

RECEIVED APR - 7 2020

To Mayor and Council

March 19, 2020

I would like to see the Town of Lake Cowichan follow their own by-laws and the rules of the Department of Fisheries and Oceans, the Ministry of Environment and B.C. Building Codes.

I am referring to on-going issues at 77 Nelson Road also known as "Penny Lane".

My concern started when the first new building was being constructed (the duplex). A mature tree was removed from the riparian zone on the North Side of the duplex (the river side).

I called the Town Office and heard back "It was fine."

4) 4.1 "Ministries and Department of Fisheries and Oceans have legislative **authority that supersedes** local government by-laws."

My next concern was cement from previous foundations being used as fill under the duplex. Again I called the Town Office. Again I was told "It was o.k."

B.C. Building codes **only** allow concrete to be buried **if**:

- a) it is "rubblized". In other words, pulverized.
- b) the cement has to be free of paint
- c) the cement must be free of metal

The concrete that was buried did not follow B.C. Building codes.

The duplex was built too close to the east side property line and definitely too close to the "watercourse" that helps reduce flooding. I question if the duplex is actually in a duplex zoning.

4) 4.1 Watercourse Protection Development Permit Area (DPA-1)

4.4 All watercourses to be protected

6.3.2 4)v. "where development abuts a watercourse the Riparian Area Regulations shall apply."

Town Website - Riparian Assessment Area

-for a stream is a 15 metre strip setback on both sides of the **high** water mark.

A stream is defined in B.C. by Riparian Areas Regulation (RAR) to include:

- a) a water course, whether it **usually contains water or not**
- b) a pond, lake, river, creek or brook
- c) a ditch, spring, or wetland connected by surface flow to a) or b)

I again notified the Town Office of an oil tank left from a demolished building. I asked for it to be removed. I asked three times. The tank was on its side right beside the east side of the property. Adjacent to the east side of the property is a "watercourse" within two feet of the property line.

The oil tank was an environmental hazard never mind an eyesore left there for years (it was finally removed this month) after it leaked into flood water. *See photograph of oil coated water from the tank.

Another concern is the inspections on the new construction. Foundations were poured in the wrong direction. Why was this not noticed at form inspection? Out of four existing new builds, two did not have the main sewer connected. That is a fifty percent failure rate. Why were the main sewers not inspected? How did the buildings get occupancy permits?

At the public hearing held January 30, 2018 the boundaries and heights of the 200 year flood plain were discussed in regard to new buildings being allowed within this zone. There was reference to using old foundations so it was allowed. The four new tiny cottages are well below the 200 year flood plain. This is against B.C. Building codes.

* See photographs of new buildings and now road being flooded
The adjacent properties on Somenos Street are further above the high water mark than "Penny Lane". Still the lots had to be raised to comply with the 200 year flood plain regulations in the 1970's and beyond. Not one of these houses was remotely in danger of flooding.

Also at the public hearing we were told definitely the trees on public property adjacent to the "Penny Lane" property would **not be removed**. There have been trees removed on the east side of the property. We were understanding because the developers were wanting access to hydro on that side. However, mature fir trees have recently been removed on the south side bordering the east corner on public land.

The town had apparently given permission for this to be done. Why?

Answers given to me from the CAO and the Superintendent of Works were

a) the trees were interfering with the hydro lines

That is not true. Hydro maintains trimming of those trees as they always have.

b) the trees were cottonwood

Not true. They were fir and what does it matter what species they were.

c) they were dangerous because they were overhanging buildings.

Not true. The trees were in no way close to buildings and nowhere near even the future tiny houses.

d) the road visibility was impeded

1)only if one was driving on the wrong side of the road

2)or one didn't yield at the sign at the end of Cedar turning onto Somenos

The trees have been trimmed previously and could have been again.

If any of these answers from the town were true, why would a private landowner/ developer hire a private tree cutting company to clear trees on

public property and pay for it out of his own pocket? This would have been either hydro's responsibility or the town's. I would like to be told the truth and not told several different stories for the same question on the same day.

These trees not only were vital to absorption of flood water, they also covered up some of the mess of building refuse left there for years.

September 2019 on the Labour Day weekend a work crew started limbing the cedars on public property on the south side of "Penny Lane". If the trees were a problem wouldn't the town be responsible to maintain them? Would town workers have been working on a long weekend? I think not unless it was an emergency.

Now the town has again given permission to "limb" this same row of cedar trees. Different residents have been told different information about height ranging from six feet up to ten feet up. Why has this been approved and why has it been requested? It will eliminate privacy for the residents in the area and expose the back side of the buildings, storage sheds, propane tanks, etc. to street view. This was another concern raised at the public hearing and we were told by the developer **trees would not be touched as they are on public property.**

The developer **chose** to purchase this property. Just because he has decided he doesn't like certain aspects is unfortunate. The original plan of development which included only four new cottages without a variance in setbacks would have eliminated some of these issues.

Why does the **developer** have more rights than the **24+ residents** living adjacent to the property?

I was never against recent construction on the "Penny Lane" property; however, past history usually is a predictor of future. How many infractions need to happen before the Town of Lake Cowichan deals with them?

Would the town please make developers follow standing regulations, codes, by-laws and plans.

How is it that the original publically shown plan of four cottages went to a duplex, a large building and now four more tiny homes. Only the four tiny homes were ever shown publically.

I request the Mayor, elected council, the CAO, and the Superintendent of Works to physically view the above parcel of land. It would give each of you an idea of the problems and concerns of some of the residents and hopefully allow for more informed decisions in the future.

A petition was delivered to the Town of Lake Cowichan before the tiny house zoning was approved. On that petition was 24 out of the 28 local

residents asking the next phase not to be allowed in the manner it was presented for many of these reasons and more.

I am requesting new mature, appropriate trees that are deer and elk resistant (cedars would not survive) be planted to replace the eliminated fir trees.

I would appreciate a telephone call from each council member and the mayor to let me know they received this letter.

Sincerely
Jane Martin
Mark Martin