

PUBLIC HEARING ON OCP REVISION 2015

Issue Background: Notwithstanding Clause

A very critical element of the OCP was the paragraph containing the infamous “notwithstanding clause” (in bold):

Height, setbacks and massing of buildings should be guided by the Building Heights and Setbacks regulations set out in the Town of Gibsons Zoning Bylaw. **Notwithstanding these regulations, or any guidelines or policies in this document pertaining to height, setback or massing, consideration may be given on an individual project basis to variances through an examination of a proposed development’s effect on scale, permeability (visual and physically for pedestrians), view protection and enhancement, sun/shadow impact, and on village context and character.** Note that, as stated in the Zoning Bylaw, Section 808 of Part 8 of the bylaw – “View Protection” takes precedence.

The public was told that the notwithstanding clause effectively overrode anything else in the OCP, essentially giving developers the possibility of carte blanche to do whatever they wanted no matter what else the OCP might have stipulated. The public felt this clause had to go if we want our OCP to have any meaning at all.

Changes made to the DPA 5 Guidelines in the revised OCP

Through the OCP revision process, the planner removed not just the offending notwithstanding clause, but the entire paragraph. He did so despite advice and protest from the OCP Steering Committee and the public. The removal of these sentences mortally weakens our OCP and view protection in DPA 5.

We want these sentences to remain intact, minus the notwithstanding clause:

Height, setbacks and massing of buildings *must* be guided by the Building Heights and Setbacks regulations set out in the Town of Gibsons Zoning Bylaw. Note that, as stated in the Zoning Bylaw, Section 808 of Part 8 of the bylaw – “View Protection” takes precedence.

If this issue concerns you, please consider submitting your

comments to the formal hearing process. Submissions must be written and delivered between February 17 and March 10 by the end of the public hearing.

Please feel free to use and adapt the sample letter below.

EXAMPLE LETTER: NOTWITHSTANDING CLAUSE (view protection, etc.)

To: mayorandcouncil@gibsons.ca

Re: View Protection, etc. in OCP Draft

To Mayor and Council:

I am concerned that the deletion of an entire key paragraph in the redrafted Official Community Plan DPA 5 guidelines will seriously weaken its effectiveness.

When the community demanded that the offending “notwithstanding clause” be removed from the OCP, they were referring to the sentence “Notwithstanding these regulations, or any guidelines or policies in this document pertaining to height, setback or massing, consideration may be given on an individual project basis to variances through an examination of a proposed development’s effect on scale, permeability (visual and physically for pedestrians), view protection and enhancement, sun/shadow impact, and on village context and character.”

The director of planning seems to have interpreted that demand to mean the entire paragraph should be deleted. On the contrary, the paragraph minus the notwithstanding clause provides important guidelines and protections and should be reinstated in its original place in the DPA 5 guidelines.

Please ensure that the paragraph is amended and reinstated as follows: Height, setbacks and massing of buildings *must* be guided by the Building Heights and Setbacks regulations set out in the Town of Gibsons Zoning Bylaw. Note that, as stated in the Zoning Bylaw, Section 808 of Part 8 of the bylaw – “View Protection” takes precedence.

Yours sincerely,
I. B. Citizen
Gibsons