

Association for the Protection of Rural Metchosin

#2-4401 William Head Road

Victoria, BC V9C 3Y6

www.metchosinaprm.org

June 9, 2021

Councillor Kyara Kahakauwila
District of Metchosin
4450 Happy Valley Road
Victoria, BC V9C 3Z3

Dear Councillor Kahakauwila:

Re: Information on Development Variance Permit Approval, granted August 2020

Several troubling matters have come to light regarding a Development Variance Permit Approval (DVP) granted at the August 10, 2020 Council meeting, and which originated at the July 13, 2020 Planning Committee meeting, with yourself as Chair. The Association for the Protection of Rural Metchosin (APRM) wishes to address several matters related to District processes as well as issues this situation raises about bylaw enforcement matters, which is also within your portfolio.

Specifically, it appears that Council was **not provided with complete information** on bylaw investigations and enforcement actions in its consideration of the DPV. We are aware of this due to a resident's Freedom of Information request to the District, which obtained an April 6, 2020 letter from the District to the property owner seeking the DVP. Regarding the bylaw complaints, the District's letter states:

“the complainant alleges that for the past **six months industrial type** noises have been emanating from a sawmill operation located on [redacted]. As a result of my inspection and also my discussions with [redacted] and your [redacted] Westcoast Custom Timber the **allegations regarding this matter were confirmed**. It was also confirmed that the **building housing the sawmill was constructed without a required building permit.**” (our emphasis).

In the letter, the District's representative ordered that the sawmill cease operations immediately.

Several months later, the property owners applied for the DVP to address the non-compliant sawmill building. We are concerned that the staff report prepared on the DVP by District Planner Sherry Hurst had several significant omissions:

- There is no mention of the April 6, 2020 letter.
- There is no mention of the previous noise complaints about this property.
- There is no mention of the illegally operating sawmill and the order to cease operations immediately.
- There is no mention of how the DVP was assessed against the Clean Hands Policy, including why the Planning Committee should even consider the DVP given the violations noted at the property.

These omissions are of concern as Council was essentially asked to, and then did, 'make legal' a structure that had been built without a permit in order to house an unauthorized activity (i.e. the sawmill).

We hope that Council would have come to a very different decision on the DVP had it been properly informed (i.e. known of the April 2020 letter). Instead, and as Mr. Sasha Kubicek noted in his email to you on June 3, 2021, **by approving the DVP Council essentially enabled the continuation of significant bylaw violations by approving the permit for the building housing the illegally operating sawmill.**

We now know that complaints about the operation of this sawmill continued both before and after the DVP was granted. This tells us that there was a clear failure at some level within the District to understand and apply the Clean Hands Policy.

As bylaws and general land use planning fall under your portfolio we ask you to address several questions arising from this situation:

- **Why was the information on the bylaw investigation not included in the staff report for the DVP?**
- **If there was a process breakdown, have these issues been addressed?** What can you provide to Council and residents to assure us that past and future staff reports have and will accurately depict matters important to a Council decision? The omissions in a staff report prepared by the District's planner are concerning given the planner's professional status and the code of conduct she works under that compel her to "Provide full, clear and accurate information on planning matters to decision-makers and members of the public."
- **What steps will Council take in terms of the DVP?** We note that section one of the draft permit found in August 2020 Council package states: "This Permit is issued subject to compliance with all of the bylaws of the District of Metchosin applicable thereto except as specifically varied or supplemented by this Permit." In light of the information the Council has now received about this property, is the DVP still valid since the property was not in compliance with all of the bylaws?

Speaking broadly, this situation attests to many of the concerns Council has heard over the years about bylaw enforcement:

- Complaints result in no action, even when there is clear evidence that violations are occurring.
- There are no consequences for those who violate our bylaws.
- District policies appear to be unevenly applied.
- Those violating bylaws sometimes appear to be assisted by the District.
- Neighbours who complain are left with little satisfaction and confidence that the District's stated bylaws actually have value.

The APRM looks forward to speaking with you further about this situation. We also look forward to seeing improvements in the how the District's bylaws are enforced.

Sincerely,

Jay Shukin
President, Association for the Protection of Rural Metchosis

CC: Mayor John Ranns
Councillor Andy MacKinnon
Councillor Shari Epp
Councillor Marie-Terese Little
APRM Executive
(attachement)



DISTRICT OF METCHOSIN

April 6, 2020

s. 22(1)

Dear s. 22(1)

RE: Notice of Bylaw Contraventions
Legal Description: Lot A, Section 23, Plan 30229, Metchosin District
Civic Address: 900 Arden Road Zone: Upland (UP)

Thank you for meeting with me on Thursday, April 2, 2020, at s. property located at 900 Arden Road. As s. are now aware, my inspection of s. property was in response to a noise complaint received by the District. The complaint alleges that for the past six months industrial type noises have been emanating from a sawmill operation located on s. property. As a result of my inspection and also my discussions with s. and yours. 22(1) (s. Westcoast Custom Timber) the allegations regarding this matter were confirmed. It was also confirmed that the building housing the sawmill was constructed without a required building permit.

As a result of these findings, please be advised of the following bylaw contraventions and the required compliance remedies:

1. **District Land Use Bylaw #259:** The operation of a sawmill is not a permitted use on lots located in the Upland Zone. This operation must cease immediately.
2. **District Building Bylaw #44:** Construction of a building or structure without a Permit is a contravention of the bylaw. Contact the District office as soon as possible to make the necessary arrangements to obtain the required permit. (Permit application form and checklist is attached for your convenience)

Respectfully, the District requests that s. satisfactorily address the required remedial actions noted above. Accordingly, a follow up compliance review of these matters will be conducted on Monday, April 27, 2020. Please be advised that should s. fail to satisfy these requirements, the District shall take further enforcement action as necessary.

Thank you in advance for your understanding and cooperation in addressing these matters.

Sincerely,

Nick Carello
Building Inspector
cc. : Lisa Urlacher, CAO
CRD Bylaw Enforcement
Attachment

4450 Happy Valley Road, Victoria, B.C. V9C 3Z3
Administration Office (250) 474-3167 Fax 474-6298
Building Inspection Department (250) 474-3196 Fax 474-6298