

Report

Date July 16, 2025

File: 3360-20 24.10

Subject 2731 Vian Street Affordable Housing Development – Housing Agreement Bylaw No. 4023, 2025 and Zoning Amendment Bylaw No. 4006, 2025

PURPOSE

1. To introduce Vian Street Housing Agreement Bylaw No. 4023, 2025, which secures affordable housing units within a 28-unit multi-family development at 2731 Vian Street; and,
2. To propose amendments to Zoning Amendment Bylaw No. 4006, 2025, to better align with the requirements of section 482.2 of the *Local Government Act* with respect to density bonusing provisions for affordable housing developments.

BACKGROUND

Council was introduced to amendments to Zoning Bylaw No. 2950, 1997 (Zoning Bylaw) at its [May 7, 2025](#), regular meeting. Amendment Bylaw No. 4006, 2025 (Attachment 1) proposes to rezone 2731 Vian Street from the R7 (Residential Multi-Family) Zone to the CD14 (University Village Mid-Rise Residential Comprehensive Development) Zone to facilitate the development of a 28-unit apartment building. The developer intends to apply for BC Housing's Community Housing Fund (CHF) in partnership with the Clements Centre Society. The amendment bylaw contains additional zoning provisions that would generally be considered 'density bonuses' conveyed to the developer should affordable housing units be secured via a housing agreement. Zoning Amendment Bylaw No. 4006, 2025 was given three readings by Council at the May 7, 2025 meeting, with final adoption contingent upon fulfillment of various conditions, one of which was a housing agreement.

Planning staff have since become aware that the density bonusing provisions, as written in Amendment Bylaw No. 4006, may not fully align with the requirements of more recent legislative changes to the *Local Government Act* (LGA). Minor edits to the amendment bylaw are required to better align with provincial legislation. Staff deem the changes to have a negligible impact on the proposal or associated timelines. These edits and their rationale will be discussed further in this report, following the introduction of the housing agreement.

DISCUSSION

Housing Agreement Bylaw

Local governments have the authority under [section 483](#) of the LGA to enter into housing agreements with landowners for affordable and special needs housing. An agreement generally includes terms and conditions regarding the occupancy (use), tenure, availability and affordability of the housing units, such as:

- Who may occupy the housing (e.g., income levels)
- Rental or ownership restrictions
- Duration of occupancy
- Rent levels and conditions associated with reconsideration of tenant eligibility

Housing agreements must be entered into by bylaw and once adopted and the agreement signed, the local government must file a notice on title of the property in the land title office identifying that the property is the subject of a housing agreement. Often, housing agreements contain additional clauses that are registered as covenants on the title of the subject property. Housing agreements and associated covenants are binding on all future owners of the property.

Vian Street Housing Agreement Bylaw No. 4023, 2025 (Attachment 2) has the draft housing agreement attached as Schedule A. It has been drafted by municipal legal counsel and agreed to in principle by all involved parties. Broadly, the housing agreement sets out the following terms:

- All of the units in the development must be occupied as a residence
- All of the units in this development are to be secured as long-term rental through tenancy agreements
- At all times, no fewer than sixty percent (60%) of the units in the development must be operated as affordable rental units, defined as no less than 10% below the most recent Private Average Rents for North Cowichan as determined by the Canada Mortgage and Housing Corporation (CMHC)

Perhaps most importantly, the housing agreement includes a clause that permits any rental tenure and rates set out through an operating agreement with a third-party funder, such as BC Housing, to take precedence over the default terms of the agreement. For example, should the developer be awarded CHF funding, BC Housing would require 70% of the units to be subsidized through a combination of Rent-Geared-to-Income and Deep Subsidy Units, and 30% of the units to be rented at no more than the CMHC Private Average Rent.¹ The housing agreement, as structured, would allow this deeper level of affordability to take precedence while avoiding any conflict with an operating agreement. If CHF was not achieved but the developer wished to pursue an alternative funding source, the default affordable rental percentage and rental rate structure outlined in the housing agreement would prevail, unless Council agreed to a different structure outlined in an alternative operating agreement. In essence, North Cowichan would achieve a high degree of affordability in this development, furthering its longer-term housing supply objectives, regardless of changes in funding source, developer, or operator. Staff view this draft agreement as being in alignment with the broader affordable housing policy objectives of Council².

Staff recommend that Vian Street Housing Agreement Bylaw No. 4023, 2025 receive its first three readings of Council. There is no public notice requirement associated with the adoption of a housing agreement bylaw, therefore, this bylaw could be considered for final adoption at the next upcoming meeting of Council.

Zoning Amendment Bylaw

Zoning Amendment Bylaw No. 4006, 2025 proposes to insert language into section 80.14 of the Zoning Bylaw, allowing for broader zoning permissions than what the CD14 zone otherwise permits, provided the developer enters into a housing agreement to secure affordable units. These permissions (e.g. increased building height, floor area, reduced building setbacks and on-site parking requirements) are

¹ [Community Housing Fund Program Overview | BC Housing](#)

² [Affordable Housing | Municipality of North Cowichan](#)

generally seen as 'density bonusing', a common historical practice where local governments wish to encourage or incentivize developers to embed deeper levels of affordability into their projects.

In April of 2024, the Province adopted 'Bill 16' under the *Housing Statutes Amendment Act*, but did not release their [comprehensive policy guidance](#) until March 2025. Bill 16 included updated tools to enable local governments to secure affordable housing through the use of inclusionary zoning, while becoming more prescriptive regarding how density bonusing should be incorporated into zoning.³ Updates to the LGA in [section 482.2](#) included the requirement for public consultation and a financial feasibility analysis when developing or amending a density bonus bylaw, as well as the need to specify in the bylaw the required portion, length, and form of tenure of affordable housing units. Amendment Bylaw No. 4006 simply sets out the general requirement for affordable housing units to be provided and was drafted in the absence of both a financial feasibility analysis and associated public consultation. Staff feel that it may not strictly align with the updated provincial legislation and thus requires some changes.

Council is requiring the adoption and registration on title of the housing agreement as a condition of final adoption of the zoning amendment. As the draft housing agreement itself will capture the required portion, form and length of tenure of affordable housing units to be secured in the development, there is no need to structure the zoning amendment bylaw with such content. Making a housing agreement a condition of zoning ensures that the additional 'density bonusing' benefits will not be conveyed to the property until after the affordable units are secured, and thus, having reference to a housing agreement in the zoning amendment bylaw itself is no longer necessary. The updated Zoning Amendment Bylaw No. 4006, 2025 would keep all other zoning regulations required by this development unchanged, but severs the tie between them and a housing agreement. This approach would no longer categorize the regulations as 'density bonusing' provisions, thereby avoiding tension with section 482.2 of the LGA.

Staff are recommending that third reading of the Zoning Amendment Bylaw No. 4006, 2025 be rescinded, and that the bylaw be amended only by removing reference to 'where affordable housing units are provided and secured through a housing agreement', as illustrated in the snip provided on the following page:

Amendments

- 2 That Zoning Bylaw 1997, No. 2950, Section 80.14 University Village Mid-Rise Residential Comprehensive Development Zone (CD14) [Conditions of Use] is amended by adding the following subsection:
 - (11) For the parcel legally described as Lot 13, Section 18, Range 6, Quamichan District, Plan 5997 (2731 Vian Street, PID: 001-988-409), ~~where affordable housing units are provided and secured through a housing agreement,~~ the following zoning provisions shall apply:
 - (a) The maximum permitted floor space ratio is 4:1
 - (b) The maximum permitted lot coverage is 72%
 - (c) The minimum permitted setbacks for principal buildings, are as follows:
 - (i) Yard, Front, 1.5 m (4.92')
 - (ii) Yard, Side, when adjacent to a street, 0 m (0')
 - (iii) Yard, Rear, 2 m (6.56')
 - (d) The maximum permitted building height for principal buildings is 18.5 m (60.7') and five (5) storeys
 - (e) The maximum number of off-street parking spaces to be provided, is nine (9).

³ [New local government tools - Province of British Columbia](#)

The amended bylaw can then be read a third time, with final adoption contingent upon fulfillment of subject conditions identified in the May 7, 2025, staff report. This bylaw remains prohibited from a public hearing under [section 464\(3\)](#) of the LGA, and no additional public notice is required, as the proposed changes to the Zoning Bylaw are still deemed in alignment with the Official Community Plan, and the sole purpose of the amendment bylaw is to permit a residential development.

OPTIONS

1. (Recommended Option)

- (1) THAT Council gives first, second and third readings to Vian Street Housing Agreement Bylaw No. 4023, 2025.
- (2) THAT Council rescinds third reading of Zoning Amendment Bylaw No. 4006, 2025.
- (3) THAT Council amends Zoning Amendment Bylaw No. 4006, 2025 by removing the following words from section 2 (11):
"where affordable housing units are provided and secured through a housing agreement,"
- (4) THAT Council gives third reading to Zoning Amendment Bylaw No. 4006, 2025, as amended.
 - Giving the first three readings to the housing agreement bylaw would enable the applicant to progress as far as possible through the local government approvals process prior to the deadline of BC Housing's CHF. Having confirmation of Council's acceptance of the draft housing agreement's terms would also provide surety for BC Housing that, should CHF be awarded, their operating agreement would not be in conflict with the housing agreement.
 - Tightening up the zoning amendment bylaw to avoid any perceived conflict with the newer density bonusing bylaw requirements of the LGA would provide for a 'cleaner' approach to zoning relaxations at no risk to North Cowichan, given that the zoning amendment bylaw will not be adopted until after the housing agreement is secured and registered on title.

2. THAT Council:

- (1) Declines to give any readings to Vian Street Housing Agreement Bylaw No. 4023, 2025; and/or,
- (2) Declines to rescind, amend, or re-read Zoning Amendment Bylaw No. 4006, 2025.
 - Council can choose not to read the bylaw and instead provide alternative direction back to staff, should it have concerns with the structure of the draft housing agreement. The same approach could be taken with the zoning amendment bylaw. This approach could threaten the developer's CHF application as it would no longer have the certainty that Council supported the proposal as presented. It would also add additional time delays that could undermine the project's viability of making a strong application in the second round of CHF intake.

IMPLICATIONS

There are no financial implications associated with Council amending and re-reading Zoning Amendment Bylaw No. 4006, 2025, a third time. As for the administration of a housing agreement, the financial implications to North Cowichan are dependent upon BC Housing funding the project. Should this development be funded through the CHF, an operating agreement between the Clements Centre Society and BC Housing would be overseen by those two parties and would require only confirmation from municipal staff that annual reporting to BC Housing on the administration of the affordable housing units has occurred. If a different funding source with no associated operating agreement were pursued, there may be increased responsibility within North Cowichan for staff to ensure adherence to the housing agreement. This scenario could impact resources, as North Cowichan does not currently employ a staff member responsible for overseeing affordable housing units secured through a housing agreement.

The developer has made significant progress on finalizing architectural and civil design drawings for municipal, BC Housing and third-party utility review since receiving third reading of their zoning amendment bylaw on May 7, 2025. At the end of May, BC Housing launched its long-awaited 2025 CHF program, with a deadline for the first round of rolling application intake being July 31. The developer and the anticipated operator of the development, the Clements Centre Society, have worked diligently with Planning staff on the draft housing agreement, with the goal of advancing it and the zoning amendment as far as possible prior to the CHF deadline in order to submit the strongest grant application possible. Staff's recommended option for Council reflects that mutual goal, underpinned by Council's ongoing support of this affordable, socially supportive housing development. Should both bylaws receive three readings at the July 16, 2025, Council meeting, more definitive timelines with respect to bylaw adoption and housing agreement registration could be provided to the developer to advance their grant application, moving the project closer to funding award and construction.

RECOMMENDATION

- (1) THAT Council gives first, second and third readings to Vian Street Housing Agreement Bylaw No. 4023, 2025.
- (2) THAT Council rescinds third reading of Zoning Amendment Bylaw No. 4006, 2025.
- (3) THAT Council amends Zoning Amendment Bylaw No. 4006, 2025 by removing the following words from section 2(11):
"where affordable housing units are provided and secured through a housing agreement,"
- (4) THAT Council gives third reading to Zoning Amendment Bylaw No. 4006, 2025, as amended.

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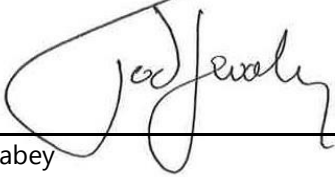
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Attachments:

- (1) Zoning Amendment Bylaw No. 4006, 2025
- (2) Vian Street Housing Agreement Bylaw No. 4023, 2025

Report Approval Details

Document Title:	Council Report - Vian Street Housing Agreement Bylaw.docx
Attachments:	- (1) Zoning Amendment Bylaw No. 4006, 2025.pdf - (2) Vian Street Housing Agreement Bylaw No. 4023, 2025.pdf
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This report and all of its attachments were approved and signed as outlined below:

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