

# Staff Report

**To:** Joe Fernandez, Chief Administrative Officer  
Referral agencies

**From:** James van Hemert, Consulting Planner

**Date:** 8/20/2021

**Re:** Application for amending the **Zoning Bylaw--** 21 Oak Lane



## Application Request

The Town has received an application to amend the Zoning Bylaw, changing the Schedule A map designation for 21 Oak Lane from P-1 Public Use to Urban R-3 Multi-family. The property is 4.67 ha in total area, of which 3.05 ha is developable.

The application proposes 56 townhomes.

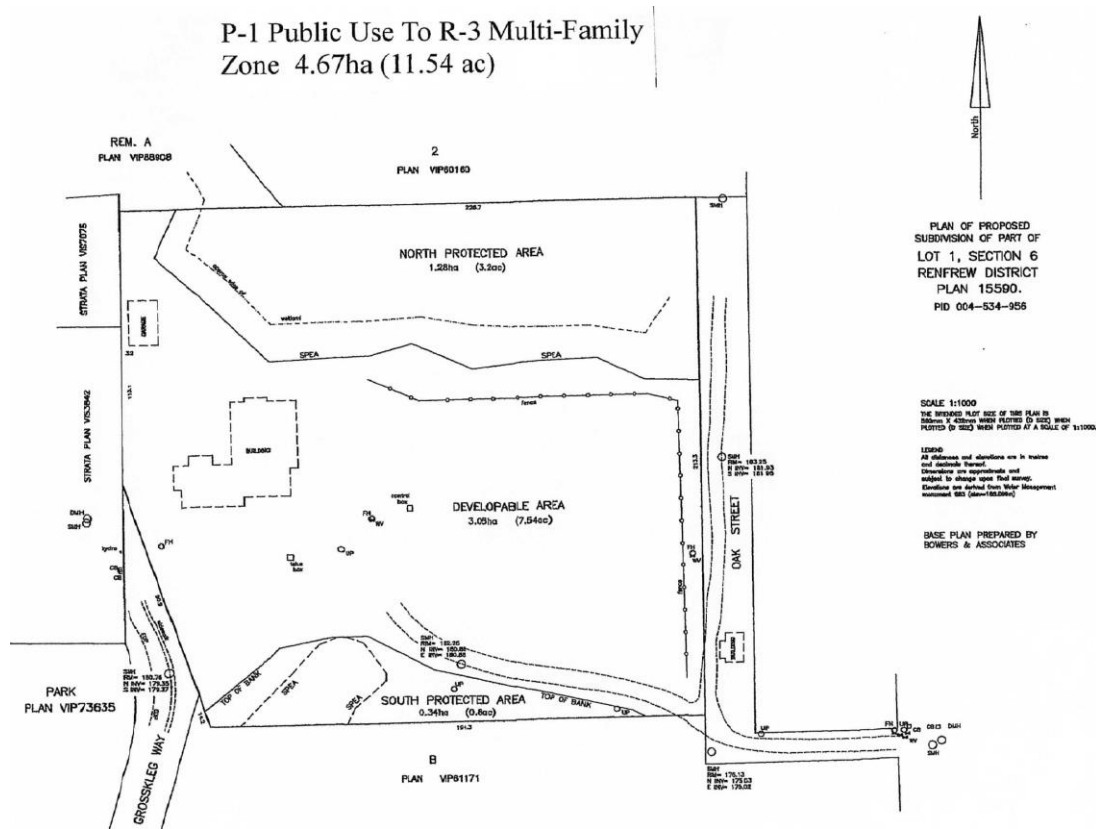


Figure 1 Property details

## Relevant Matters for Consideration

### 1. Primacy of the Official Community Plan

The rezoning application is dependent upon an amendment to the Official Community Plan which would re-designate the land from Institutional to Urban Neighbourhood Compact. Should this amendment not be granted, the rezoning application does not proceed for consideration or should be denied.

### 2. Affordable Housing

Under the density bonus policy provisions of the OCP and in accordance with the Local Government Act, development of the property in question must provide for a minimum 20% of all dwelling units constructed to be **affordable**, which is defined as 'housing which has a market price or rent that does not exceed 30% of median pre-tax household income of residents in the Town of Lake Cowichan.' Staff have determined that all the dwelling units that may be constructed under the new proposed zoning fall within the density bonus provisions, given that currently no private dwelling units are permitted on the subject property in the Public Use P-1 zone.

The recently completed Housing Needs Assessment for Lake Cowichan has revealed a priority need for single bedroom dwellings. Accordingly, the Town is pursuing a majority or 100% of the required affordable dwelling units be one-bedroom dwellings. Should 56 dwellings be constructed as proposed, 20% represents 13 units.

The applicant has indicated verbally that one-bedroom rental secondary suites may be offered to satisfy the affordable housing commitment.

In its referral response, the Cowichan Housing Association provided five technical and procedural options to ensure the provision of affordable housing. In summary, these include:

1. Housing agreement with non-profit agency or strata organization (several sample agreements were provided in their response)
2. Management of affordable units contracted to a third party on a fee-for-service basis.
3. Title of affordable housing units is transferred to third party.
4. Transfer of affordable housing title to the municipality.
5. Cash-in-lieu to the municipality.

To ensure sustained affordability in perpetuity the amending Zoning Bylaw's Schedule E "Density Bonus, Affordable Housing Contribution, and Amenity Contributions" table has been drafted to reflect the intent to ensure that 20% of all units constructed are affordable. The specific mechanism, likely to be

chosen among the options described by the Cowichan Housing Association, would be determined later.

### **3. Access and community connectivity**

#### **a. Public local road and infrastructure**

The application proposes a single point of access via Grosskleg Way. A traffic impact assessment conducted by Urban Systems concluded:

*Based on the capacity analysis results, the development will not impact the capacity of Grosskleg Way nor the traffic operations at the Fire Hall, Public Works accesses and the school on Grosskleg Way. Grosskleg Way has sufficient road width and a separate sidewalk for school children to safely access the school and to accommodate the daily traffic volume from the site using Grosskleg Way without impacting school safety.*

The study also noted a missing segment of sidewalk on Grosskleg Way adjacent to the Palsson Elementary school. This represents a possible off-site infrastructure commitment in advance of development approvals.

#### ***Discussion and Commentary***

Public Works Department analyzed and considered the impact of a single point of access for this proposed development in conjunction with existing development, notably the Brookside Village neighbourhood. In its referral response, Public Works noted the following:

- 1. The Town would require a two-point access for this site, Grosskleg and Oak Lane. This is important because at this time Brookside only has one point of access and if the large culvert before the site ever has a failure or requires maintenance neither development would have a way in or out.*
- 2. Oak Lane would need to be rebuilt from McDonald Road into the site, this would require an engineer to do an inspection the creek crossing and possibly rebuild the crossing to today's standards. This would require the Developer to either purchase some property from the School Board or a SRW in the favor of the Town.*
- 3. This road from Grosskleg to Oak Lane should be a public road not a Strata.*

4. *The water main would be required to be looped from Grosskleg Road to Mc Donald Road and possibly some upgrades to the water main on McDonald Road.*
5. *Sanitary lines need to be looked at for sizing to ensure they can handle the flows.*
6. *The Riverside sanitary pump station needs to be looked at, this may possibly require upgrades due to increasing flows.*
7. *Friendship trail should be included in the development with some upgrades.*

**b. Public Safety**

The Lake Cowichan Fire Department provided the following referral comments:

1. *Subject to building (old school) being removed the garage could stay for now for construction purpose as it has not been a problem*
2. *Grosskleg Way to Oak Lane needs to be a free open road no gating controlled by town*
3. *Oak lane culvert bridge to be assured of capability to support weight of fire trucks*
4. *Oak road to be cleared for fire access*
5. *Possible traffic calming in Palsson school area*
6. *Apply wildfire hazard assessment to development*
7. *FireSmart principles to be used on buildings and area, e.g., no bark mulch or chips mineral-based material*
8. *Hydrant location to be agreed with fire chief hydrants to use 4" storz connection*

**Commentary**

A full-service secondary access and upgraded infrastructure are necessary to support any additional development. This recommendation comes from all the Town's relevant departments: planning, public works, and fire.

**c. Purchase of School District land**

To appropriately enable access via Oak Lane a portion of land must be purchased from the School District. The existing paved driveway encroaches on School District property.

In its referral response the School District stated:

*We will not be able to respond to this request for a few months. The Board will need to apply to the Ministry of Education for approval to dispose of the small portion of land requested. We received a similar request from Mr. Lynn Klein on behalf of Mr. Jon Roler, but they were not clear on the portion of the Palsson property requested.*

*Can you please forward a survey document outlining the request? I can then send it off to the Ministry of Education for approval and then bring it back to our Board hopefully before September.*

***Commentary***

The applicant has not prepared a request in accordance with the School District's requirements for its consideration of the sale of land.

**d. Multi-use trail**

The OCP designates a multi-use trail across the southern boundary of the subject property. It is the responsibility of the applicant to offer its commitment and demonstrate where and how this facility will be constructed. The commitment is ensured via the Zoning Bylaw's Schedule E Density Bonus, Affordable Housing Contribution and Amenity Contributions table.

***Commentary***

The applicant has not offered to provide this amenity as required by the OCP. Suitable language to provide for this trail is drafted in the amending zoning bylaw.

**4. Institutional amenities**

The property is subject to the 'neighbourhood centre' policies of the Official Community Plan. To date the application has not provided any institutional amenities that satisfy the neighbourhood centre designation.

***Commentary***

Suitable language to provide for recreational oriented amenities such as exercise stations, benches, and a gazebo is drafted in the amending zoning bylaw.

## 5. Geographical Extent of Rezoning

The application requests a rezoning of the entire 4.67 ha property. Only 3.05 ha are developable, however, with the remaining 1.62 ha not suitable for development due to stream protection setbacks. Accordingly, staff recommend that should a rezoning be approved, it be limited to the 3.05 ha illustrated in the figure below. This is important because residential density may arguably be calculated based on the geographical extent of the zoning. It is more appropriate, and leaves no room for doubt, to limit the zoned area to the land area that is developable. The remaining 1.62 acres would appropriately remain zoned as Public Use P-1.

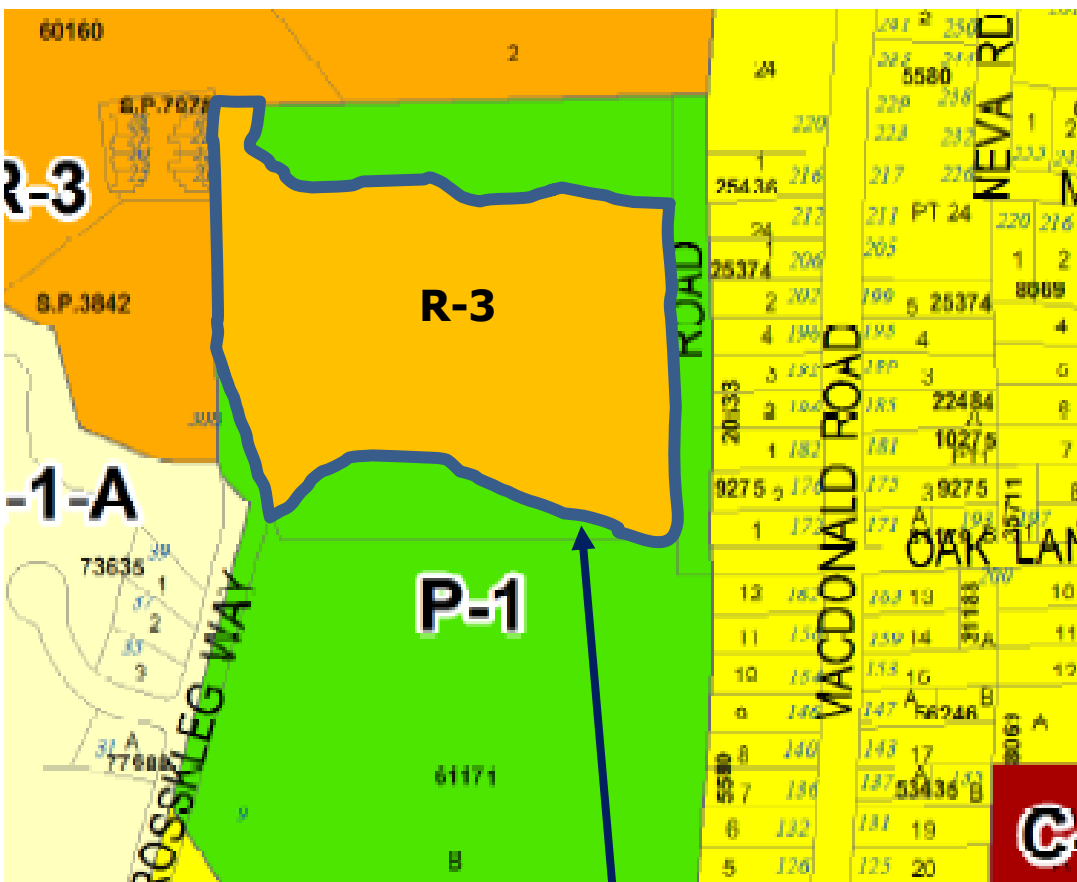


Figure 2 Limited rezoning of 3.05 ha

Extent of developable 3.05 ha area rezoning

## **6. Discussion**

The application fails to satisfy Official Community Plan policies with respect to affordable housing, public safety, and community amenities.

Furthermore, the application fails to address specific concerns raised by the Town's Department of Public Works and the Fire Department, most importantly, a second point of access.

The amending bylaw drafted for consideration at the public hearing satisfactorily addresses the minimum policy standards for affordable housing and provision of community amenities. These standards have been prepared by staff based on OCP policy, and do not necessarily reflect full agreement on the part of the applicant.

However, these standards for housing and amenities don't go far enough to provide a convincing rationale for a zoning amendment. Remaining un-met is the critical issue of public safety, namely, a full-time second point of access.

## **7. Recommendation**

Until such time as the required land has been purchased by a development interest from the School District and dedicated to the Town for public right of way, staff cannot responsibly make a recommendation to support a rezoning that allows any increased level of development.



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James van Hemert, MCIP, RPP

Consulting Planner