

Report

Date June 18, 2025

File: 6480-30 25.02

Subject Early Consideration - Official Community Plan Amendment 3499 Henry Road

PURPOSE

To present an application for early consideration of Council to amend the Official Community Plan (OCP) to facilitate a zoning amendment and subsequent bare land strata subdivision of 3499 Henry Road.

BACKGROUND

The developer of Morgan Maples, a modular home park located at 3499 Henry Road in Chemainus, has applied to amend the land use designation of the property under the OCP to permit enhanced subdivision rights. The developer has obtained zoning and municipal approvals for a 100-unit modular home park but is pursuing OCP and Zoning Bylaw amendments to facilitate a tenure change to individually titled lots through a bare land strata. The developer is seeking an early consideration decision of Council on an OCP amendment before proceeding with a comprehensive OCP and zoning amendment application and associated public consultation.

DISCUSSION

Subject Property & Surrounding Context

3499 Henry Road measures just over 10 hectares in size and fronts Henry Road to the north and the Trans-Canada Highway to the east (Attachments 1 & 2). It is located outside of the Urban Containment Boundary (UCB) and has an Agriculture, Forestry and Conservation land use designation under [Official Community Plan Bylaw No. 3900](#) (Attachment 3). It is zoned R5 – Residential Mobile Home Park Zone under [Zoning Bylaw No. 2950](#). (Attachment 4). The property is serviced by municipal water but features a private on-site sewerage treatment and disposal system that was designed to service a modular home park.

Neighbours due north and west of the subject property are large rural parcels located within the Agricultural Land Reserve (ALR). The adjacent neighbour to the south is the Country Maples RV Park. The subject property has an easement across the Country Maples property for shared access to the Trans-Canada Highway, which is only accessible to southbound traffic. A freshwater creek runs along the western border of the subject property, connecting with the Chemainus River just over 100 metres to the southwest (Attachment 5).

Historical Background

The subject property has been zoned R5 since at least the late 1970s and was the subject of historical development applications under prior ownership; all of these applications expired without any construction commencing. The current owners acquired the property in 2020 and pursued a conceptual plan for a 108-unit modular home park.

At the [December 16, 2020](#), regular meeting of Council, Council received a request from the developer for a letter of support for a Canada Mortgage and Housing Corporation funding application. The request was denied, in part because the request also required Council to confirm that this development met its definition of 'affordable housing'. The staff report identified the conflict between the property's zoning and the then-OCP policy directing density away from rural lands, specifically mobile home parks¹. At the same meeting in 2020, a Council member initiated a resolution to 'downzone' this property to better align with the OCP. Council considered this motion at its regular meeting on [June 2, 2021](#), and it was defeated. The downzoning was reconsidered at the [October 7, 2021](#), special meeting of Council, and was again not passed. The subject property retained its R5 zoning as a result, and the developer advanced their proposal.

Development Permit 256 was issued on November 2, 2022, to facilitate a 7-phase, 100-unit mobile home park (Attachment 6). The permit regulated development in areas of environmental protection, wildfire hazard, rainwater management, farmland protection, and multi-family residential development. Mobile Home Park Permit 001 was issued on January 31, 2024, under the Zoning Bylaw and [Mobile Home Parks Bylaw No. 1775](#) (Attachment 7). This permit addressed on-site servicing, including private sewerage and stormwater management systems, as well as landscaping and retaining walls. Both of these permitting processes involved engagement with the Ministry of Transportation and Transit (MOTT) regarding proposed access directly to the Trans-Canada Highway. Such access was denied, and approval through the Agricultural Land Commission (ALC) for an alternative access off Henry Road was required via ALR land, which was granted. Since receiving these approvals, the developer has pre-serviced 20 lots in Phase One of the development and has been issued building permits for the placement of six modulars on the site; as of the date of this report, all six units have been granted occupancy, but none have sold.

Summary of Proposal

The proposal suggests that the number of lots, layout, internal private road network and servicing systems approved under DP000256 and MHP00001 are to remain largely unchanged. Some aspects of the development were approved on the basis that it was a single-titled property owned by a mobile home park corporation and would not generally be acceptable to the Approving Officer via bare land strata subdivision. Most notably, the private communal sewerage treatment and disposal system would have to be accepted by North Cowichan on an 'exception' basis.

The developer has submitted a comprehensive letter of rationale (Attachment 8) advising that the current model of modular purchase and monthly pad rental is neither sustainable to finance nor to build and that the balance of the development would only be made possible via bare land strata subdivision. This tenure type would allow an owner to purchase both the modular unit and the lot with more conventional financing options. As the R5 zoning specifically permits mobile home park use and only contemplates ownership of the property under a single title, a zoning change is required. All zoning amendments must be in alignment with the OCP. As the property's land use designation and location outside of the UCB does not support compact residential subdivisions, an amendment to the OCP is required. Staff's recommendation is that Council denies further consideration of an OCP amendment.

¹ Section 2.5.2.9(c) of Official Community Plan Bylaw No. 3450, 2011.

Official Community Plan Bylaw No. 3900

Growth Management Policies

The OCP addresses growth management by directing development toward established growth centres within a UCB, helping to preserve rural character and environmentally sensitive areas. It promotes compact, complete communities that align infrastructure and service delivery with projected population increases. The OCP also emphasizes sustainable land use and transportation planning, ensuring that future growth contributes to a resilient, inclusive, and climate-conscious community.

An intensive residential development at this particular location is in conflict with most growth management policy areas in the OCP due to the lack of co-located commercial, recreational, and active transportation services. The property has a walkability score² of 1 out of 100, being multiple kilometres away from any major grocery store, recreational facility, employment centre or school. Residents would be entirely vehicle-dependent for their travel, given that transit service only operates along the Trans-Canada Highway north to Nanaimo/Ladysmith or south to Duncan three to four times daily and only during peak times, with no evening service at all.

While the development undoubtedly seeks to provide an injection of housing stock into North Cowichan, there are few to no other areas of the OCP with which it aligns. The growth management principles of the OCP have been summarized in Attachment 9.

Existing Land Use Designation

A bare land strata subdivision of this parcel cannot be achieved under the existing Agriculture, Forestry & Conservation (Rural) land use designation, given its limited and explicit examples of 'exceptional circumstance' subdivisions laid out in s.3.2.17 (e.g. to improve agricultural viability and/or conserve environmentally sensitive lands). The property's current R5 zoning predates OCP policy language regarding responsible growth management, and the land use designations applied under the 2011 and 2022 OCPs did not resolve that conflict, likely an acknowledgement that the location of this property does not align with core land use planning best practices around sustainable densification.

Potential Alternative Land Use Designations

Staff considered the suitability of the Rural Residential land use designation, a residential designation applicable to properties located outside of the UCB. The very intent of the designation would preclude it from being appropriate, given the compact, more intense residential development being proposed:

This designation applies to areas of lowest density residential development lying outside both the UCB and the ALR. Many of these properties were created before current land use policies that discourage residential development in rural areas. As a result, pockets of residential development exist throughout the Municipality that are neither urban nor rural. Some are connected to municipal sewer, and many to municipal water.

Very little housing growth is anticipated in these areas, although there may be some limited context-specific opportunities. Subdivision and stratification are not encouraged and significant mature tree and vegetation cover is maintained throughout these areas.

² [3499 Henry Road, North Cowichan BC - Walk Score](#)

Further, subdivision of 100 bare land strata lots with the majority of lot sizes not exceeding 450m² would be in direct conflict with Rural Residential policy language found in s.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.*
- b. Only allow subdivision approval, contingent on the applicant entering into a restrictive covenant to limit building sizes, locations and/or certain uses on the parcel.*
- c. Configure zoning to maximize housing potential without further subdivision to permit detached accessory dwellings where servicing connections are available, or in the alternative, adequate on-site common septic treatment and water supply can be achieved*

There are no other existing land use designations in the OCP that would support this proposal if the property were to remain outside the UCB. Therefore, to facilitate this proposal, the OCP would have to be amended either to:

- 1) Create a new land use designation that accommodates higher density development outside the UCB; or,
- 2) Adjust the UCB to include this isolated property.

Neither of these solutions respects the overall growth strategy of the OCP, and both would serve to undermine it, along with the meaning and integrity of the UCB. Including the site within the UCB would immediately confer Bill 44 densities (4 units per lot), which is extremely problematic from a servicing and traffic perspective, whereas creating a new land use designation to accommodate urban-density development in rural areas would undermine the purpose of having a UCB and create significant policy uncertainty.

Urban Containment Boundary

The integrity of an UCB identified in an OCP is underpinned by the following objectives:

- ✓ Guiding Low Impact Growth: A well-maintained UCB ensures that growth is directed inward through densification and redevelopment, rather than outward expansion. This supports efficient land and infrastructure uses, reduces greenhouse gas emissions, and aligns with long-term sustainability goals outlined in the OCP.
- ✓ Preservation of Urban-Rural Distinction: The integrity of the UCB is essential for maintaining a clear separation between urban development and rural or agricultural lands. This helps prevent urban sprawl, supports sustainable land use, and protects environmentally sensitive and resource-rich areas.
- ✓ Policy and Zoning Consistency: Upholding the UCB's integrity reinforces the consistency of land use policies and zoning regulations. It provides certainty for developers, residents, and local governments, ensuring that development aligns with the community's vision and strategic planning objectives.

Other than being serviced by municipal water, there is little else about this property's location within North Cowichan that would lend itself to being designated for higher growth by virtue of UCB inclusion.

Regional Housing Needs Assessment (2021) and Interim Housing Needs Report (2024)

Additional housing stock is much desired, but not in any location at any cost. A development such as this is also unlikely to serve those in the direst need of affordable housing. The [2021 Regional Housing Needs Assessment](#) and the 2024 Interim Report identify that the greatest anticipated need will be in one-bedroom units but that those in core and extreme housing need will be overwhelmingly renters rather than owners.

Moderately priced housing located further from commercial or employment centres requires a homeowner to own a vehicle or rely upon less efficient public transit options. Bare land strata come with additional responsibilities for owners to fund the regular maintenance of common property areas and private sanitary, storm, and/or water systems. The application does not present a compelling case for a bare land strata model being a more attainable or affordable form of homeownership, given that utilities and property taxes would be levied in addition to strata fees and borrowing costs.

Servicing & Infrastructure

The developer was required to upgrade and extend the municipal watermain along Henry Road and to the subject property's northern lot line as part of its servicing plan for the modular home park. The commitment of 100 residential units of municipal water was made before the state of servicing constraints was fully realized, despite the property's location outside of an established growth centre. The first six modular homes are already connected to municipal water, and an additional 14 building sites are pre-serviced. Bringing this property into the UCB and permitting each vacant lot to be individually bought and sold would convey additional 'Bill 44' density rights to individual owners. The developer may require updated water modelling to determine if the municipal water system has residual capacity.

When civil design work for the modular home park was underway, a privately owned on-site sewerage treatment system was designed and approved. In 2021, when Council considered whether it was more appropriate to downzone the property to prevent this form of density from moving ahead, the issue was raised about whether this kind of system posed a risk to North Cowichan. At the time, it was deemed acceptable given that the property was to operate under a single title by a management corporation, which would be responsible for ongoing maintenance and inspection of the system.

When community sewerage treatment systems fail due to improper maintenance or exceed their design capacity, local governments may be asked to step in to address the issue. This could involve taking ownership of the system, providing funding for repairs, or developing a plan for a new or upgraded system, all of which come with financial implications. Were an OCP and zoning amendment to facilitate a bare land strata subdivision, this kind of onsite sewerage treatment system would have to be accepted by North Cowichan as an 'exception' to standard servicing requirements, which would otherwise require individual on-site septic systems for each lot. Should Bill 44 density rights be conveyed to individual property owners following inclusion into the UCB, the capacity of the privately owned system to manage additional dwelling units would have to be determined to ensure the system is neither undersized nor oversubscribed.

The property is also outside of the 10-minute response time radius of North Cowichan Fire Services. As such, modifications were required to the number of windows in homes facing neighbouring units to meet the fire separation requirements of the BC Building Code. This condition could be exacerbated if additional density rights were committed to this property via inclusion within the UCB.

Public Consultation

There is no statutory public consultation requirement tied to Council's early consideration of an OCP amendment. The developer has submitted letters of support from real estate professionals, mortgage lenders, modular home builders and members of the public (Attachment 10). Notably, less than half of the public support letters are from residents within North Cowichan, and none are from neighbours along Henry Road or Country Maples RV Park, who are most likely to be directly impacted by this development. Following a local news article regarding this pending OCP application³, the Planning department was contacted by some Henry Road residents wishing to voice their opposition to the development, similarly to how Council's reconsideration of downzoning the property in 2021 and access to the highway in 2023 also garnered public opposition.

Should Council authorize a comprehensive OCP and zoning amendment application to be brought forward, s.475 of the *Local Government Act* requires the provision of one or more opportunities deemed appropriate for consultation with persons, organizations and authorities a Council considers will be affected by the amendments. This consultation is in addition to the statutory requirements for a public hearing. What form early and ongoing public engagement would take is to be determined and contingent upon Council approval.

Current Status

The developer has achieved occupancy for six modular homes that are currently listed for sale under the existing modular home park model⁴. A total of 20 lots have been pre-serviced as part of the first phase of development. It is unclear at this time how any purchasers of the modular homes would become involved in a future OCP or zoning amendment application, or a conversion of title under the *Land Title Act*. The property has been largely cleared of all trees and vegetation across the development areas of all future phases. The developer is working with staff on a plan to mitigate erosion and sediment control issues that have arisen as a result of this preemptive clearance. Staff understand that until the developer has surety about any future OCP amendment, they are unlikely to proceed with more building permit applications. Landscaping of common property areas will also not be installed until such time as more units are constructed and sold.

Summary

This application is not simply an example of where a property owner adjacent to the UCB is requesting an adjustment to the boundary by way of extension. Locating this property within the UCB would create an isolated pocket of densification, absent of co-located services and amenities upon which the principles of low-impact growth are built. There are no guarantees that a change in tenure from the current modular home park model would offer affordability benefits that outweigh the considerable

³ [Chemainus developers seek rezoning to ease financing hurdles - Cowichan Valley Citizen](#)

⁴ www.morganmaples.ca

drawbacks from a municipal perspective. A buyer would still need to secure financing to purchase both the modular home and the land, and become jointly responsible for maintaining a private sewerage treatment system and large swaths of landscaped and/or environmentally protected land.

Allowing an OCP amendment to proceed to facilitate this proposal, however it is accomplished, would weaken the integrity of the principles upon which growth management policy is founded. This would result in less certainty for staff and North Cowichan residents on where growth should be encouraged, located, and serviced. Staff are not supportive of giving further consideration to a land use designation change under the OCP and recommend that Council denies this early consideration request.

OPTIONS

1. **(Recommended Option)** THAT Council:

Denies application OCP00033 to amend Official Community Plan No. 3900, 2022, to change the land use designation of 3499 Henry Road (PID: 009-885-200) to facilitate rezoning and subsequent bare land strata subdivision.

- *This application represents a significant policy shift with respect to one of the core components of the OCP. Although the developer has existing development rights under current zoning, amending the land use designation to support compact residential subdivision would undermine the integrity of the OCP's growth management principles.*
- *The application fee collected from the applicant for early consideration totalled \$19,500, which included a large project surcharge of \$15,000. Under Fees and Charges Bylaw No. 3784, 2020, the applicant would be entitled to a refund of \$13,250 (75% of the large project surcharge and 100% of the public notification surcharge) should Council deny the application.*

2. THAT Council directs staff to proceed with processing application OCP00033 and to draft amendments to both Official Community Plan Bylaw No. 3900, 2022 and Zoning Bylaw No. 2950, 1997, for consideration by Council.

- *This application is for an OCP amendment only. Staff recommended an early consideration approach to the applicant as the request represents a significant discretionary decision with respect to growth management. It allows the applicant to seek surety on Council's position before moving ahead with any more comprehensive reports or costs associated with a fulsome zoning amendment application, including public consultation. Much of the work for which the OCP application fee was collected has not yet been undertaken; see the Implications section below. If authorized by Council, payment of a zoning amendment application fee would be required.*

IMPLICATIONS

The purpose of this report is to recommend that Council denies the application (Option 1). If Council directs staff that the application should proceed (Option 2), additional work would be required to return to a future Council meeting with the OCP and zoning amendment bylaws. A comprehensive OCP and

zoning amendment application could require additional information, including but not limited to the following:

- Formal referrals to both internal departments and various external agencies (e.g. MOTT, Island Health, BC Transit, ALC);
- High-level consideration by the Approving Officer of the proposed phasing for the bare land strata, including final lot layout and private internal roadways;
- Detailed review of the servicing implications of transitioning from modular home park to bare land strata (municipal water supply and private on-site sewerage treatment system);
- Consideration of the applicability of DP000256 and MHP0001 and associated landscape security deposits were the development to proceed via bare land strata vs. modular home park;
- Confirmation of compliance with outstanding erosion/sediment control and environmental protection measures for the site;
- Analysis of the financial implications that may be associated with a zoning amendment application and future bare land strata subdivision, such as the applicability of the Interim CAC Contribution Policy, Development Cost Charges, and parkland dedication requirements under the *Local Government Act*; and,
- Statutory requirements (public consultation and public hearing) for amending an OCP as set out in the *Local Government Act*.

RECOMMENDATION

THAT Council denies application OCP00033 to amend Official Community Plan No. 3900, 2022, to change the land use designation of 3499 Henry Road (PID: 009-885-200) to facilitate rezoning and subsequent bare land strata subdivision.

Report prepared by:

Report reviewed by:

Report reviewed by:

Rachel Pukesh

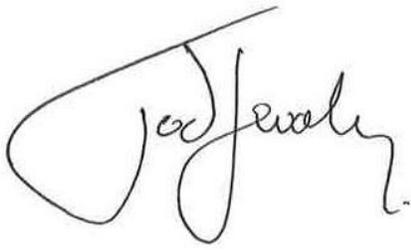


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Approved to be forwarded to Council:

A handwritten signature in black ink, appearing to read "Ted Swabey". The signature is fluid and cursive, with a large initial "T" and "S".

Ted Swabey
Chief Administrative Officer

Attachments:

- (1) Location Map
- (2) Orthophoto
- (3) OCP Land Use Designations & UCB Map
- (4) Zoning Map
- (5) Natural Features / Riparian Areas Map
- (6) Development Permit DP000256
- (7) Mobile Home Park Permit MHP00001
- (8) Letter of Rationale (provided by Applicant)
- (9) OCP Growth Management Policy Overview
- (10) Letters of Support Package (provided by Applicant)