



Making a difference...together

JUAN DE FUCA LAND USE COMMITTEE

Notice of Meeting on Tuesday, **July 21, 2015 at 7:00 p.m.**

Juan de Fuca Local Area Services Building, #3 – 7450 Butler Road, Otter Point, BC

SUPPLEMENTARY AGENDA

1. Correspondence received to be dealt with under the following agenda items:
 - a) Agenda Item 6 a) Development Permit with Variance DV000045 – Lot 11, Section 43, Highland District, Plan VIP14620 (6800 Mark Lane)
 - Denise and Laurie Blade, Willis Point
 - Don and Geri Gorling, Willis Point
 - Wes and Shelley Klassen, Willis Point
 - Mark and Dianne Twamley, Willis Point
 - Jim Potvin and Bonnie Manning, Willis Point
 - Catherine Patchell, Willis Point
 - Bill and Joan Wright, Willis Point
 - b) Agenda Item 8 a) Proposed Bylaw No. 3941, “Juan de Fuca Electoral Area Soil Removal or Deposit Bylaw No. 2, 2015”
 - Gerard LeBlanc, Shirley
 - Otter Point, Shirley and Jordan River Resident and Ratepayers Association (OPSRRA)

By e-mail to:
jdfinfo@crd.bc.ca
jklassen@crd.bc.ca

Victoria BC

20th July 2015

Ms June Klassen
Manager Local Area Planning
CRD
Juan de Fuca Electoral Area Planning
3-7450 Butler Road
Sooke, BC V9Z 1N1

Dear Ms Klassen

**Re: Development Permit Variance Application; Lot 11, Section 43, Highland District, Plan VIP14620
- 6800 Mark Lane V9E 2A1**

In response to your letter of July 7th 2015, regards a meeting of the Land Use Committee on July 21st 2015, to discuss the above application, I am writing to provide our comments.

We are the residents of _____ and the neighbours to the north of the above property and we have, to the best of our ability, reviewed the plans obtained on line from the CRD website (as the pack received by post contained just one of the 16 pages within the complete application pack).

Our concern regards this application relates to the height of the proposed extension which has the potential to impact our property in terms of light, views and ultimately to adversely affect the value of our property.

We have discussed our concerns with Mr & Mrs Menkin this evening and assessed, as far as possible, the site conditions.

In negotiation we have identified that the 27 feet height limit of the highest point of the roof structure sits at the approximate floor level of our lower deck.

As such the impact to the unencumbered views (see photo 1) we currently enjoy and the level of light we have within our home are unlikely to be affected.



Photo 1 - views to south

However, if the height of the structure was to increase, or be extended to the permissible limit of 32 feet this would not be the case. Should this increase occur, we would find ourselves in a position whereby we felt it necessary to vigorously object to the plans, for the above reasons and also because the impact could adversely affect our property value.

As we have a very good relationship with Mr & Mrs Menkin, we have jointly agreed that, as a condition of the plans being approved, a restriction should be placed on the approval stating the maximum height of the proposed, or future, structure should not exceed 27 feet measured from the floor plate of the existing recreational cottage. This height is also level with the floor plate of our lower deck.

For clarity, this level is identified by Mr & Mrs Menkin and ourselves as being located at the floor plate to the north east corner (landing) of the ramp within the current stairs, shown in photos 2, 3 and also identified on the Site Plan Appendix B, taken from the application pack and provided as Attachment 1 to this letter.

This will serve to ensure the new building does not negatively impact our property at this time or at any time in the future, should the lot be sold (with or without the extension having been erected).

We will attend the meeting, so that further discussion as necessary, may be held.

We look forward to meeting you there.
Kind regards

Denise & Laurie Blade



Photo 2

Highest roof line point of proposed structure



Photo 3

June Klassen

Manager, Local Area Planning

CRD

3-7450 Butler Road

Sooke, BC V9Z 1N1

RE: Application for Development Permit with Variance

Lot 11, Section 43, Highland District, Plan 14620 - 6800 Mark Lane

File: DV000045

Dear Ms. Klassen,

As nearby neighbors, we are aware of the applicants' plans for an addition and renovation to their dwelling and to reduce the front, side and rear yard setbacks. We support their plans and urge the Land Use Committee to recommend its approval to the CRD board.

Sincerely

Don & Gail Spelling

20/7/2015

June Klassen
Manager, Local Area Planning
CRD
3-7450 Butler Road
Sooke, BC V9Z 1N1

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Sincerely

Wes and Shelley Klassen

Support re: Application for Development Perment



Dianne Twamley

Attention:

June Klassen
Manager, Local Area Planning, CRD
3-7450 Butler Road,
Sooke, BC V9Z 1N1

Re: Application for Development Permit with Variance
Lot 11, Section 43,
Highland District,
Plan 14620
6800 Mark Lane
File:DV000045

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Sincerely,

Mark & Dianne Twamley

**June Klassen
Manager, Local Area Planning
CRD
3-7450 Butler Road
Sooke, BC V9Z 1N1**

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Sincerely

Jim Potvin & Bonnie Manning

RE: Application for Development Permit with Variance
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Dear Ms. Klassen,

As a close neighbour, I am aware of the applicants' plans for an addition and renovation to their dwelling and to reduce the front, side and rear yard setbacks. I support their plans and urge the Land Use Committee to recommend its approval to the CRD board. This is a reasonable request with no negative impact, therefore I am in full support of the approval for this application.

Respectfully,

Catherine Patchell

Willis Point, Bc

20 July, 2015

June Klassen
Manager, Local Area Planning
CRD
3-7450 Butler Road
Sooke, BC V9Z 1N1

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Lot 11, Section 43, Highland District, Plan 14620 - 6800 Mark Lane
File: DV000045

Dear Ms. Klassen,

As nearby neighbors, we are aware of the applicants' plans for an addition and renovation to their dwelling and to reduce the front, side and rear yard setbacks. We support their plans and urge the Land Use Committee to recommend its approval to the CRD board.

Sincerely
Bill and Joan Wright

Wendy Miller

From: Gerard LeBlanc
Sent: Tuesday, July 21, 2015 9:59 AM
To: jdf info
Subject: Proposed Bylaw No. 3941- Soil Removal & Deposit Bylaw

Re. Proposed Bylaw No. 3941- Soil Removal & Deposit in JDF

The report to LUC on the proposed Soil Removal and Deposit Bylaw leaves a number of questions unanswered.

A March 2006 the CRD Electoral Areas Services Committee received a report which established the current Soil Removal and Deposit Bylaw and associated fees. Applicable fees were based on detailed analysis of the costs associated with processing applications for soil deposit and removal in JDF EA. The costs and fees established in the bylaw were determined by an empirical review of staff time involved in all aspects associated with processing an application. The current report states the fees will cover staff time required to process the application. This anecdotal statement is insufficient to provide justification for establishing any, let alone the fee schedule established in the proposed bylaw.

The report confuses the requirements of the requirement for Soil Removal and Deposit Permits and Mines Act Permits. Mines Act Permits are issued by the province and, unless specifically stated in the permit issued, do not cover the deposit of soils brought in to a permitted site (exclusive of materials mined and processed on the site and stored on the site). The deposit of material for reclamation, to my understanding, needs to be approved in the Mines Permit and forms part of that permit and is noted within it. Any other material brought in should require a Soil Deposit Permit from the CRD; a claim that material brought in for reclamation not included in any existing permit needs to be justified. Clarification of this issue needs to be made before the proposed bylaw proceeds any further. The references to the Mines Act Permitting process confuses the soil removal/deposit issue and should not be referenced in the staff report on Bylaw No. 3941.

The staff report notes that the Cowichan Tribes was circulated the application and provided comments. The Pacheedaht, Scia'new and T'Souke First Nations need to be directly solicited for their comments as they are the First Nations resident within the JDF EA boundary. They are another level of government and our neighbours and their input needs to be obtained. It is possible that soil from outside the Scia'new First Nation may be used as fill for the Spirit Bay development thereby affecting this Scia'new development and settlement area.

An inclusive and transparent consultation process with the three JDF EA First Nations on the bylaw should have been reported on in the report before LUC this evening. Instead, the report is silent on any comments, including the possibility that none were received, as well as on any consultation process involving the three First Nations. Given recent legal decisions on First Nations matters a more extensive consultation process needs to have been initiated with them and reported on or, if they had no comment, then that should have been reported on as well as the extent of discussions/consultation with them.

The proposed bylaw does not include a requirement to identify the origin of removed soils nor of their status of contamination except for a declaration under the Contaminated Sites Regulation provided by, it is assumed, the land owner of the 'removal' site. A more rigorous process, including the need for review and a declaration by a QEP as suggested by the Cowichan Valley RD, needs to be a requirement. This process needs to include specific reference to potential contamination. Having a QEP verify soils are 'clean' before they leave the 'removal' site protects all parties and all lands affected by the granting of the permit.

The on-site disturbance and the transport of contaminated soils from one site to another are, as I'm sure the LUC is aware, strictly regulated. The deposit of contaminated soils can have significant future impacts on public health and and

safety and include significantly high remediation costs when contamination is 'discovered' on a site where soil has been deposited. Not requiring the identification of contaminated soils in a regulatory bylaw such as this one, when the issue has been raised with the LUC by other governments and the public could leave the CRD potentially liable for related legal and clean-up costs.

It is clear that additional work is required on determining the adequacy of the proposed bylaw in terms of fees, the referral process, soil contamination issues and consultation (particularly with JDF First Nations) and the processing of potential permits. Setting the fees needs to be justified by a detailed, empirical assessment and not simply justified by an anecdotal statement that they will cover staff permit processing costs. In addition, and very importantly, the issue of identification of contamination in soils needs to be dealt with appropriately in the proposed bylaw.

The LUC action on this bylaw needs to be that the proposed bylaw and accompanying report are referred back to staff to complete a more thorough analysis and assessment of the bylaw relative to fees, soil contamination, consultation and permit process, and any other additional items identified by other members of the public, and results be presented to LUC and the public prior to the proposed bylaw being sent out for further (final?) referral and prior to public hearing.

Soil removal and deposit is an important issue for JDF EA residents. Although most do not speak out when reports and proposed bylaws are presented to LUC or when bylaws and fees are established, they will speak out when soil removal or deposit affects them directly – when the trucks with the soil start dumping on a lot next door. Consultation with the public, including First Nations needs to be inclusive and thorough, the fees need to be fair and cover costs, and the permitting process needs to be clear. The LUC needs to refer the soil removal and deposit report and proposed bylaw for additional assessment as noted above.

Yours truly,

Gerard V. LeBlanc, MCIP, RPP

Shirley, BC,

Wendy Miller

From: Marika Nagasaka
Sent: Tuesday, July 21, 2015 10:02 AM
To: jdf info; Wendy Miller
Subject: Fwd: FW: LUC Meeting June 21 2015 re: proposed Soil Bylaw No. 3941
Attachments: EAS Committee01March2006Bylaw3270SoilJdFEA.doc

Further to our letter submitted to the public info meeting May 11 2015 re: proposed Soil Bylaw No. 3941, and in response to the staff report to the June 21 2015 LUC meeting; OPSRRA wishes to reiterate that a report on a revised fee schedule to justify changes to the schedule in the current Bylaw No. 3297 should be done by appropriate professionals prior to implementing a new Soils Bylaw and fee schedule, not a review 3 years after implementation as mentioned in the staff report to LUC.

The current Bylaw No. 3297 fee schedule was established in 2006 as a result of a CRD Professional Engineering study (see attached EASC report), with rationale for the fees and security deposits given in that study. OPSRRA believes our residents and ratepayers should be provided with solid rationale determined by a similar study to support any changes to the fee schedule and to ensure costs are not borne by the taxpayer.

OPSRRA

**REPORT TO ELECTORAL AREA SERVICES COMMITTEE
MEETING OF WEDNESDAY, 01 MARCH 2006**

**SUBJECT DRAFT BYLAW 3297 TO REGULATE THE REMOVAL OR DEPOSIT OF SOIL
ON LANDS WITHIN THE JUAN DE FUCA ELECTORAL AREA**

PURPOSE

The purpose of this staff report is to replace the current bylaws regulating soil removal (Bylaw 1472) and deposit (Bylaw 1473) with one soil removal and deposit bylaw that serves the needs of the function in the Juan de Fuca Electoral Area.

BACKGROUND

The Soil Removal (No. 1472) and Soil Deposit (No. 1473) bylaws were adopted in 1987. They were established to cover lands within the electoral areas of Langford, Sooke, View Royal and Salt Spring Island. Since that time, Langford, Sooke and View Royal have become municipalities and assumed responsibility for this function. The Islands Trust looks after the function on Salt Spring Island and the Southern Gulf Islands. However, the soil removal and deposit function in the Juan de Fuca Electoral Area remains a Capital Regional District (CRD) responsibility.

The existing bylaws do not enable sufficient cost recovery to fund the work associated with the permit application and administration processes.

FINANCIAL IMPLICATIONS

The fees and security deposits for the existing bylaws 1472 and 1473 are as follows:

Bylaw	Fees	Security Deposits
CRD Bylaw 1472 (Soil Removal)	\$100 for each half hectare or part thereof contained in the area described in the permit	\$2,000 for each half hectare or part thereof of site from which soil is to be removed
CRD Bylaw 1473 (Soil Deposit)	as above	\$500 for each half hectare or part thereof of site upon which the fill is to be deposited

The proposed fees and security deposits contained in Table A of Bylaw 3297 are as follows:

QUANTITY ⁽³⁾	PERMIT FEE ⁽¹⁾	SECURITY DEPOSIT/BOND ⁽²⁾	RENEWAL FEE ⁽⁴⁾
60 – 100 m ³	\$250 administration plus \$2.50 per m ³ of Soil to be removed or deposited	\$2,000 per hectare or part of in Permit Area to have soil removed from or deposited to	\$100
101 – 500 m ³	\$500 administration plus \$1.00 per m ³ of Soil to be removed or deposited	\$3,000 per hectare or part of in Permit Area to have soil removed from or deposited to	\$200
501 – 10,000 m ³	\$1,000 administration plus \$0.40 per m ³ of Soil to be removed or deposited	\$5,000 per hectare or part of in Permit Area to have soil removed from or deposited to	\$500
> 10,000 m ³	\$2,500 administration plus \$0.25 per m ³ of Soil to be removed or deposited	\$10,000 per hectare or part of in Permit Area to have soil removed from or deposited to	\$1,000

- (1) The Permit fee must be provided prior to the issuance of a Permit.
- (2) The Security Deposit/Bond is required prior to issuance of a Permit and must be renewed and in effect prior to renewal of any Permit.
- (3) The Applicant is responsible for ensuring that any conditions governing Removal or Deposit of Soil as defined in the *Mines Act* are adhered to.
- (4) The renewal fee is required prior to an extension to the Permit.

The proposed fees and security deposits listed in this bylaw are similar to those currently levied by Langford (fees) and by Metchosin (security deposits).

Bylaw 3297 will enable the levying of appropriate fees and security deposits, thereby ensuring that users of the soil deposit and removal function pay for its costs.

ALTERNATIVES

1. That Bylaw 3295 be adopted to replace bylaws 1472 and 1473.

This alternative will ensure that the bylaw applies to an area in which it has jurisdiction and will enable fees and security deposits to be charged which are commensurate with the costs of administering the permit process.

2. That bylaws 1472 and 1473 be amended to reflect the changed function area only.

This alternative would result in much, if not most, of the cost of administering the permit process being paid through requisition on Electoral Area taxpayers.

SUMMARY/CONCLUSIONS

The attached draft Bylaw 3297 will update many aspects of the original bylaws and, in particular, will correct the area to which the function applies and change the cost recovery structure to ensure that the applicant pays for the costs associated with the permit application and administration process rather than these costs being levied through requisition on Electoral Area taxpayers.

The fees quoted are based upon the quantity of soil to be deposited to or removed from the subject property. The security deposit could also be based upon this quantity or, as is more often the case, it could relate to the area within the subject property impacted by the deposit or removal process. The impacted area method would better address the security deposit concerns and is the method included in the draft bylaw.

The draft bylaw has been reviewed by the CRD's solicitors.

RECOMMENDATION

That the Electoral Area Services committee recommend to the CRD Board that Bylaw 3297 be given three readings and referred to the Ministry of Environment and the Ministry of Community Services for approval.

S.B. McDonnell, PEng
Manager, Engineering Services

Dwayne Kalynchuk, PEng
General Manager, Environmental Services
Concurrence

Kelly Daniels
CAO Concurrence

COMMENTS

RE/sm:SBM/cl
Attachment: 1