

# Report

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Date	October 16, 2024	File: OCP00017 & ZB000241
Subject	OCP Amendment Bylaw No. 3976 and Zoning Amendment Bylaw No. 3977 for first and second reading	

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## PURPOSE

To consider amendments to the Official Community Plan and Zoning Bylaw to facilitate the redevelopment of 9337 Trans-Canada Highway, 3036 Juniper Road, 3037 Henry Road, and 3041 Henry Road for general commercial uses.

## BACKGROUND

The subject properties are located at Henry Road and the Trans-Canada Highway, west of the community of Chemainus. The 1.43 hectare (3.53 acre) properties are designated "Commercial" and "Industrial and Employment" in the Official Community Plan (OCP) and are located outside the Urban Containment Boundary (UCB). The subject properties are zoned Industrial Heavy (I2) and Residential Rural (R1) (Attachments 1, 2, 3, & 4).

Lands surrounding the subject properties are largely industrial to the north, west, and south and residential to the east.

The OCP and Zoning Amendment applications were received prior to the adoption of OCP Bylaw 3900.

## PROPOSAL

The property owner requests to amend the zoning of the subject properties to the Commercial General Zone (C2) to facilitate:

- a fuel service station;
- convenience store;
- 2 drive-thru restaurants; and,
- commercial units, as yet unspecified.

To achieve a cohesive development for these uses, the proponent intends to assemble four lots and realign Juniper Road from its current location to the northern parcel boundary.

For the proposed land uses to align with the land use policy direction of the OCP (per s. 478(2) of the *Local Government Act* (LGA)), the property owner concurrently requests to amend Map 2 (Growth and Land Use Management) of the OCP to extend the "Commercial" designation boundary to apply to all the subject properties.

The Commercial General Zone (C2) is provided in Attachment 5.

The applicant's conceptual Site Plan & Juniper Road Realignment Proposal is provided in Attachment 6, and the corresponding letter of intent is provided in Attachment 7.

## DISCUSSION

### 1. OCP Amendment to “COMMERCIAL”: 3036 Juniper Road, and 3037, 3041 Henry Road

The “Commercial” designation would need to be applied to 3036 Juniper Road, 3037 Henry Road, and 3041 Henry Road (approximately 0.40 hectares/0.98 acres) to accommodate the zoning amendment proposal. Applying the “Commercial” designation would remove these properties from the “Industrial and Employment” land use designation.

The request to remove properties from the “Industrial and Employment” designation is contrary to its land use policy, which intends to ‘largely preserve’ these lands for industrial uses and complementary businesses (OCP s. 3.2.21(b)(g)). Despite this policy, it should be noted that the amount of land proposed to be removed from the “Industrial and Employment” designation is relatively small (0.40 hectares/0.98 acres), and a significant amount of land in this area is still preserved for industrial and complementary uses. The subject lands are also adjacent to lands designated “Commercial” to the south and west and “Residential” to the east. The redesignation of these lands could be seen as an appropriate transition from the residential lands to the east.

Despite the request to remove 0.40-hectare (0.98-acre) from the “Industrial and Employment” designation, the OCP amendment request to “Commercial” is consistent with OCP policies that encourage local and regional commercial opportunities (s. 8.3, s. 8.5.2 (c)) and reduce potential conflicts between heavy industrial uses (s. 8.6.2 (g)), for example, with the residences immediately to the east.

Yet, the auto-oriented nature of the zoning proposal is **inconsistent** (see bolded) with the following policy:

The Municipality will strive to:

Commercial Designation 3.2.11 c)

***Discourage expansion of these areas [i.e., Commercial] if it facilitates auto-oriented uses or development.***

Commercial Opportunity 8.5.2 (f)

***Not permit additional drive-throughs as they are typically associated with fast food stores that are often visually unappealing and promote vehicle use and increased GHG emissions.***

The zoning amendment request does not align with these OCP policies because the proposal:

- ❖ Does expand auto-oriented uses (s. 3.2.11); and,
- ❖ Increases the potential number of drive-throughs in North Cowichan by up to 2 (s. 8.5.2).

The Draft OCP Amendment Bylaw No. 3976 is provided in Attachment 8.

### **1.1 OCP Amendment Legislative Requirements**

Procedural requirements to amend an OCP are set out in Part 14, Division 4 of the LGA. In addition to a Public Hearing in relation to an OCP amendment, a local government must:

(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.*
- *Specifically consider whether consultation is required with the following:*
  - *Regional District;*
  - *Any adjacent Municipality;*
  - *First Nations;*
  - *Boards of Education;*
  - *Provincial/federal governments and their agencies.*

(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:*
  - *The Municipality's financial plan, and*
  - *Any waste management plan under Part 3 [Municipal Waste Management] that is applicable in the municipality.*

### **1.2 Consultations & Council Resolutions**

In response to statutory requirements (LGA, s. 475, 476), a request for input was sent to:

- Halalt First Nation;
- Stz'uminus First Nation;
- Lyackson First Nation;
- Penelakut Tribe;
- Cowichan Tribes; and,
- School District 79 (LGA s. 476).

Referrals were sent in November 2021. No responses were received. A second request was emailed to School District 79 (September 27, 2024); no response was received.

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**

For Council's consideration and concurrent with the OCP amendment, this report introduces the applicant's request to rezone the subject properties to the following:

- From I2 to C2
  - 9337 Trans-Canada Highway
- From R1 to C2
  - 3036 Juniper Road
  - 3037 Henry Road
  - 3041 Henry Road

The proposed C2 Zone would accommodate the proposed commercial uses.

The C2 permitted uses would be consistent with adjacent C2 zoning immediately to the south. The zone is appropriate to its proposed location at the intersection of the Trans-Canada Highway and Henry Road, from which the community of Chemainus can be accessed.

Draft Zoning Amendment Bylaw No. 3977 is provided in Attachment 9.

## **3. Ministry of Transportation and Infrastructure**

The Ministry of Transportation and Infrastructure (MOTI) commented on the OCP & Zoning Amendment applications. No concerns were raised regarding the change in land use. However, MOTI indicated that engineered drawings will be required at the time of development. The response from MOTI was forwarded to the proponent (September 10, 2021). Comments received from MOTI are provided in Attachment 10.

Should Council read Bylaw 3977 a third time, Ministerial approval will be required prior to bylaw adoption.

## **4. Infrastructure Servicing**

The Engineering Department has not expressed concerns regarding water servicing at this time; however, a detailed review will be required at the time of development. Off-site septic service has been deemed to be sufficient by the applicant for the proposed uses. Where appropriate, Island Health and municipal approvals would be required.

The relocation of Juniper Road is subject to Council zoning amendment and road closure bylaw approvals. Since the applicant requests it, the cost of relocating and reconstructing Juniper Road (approximately 530-880 m<sup>2</sup>) would be borne by the developer (Attachment 6).

## **5. Community Amenity Contribution/Commitments**

To fulfill long-term transportation plans, North Cowichan will require private lands to be dedicated to improving Henry Road and extending Juniper Road to the western property boundary to enable (future) access to the industrial lands to the west. The extension will eventually reduce direct access to private property from the Trans-Canada Highway (OCP, s. 4.6.2 (p)).

This zoning amendment application provides North Cowichan with the opportunity to request these dedications for transportation network development and associated frontage improvements as community amenity contributions (OCP, s. 3.1.5, 9.1, 9.2; Master Transportation Plan) and to an extent not otherwise required under regulatory bylaw.

The owner has indicated willingness to enter into a section 219 covenant agreement (*Land Title Act*) to secure the following:

- Lands dedicated to North Cowichan to extend the 'new' Juniper Road in its proposed location (Attachment 6);
- Lands dedicated to North Cowichan to widen Henry Road and to connect with Trans-Canada Highway improvements as may be required by MOTI; and,
- Juniper Road, Henry Road frontage improvements to Master Transportation Plan standards, and as may be required to transition with the Trans-Canada Highway.

## **6. Future Required Permits**

With the development of the property, Development Permit Area (DPA) approval is required prior to Building Permit issuance. Development Permits require approval in accordance with the applicable guidelines of DPA2 – Commercial & Industrial Development, DPA6 – GHG Reduction, Energy & Water Conservation, and DPA4 – Hazard Lands (Steep Slopes).

The applicant has offered enhanced landscaping at the time of development to mitigate the visual impact of the proposed zoning amendment. However, this offer is of a promissory nature.

The applicant's Landscape Plan is provided in Attachment 11.

## **7. Summary & Conclusion**

For the zoning amendment to be realized as proposed, an OCP amendment is required to extend the "Commercial" designation over three of the four subject properties (LGA 478(2)).

While the request would remove 0.40 hectares (0.98 acres) of land from the "Industrial & Employment" designation, the proposal is generally consistent with economic development and land use impact-related policies (OCP s. 8.3, 8.5(c), 8.6(g)).

The proposal is *inconsistent* with OCP policies that intend to:

- ❖ Discourage expansion of auto-oriented uses (s. 3.2.11); and,
- ❖ Prohibit the creation of additional drive-throughs (s. 8.5.2 (f)).

Staff recommend against proceeding with the OCP amendment because the proposed commercial uses related to the OCP amendment would expand the "Commercial" designation for auto-oriented uses that would also increase additional potential drive-throughs.

Alternatively, Council may give initial readings to these bylaws to receive public input, deciding after a public hearing whether to proceed to adoption, amend the bylaws, or abandon them.

Should Council wish to consider readings of OCP Amendment Bylaw 3976, the LGA procedural requirements will need to be addressed in the sequence set out in the legislation.

## OPTIONS

### 1. (Recommended Option)

THAT Council:

1. deny file OCP00017 to amend Official Community Plan No. 3900, 2022, to redesignate 3036 Juniper Road, 3037 Henry Road, and 3041 Henry Road from Industrial & Employment to Commercial; and,
2. deny application ZB000241 to amend Zoning Bylaw No. 2950, 1997, to reclassify 9337 Trans-Canada Highway from I2 to C2 zone, and 3036 Juniper Road, 3037 Henry Road, and 3041 Henry Road from R1 to C2 zone.

### 2. (Alternative Option)

(1) THAT Council has:

- a) considered consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3976, 2024 and determined that the interests of Halalt First Nation, Stz'uminus First Nation, Lyackson First Nation, Penelakut Tribe, and Cowichan Tribes may be affected and should receive a written request for consultation;
- b) considered consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3976, 2024, and determine that the consultation under that section does not need to be early and ongoing; and
- c) consulted under Section 476 of the *Local Government Act* with School District 79 in relation to Official Community Plan Amendment Bylaw No. 3976, 2024.

(2) THAT Council give first reading to Official Community Plan Amendment Bylaw No. 3976, 2024.

(3) THAT Council has:

- a) considered Official Community Plan Amendment Bylaw No. 3976, 2024, in conjunction with the North Cowichan 2022 Five-Year Financial Plan; and,
- b) considered Official Community Plan Amendment Bylaw No. 3976, 2024, 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 give second reading to Official Community Plan Amendment Bylaw No. 3976, 2024.

(5) THAT Council give first and second reading to Zoning Amendment Bylaw No. 3977, 2024.

(6) THAT Council direct staff to schedule a public hearing for Official Community Plan Amendment Bylaw No. 3976, 2024, and Zoning Amendment Bylaw No. 3977, 2024.

### 3. (Alternative Option)

- (1) THAT Council refer Official Community Plan Amendment Bylaw No. 3976, 2024 to the Committee of the Whole to further:
  - a) consider consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3976, 2024 and determine that *in addition to* those of Halalt First Nation, Stz'uminus First Nation, Lyackson First Nation, Penelakut Tribe, and Cowichan Tribes, the interests of *the following persons, organizations and authorities are affected* and should receive a written request for consultation *within 30 days*:
    - *[Committee of the Whole to identify]*
  - b) consider consultations under Section 475 of the *Local Government Act* in relation to Official Community Plan Amendment Bylaw No. 3976, 2024, and determine that the consultation under that section does not need to be early and ongoing; and,
  - c) 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. 3976, 2024.

### IMPLICATIONS

Should Council deny the application OCP00017 to amend the OCP, the rezoning proposal as presented could not be realized. Development of the properties would be subject to the provisions of the I2 and R1 zones. Of note, the zoning that currently applies to the subject properties is largely inconsistent with the existing OCP designations.

If Council gives first and second reading to OCP Amendment Bylaw No. 3976 and Zoning Amendment Bylaw No. 3977, staff will schedule a Public Hearing.

Should Council approve the OCP amendment bylaw, Council may consider the proposed zoning amendment bylaw, and if approved, the proponent or future property owner may develop the properties for C2 uses. Future development of the subject properties could be different than proposed.

### RECOMMENDATION

THAT Council:

1. deny file OCP00017 to amend Official Community Plan No. 3900, 2022, to redesignate 3036 Juniper Road, 3037 Henry Road, and 3041 Henry Road from Industrial & Employment to Commercial; and,
2. deny application ZB000241 to amend Zoning Bylaw No. 2950, 1997, to reclassify 9337 Trans-Canada Highway from I2 to C2 zone, and 3036 Juniper Road, 3037 Henry Road, and 3041 Henry Road from R1 to C2 zone.

Report prepared by:

*Caroline von Schilling*

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Development Planner

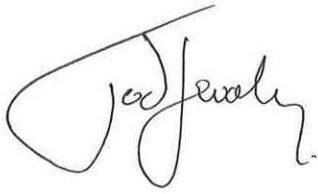
Report reviewed by:




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Pablo Golob, MCIP RPP  
Manager, Development Planning

**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) OCP Map
- (5) C2 Zone
- (6) Site Plan & Juniper Road Alignment Proposal
- (7) Rationale
- (8) Draft OCP Amendment Bylaw No. 3976
- (9) Draft Zoning Amendment Bylaw No. 3977
- (10) MOTI Response
- (11) Landscape Plan