

1. Council Reconsideration of Remedial Action Requirement – 1552 Burnside Road West
Memo of the Director of Legislative and Protective Services/Corporate Officer dated
October 29, 2024.

To hear the appeal request imposing remedial action requirements pursuant to Sections 72 and 74 of the *Community Charter* for 1552 West Burnside Road.



The Corporation of the District of Saanich

C-September-9-2024

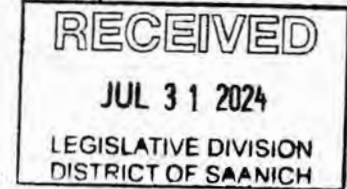
Report

To: Mayor and Council

From: Angila Bains, Director Legislative and Protective Services
Corporate Officer

Date: July 24, 2024

Subject: Remedial Action Requirement – 1552 Burnside Road West



RECOMMENDATION

That Council adopt the attached resolution imposing remedial action requirements pursuant to Sections 72 and 74 of the *Community Charter* directing the Property Owner to remove or store in a permitted building the accumulation of refuse, junk, recyclable material, appliances, furniture, household fixtures, Styrofoam, tarpaulins, hoses, wood, metal, plastic, nylon, paper, glass, cardboard, equipment, signs, containers, unenclosed storage of vehicle parts and supplies, other discarded and salvaged materials and all vehicles that are not capable of normal vehicular operation and do not have attached number plates for the current year pursuant to the *Motor Vehicle Act* and regulations thereunder (collectively, the "**Unsightly Materials**") stored or scattered on the exterior portions of the lands and premises located in the District of Saanich, having a civic address of 1552 Burnside Road West and legally described as Lot 1, Section 9, Esquimalt District, and Section 13, Lake District, Plan 16105 (the "**Property**").

PURPOSE

The purpose of this report is to recommend that Council declares the Unsightly Materials on the Property to be a nuisance under section 74 of the *Community Charter*, and imposes Remedial Action Requirements under Section 72 of the *Community Charter* for the Unsightly Materials to be removed from the Property, or to properly store the Unsightly Materials in a manner that does not contravene the District's *Unsightly Premises Bylaw, 2021, No. 9600* (the "Unsightly Premises Bylaw") and the District's *Garbage Collection and Disposal Bylaw, 2013, No. 9233* (the "Garbage Collection Bylaw").

DISCUSSION

The Property is an A-1 zoned property with a portion of the property located in the Agricultural Land reserve (Property Map Attached). The Property is owned and occupied by Carol S. Haines (the "**Property Owner**"). The Property has become and remains unsightly, contrary to community standards, and is in violation of the following provisions of the *Unsightly Premises Bylaw, 2021, No. 9600*, *Zoning Bylaw, 2003, No. 8200*, *Garbage Collection & Disposal Bylaw No. 9233* and *Boulevard Regulation Bylaw, No. 9487, Part 3 and 5*.

The property was purchased by the current owner on June 27, 2003. Since that time, Bylaw Enforcement Officers have attended this property in response to numerous complaints. The complaints pertain to the following bylaws: Unsightly Premises, Noxious Weeds, Garbage, Boulevard and Zoning - unlicensed vehicles.

The Property was cleaned up by a Saanich Contractor in 2020 because the Property Owner failed to comply with a Remedial Action Order from Council to clean up the Property.

On May 09, 2022, the Bylaw Enforcement Office received a complaint that the property had become unsightly again.

The initial inspection on June 09, 2022, confirmed that the Property had become unsightly. Multiple re-inspections of the property between October 24, 2022, and March 05, 2024, have confirmed that the Property remains unsightly.

Bylaw Enforcement has advised the Property Owner verbally and in writing of the violations and the need to remove all the accumulation of filth, discarded materials and rubbish from the property.

The current state of the Property is due to the Property Owner bringing excess materials to the property. Cleanup and disposal of discarded and unused materials has not occurred. A significant amount of filth, discarded materials, and rubbish remains on the property and boulevard.

The Property Owner has received several compliance deadline extensions. It has become clear that the Property Owner is not going to comply with the provisions of the Unsightly Premises, Zoning, Garbage Collection & Disposal, and Boulevard Bylaws despite repeated warnings.

To date, efforts to convince the property owner to comply have failed.

Chronology

July 17, 2020 - Property was cleaned up through Remedial Action Order.
May 09, 2022 - Complaint received that the Property had become unsightly again.
June 09, 2022 - On-site inspection disclosed that the property had become unsightly. Photographs attached.
June 15, 2022 - Letter sent to the Property Owner confirming that the Property had become unsightly and directing the Property Owner to remove the accumulation of Unsightly Materials and asking the Property Owner to ensure the vehicles/trailers/campers are either removed from the property, stored in a permitted building, or showing active/current motor vehicle license before October 13, 2022.
October 24, 2022 - On-site inspection. No progress was made and there were more discarded/ non-useable materials on the Property than witnessed during the previous inspection. The Property remained unsightly. Photographs attached.
October 26, 2022 - Letter sent to Property Owner advising that there is plastic, concrete rubble, bricks, metal cages, yard waste, and tarpaulins being stored on the boulevard which is violation of Saanich Boulevard Regulation Bylaw. Property Owner given seven (7) days to comply with the request.
November 15, 2022 - Property Owners' application for Boulevard Permit was denied by Saanich Engineering.

May 29, 2023 - Additional letters sent to the Property Owner confirming the property remains unsightly, unlicensed vehicles/trailers/campers remain on the property that are not stored in a permitted building or showing active/current motor vehicle license and materials remain on the boulevard. Property Owner given seven (7) days to comply with the request to remove materials from the boulevard and a deadline of July 13, 2023, to bring the Property into compliance with the Districts <i>Unsightly Premises Bylaw, 2021, No. 9600, Zoning Bylaw, 2003, No. 8200, and Garbage Collection & Disposal Bylaw No. 9233.</i>
September 29, 2023 - On-site inspection with Property Owner present. No progress was made. Discussed the current state of the Property and file history. The property remained unsightly. Photographs attached.
October 31, 2023 - On-site inspection from the road. No progress has been made and there were more discarded / non-useable materials on the Property then witnessed during the previous inspection.
November 30, 2023 - On-site inspection with Property Owner present. No progress was made. Again, discussed the current state of the Property and file history. Property Owner advised that someone may be coming to assist in the clean up. The property remained unsightly. Photographs attached.
December 15, 2023 - Email sent to the Property Owner, literature and resources on Hoarding.
February 1, 2024 - On-site inspection from the road. No progress has been made and there were more discarded / non-useable materials on the Property then witnessed during the previous inspection.
March 12, 2024 - Letter sent to Property Owner confirming the property remains unsightly, unlicensed vehicles/trailers/campers remain on the property not stored in a permitted building and materials remain on the boulevard. Property Owner deadline of March 25, 2024, to comply with the request to remove materials from the boulevard and a deadline of May 15, 2024, to bring the Property into compliance with the Districts <i>Unsightly Premises Bylaw, 2021, No. 9600, Zoning Bylaw, 2003, No. 8200, and Garbage Collection & Disposal Bylaw No. 9233.</i> The letter also informed the Property Owner that if they did not comply with the direction given, staff would forward a report to Saanich Council recommending a Remedial Action Order be granted.
March 12, 2024 - Email from Team Lead BC Ministry of Agriculture and Food Land Use Planning Strengthening Farming Program who advises "In my opinion, the vast majority of this material has little, if any, use for an agricultural enterprise. There does not appear to be any agricultural activity occurring on the property and given the current and past use of the property, it appears likely that no farming has occurred since my 2019 site visit."
April 16, 2024 - On-site inspection to determine if the materials had been removed from the boulevard. Photographs taken. Email to Property Owner advising a minimal amount of clean up had taken place and more material brought onto the property. Explained that a report would be going to Saanich council seeking approval to conduct a clean up of the property at her expense, and that May 15, 2024, will be the final inspection prior to sending the report to Saanich council.
May 27, 2024 - On-site inspection, no progress was made. More materials have been brought onto the Property. Photographs attached.

ALTERNATIVES

1. That Council approve the recommendation as outlined in this staff report.
2. That Council receive this report for information.
3. That Council provide alternate direction to Staff.

FINANCIAL IMPLICATIONS

There are no specific financial implications associated with the recommendation. If the property owner does not comply with the remedial action order, the District will pay for the costs of cleanup, but these costs will be added to the property's taxes if left unpaid by December 31.

STRATEGIC PLAN IMPLICATIONS

There are no strategic plan implications associated with the recommendation.

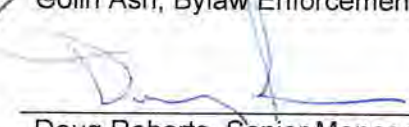
CONCLUSION

Despite on-site inspections, discussions, letters, and warnings, the Property remains unsightly. A Remedial Action Order passed by Council in the form attached to this report would permit staff to remove the Unsightly Materials from the Property at the Property Owner's expense, should the Property Owner or Occupier fail to comply with the order.

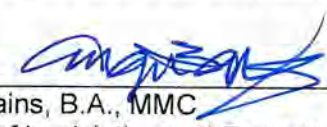
Prepared by


Colin Ash, Bylaw Enforcement Officer

Reviewed by


Doug Roberts, Senior Manager,
Building, Bylaw and Licensing Services

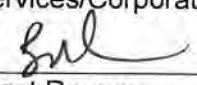
Approved by


Angila Bains, B.A., MMC
Director of Legislative and Protective
Services/Corporate Officer

Attachments: Attachment A; Attachment B; Attachment C

CHIEF ADMINISTRATIVE OFFICER'S COMMENTS:

I endorse the recommendation from the Director of Legislative and Protective Services/Corporate Officer.


Brent Reems
Chief Administrative Officer

THE CORPORATION OF THE DISTRICT OF SAANICH

REMEDIAL ACTION ORDER

**TO ORDER THE REMOVAL OF MATERIALS STORED AND
SCATTERED AROUND THE EXTERIOR OF CERTAIN PROPERTY**

WHEREAS:

A. Carol S. Haines (the "Owner of the Property") is the registered owner in fee simple and occupier of lands and premises located in the District of Saanich, having a civic address of 1552 Burnside Road West and legally described as Lot 1, Section 9, Esquimalt District, and Section 13, Lake District, Plan 16105 (the "Property").

B. There is an ongoing and significant accumulation of refuse, junk, recyclable material, appliances, furniture, household fixtures, salvaged and disused items, Styrofoam, tarpaulins, hoses, wood, metal, plastic, nylon, paper, glass, cardboard, equipment, signs, containers, building materials, unenclosed storage of vehicle parts and supplies, motor vehicles that are not capable of normal vehicular operation and do not have attached number plates for the current year pursuant to the Motor Vehicle Act and regulations thereunder, and other debris stored or scattered on the exterior portions of the Property, (the "Unsightly Materials"), which the municipal council ("Council") of The Corporation of the District of Saanich (the "District") considers is offensive and unsightly, and not in keeping with the standards of the community;

C. Repeated efforts by District staff to cause the Owner of the Property to clean up the Property have failed to achieve tangible or lasting results.

**NOW THEREFORE COUNCIL OF THE CORPORATION OF THE DISTRICT OF SAANICH IN
OPEN MEETING ASSEMBLED HEREBY RESOLVES AS FOLLOWS:**

1. Council declares the accumulation of refuse, junk, recyclable material, appliances, furniture, household fixtures, salvaged and disused items, Styrofoam, tarpaulins, hoses, wood, metal, plastic, nylon, paper, glass, cardboard, equipment, signs, containers, building materials, unenclosed storage of vehicle parts and supplies, motor vehicles that are not capable of normal vehicular operation and do not have attached number plates for the current year pursuant to the Motor Vehicle Act and regulations thereunder, and other debris stored or scattered on the exterior portions of the Property to be a nuisance pursuant to Section 74(1)(d) and Section 74(2) of the *Community Charter*.

2. Council orders the Owner of the Property, Carol Sue Haines, to:

(a) remove from the Property, or

(b) place within a lawfully constructed building or structure on the Property,

all refuse, junk, recyclable material, appliances, furniture, household fixtures, salvaged and disused items, Styrofoam, tarpaulins, hoses, wood, metal, plastic, nylon, paper, glass, cardboard, equipment, signs, containers, building materials, unenclosed storage of vehicle parts and supplies, motor vehicles that are not capable of normal vehicular operation and do not have attached number plates for the current year pursuant to the Motor Vehicle Act and regulations thereunder, and other debris stored or scattered on the exterior portions of the Property, except for lumber and firewood which is intended for use on the Property, which may be stacked neatly in a rear or side yard instead of being removed or placed indoors.

3. Council orders that the Owner of the Property must comply with the requirements of section 2 of this Order within 30 (thirty) days from the date on which notice of this Order is served upon the Owner of the Property.

4. Council orders that if the Owner of the Property fails to comply with the requirements of Section 2 of this Order within 30 (thirty) days from the date on which notice of this Order is served upon the Owner of the Property, the District may through its employees, agents, or contractors, enter upon the Property and carry out the work necessary to satisfy the requirements of section 2 of this Order at the expense of the Owner of the Property pursuant to Section 17 of the *Community Charter*.

ATTACHMENT 'A'

The Unsightly Materials on the Property contravene the District's *Unsightly Premises Bylaw, 2021, No. 9600*. Which states in part:

PART 2 - Prohibitions

- 2.1 *No owner or occupier of real property shall allow that property to become or remain unsightly.*
- 2.2 *Without in any way restricting the generality of the word "unsightly", any one or more of the following conditions may render real property unsightly within the meaning of this bylaw:*
- (a) fences that are dilapidated, broken, leaning, rotten, crumbling, peeling or rusted;*
 - (b) one or more motor vehicles stored on the real property that are not capable of normal vehicular operation and do not have attached number plates for the current year pursuant to the Motor Vehicle Act and regulations thereunder;*
 - (c) construction materials stored on the real property where there is no apparent or real construction occurring on the real property for which the materials are required;*
 - (d) unenclosed vehicle parts or supplies;*
 - (e) old wood or paper piles;*
 - (f) furniture (other than furniture designed specifically for outdoor use), bedding or appliances stored outside the premises or in open carport areas;*
 - (g) exterior finishing of premises that has become excessively dirty or dilapidated through lack of maintenance;*
 - (h) unused landscaping materials such as dirt piles or discarded planting pots;*
 - (i) accumulations of bottles, broken glass, refuse, garbage or other noxious, offensive, or unwholesome materials;*

PART 4 - Municipal Action

- 4.1 *In any instance where an owner or occupier of real property is not in compliance with this bylaw, the Director of Building, Bylaw, Licensing and Legal Services, the Manager of Bylaw and Licensing Services, or a bylaw enforcement officer may serve upon the owner or occupier notice of non-compliance with the bylaw, and require the owner or occupier to take the action necessary to bring the real property into compliance with the bylaw within ten (10) business days of the notice.*
- 4.2 *Without limiting the generality of section 4.1, a notice served upon the owner or occupier of real property under that section may require the owner or occupier to do the following:*

PART 4 - Municipal Action (con't)

(a) remove from the real property any matter or thing causing the real property to be unsightly; and

(b) repair, restore or maintain any buildings or structures that have caused the real property to become unsightly.

4.3 If the owner or occupier fails to take the required action to bring the real property into compliance with the bylaw in accordance with section 4.1, then Saanich will be entitled to take the required action at the expense of the person given the notice.

4.7 If Saanich takes action under section 4.3, and the owner or occupier referred to in section 4.1 does not pay the costs of the action taken by Saanich on or before December 31st in the year in which the costs were incurred, the costs shall be added to and form part of the taxes payable on the real property as taxes in arrears.

The Unlicensed Vehicles on the Property contravene the District's *Zoning Bylaw, 2003, No. 8200, Section 5.2* which states in part:

5.2 Prohibited Uses of Land, Buildings and Structures

The following uses shall not be permitted in any zone unless expressly permitted in the applicable zone.

(a) The keeping on any lot in any zone except Zones C-6, M-1, M-2, P-1 and P-2 of:

(i) More than one vehicle which does not display a current vehicle licence which is not in a garage or carport, except that in any A zone implements of husbandry may be kept.

(ii) Detached parts of vehicles unless within a building.

(b) The siting of a vehicle not displaying a current motor vehicle licence, except implements of husbandry, in a front yard.

(c) The keeping of a vehicle not displaying a current motor vehicle license or the keeping of detached parts of a vehicle on a vacant lot.

The Unsightly Materials on the Property contravene the District's *Garbage Collection & Disposal Bylaw No. 9233, Section 14.1*, which states in part:

14. Accumulation of Objectionable Garbage Prohibited

- 14.1 *No person shall suffer or permit within the Municipality, the collection or accumulation upon his/her premises or upon lands or premises occupied by him/her or under his/her control, or deposit or permit the deposit upon any lands belonging to him/her or in his/her occupation, offensive or unwholesome matters of substance and the owners or occupiers of real property or their agents shall remove any accumulation of filth, discarded materials or rubbish of any kind and in default of such removal, the Corporation, by its workers and others, may enter and effect such removal at the expense of the person so defaulting and the charges for doing, if unpaid on the 31st day of December in the year of such removal, shall be added to and form part of the taxes payable in respect of that real property as taxes in arrears.*

The Unsightly Materials on the Property contravene the *Boulevard Regulation Bylaw, No. 9487, Part 3 and 5.*, which states in part:

Part 3 – Prohibitions

- 3.1 *No person shall do any of the following within or upon any boulevard:*
- a) *Deposit any waste, litter, paper, glass, tin cans, offensive matter or any other substance of any kind, except in receptacles provided for such purposes;*

Part 5 – Activities Requiring Boulevard Permit

- 5.1 *No person shall do any of the following unless in accordance with a valid boulevard permit*

Part 5 – Activities Requiring Boulevard Permit (con't)

- a) *Plant, install or otherwise establish landscaping within, or otherwise improve or alter a boulevard;*
- b) *Place any rocks, gravel, tires, raised plant beds, asphalt, pavers, bricks, or structures on any boulevard;*
- c) *Erect, construct, build, place or maintain on any boulevard any fence, wall, rockery, rocks, pavilion, tent, shelter or any temporary or permanent structure.*

Part 8 – Municipal Action

- 8.1 *In any instance where an owner or occupier of a parcel is not in compliance with this Bylaw or the conditions of a boulevard permit, the Director of Engineering or*

Part 8 – Municipal Action (con't)

Director of Parks and Recreation may serve upon the owner or occupier notice that Saanich will be entitled to take the required action at the expense of the person given the notice if the owner or occupier does not take the action required to comply with the Bylaw or the boulevard permit within five (5) business days of the notice.

- 8.4 *If the owner or occupier referred to in Section 8.1 does not pay the costs of the action taken by Saanich on or before December 31st in the year in which the costs were incurred, the costs shall be added to and form part of the taxes payable on the parcel as taxes in arrears.*

Part 9 – Enforcement of Penalties

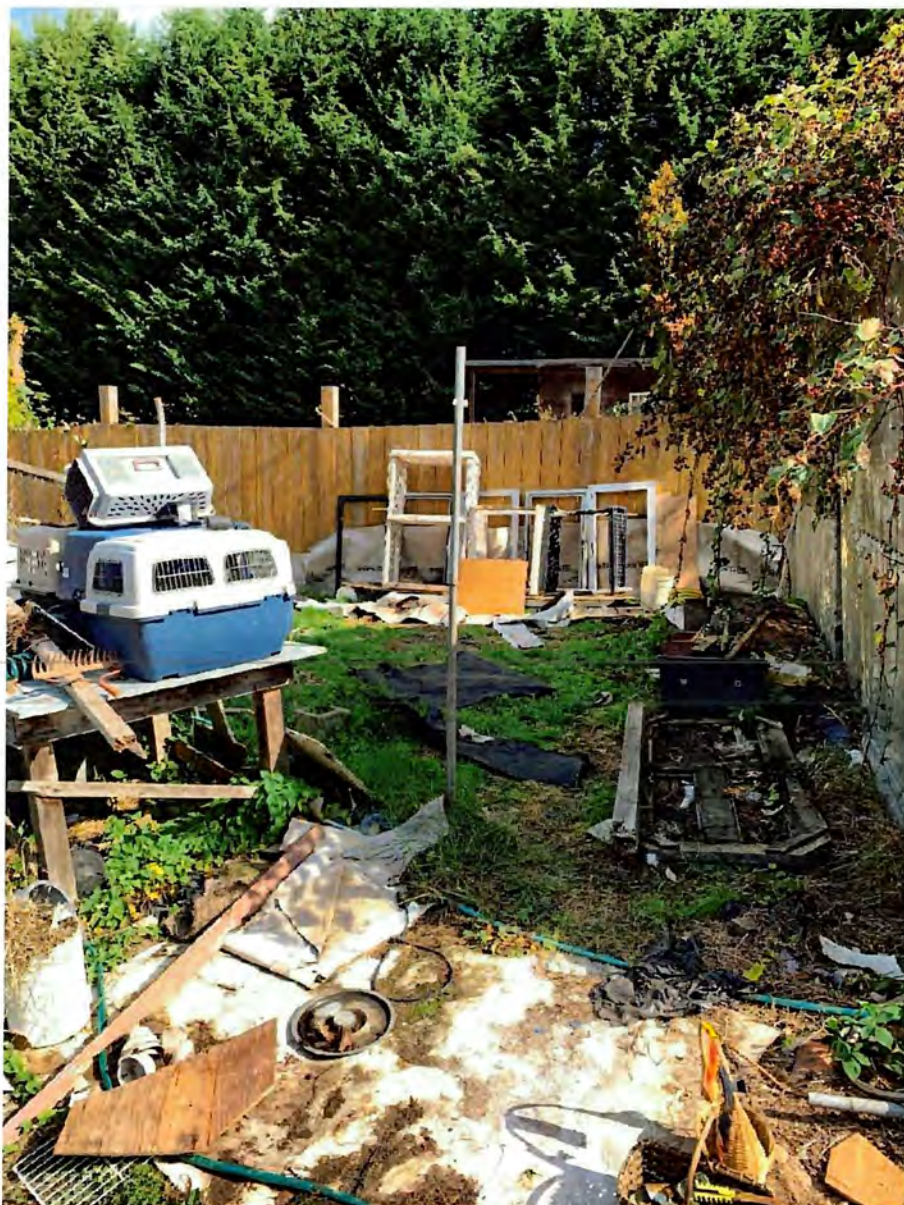
- 9.1 *Every person who contravenes this Bylaw by doing any act which it forbids, or omitting to do any act which it requires to be done, is guilty of an offence and is liable upon summary conviction to a fine of not less than One Hundred Dollars (\$100.00), and not more than Five Hundred Dollars (\$500.00), and for each subsequent offence a fine of not less than one hundred and fifty (\$150.00) and not more than Five Hundred Dollars (\$500.00).*

ATTACHMENT 'B'



1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on September 29, 2023



1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on September 29, 2023



1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on September 29, 2023



1552 Burnside Road West – Unlicensed Motorhome #1

Photograph taken by BEO Colin Ash on September 29, 2023



1552 Burnside Road West – Driveway

Photograph taken by BEO Colin Ash on November 30, 2023



1552 Burnside Road West – Driveway

Photograph taken by BEO Colin Ash on November 30, 2023



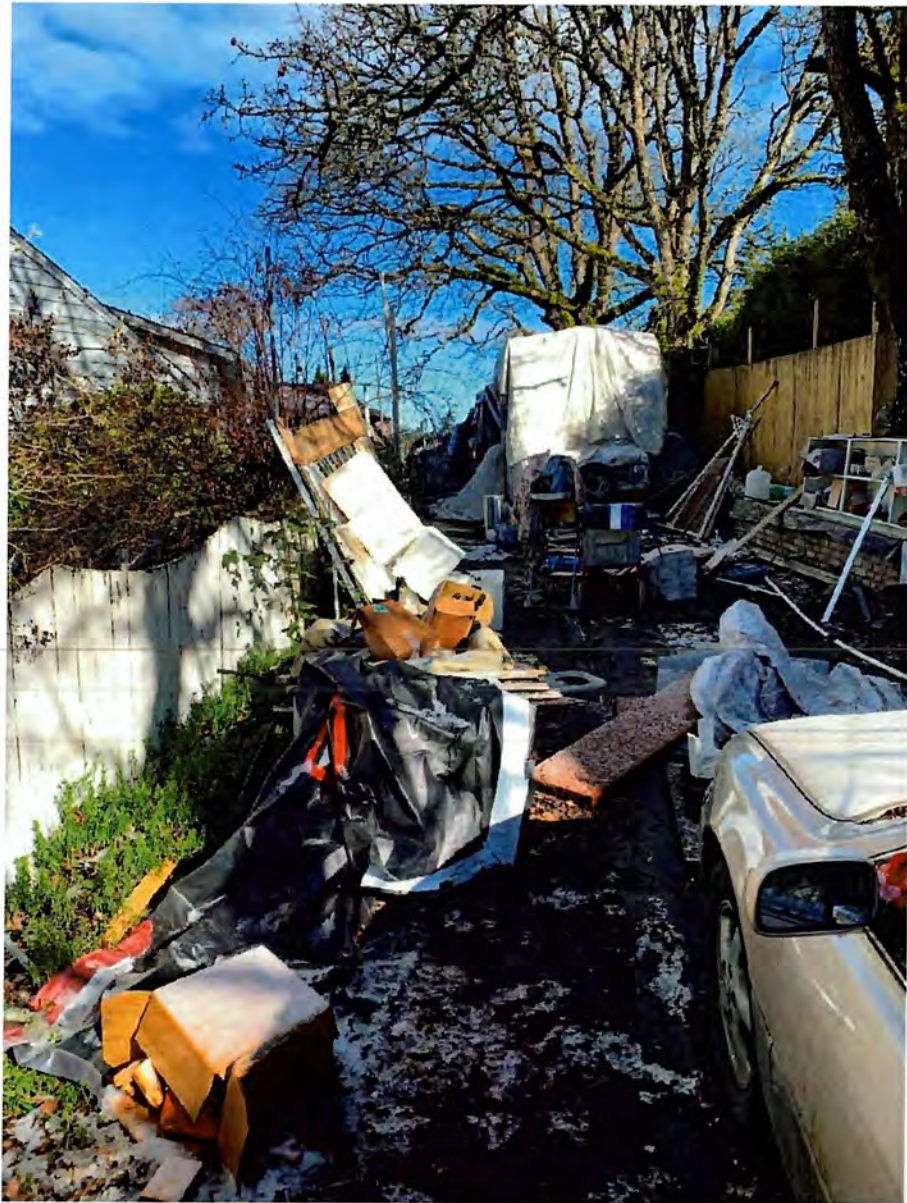
1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on November 30, 2023



1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on November 30, 2023



1552 Burnside Road West – Driveway

Photograph taken by BEO Colin Ash on March 15, 2024



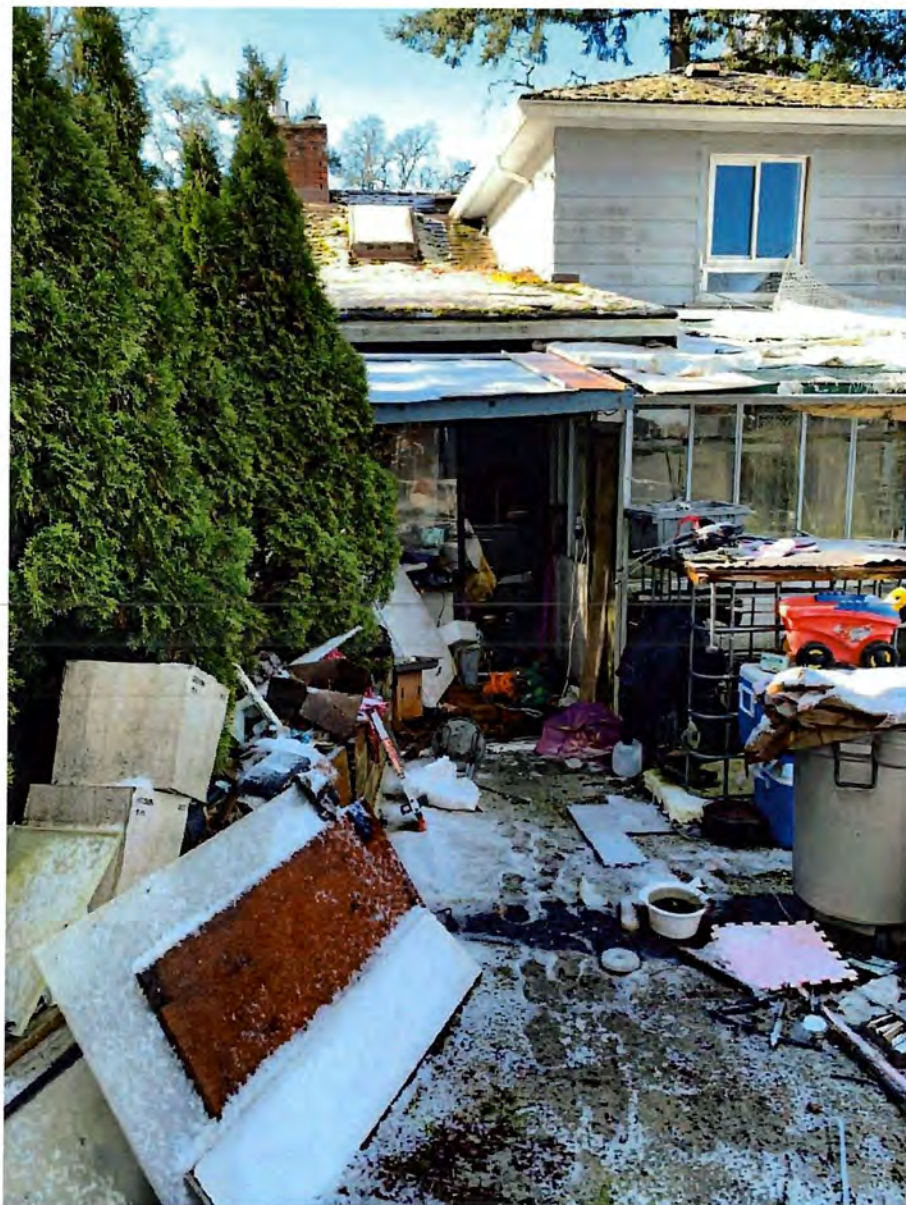
1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on March 15, 2024



1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on March 15, 2024



1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on March 15, 2024



1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on March 15, 2024



1552 Burnside Road West – Miscellaneous Materials, including toilets

Photograph taken by BEO Colin Ash on March 15, 2024



1552 Burnside Road West – Materials on boulevard

Photograph taken by BEO Colin Ash on March 15, 2024

FINAL INSPECTION



1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on May 27, 2024



1552 Burnside Road West – Miscellaneous Materials, Hot Water Tank

Photograph taken by BEO Colin Ash on May 27, 2024



1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on May 27, 2024



1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on May 27, 2024



1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on May 27, 2024



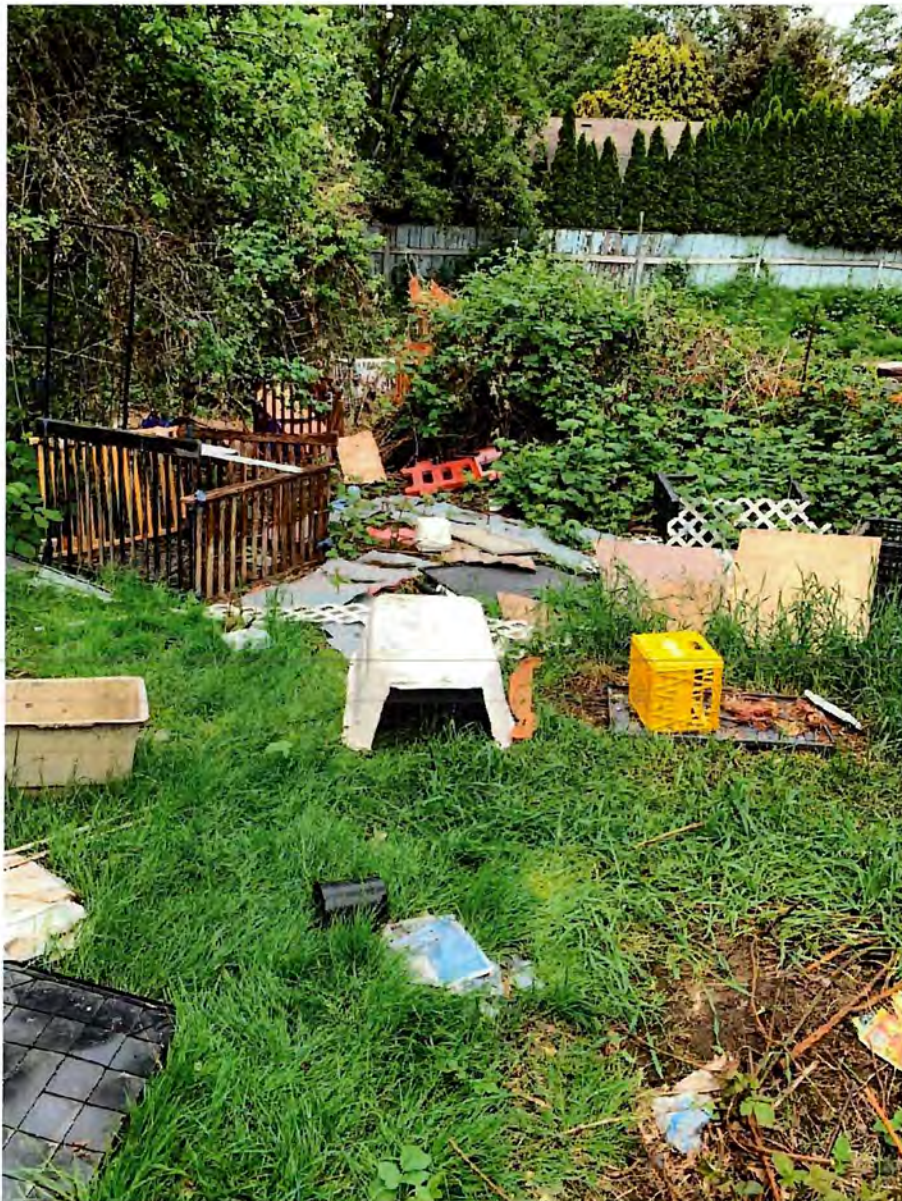
1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on May 27, 2024



1552 Burnside Road West – Miscellaneous Materials

Photograph taken by BEO Colin Ash on May 27, 2024



1552 Burnside Road West – Miscellaneous Materials, Slaughtered Chicken

Photograph taken by BEO Colin Ash on May 27, 2024

ATTACHMENT 'C'



Saanich Aerial GIS Map showing Zoning including ALR Zone



Saanich GIS Map showing Zoning including ALR Zone

ATTACHMENT 2

Process for Council Reconsideration – Remedial Action Requirement

1. Staff are called on by the Mayor to review the file and the Remedial Action Requirement, and answer any questions that may be posed by Council members.
2. Once Council has heard from staff, the property owner will be called forward by the Mayor to present the appeal. The appeal may be made verbally and with any additional supporting materials that have been reviewed by the District's Corporate Officer. The applicant may make the presentation or have a representative do so on their behalf. There is no time limit placed on the presentation, provided the information is relevant and the proceedings are not being obstructed.
3. Following the property owner's presentation, Council members may pose questions to the property owner, and pose further questions to staff.
4. Once all questions have been answered, the property owner will be excused by the Mayor, at which time they would return to the audience.
5. Council members would then deliberate on the matter in open session. During Council deliberations, the property owner is not permitted to participate and can only observe from the audience.
6. At any time during deliberations or following, Council must either confirm, amend, or cancel the remedial action requirement.
7. Council's decision on a reconsideration is final and can only be overturned by judicial review. Written confirmation of Council's decision is also published in the minutes of the meeting.