

DISTRICT OF SAANICH
MINUTES OF THE SPECIAL COUNCIL MEETING
HELD IN THE COUNCIL CHAMBERS
SAANICH MUNICIPAL HALL, 770 VERNON AVENUE
TUESDAY, JUNE 14, 2016

Present: **Chair:** Mayor Atwell
Council: Councillors Brice, Brownoff, Derman, Haynes, Murdock, Plant, Sanders and Wergeland
Staff: Paul Thorkelsson, Chief Administrative Officer; Sharon Hvozanski, Director of Planning (7:00 p.m.); Sharon Froud, Deputy Legislative Manager; Jo MacDonald, Manager of Human Resources; Adriane Pollard, Environmental Services Manager (7:00 p.m.); and Andrea Park, Senior Committee Clerk (7:00 p.m.)

Mayor Atwell called the special Council meeting to order at 6:00 p.m. in Committee Room No. 2.

In Camera Motion **MOVED by Councillor Brownoff and Seconded by Councillor Derman:**
“That pursuant to Sections 90 (1)(c) of the *Community Charter*, the following meeting be closed to the public as the subject matters being considered relates to:
- Labour relations or other employee relations.”

CARRIED

Adjournment On a motion from Councillor Brownoff, the meeting adjourned to In Camera at 6:01 p.m.

The regular Council meeting reconvened in Council Chambers at 7:00 p.m.

The Manager of Human Resources left the meeting at 7:00 pm.

PUBLIC HEARING

2860-25
Rainbow Street

“OFFICIAL COMMUNITY PLAN BYLAW, 2008, AMENDMENT BYLAW, 2016, No. 9389”

PROPOSED REVISION TO THE ENVIRONMENTAL DEVELOPMENT PERMIT AREA ATLAS – 4007 AND 4011 RAINBOW STREET

To amend Schedule 3 (Environmental Development Permit Area Atlas) of Appendix “N” (Development Permit Areas Justification and Guidelines) of the Official Community Plan bylaw to remove Lot 2, Section 49, Victoria District, Plan 9074 and That Part of Lot 1, Section 49, Victoria District, Plan 9074 Lying to the north of the Production Easterly of the Northerly Boundary of Lot 2 of Said Plan (**4007 AND 4011 RAINBOW STREET**) from the Environmental Development Permit Area (EDPA) shown on the Environmental Development Permit Area Atlas.

The Clerk introduced the following:

- Notice of Public Hearing.
- Reports from the Director of Planning dated April 15, 2016 and September 17, 2015.
- Correspondence:
 - From the applicant, dated April 19, 2016, June 10, 12 and 13, 2016.
 - From the North Quadra Community Association dated June 10, 2016.
 - Seventeen letters from interested parties.

APPLICANT:

A. Bull, Wilkinson Road, stated

- The guidelines for verifying sensitive ecosystems in the EDPA which are given to biologists when conducting an assessment, were not mentioned in any Saanich reports to Council; based on these guidelines, no sensitive ecosystem was identified on the two Rainbow Street properties.
- The Tree Protection Bylaw is applicable to the properties in Saanich which have Garry oak trees but are not in an EDPA.
- Rainbow Street properties do not form part of a wildlife corridor.
- The owners have no plans to develop the properties but if that were to occur, the municipality could negotiate at that time to preserve trees.
- Implementation of the EDPA bylaw has been controversial in the community.
- There is no requirement for a covenant to protect trees on these properties.
- 4007 and 4011 Rainbow Street should be removed from the EDPA.

PUBLIC INPUT:

B. Draper, Rainbow Hill Way, stated:

- These two properties do not fit within the EDPA designation and are not consistent with other properties in the area.
- He supports their removal from the EDPA.

K. Harper, Bonair Place, stated:

- The conditions to remove these two properties from the EDPA have been met.

G. Weir, Lucas Avenue, stated:

- People have a narrow view of the purpose of the EDPA; there are good reasons not to remove these properties.
- Anticipating future development of the properties, he considers them prime candidates for a full EDPA review.

L. Husted, Cyril Owen Place, stated:

- Removal of a property from the EDPA, prior to a subsequent development application, could set a difficult precedent.
- The Sector Environmental Resource Consulting report (April 5, 2016) recommended that if the property were removed from the EDPA, that this be subject to a requirement to protect the roots of the Garry oak trees from any excavation.
- If the EDPA is removed, the property will be sold and developed; now is the time to impose this requirement.

- Saanich environmental protection standards are more rigorous than provincial standards for protecting local ecosystems; the provincial standards may not be suitable when considering local remnant properties in Saanich.
- The EDPA review should address these concerns and improve the Atlas mapping.

A. Bickerton, West Burnside Road, stated:

- He supports removal of both properties from the EDPA.
- It could be voluntary for property owners to be included in the EDPA.

P. Adams, Shore Way, stated:

- Southern Vancouver Island has only 1% of the catchment area for Garry oak habitat with the main habitat being in Washington, Oregon and California.
- Saanich might consider planting oaks as replacement trees, although another species would also benefit the environment.

H. Charania, President, North Quadra Community Association, stated;

- The Association participated in the development of the current EDPA bylaw and had anticipated that properties such as these might be considered as legal nonconforming and not subject to the EDPA bylaw.
- An arbitration panel to resolve disputes under the bylaw is recommended.
- The EDPA is a necessary and appropriate tool and the review will make it more workable.
- The applicant has not provided the commitment requested by Council to protect the Garry oak trees and the Association cannot support removal from the EDPA without such a commitment.

A. Hull, Rainbow Hill Lane, stated:

- It appears that something already agreed to is being questioned.
- He does not understand why this applicant is undergoing such a complicated process when there are plenty of other tools at the municipality's disposal to deal with the trees.

D. Owen, Berry Road, stated:

- She does not understand why the Bijold property was selected for protection of a sensitive ecosystem under the EDPA.
- The property has been devalued by this designation and she supports its removal from the EDPA.

T. Lea, Cedarglen Road, stated:

- He is a registered professional biologist who assessed the Rainbow properties for sensitive ecosystems using the guidelines provided by the District of Saanich.
- There are no intact rare plant communities and the woodland has been compromised by other aggressive species; Garry oak trees set in lawns with ornamentals, are not sensitive ecosystems.
- Wildlife corridors are not included in the EDPA; however, there would not be a corridor on the Rainbow Street properties. Surrounding residential areas totally block any possible corridor.

- Restoration potential is not considered under the EDPA.
- In his professional opinion, there are no natural ecosystems on these properties.

C. Thomson, Prospect Lake Road, stated:

- Concerned that the EDPA and Atlas could be lost.
- The environmental assessment process is an important step when considering new developments as it is difficult to balance competing interests.
- The independent EDPA review should be moved forward for completion before any properties are removed from the EDPA.
- The EDPA bylaw is consistent with the goals of the Official Community Plan.

B. Insley, Cordova Bay Road, stated:

- Supports removal of these properties from the EDPA.
- Information regarding property values and sensitive ecosystems has been considered but it is important to understand that these are people's homes.
- The evidence presented supports removal from the EDPA.

In response to questions from the Council, the Environmental Services Manager stated:

- The Planning Department's guidelines for evaluating sensitive ecosystems are still in use.

APPLICANTS RESPONSE:

A. Bull, Wilkinson Road, stated:

- The trees on the site are protected by the Tree Protection Bylaw.
- It is common practice for the municipality to require additional protection for Garry oaks as a condition of development approval.
- For these reasons, she did not feel it necessary to offer a form of protection for the trees.

In response to further questions from the Council, the Director of Planning and the Environmental Services Manager stated:

- The property is zoned RS-6 and if a subdivision were proposed, the Approving Officer would apply the tree protection bylaw requirements when evaluating the plans. This would allow trees to be removed from the building footprint or servicing corridors.
- The EDPA bylaw offers more protection for tree roots than the Tree Protection Bylaw.
- To determine the presence of a corridor, one also considers adjacent properties and the role certain features, such as Garry oaks, would play in connecting up a corridor. It is not an exact science.

COUNCIL DELIBERATIONS:

Motion:

MOVED by Councillor Plant and Seconded by Councillor Wergeland: "That the request to remove the properties at Lot 2, Section 49, Victoria District, Plan 9074 (4007 Rainbow Street) and at That Part of Lot 1, Section 49, Victoria District, Plan 9074 Lying to the North of the Production Easterly of the Northerly Boundary of Lot 2 of Said Plan (4011 Rainbow

Street) from the Environmental Development Permit Area Atlas, be approved.”

Councillor Plant stated:

- It does not seem fair to require a covenant for trees on these properties while other properties are not included.

Councillor Derman stated:

- The EDPA bylaw underwent a long period of consultation and review; its purpose is reflected in many of our plans and policies.
- A goal of environmental protection is the restoration of what has been lost. Provincial standards for protection of ecologically-sensitive lands are less rigorous than those developed by Saanich.
- One weakness of the EDPA is that it requires the property owner to hire a biologist to assess the property as part of their application to have it removed.
- It is not appropriate to remove a property from the EDPA while the EDPA bylaw review is ongoing; if a development is proposed subsequently, the tree bylaw offers limited protection without the EDPA designation.

Councillor Brice stated:

- She supports the motion with some regret.
- Council agreed to consider individual applications for removal while the EDPA bylaw was under review.
- Although she would have appreciated a commitment from the applicant to protect the Garry oaks, these trees enhance the value of the property and likely will be retained.

Councillor Sanders stated:

- It is premature to consider this application before the EDPA bylaw review is completed.
- There are many important environmental features on these properties; it is important to protect biodiversity and the natural environment.
- Property values are affected by many factors not just the application of the EDPA.
- There would still be development potential on the properties if they remained in the EDPA.

Councillor Haynes stated:

- It would not undermine the EDPA bylaw if this property were removed.
- Should a development application for the property be received, there are planning tools available to protect the trees.

Councillor Brownoff stated:

- Garry oaks are a species at risk.
- She expected the applicant to offer some form of protection for these trees and this did not occur.
- The Approving Officer can use only those tools available to her.
- It is premature to consider these applications at this time.

Councillor Murdock stated:

- A commitment in writing from the applicant to protect the trees is necessary.

- There are no assurances that the trees will be protected under a new development.

Councillor Wergeland stated:

- The purpose of the EDPA bylaw may have been misunderstood.
- A flexible application of the bylaw would be desirable and the EDPA bylaw review will provide opportunities for clarification.

Mayor Atwell stated:

- We must be guided by the bylaws and policies in place.
- Evidence presented indicates there is no sensitive ecosystem on this property.
- The guidelines given to consulting biologists by the Saanich Planning Department are seen as our governing policy.
- The EDPA review is imminent and will address many issues raised but for today, we must follow the existing EDPA bylaw.

**The Motion was then Put and CARRIED
with Councillors Brownoff, Derman, Murdock and Sanders OPPOSED**

2860-25
Rainbow Street

OFFICIAL COMMUNITY PLAN BYLAW, 2008, AMENDMENT BYLAW, 2016,
NO. 9389
Second and Third Readings

**MOVED by Councillor Plant and Seconded by Councillor Wergeland:
“That Bylaw No. 9389 be read a second time.”**

CARRIED
With Councillors Brownoff, Derman, Murdock and Sanders OPPOSED

**MOVED by Councillor Haynes and Seconded by Councillor Plant: “That
Bylaw No. 9389 be now passed.”**

CARRIED
With Councillors Brownoff, Derman, Murdock and Sanders OPPOSED

2860-25
Gordon Head
Road

OFFICIAL COMMUNITY PLAN BYLAW, 2008, AMENDMENT BYLAW, 2016,
NO. 9390

**PROPOSED REVISION TO THE ENVIRONMENTAL DEVELOPMENT
PERMIT AREA ATLAS AND COVENANT DISCHARGE – 4351 GORDON
HEAD ROAD**

The intent of this proposed bylaw is to amend Schedule 3 (Environmental Development Permit Area Atlas) of Appendix “N” (Development Permit Areas Justification and Guidelines) of the Official Community Plan Bylaw to remove the Coastal Bluff Sensitive Ecosystem designation on Lot 1, Section 45, Victoria District, Plan 16045 (**4351 GORDON HEAD ROAD**) from the Environmental Development Permit Area Atlas. A covenant is also proposed to be discharged from the subject property.

The Clerk introduced the following:

- Notice of Public Hearing.
- Report from the Director of Planning dated April 18, 2016.
- Correspondence:
 - From the applicant, dated June 9 and 6, 2016, April 21, 2016 and February 18, 2016.
 - Twenty-one letters from interested parties.

APPLICANT:

C. Phillips, 4351 Gordon Head Road, stated:

- The mapping of his property in the EDPA Atlas has negatively impacted his property rights.
- All recent assessments of the land by professional biologists conclude that there is no coastal bluff sensitive ecosystem on the property.
- He paid market value for the property and suffered financial losses due to this unreliable bylaw.
- The recent open houses and the proposed review of the EDPA bylaw are encouraging.

PUBLIC INPUT:

L. Husted, Cyril Owen Place, stated:

- Some areas on this property were evaluated by a respected biologist and found to be worthy of retention in the EDPA.
- Coastal Bluff is the rarest type of ecosystem and some smaller areas on the property could be restored.

A. Bull, Wilkinson Road, stated:

- The EDPA bylaw is meant to protect sensitive ecosystems and not intended to require restoration of potential coastal bluff.

T. Lea, Cedarglen Road, stated:

- His recent assessment of the property found that almost all of the EDPA designated area was in poor condition and populated by invasive grasses; if left in a natural state it would be quickly taken over by the invasive species present.
- He concluded there was no sensitive ecosystem on the property.
- When reviewing the EDPA bylaw, Council might consider whether it is an unreasonable burden to require restoration of the area from a property owner.

COUNCIL DELIBERATIONS:

Motion:

MOVED by Councillor Haynes and Seconded by Councillor Wergeland: "That the request to remove the Coastal Bluff Sensitive Ecosystem designation on Lot 1, Section 45, Victoria District, Plan 16045 (4351 Gordon Head Road) from the Environmental Development Permit Area Atlas, be approved."

Councillor Derman stated:

- If Saanich were to simply follow provincial standards of environmental protection, next to nothing would be protected.
- Staff are trying to apply the EDPA bylaw as passed by Council.

- He does not support the motion.

In response to questions from Council, the Director of Planning and the Environmental Services Manager stated:

- If the Coastal Bluff designated area were removed from the EDPA, then a 15 metre strip of marine backshore and an additional 15 metre buffer area would remain in the EDPA.
- The areas recommended for protection in the Sector report were mainly in the marine backshore area with some in the buffer – such as the Garry oaks.
- The slope on this property would not preclude construction of a building.
- Staff visited the property several times; the recommendation in the staff report was based on staff expertise and consultation with other professionals.
- The land in the 15 meter buffer zone could be considered for development if it was determined that construction would be managed in a manner sensitive to the environment.
- A building permit application for this property has been received.

Councillor Sanders stated:

- The present EDPA bylaw was enacted purposefully.

Councillor Wergeland stated:

- He respects the goal of environmental restoration.

Council Murdock stated;

- When the EDPA bylaw was enacted, he understood that affected property owners would be able to consult with staff in order to resolve conflicts with the EDPA designation. This would seem an appropriate way to proceed.

**The Motion was then Put and CARRIED
With Councillor Derman OPPOSED**

Motion:

MOVED by Councillor Haynes and Seconded by Councillor Brice: “That Covenant CA3924305 be discharged from Lot 1, Section 45, Victoria District, Plan 16045 (4351 Gordon Head Road).”

CARRIED

2860-25
Gordon Head
Road

OFFICIAL COMMUNITY PLAN BYLAW, 2008, AMENDMENT BYLAW, 2016,
NO. 9390

Second and Third Readings

MOVED by Councillor Haynes and Seconded by Councillor Brice: “That Bylaw No. 9390 be read a second time.”

**CARRIED
With Councillor Derman OPPOSED**

MOVED by Councillor Haynes and Seconded by Councillor Brice: “That Bylaw No. 9390 be now passed.”

**CARRIED
With Councillor Derman OPPOSED**

Adjournment On a motion from Councillor Wergeland, the meeting adjourned at 10:05 p.m.

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MAYOR

I hereby certify these Minutes are accurate.

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DEPUTY MUNICIPAL CLERK