit* basis, no further community amenities are recommended to be requested through this 2024 zoning amendment proposal (i.e., Draft Amendment Bylaw 3968).

The proponent has requested a minor change to the area boundary that delineates Area 2 (i.e., sub-area 2A) from Area 4 (Askew Creek) to facilitate a more efficient use of the site, specifically affecting the building setbacks. While this request involves a simple change to the zoning boundary, doing so affects a 5,134 m<sup>2</sup> area of land specified in a section 219 covenant to be transferred to the municipality for future park use resulting from previous Council-approved rezoning processes. Yet, the total amount of land previously agreed upon to be transferred as park to the municipality will **not** be affected by the boundary adjustment – only the shape is proposed to be ‘smoothed out’.

Since the overall park area proposed to be transferred to the municipality has not changed, and there is no substantive impact ‘on the ground’ on the proposed park area from what was originally envisioned, Planning and Parks staff have no concerns with the minor adjustment proposed for the sub-area 2 boundary to facilitate development (see Figure 4).

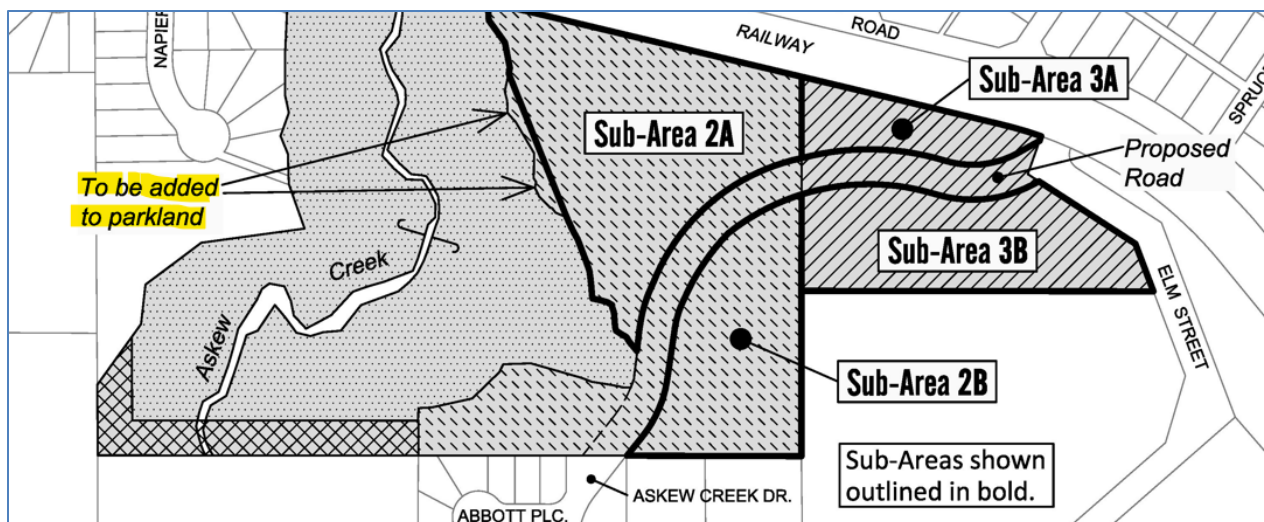


Figure 4. The boundary of sub-area 2A shown here indicates how ‘smoothing out’ the area intended for development on sub-area 2A also results in a change to the configuration of lands intended for park. Yet, despite the change in area boundary, there will be no change to the park area, i.e., 5,134 sq m intended to be transferred to the municipality as secured in a covenant agreement and established in previous rezoning/subdivision processes.

## Servicing Infrastructure

Engineering staff have informed the proponent that water servicing for this area is currently limited and may restrict an increase in units until future improvements have been constructed. No further concerns are noted.

## Future Permits

Should Council adopt draft Bylaw 3968, future development permits, e.g., DPA1 (Multi-Unit & Intensive Residential Development) and DPA2 (Commercial Development) will be required to conform with Artisan Village CDP and registered agreements. Approved Development Permits are required prior to Building Permit issuance.

## Conclusion

The proposed request to replace the half-storey building restriction to the apartment use in Areas 2 & 3 with full storeys maintains the permitted number of floors while providing greater flexibility for current and future developers to construct to preferred roof design standards. The proposed building height does not preclude apartment buildings from being constructed with the 'mansard roof' design typical of the half-storey apartment.

A proposed additional storey, i.e., six (6) storeys within the proposed sub-area 2A adjacent to Chemainus Road and Askew Creek Park to the north and a required minimum floor area for commercial uses currently permitted in Area 3, better aligns the CD6 Zone with the Village Residential and Village Core land use designations as well as expectations of the Artisan Village CDP.

Proposed increases to parking area footprints from clusters of 8 to 12 and maximum lot coverage from 50% to 65% for apartments, reduced building setbacks from the rail corridor from 10 to 6 metres, and minimum landscaped open space from 25% to 20% for apartments would impact future development on the subject property. The proposed amendments are largely indicative of efficient site use that optimizes residential use and encourages housing diversity, compactness and walkability as supported by land use policies in the OCP (sec. 3.1, 5.1).

The zoning amendment, as proposed, is supported by staff.

The Draft Zoning Amendment Bylaw No. 3968 - *Redline Version* is provided in Attachment 6. Zoning Amendment Bylaw No. 3968 is provided in Attachment 7.

## OPTIONS

1. **(Recommended Option)** THAT Council:
  - (1) Gives first, second and third reading to Zoning Amendment Bylaw No. 3968, 2024.
  - (2) Adopts Zoning Amendment Bylaw No. 3968, 2024.
2. THAT Council gives first reading of Zoning Amendment Bylaw No. 3968, 2024 and directs staff to amend the bylaw prior to scheduling second reading.

3. THAT Council denies application ZB000177 to amend the Zoning Bylaw No. 2950, 1997 at 2950 Elm Street.

**IMPLICATIONS**

Should Council adopt Zoning Amendment Bylaw No. 3968, the property would be developed in accordance with the amended bylaw including provisions to optimize residential use with sub-areas created within the areas of the CD6 Zone to achieve variable apartment building heights suitable to the topography, including potentially a 6-storey apartment building in sub-area 2A. Area 3 of the subject property would be required to include a minimum floor area of 600 m<sup>2</sup> for permitted commercial uses.

Should the zoning amendment application be denied, residential development would be restricted to the provisions of the CD6 zone. Residential use would not be optimized, a minimum floor area for permitted commercial uses in Area 3, and 6-storey apartment building use would not be achieved in sub-area 2A.

**RECOMMENDATION**

- (1) THAT Council gives first, second and third reading to Zoning Amendment Bylaw No. 3968, 2024.
- (2) THAT Council adopts Zoning Amendment Bylaw No. 3968, 2024.

Report prepared by:

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Report reviewed by:



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**Approved to be forwarded to Council:**



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Ted Swabey  
Chief Administrative Officer

Attachments:

- (1) Location Map
- (2) Orthophoto
- (3) Zoning Map
- (4) CD6 Zone
- (5) Applicant's Zoning Proposal
- (6) Draft Zoning Amendment Bylaw No. 3968 - *Redline Version*
- (7) Zoning Amendment Bylaw No. 3968, 2024