

Report

Date March 4, 2026
Subject Oak and Vine Next Steps

File:

PURPOSE

To provide Council with information as to next steps for Oak and Vine [#2-6380 Lakes Road].

BACKGROUND

The owners of #2-6380 Lakes Road submitted a zoning amendment application, seeking site-specific permission to host up to 10 weddings and other events per year on their property. The property was previously the subject of a Temporary Use Permit (TUP) approval in 2018, which permitted a maximum of 14 weddings to be held on the property within an 18-month period (expiring October 31, 2020). An extension to the expiry date was sought in 2020, with the applicant citing the onset of the COVID-19 pandemic as inhibiting their ability to host all 14 events. A new TUP was subsequently approved by Council, providing permission for an additional four weddings to be hosted up to October 31, 2021, with the added condition that an accessory building on the property used as a reception space be upgraded to achieve assembly use occupancy under the BC Building Code. This was achieved in early 2021.

Wedding event use on the property was discontinued after TUP expiry until the property owners engaged North Cowichan last year to re-initiate the use and include permission for other non-wedding events. As the applicants have undertaken a significant financial commitment to upgrade an accessory building to appropriate assembly occupancy, they are now seeking more permanent permission, through a site-specific zoning amendment, to re-establish and ensure the longer-term continuity of this use.

The proposed Zoning Amendment Bylaw No. 4030, 2025 to allow "commercial assembly use" on the subject property (for up to ten events per year) received first and second reading at the December 17, 2025, Council meeting. In addition, the following resolutions were passed by Council pertaining to the proposed bylaw:

- *THAT Council requires shoulder pavement widening along Lakes Road in accordance with the recommendations of the Senior Manager of Transportation, to be completed to the satisfaction of the Engineering department prior to consideration of final adoption of zoning amendment.*
- *THAT Council directs staff to enter into a Good Neighbour Agreement with the applicant prior to business license issuance: and*
- *THAT Council directs staff to schedule a public hearing for Zoning Amendment Bylaw No. 4030, 2025.*

The public hearing was scheduled for January 21, 2026, and public notification of the meeting occurred. The public hearing was held and subsequent to that, Bylaw No. 4030, 2025 received third reading and additionally the following resolutions were passed:

1. *THAT Council directs staff, as a condition of rezoning, to enter into a Good Neighbour Agreement with the applicant.*
2. *THAT Council directs staff, prior to consideration of adoption of the rezoning, to undertake amendments to Municipality of North Cowichan Business Licence Bylaw No. 2002 to authorize the Business Licence Inspector to impose additional conditions on business licences, including but not limited to hours of operation, use of amplified music, on-site parking, and the requirement for a Good Neighbour Agreement and compliance therewith.*
3. *THAT Council requires, as a condition of rezoning, a Section 219 Land Title Act covenant to be registered on title of the subject property and common property that restricts commercial assembly use on the subject property in the following ways:*
 - a) *No more than 10 events per year with a maximum of 80 attendees at each event;*
 - b) *That an event be limited to a 36-hour period;*
 - d) *That a schedule of events is available in advance to neighbours*
 - e) *That all amplified music will be contained behind closed doors of the assembly use building on the premises;*
 - f) *That the event, including all music shall end at 11:00 pm with all attendees having vacated the premises by 11:30 pm;*
 - g) *That the operator shall hold a valid business licence for the commercial assembly use;*
and
 - h) *That a Good Neighbour Agreement be in place.*
4. *THAT Council rescind the resolution to: "require shoulder pavement widening along Lakes Road in accordance with the recommendations of the Senior Manager of Transportation, to be completed to the satisfaction of the Engineering department prior to consideration of final adoption of zoning amendment" passed at the December 17, 2025 Regular Council meeting.*

The final resolution noted above (Item #4) was procedurally defective because no advance notice was given to rescind the previously adopted resolution. Therefore, the motion should not have been considered. Legislative Services will correct the record accordingly. As a result, the December 17, 2025, resolution requiring the road widening remains in effect.

The Good Neighbour Agreement would form the basis for the conditions attached to the issuance of a Business Licence for the proposed commercial assembly use (wedding and event venue) and would guide any future compliance or enforcement actions undertaken by North Cowichan. Its terms will reflect the neighbourhood concerns regarding potential impacts on adjacent properties; however, in accordance with Council direction on December 17, the Good Neighbour Agreement is an agreement between North Cowichan and the property owner only, and the surrounding community is not a formal party to it. Council could direct staff to negotiate the Good Neighbour Agreement between the applicant and the neighbours. This is typically not necessary because Council provides the direction for the issues it wants contained within the Good Neighbour Agreement.

Business Licence

The requested amendments to the Business License Bylaw were brought to Council as Business License Amendment Bylaw 4058, 2026 on February 4, 2026, and received first, second and third readings. This bylaw came back for adoption on February 18, 2026. However, Councillor Findlay proposed amendments to the Business Licence Amendment Bylaw No. 4058 and Council rescinded third reading based on the proposed amendments. Prior to adopting these amendments, Council passed the following motion:

THAT Council refers the following proposed amendment, that was moved and seconded, but not voted on, to staff to seek legal advice and return with a report to Council on the implications:

THAT the Business Licence Bylaw Amendment Bylaw No. 4058, 2026 be amended by:

- 1. Under item 2:

 - *Amend (g) to preface the first line with "When a Good Neighbour Agreement is required by a rezoning, subdivision or other North Cowichan approval..." and remove "but are not limited to" on the second line.*
 - *Under (g) (ii) at the end, add "within reason, based on the business' nature and type of business".*
 - *Under (g) (iii) at the end, add "after 8:00pm".*
 - *Under (g) (iv) at the end, add "based on the business' nature and type of business"*
 - *Remove (h).*
 - *Under (i) between "other" and "terms", add "economically reasonable".*
 - *Add: "This bylaw amendment will not be effected upon any business license already in place as of the date of the passing of this amendment bylaw."**
- 2. Remove item 3 in its entirety.*

The proposed amendments to the Business License Bylaw have not been adopted but are still required prior to the adoption of Zoning Amendment Bylaw No. 4030, 2025 as per the January 26 Council resolution. After the February 18 meeting, staff sought legal advice on the proposed changes to the amendment, which will be provided to Council at its closed meeting on April 1.

Covenant

Following the closing of the public hearing, the applicant contacted a councillor to indicate that their financial institution would not accept the registration of a Section 219 covenant as was resolved by Council on January 26, 2026 (the applicant was in agreement at that time). Section 219 covenants are regularly registered on title prior to adoption of bylaw amendments and staff are not aware of this being raised as an issue in the past. The applicant's solicitor has provided a letter advising that he has spoken with the lending institution, that the applicant's mortgage terms preclude the applicant from consenting to the registration of any new charges on title (even subsequent to the mortgage), and that the lending institution is unwilling to consent to the registration of the covenant on title (even subsequent to the mortgage).

Aside from the issue of how to deal with the Section 219 covenant that Council resolved to require, after a public hearing, Council members may not hear from or receive correspondence from interested parties relating to the rezoning proposal. They can hear from their own staff, consultants or lawyers, but if they

receive a delegation or correspondence, they will be in effect reopening the hearing and will run the risk of having the bylaw quashed. New information or hearing from a party affected can only occur at a new hearing.¹ Therefore, due to the receipt of new information after the closing of the public hearing in relation to the inability of the applicant to provide a covenant, a new public hearing is required.

In addition, a new public hearing is required to ensure that the public has a reasonable opportunity to be heard in relation to the proposed bylaw. Prior to the first public hearing being held, the public was made aware that the applicant would be required to undertake shoulder pavement widening as a condition of rezoning and that the applicant was prepared to provide a covenant. With this information, some members of the public may have decided to not attend the public hearing, believing that their concerns would be addressed by the pavement widening and the covenant. With those potentially no longer being required, those members of the public should be afforded an opportunity to be heard on those issues.

The following resolutions are still in place regarding this application:

- *THAT Council requires shoulder pavement widening along Lakes Road in accordance with the recommendations of the Senior Manager of Transportation, to be completed to the satisfaction of the Engineering department prior to consideration of final adoption of zoning amendment (December 17).*
- *THAT Council directs staff, as a condition of rezoning, to enter into a Good Neighbour Agreement with the applicant (January 21).*
- *THAT Council directs staff, prior to consideration of adoption of the rezoning, to undertake amendments to Municipality of North Cowichan Business Licence Bylaw No. 2002 to authorize the Business Licence Inspector to impose additional conditions on business licences, including but not limited to hours of operation, use of amplified music, on-site parking, and the requirement for a Good Neighbour Agreement and compliance therewith (January 21).*
- *THAT Council requires, as a condition of rezoning, a Section 219 Land Title Act covenant to be registered on title of the subject property and common property that restricts commercial assembly use on the subject property in the following ways:*
 - c) *No more than 10 events per year with a maximum of 80 attendees at each event;*
 - d) *That an event be limited to a 36-hour period;*
 - e) *That a schedule of events is available in advance to neighbours*
 - f) *That all amplified music will be contained behind closed doors of the assembly use building on the premises;*
 - g) *That the event, including all music shall end at 11:00 pm with all attendees having vacated the premises by 11:30 pm;*
 - h) *That the operator shall hold a valid business licence for the commercial assembly use; and*
 - i) *That a Good Neighbour Agreement be in place. (January 21)*

If Council wishes to amend or rescind any of these, the process outlined under Issue #1 and Issue #2 below will need to be followed.

¹ Union of British Columbia Municipalities Fact Sheet #18: Public Hearings, 2022, p.4

DISCUSSION

There are a number of outstanding issues which need to be addressed prior to Council considering the adoption of proposed Zoning Amendment Bylaw No, 4030, 2025.

Issue #1 – Shoulder Pavement Widening Resolution

Currently, the December 17 2025 resolution to require the shoulder widening stands. Council has two options in order to address this.

Option 1: Do nothing, proceed with the file recognizing that the resolution to require shoulder pavement widening stands.

Option 2: A Councillor may put forward a notice of motion to rescind the December 17 resolution (simple majority required to pass when advanced notice is given).

Staff's recommendation continues to be Option 1 as widening the shoulder pavement at this location was recommended by the Senior Manager of Transportation. Should Council wish to proceed with Option 2 it is advisable to put in a notice of motion to this effect as soon as possible so as not to further delay the process.

A notice of motion to rescind or amend that condition should be brought forward prior to the public hearing.

Issue #2 – Applicant no longer wishing to have a Section 219 covenant registered on the property

Initially staff did not recommend registering a Section 219 covenant in this case, but both staff and legal counsel confirmed that it was something Council could require in order to provide an additional assurance that the conditions agreed to by the applicant and expected to be contained within the Good Neighbour Agreement would carry forward with any subsequent property owners who may wish to operate a similar business and would provide another avenue to enforce these conditions in the future. Council passed a resolution requiring that the covenant be registered prior to adoption of Bylaw 4030.

Due to the applicant contacting a member of Council after the close of the public hearing, the question has been raised as to whether or not this requirement should be removed. Typically, if a financial institution objects to the registration of a Section 219 covenant (or more commonly, the registration of the associated priority agreement), we would receive something in writing from the applicant's financial institution outlining the reason for their objection. Without this, staff lacks the information required to determine what specifically within the proposed covenant (which as it is not a "template covenant" is still being drafted and so staff have not yet seen the covenant) is an issue for the financial institution. The registration of a Section 219 covenant is a common practice in British Columbia and staff have not previously heard of a financial institution objecting to the registration of one. That being said, the applicant's solicitor has provided a letter advising that he has spoken with the lending institution, that the applicant's mortgage terms preclude the applicant from consenting to the registration of any new charges on title (even subsequent to the mortgage), and that the lending institution is unwilling to consent to the registration of the covenant on title (even subsequent to the mortgage).

This issue can be addressed in any of the following ways:

Option 1: Leave the requirement for the Section 219 covenant in place. No action is required in this case.

Option 2: A Councillor may put forward a notice of motion to rescind the January 21 resolution requiring the Section 219 covenant. This would require a simple majority vote in order to pass.

Staff did not initially recommend the registration of a Section 219 covenant in this case and does not take a position on whether this remains a requirement. Should Council wish to proceed with Option 2 it is advisable to put in a notice of motion to this effect as soon as possible so as not to further delay the process.

A notice of motion to rescind or amend that condition should be brought forward prior to the public hearing.

Issue #3 – Receipt of new information from an interested party after the close of the public hearing

To ensure the validity of Zoning Amendment Bylaw No. 4030, 2025, a second public hearing is required due to new information received after the close of the original hearing and the potential change in the requirements for shoulder pavement widening and a covenant. Staff therefore recommend that Council direct staff to schedule a new public hearing and provide statutory notice of the hearing. Additionally, it is recommended that Council schedule a public hearing for May 20, 2026, in order to leave time to consider any notice of motions that may be submitted.

Issue #4 – Amendments to the Business Licence Bylaw required

As per Council's January 21 2026 resolution, amendments to the Business Licence Bylaw must be adopted prior to the adoption of Zoning Amendment Bylaw No. 4030 to authorize the Business Licence Inspector to impose additional conditions on business licenses, including hours of operation, amplified music, on-site parking requirements, and the use of a Good Neighbour Agreement.

The proposed amendments, as originally drafted in Business Licence Bylaw Amendment Bylaw No. 4058, 2026, would enable staff to issue a business licence to the Oak and Vine proponent subject to a Good Neighbour Agreement addressing impacts on adjacent properties. These amendments also resolve a conflict between Section 9 [Licence suspension and cancellation] of the [Business Licence Bylaw](#) and Section 6 [Business Licences] of the [Delegation of Authority Bylaw No. 3814](#) by clarifying the delegated authority of staff to suspend or cancel a business licence. Section 7 of the Delegation of Authority Bylaw provides applicants and licence holders the ability to have such decisions reconsidered by Council. For these reasons, staff recommend that the amendment bylaw remain unchanged.

Business Licence Amendment Bylaw No. 4058 is scheduled to return to Council at the next meeting for consideration.

OPTIONS

1. (Recommended Option)

- (1) THAT Council rescinds third reading of Zoning Amendment Bylaw No. 4030, 2025.
- (2) THAT Council directs staff to schedule a second Public Hearing on May 20, 2026 for Zoning Amendment Bylaw No. 4030, 2025, and provide statutory notice in accordance with the *Local Government Act*.

- A new public hearing is required due to new information received from an interested party after the first public hearing and other relevant changed circumstances.
- A Councillor may wish to put forward a notice of motion to rescind either or both of the shoulder pavement widening resolution of December 17, 2025 or the Section 219 covenant resolution of January 21, 2026.

2. (Option 2)

- (1) THAT Council rescinds third reading of Zoning Amendment Bylaw No. 4030, 2025.
- (2) THAT Council directs staff to schedule a second Public Hearing for Zoning Amendment Bylaw No. 4030, 2025 and provide statutory notice in accordance with the *Local Government Act*.
 - A new public hearing must be scheduled. If Council does not wish to schedule a public hearing for May 20, 2026, then the public hearing will be scheduled for the next regular public hearing date, June 17, 2026.

IMPLICATIONS

A second public hearing is required if Council intends to proceed with adoption of Zoning Amendment Bylaw No. 4030. As a result, third reading must be rescinded and a new hearing scheduled. Scheduling the hearing for May 20, 2026, ensures that any notice of motions are dealt with prior to the public hearing.

If Council chooses not to hold a second public hearing, there is a significant risk that the bylaw could be successfully challenged, resulting in further delays for the applicant.

Timeline if Council adopts the staff recommendation:

- **April 1, 2026**
 - Council receives legal advice regarding the proposed amendments to Business Licence Amendment Bylaw No. 4058 in a closed meeting.
- **April 15, 2026**
 - If Council wishes to rescind the shoulder-pavement-widening requirement or the Section 219 covenant requirement, a notice of motion should be submitted to the Corporate Officer, copying the Mayor and Chief Administrative Officer as soon as possible so that it is introduced at the April 15, 2026, meeting and the process is not further delayed.
 - Staff to return with a report and the Business Licence Amendment Bylaw No. 4058 for Council's consideration of third reading.
- **April 15–May 3, 2026**
 - Staff prepare statutory notification for a new public hearing.
- **May 6, 2026**
 - If notice of motion is given at the April 15, 2026, regular Council meeting to rescind the shoulder-pavement-widening requirement or the Section 219 covenant requirement, they will be placed on the May 6, 2026, regular Council meeting for Council's consideration.
 - Business Licence Amendment Bylaw No. 4058 for adoption.

- **May 20, 2026**
 - Second Public Hearing for Zoning Amendment Bylaw No. 4030 is held, including updated information on:
 - applicant's inability to register a Section 219 covenant
 - potential changes to road-widening requirements
 - updates to the Business Licence Bylaw amendments
- **Following the Public Hearing**
 - Council may proceed with third reading of the zoning bylaw (if appropriate) and *may* adopt the bylaw *if* all the conditions noted in the next bullet have been met.
- **Before Adoption of Zoning Amendment Bylaw No. 4030**
 - Council must adopt Business Licence Amendment Bylaw No. 4058 to ensure the Business Licence Inspector has authority to impose required conditions (e.g., hours of operation, amplified music limits, parking, Good Neighbour Agreement).
 - Staff must finalize and secure any required Good Neighbour Agreement.
 - Shoulder pavement widening remains required unless Council rescinds the December 17 resolution.
 - If Council maintains the requirement for a Section 219 covenant, the applicant must provide a document acceptable for registration (or the requirement must be rescinded through proper process).
- **Upon Adoption of Zoning Amendment Bylaw No. 4030**
 - Staff may issue a business licence with conditions consistent with the amended Business Licence Bylaw and the Good Neighbour Agreement.

RECOMMENDATION

- (1) THAT Council rescinds third reading of Zoning Amendment Bylaw No. 4030, 2025.
- (2) THAT Council direct staff to schedule a second Public Hearing on May 20, 2026 for Zoning Amendment Bylaw No. 4030, 2025, and provide statutory notice in accordance with the *Local Government Act*.

Report prepared by:



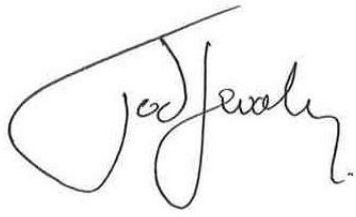
Amanda J. Young, MCIP, RPP
Director, Planning and Building

Report reviewed by:



George Farkas
General Manager, Planning, Development and
Community Services

Approved to be forwarded to Council:

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

Ted Swabey
Chief Administrative Officer

Attachment:

- (1) Zoning Amendment Bylaw No. 4030, 2025