

To: Electoral Area Services Committee

Date: 2018-05-08

From: Adriana Snashall, Bylaw Compliance & Enforcement Officer

File No: Eo6605.101

Subject: Contraventions of Building Bylaw No. 1188 and OCP No. 1115 at 50985 Winona Road, Electoral Area E, Fraser Valley Regional District, British Columbia (legally described as Lot 88 Section 33 Township 1 Range 29 West of the Sixth Meridian New Westminster Dis

RECOMMENDATION

THAT the Fraser Valley Regional District Board direct staff to file a Notice in the Land Title Office in accordance with Section 57 of the *Community Charter* due to the contraventions of the *Fraser Valley Regional District Building Bylaw No. 1188, 2013* and the *Fraser Valley Regional District Official Community Plan for Electoral Area E Bylaw No. 1115, 2011* at 50985 Winona Road, Electoral Area E, Fraser Valley Regional District, British Columbia (legally described as Lot 88 Section 33 Township 1 Range 29 West of the Sixth Meridian New Westminster District Plan 30071; Parcel Identifier 006-487-181).

STRATEGIC AREA(S) OF FOCUS

Provide Responsive & Effective Public Services

Support Healthy & Sustainable Community

BACKGROUND

December 11, 2001 – Complaint received of significant alteration of land recently completed at the subject property 50985 Winona Road. This property is located adjacent to Nonie Creek, and within identified geotechnical hazards area.

December 13, 2001 – FVRD staff attended the subject property at 50985 Winona Road and verified the complaint. Staff noted that the lower portion of the lot and around existing house (right up to Nonie Creek at northeast corner of lot) was recently levelled with no vegetation showing. Several trees were recently felled on the slope above the house. The existing house was boarded up and appeared to be vacant. There was a recent sewage disposal permit posted on site. FVRD staff returned to the subject property on January 9, 2002 and noted no apparent changes to the property.

Inspection photos dated December 13, 2001:



Inspection photos dated January 9, 2002:



January 21, 2002 – FVRD Bylaw Enforcement staff send a letter to the registered property owner, Leslie McMinn and Denise McMinn, requesting a Development Permit be applied for and issued prior to further land alteration work being undertaken on the property.

February 12, 2002 – New property owner Frank Streda submits the required Development Permit application (DP2002-03) along with a site specific geotechnical report prepared by Petra Engineering 2000 Ltd. regarding the preliminary geotechnical hazard assessment for the proposed building site. Staff advised that the report submitted would be reviewed by an engineer of the Regional District's choice for an independent professional opinion to determine if it met the Regional District's terms of reference, specifically in regards to hazard mapping from previously completed geotechnical reports and the FVRD Board policy (hazard matrix).

March 14, 2002 – Golder Associates Ltd. was recruited by the FVRD Planning Department to review the report submitted by Petra Engineering 2000 Ltd. Golder concluded that the Petra report lacked relative information and was considered to be insufficient. Mr. Streda was provided with a copy of the Golder review, and to submit a second geotechnical report.

June 17, 2003 – New complaint received of construction without a permit. Complainant reported that the existing house was undergoing significant renovation.

June 26, 2003 – FVRD Building Department staff attended the subject property and observed the existing house had been completely gutted, including structural alterations. The extensive works required a building permit therefore the structure was posted with Stop Work and No Occupancy notices.

Inspection photos taken June 26, 2003:

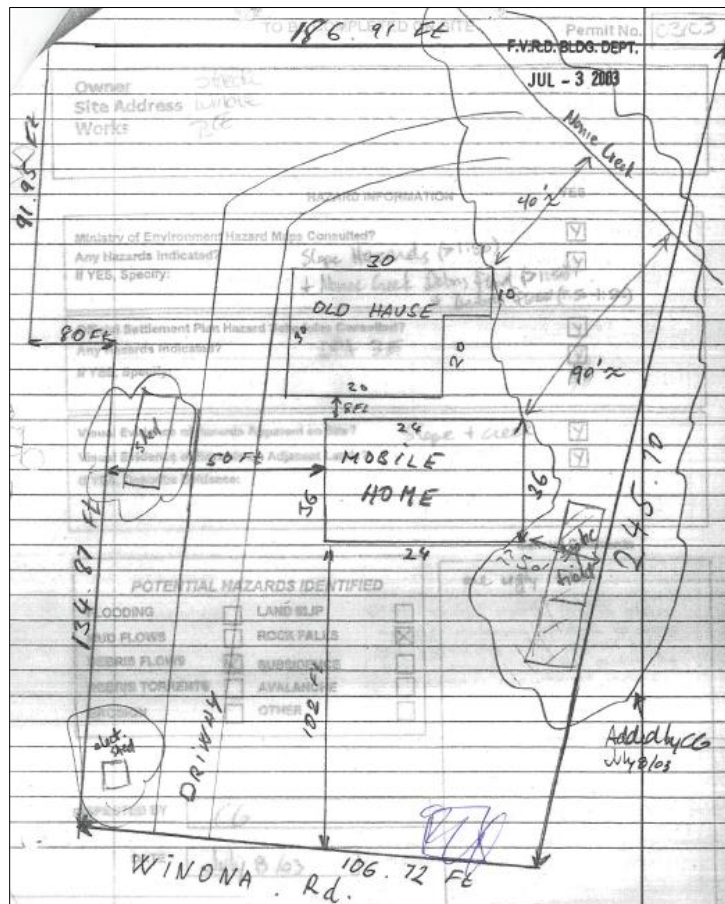


The property owner Frank Streda spoke with FVRD staff by telephone the next day and stated that his lawyer told him he did not require a building permit to renovate the house. Staff explained that minor renovations such as replacing siding, windows, or a roof did not require a building permit. The works observed by staff included structural alterations which did require a building permit. Mr. Streda assured

staff that he would be in to apply for a building permit and understood that work could not continue until a building permit was issued.

July 3, 2003 – The property owner Frank Streda submitted a building permit application (BP03103) for a mobile home, and provided site drawings for the property. A Building Permit application 'incomplete letter' dated July 10, 2003 was sent to Mr. Streda advising him of the outstanding items required to obtain the Building Permit.

Site plan for 50985 Winona Road:



August 14, 2003 – Golder Associates Ltd. prepared a letter report to fulfill the requirements for a geotechnical hazard report for the single family residence. The letter report covered the assessment of the geotechnical hazards of the subject property, and provided recommendations for construction and upgrade of the existing mitigation works at the site to allow for its intended residential use.

September 22, 2003 – The property owner Frank Streda submitted a Building Permit application (BP03142) to convert the existing residence to a workshop. A building permit application 'incomplete letter' dated October 1, 2003 was sent to Mr. Streda advising him of the outstanding items required to obtain the Building Permit.

October 14, 2003 – FVRD Building Department sent a second 'incomplete letter' regarding Building Permit application BPO3103 to the property owner Frank Streda. This letter advised Mr. Streda that the location of the proposed shop (formerly existing house) was within the 30 metre zoning bylaw setback to Nonie Creek therefore a Development Variance Permit was imperative and would need to be issued prior to the issuance of the building permit. Additionally, the existing geotechnical report and Development Permit application must be amended to include the workshop and illustrate that it will be safe for the use intended.

Construction drawings were submitted by Omega Engineering however they did not reflect the requirements of the Golder Associates Ltd. report. The drawings showed a basement at grade with a mobile home on top which did not meet the 1.5 metre above grade flood construction level requirement of the geotechnical report. The Ministry of Water, Land and Air Protection (MWLAP) recommended 1.0 metre above grade and approved the reduced setback from Nonie Creek; however this approval was only provided informally by email prior to November 17, 2003. Staff was unable to obtain a formal reply from MWLAP prior to the introduction of Bill 56 on November 17, 2003 which altered the role of local governments in managing developments near a watercourse and in flood hazard areas. As a result, the Planning Department was not in a position to issue a Development Permit which did not meet the requirements of the zoning bylaw and held all affected applications in abeyance until the issues pertaining to Bill 56 were resolved.

December 17, 2003 – FVRD Bylaw Enforcement staff was in the area for another site inspection and noticed that a mobile home had been placed on the subject property with a basement constructed underneath. Although the property owner Frank Streda was working on applications for a Development Permit and Building Permit, neither of these permits had been issued and the construction had commenced without proper approval.

Inspection photo taken December 17, 2003:



January 5, 2004 - FVRD Building Department sent a second 'incomplete letter' (as follow-up to the October 1, 2003 FVRD letter) regarding Building Permit application BPO3142 to the property owner Frank Streda advising him of the items that remained outstanding and must be submitted in order to obtain the Building Permit.

January 7, 2004 – FVRD Planning Department sent a letter to the property owner Frank Streda advising that Development Variance Permit application 2003-03 would be held in abeyance until the issues pertaining to Bill 56 were resolved.

September 3, 2004 – FVRD Building Department staff performed a site inspection on the subject property and confirmed that construction had continued on the Mobile Home without a building permit. Staff attempted to photograph and post Stop Work and No Occupancy notices but was prevented from doing so by Mrs. Streda. Frank Streda was not on-site at the time. Over the following days, staff discussed options with Mr. Streda. The bylaw enforcement file was held in abeyance to allow the Development Permit and Building Permit application process to proceed.

2005-2007 – FVRD Planning and Building Department staff corresponded with the property owner Mr. Streda to finalize the Development Permit and Build Permit applications. The Development Permit and Building Permit applications were not completed and closed due to inactivity. The matter was referred back to the Bylaw Enforcement Department for follow-up.

January 16, 2008 – FVRD staff met with the property owner Frank Streda to discuss how to obtain Occupancy Certificates for the mobile home and the workshop. Staff explained that new Building Permit applications would need to be submitted as the previous applications (BP03103, BP03142 and DP2002-03) had been closed due to inactivity. Staff noted to Mr. Streda that the issuance of a Development Permit and positive geotechnical report remained the number one hurdle. Mr. Streda submitted two (2) new building permit applications for the Mobile Home (BP011532) and Conversion of Existing House to Workshop (BP011533). The bylaw enforcement file was once again held in abeyance to allow the building permit application process to proceed.

February 21, 2008 – FVRD Building Department staff performed a site inspection on the subject property as part of the Building Permit application process. The bylaw enforcement file remained in abeyance while the Building Permit process continued.

Inspection photos taken February 21, 2008:



January 23, 2009 - FVRD Building, Planning and Bylaw Enforcement staff receive notification from the FVRD Manager of Flood Management Recovery Programs that a channel avulsion of Nonie Creek had occurred. The creek had relocated through the subject property and the flood waters flowed south to an area of several homes protected by a private dyke constructed to protect the residences from Chilliwack River flooding. Some work was done during the flood emergency with a small machine, but a private wing dyke needs to be reconstructed and the downstream channel for 90 metres restored. The work will involve a 20 ton excavator with a thumb, and several loads of rock rip-rap. Cost is estimated at \$7,000 to \$10,000. Work should be started early next week to ensure the channel is secured prior to the next heavy rain event.

November 12, 2009 – FVRD Planning staff met with the property owner Frank Streda to discuss proposed bank protection works following the cancellation of his Water Approval Application (A2005655) with the Ministry of Environment. During this meeting, staff became aware that he had received funding through Disaster Financial Assistance (DFA) for bank protection on and adjacent to the subject property due to damages incurred on the subject property from Nonie Creek during the January 2009 event.

November 26, 2009 – FVRD Planning Staff sent a letter to the property owner Frank Streda regarding the November 12, 2009 meeting. This letter advised that the FVRD understood he did not have an active application with the Ministry of Environment for works in and about Nonie Creek. Accordingly, the FVRD required a Development Permit be issued for any proposed alteration of land within the vicinity of Nonie Creek if there were no provincial approvals being obtained.

Unfortunately, FVRD property records are unclear as to whether the property owner Frank Streda performed mitigation works to repair damage caused by the January 2009 event. No (o) FVRD Development Permits were applied for or issued for such work.

June 25, 2012 – The property owner Frank Streda applied for a Development Permit (2012-09) as required by the building permit applications (BP011532 and BP011533). Throughout the remainder of 2012 and into 2013, FVRD Planning Department staff received several inquiries regarding the requirements to close active FVRD files on the subject property from Geotechnical Engineering firms preparing quotes for the property owner Frank Streda.

September 11, 2013 – FVRD Planning Department staff sent the property owner Frank Streda a letter requesting an update on the actions being taken to complete the geotechnical works and report, and provided two months' notice that the Development Permit was set to close on November 12, 2013 due to inactivity.

February 18, 2014 – FVRD staff met with property owner Frank Streda and reviewed the status of the Development Permit application (2012-09) and Bylaw Enforcement file (Eo6605.101):

- Updated report still required from Geotechnical Engineer indicating what mitigation works were needed to make the property safe for the use intended;
- Development Permit could be issued once a satisfactory report (and likely a covenant) was received;
- The required protective works must be constructed, reviewed, and signed-off by registered professionals, and could not be completed by the property owner;
- Planning Department staff stressed that the Riparian Area Regulations (RAR) must be followed, and the proposed protective works must be reconciled with the RAR regulations; and
- Bylaw Enforcement staff advised that the Section 57 Notice on Title process would be initiated if a geotechnical engineer was not engaged in a timely manner. Staff advised Mr. Streda that fines would also be issued if the Development Permit and Building Permit processes were not completed.

August 18, 2014 – FVRD Planning Department staff advise Bylaw Enforcement staff that no (o) updated Geotechnical Reports had been submitted, and follow-up voice messages left with the property owner Frank Streda on July 15, 2014 and August 18, 2014 were not responded to.

September 4, 2014 – Bylaw Enforcement staff reviewed property files and issued two (2) Bylaw Offence Notices to the property owner Frank Streda.

- BNE23019: construction without a permit - placement of mobile home \$200
- BNE23020: construction without a permit - change of use from existing house to workshop \$200

September 15, 2014 – Bylaw Offence Notices were paid in full. FVRD staff spoke with the property owner Frank Streda on the telephone and advised that Bylaw Enforcement would continue to escalate towards a Notice on Title until a Geotechnical Engineer was hired to complete the necessary report.

November 20, 2014 – The Planning Department sent a letter to the property owner Frank Streda advising that Development Permit application 2012-09 had been closed due to inactivity.

November 24, 2014 – The Building Department sent a letter to the property owner Frank Streda advising 'final notice' that the building permit applications (BP011533 Convert House to Workshop and

BP011532 Placement of Mobile Home) were not approvable and a list of items necessary to complete the applications was provided.

April 8, 2015 – The Building Department sent a letter to the property owner Frank Streda advising that the Building Permit applications (BP011533 Convert House to Workshop and BP011532 Placement of Mobile Home) had been closed due to inactivity.

June 1, 2016 – FVRD staff receive information that the Sto:lo First Nation has become aware of archeological significance within Winona Road properties. Staff is directed to forward any property inquiries to the Provincial Archeological Resources Department for further information.

October 6, 2017 – FVRD staff become aware that the subject property may be listed for sale. Due to staffing changes, the Notice on Title process had not yet been completed but the file remained in queue for review.

March 16, 2018 – Bylaw Enforcement staff review the subject property files and initiate the Notice on Title process. An updated Land Title search reveals that the subject property has changed ownership to Marcela Runcl and Lenka Nick. Bylaw Enforcement staff sent a registered letter addressed to both of the new property owners advising them of the outstanding Bylaw Enforcement issues and staff's recommendation to proceed with the process of registering a Section 57 Community Charter Notice on the subject property's Land Title. This letter gave the property owners a final opportunity to achieve compliance by the deadline of April 16, 2018.

March 20, 2018 – FVRD Bylaw Enforcement staff receive signature confirmation from Canada Post that the registered letter dated March 16, 2018 was collected by the registered property owner Marcela Runcl.

April 17, 2018 – FVRD Bylaw Enforcement and Building Department staff performed a drive-by inspection of the subject property to photograph and update the subject property files. The unpermitted construction (Mobile Home with Basement and conversion of an existing House to a Workshop) remain on the property and appear to be occupied contrary to the June 26, 2003 Stop Work and No Occupancy notices.

Site inspection photos dated April 17, 2018:



April 18, 2018 – FVRD staff has not received any response from either registered property owner, Marcela Runcl or Lenka Nick. There have been no (o) new building permit or development permit applications received to date. Therefore, FVRD staff will proceed with the Notice on Title recommendation.

DISCUSSION

Section 57 of the Community Charter allows a Building Inspector to recommend a resolution to place a Notice on the Title of a property if a contravention of a bylaw or another enactment that related to the construction or safety of a building is observed. A Notice on Title serves as notice to anyone searching the title that the property may be in breach of local government bylaws or other enactments; provide disclosure to future owners; and protects against potential claims with regard to the contraventions.

Staff requests that the Electoral Area Services Committee consider the following information:

Building Bylaw

Staff is authorized to regulate minimum construction standards within electoral areas via the *Fraser Valley Regional District Bylaw No. 1188, 2013* (Building Bylaw) for health, safety and the protection of persons and property. Section 6.1 of this bylaw provides that no person shall commence or continue any construction, alteration, reconstruction, demolition, removal, relocation or change the occupancy of any building or structure, including excavation or other work related to construction until a building official has issued a valid and subsisting permit for the work.

The existing house has been converted into a workshop without the benefit of a valid Building Permit. These renovations included extensive structural alterations. The mobile home with basement underneath has been placed and constructed without the benefit of a valid Building Permit.

Two (2) Building Permits are required for the works undertaken; or one (1) Demolition Permit is required to remove all construction completed without a valid Building Permit.

Official Community Plan

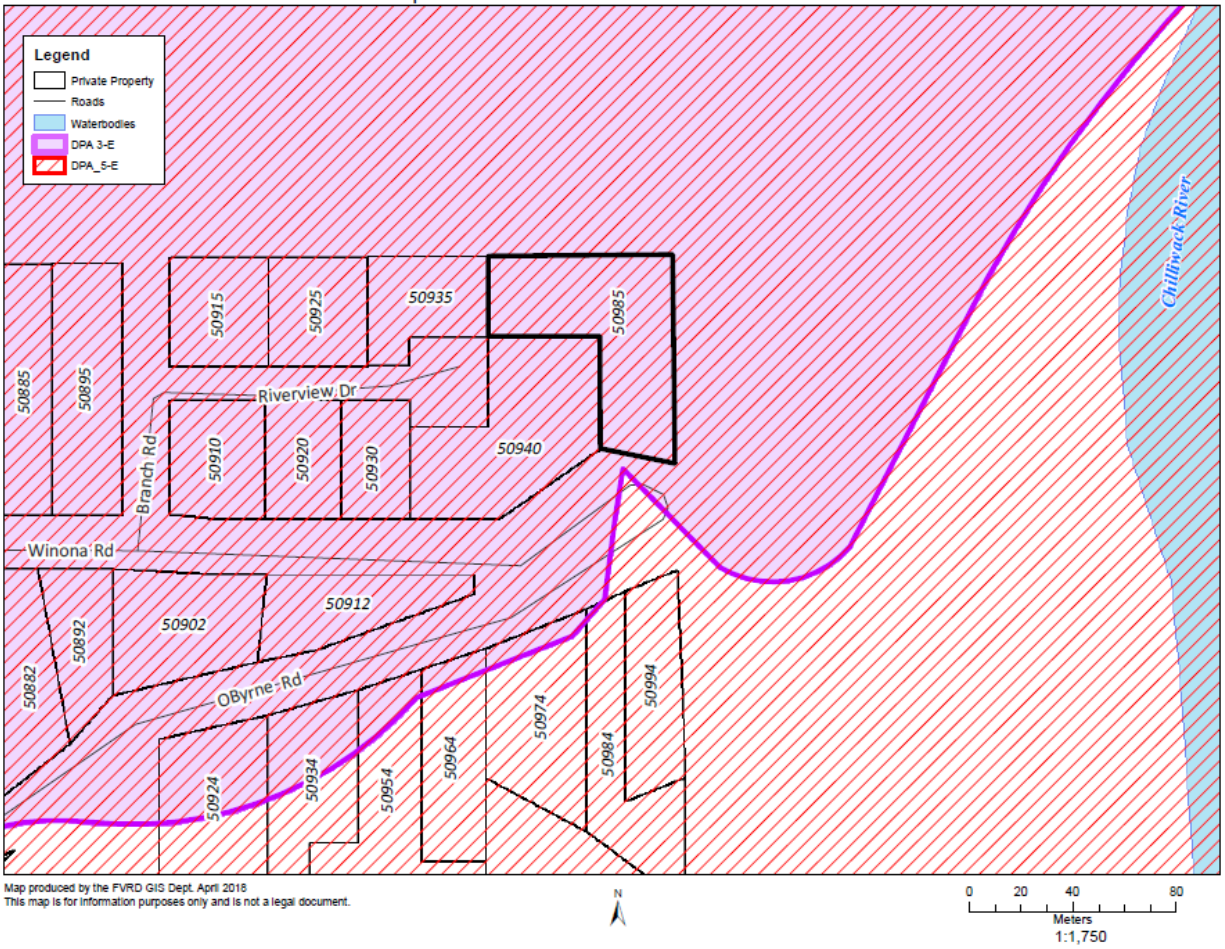
Pursuant to the *Fraser Valley Regional District Official Community Plan for Electoral Area "E" Bylaw No. 1115, 2011* the subject property is located within:

1. *Chilliwack River Valley Slope Hazard Development Permit Area 3-E* for the protection of new development from debris flow or torrent and debris floods; rock slides and rock falls; and, slumps, slides, debris avalanche/earth flows. A Development Permit must be obtained prior to the subdivision of land; alteration of land; or construction of, addition to, or alteration of a building or structure; within the development permit area.
2. *Riparian Areas Development Permit Area 5-E* for the protection of the natural environment, its ecosystems and biological diversity within 30 metres of a water course. A Development Permit must be obtained prior to the subdivision of land; the disturbance of soil or vegetation; or construction of or addition to a building or structure; within a riparian assessment area.

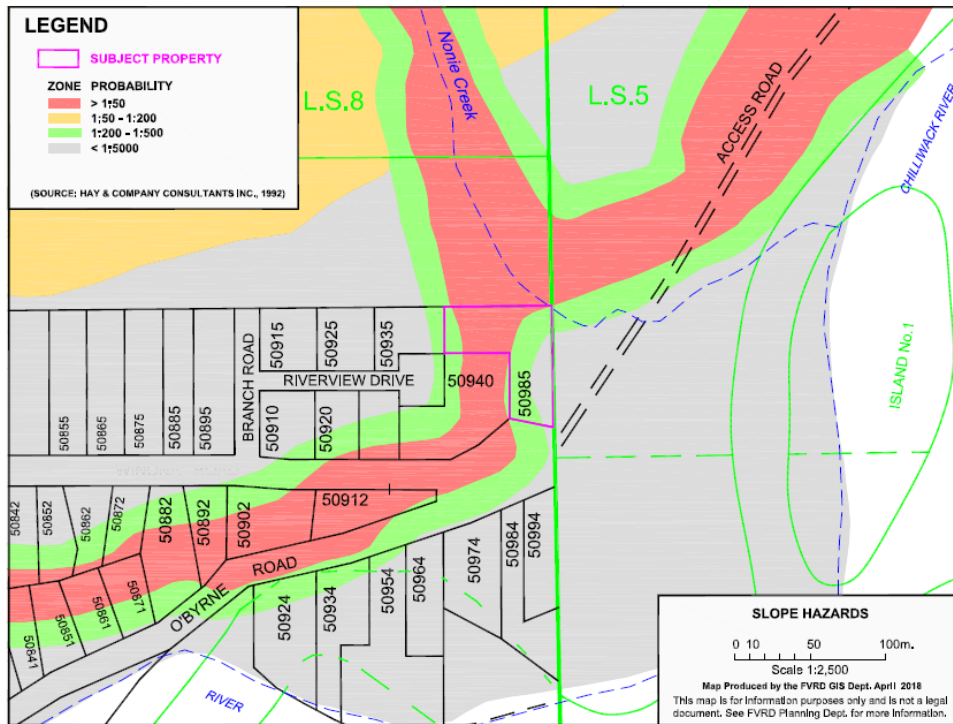
To date, there has been no (o) completed Development Permits for any of the construction or land alteration works that have occurred on the subject property.

A completed Development Permit is required for the construction and land alteration that has taken place on the subject property.

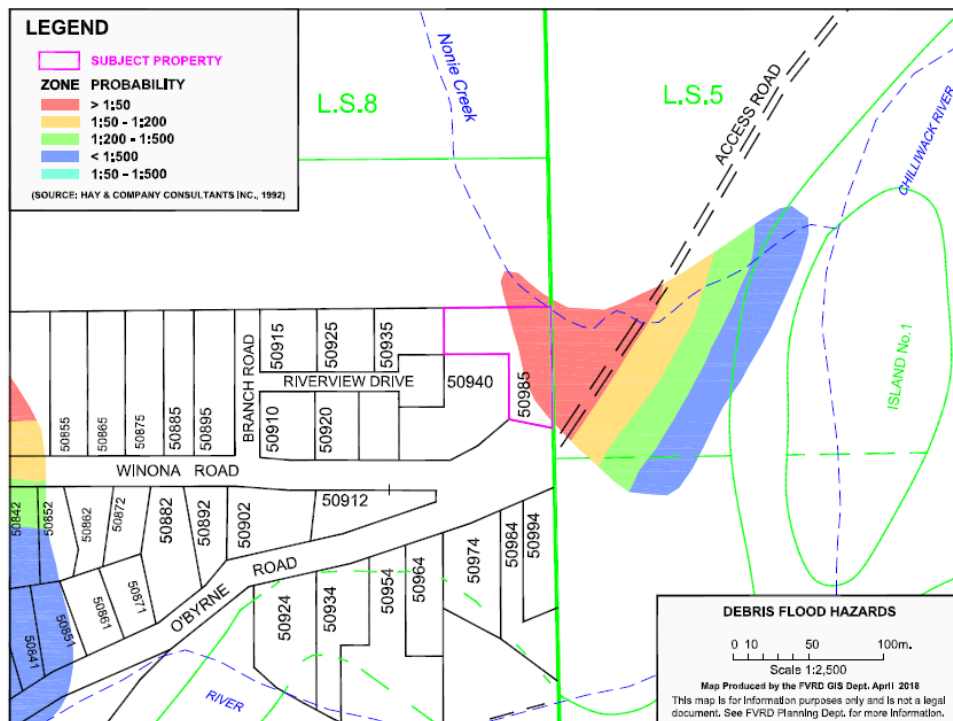
Map of the DPA 3-E & DPA 5-E 50985 Winona Rd



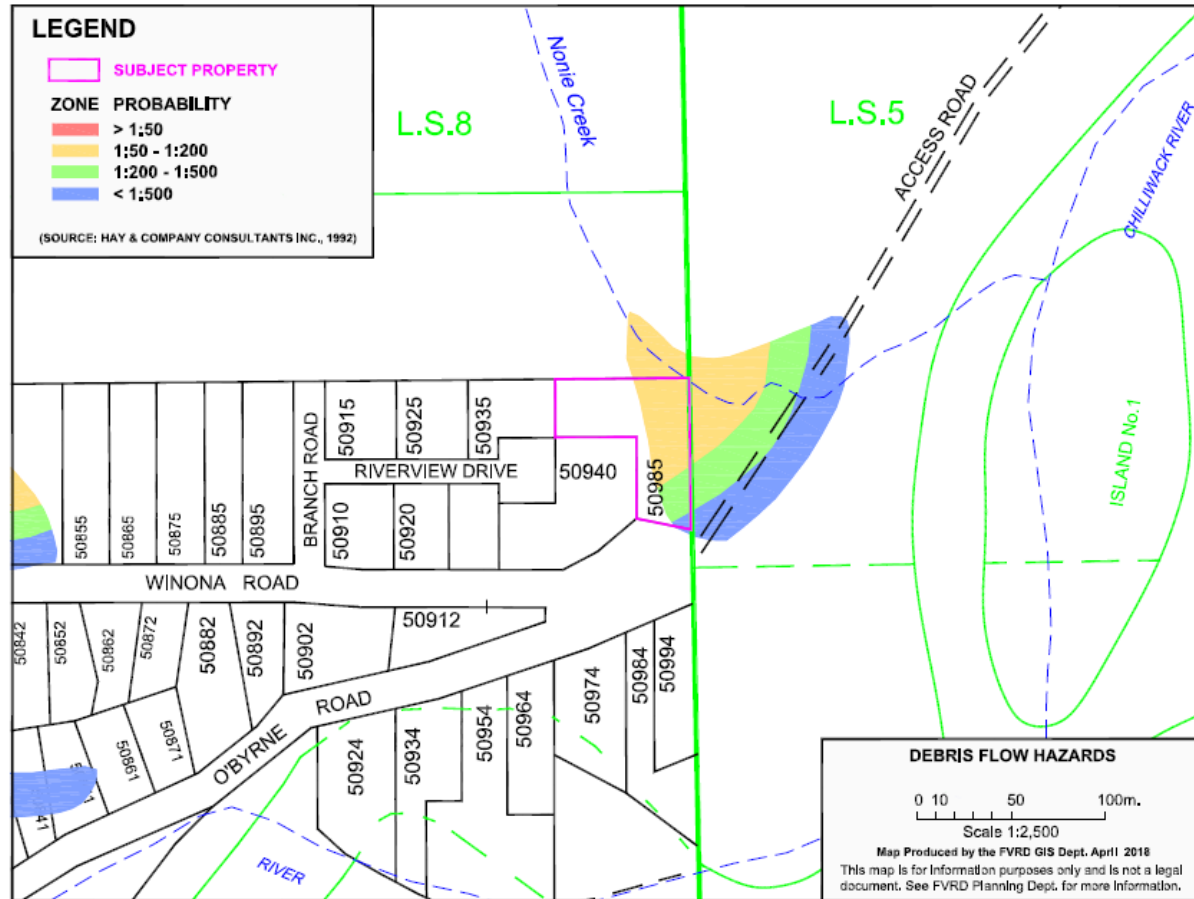
Slope Hazard Map for 50985 Winona Road:



Debris Flood Hazard Map for 50985 Winona Road:



Debris Flow Hazard Map for 50985 Winona Road:



COST

Land Titles Office filing fee of approximately \$55.

The owner will be required to pay a removal fee of \$500 in accordance with the *Fraser Valley Regional District Building Bylaw No. 1188, 2013* after the unpermitted construction works on the existing house and mobile home are either:

1. Demolished with a Demolition Permit issued by the FVRD with a successful final inspection; or
2. Completed through two (2) Building Permits issued by the FVRD and both receive successful final inspections. The Building Permits will require issuance of a Development Permit for the alteration of land and construction, which would include an updated Geotechnical Report, registered to the subject property's Land Title by way of a covenant, and the completion of a Riparian Assessment by a Qualified Environmental Professional.

CONCLUSION

It is the opinion of the Bylaw Compliance and Enforcement Officer/Appointed Building Inspector that the conversion of the existing house into a workshop, and the placement of a mobile home and construction of a basement were completed without the benefit of valid building permits, and are in violation of multiple Fraser Valley Regional District bylaws, the *British Columbia Building Code*, and the *Riparian Area Regulations*. Full compliance will only be achieved with the successful completion of two (2) Building Permits and the issuance of a Development Permit for the alteration of land, conversion of an existing house into a workshop, and the placement of a mobile home and construction of a basement.

Regrettably, but in the interest of full public disclosure and as incentive to achieving voluntary compliance, I, as an Appointed Building Inspector, believe that the filing of a Notice is appropriate in this instance, and submit the above recommendation in accordance with Section 57 of the *Community Charter*.

Electoral Area Services Committee (EASC) approval and Regional District Board resolution is required to assess Section 57 Notices.

The process of filing a Section 57 Notice on Title is conducted in accordance with the *Community Charter* and the *Local Government Act*.

Regional District requirements for Building Permit works are being administered in accordance with related Fraser Valley Regional District Bylaws, Policies, and the *BC Building Code*.

COMMENTS BY:

Margaret Thornton, Director of Planning & Development: Reviewed and supported.

Mike Veenbaas, Director of Financial Services: No further financial comments.

Paul Gipps, Chief Administrative Officer: Reviewed and supported