

To: CAO for the Electoral Area Services Committee

Date: 2019-02-12

From: Louise Hinton, Bylaw Compliance and Enforcement Officer

File No: E01272.155/3

Subject: Building Bylaw, and BC Building Code Contraventions at 48752 Chilliwack Lake Road Electoral Area E, Fraser Valley Regional District, British Columbia (legally described as Lot 3 District Lot 500 Group 2 Section 34 Township 25 New Westminster District Plan

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, at 48752 Chilliwack Lake Road Electoral Area E, Fraser Valley Regional District, British Columbia (legally described as Lot 3 District Lot 500 Group 2 Section 34 Township 25 New Westminster District Plan 34285; and Parcel Identifier 006-990-291).

STRATEGIC AREA(S) OF FOCUS

Support Environmental Stewardship
Support Healthy & Sustainable Community
Provide Responsive & Effective Public Services

PRIORITIES

Priority #3 Flood Protection & Management

BACKGROUND

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|--------------|---|
| Nov 8, 2007 | Bylaw Complaint received by FVRD that a cottage, two new decks, and structural roof alterations have been built and fully completed within the last few years without a Building Permit. Complaint also indicates a fish bearing stream has been filled in. |
| Nov 9, 2007 | Bylaw Officer completes site inspection – renovation in progress, two large decks are being added to dwelling, one on the front and one in the rear. Cabin at rear of property may not have had a permit. |
| Nov 13, 2007 | One of the owners submits a Building Permit Application for the two attached decks (BP07230). Advises of specific engineer that he will use for the project. |
| Nov 14, 2007 | Building Inspector completes site inspection. Stop Work and No Occupancy notices are posted on the site for the attached covered deck additions, and covered front entrance to the single family dwelling. |

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|-----------------|---|
| Dec 14, 2007 | Bylaw Letter to Owner that BP07230 has been refused because of erosion hazards from the Chilliwack River on the property. |
| Jan 8, 2008 | Bylaw Officer spoke with Engineer on telephone – the following was discussed (1) Engineer wanted explanation as to why permit was being refused. (2) Officer explained that erosion setback from the Chilliwack River were unable to be met. Engineer states he will explain to the owner. |
| Oct 21, 2011 | One of the owners made a counter inquiry re: Bed and Breakfast within a dwelling. Planner & Bylaw Officer discussed open bylaw file with owner. |
| Dec 12, 2011 | Counter inquiry made by potential purchaser of property who explains to Planning & Bylaw staff that cabin was built within the last 7-10 years. |
| Dec 14-17, 2012 | Follow-up emails to the listing real estate agent advising her of outstanding bylaw enforcement file for construction without a permit. |
| April 12, 2013 | Second potential purchaser confirms to the bylaw officer that the accessory cabin structure was built within last 7-10 years and should have had a Building Permit for it. |
| May 22, 2013 | <p>Bylaw Department receives zoning/land use complaint that the whole house is being rented out without the owner living on site. Rentals are for short terms (weekly, daily, monthly basis), and advertises as Riverfront Sanctuary B&B. All types of large events are held on this site – weddings etc.</p> <p>Bylaw Officer confirms advertising that lists the house as having a separate entrance, its own kitchen and living room, can be rented as two separate suites or as a whole plus the separate accessory cabin being rented out on its own or together with main house for large groups.</p> |
| May 28, 2013 | Meeting with Owner and Agent - (1) Owner claims cabin is grandfathered – evidence must be provided by the owner to the FVRD; (2) States home is B&B only and he lives there; and (3) Building Department to undertake site inspection to assess volume of unauthorized construction and renovations. The owner does not follow-up with FVRD to schedule a site inspection. |
| July 11, 2013 | Bylaw Officer receives a second complaint of unpermitted land use – property being rented out as a whole with owner not residing on site. Property hosting events with 50-100 people. States there is insufficient parking, noise issues, camping on property. Concerns regarding the ability of the 40 year old septic system (with 2 legal and 3 illegal bathrooms) being able to handle volume of people. The events are happening every day of the year when there is nice weather. |
| July 11, 2013 | Bylaw Officer receives a separate complaint of extensive major structural renovations to the dwelling (three new roof extensions, demolition, two |

new balconies, new enlarged window openings, larger glass sliding door. An addition of a new bathroom, and renovated larger kitchen on the main floor increasing space by 300 square feet, new basement suite including kitchen, bathroom and a new bedroom. Complaint also of house being rented out all year round to very large groups under the name of Riverfront Sanctuary.

- July 22, 2013 Bylaw Officer contacts Fraser Health Inspector regarding septic – who stated (1) they had received a complaint about an illegal cabin built on the property in 2010; (2) no record of a sewage system for the cabin; and (3) 1998 an addition to the home for 350 square feet (previous owner).
- Sept. 5 2013 Call from a complainant – last week a noisy stag party occurred with 20+ guests with twelve vehicles.
- May 22, 2014 Meeting with owner and agent: (1) owner claims cabin is grandfathered – evidence must be provided by the owners to the FVRD; (2) owner states home is B&B only; and (3) Building Department to undertake a site inspection to assess the volume of unauthorized renovations. The owner does not follow-up with the FVRD to schedule a site inspection.
- Oct 2, 2014 Owners agent contacts FVRD and requests the possibility of a temporary use permit for additional resident uses, like an RV for caretaker etc. Until the property is brought into compliance, their request is not supported by FVRD staff citing the outstanding bylaw enforcement concerns and the continued complaints received by FVRD staff.
- June 10, 2015 File Review completed.
- March 31, 2017 Complainant came into FVRD to provide further information about the non-permitted vacation rental on property.
- April 3, 2018 Contact from complainant regarding continued unpermitted land uses. Bylaw conducts file review (4/5 bedroom house with attached garage, detached accessory cabin on property). Online advertising documents house and cabin still being rented out for short term rentals. 2007 inspection photos also appear to show structural works and roof alterations at dwelling entrance. No Building Permit's on file since 1998 (addition to dwelling); and that permit expired without a final inspection.
- April 16, 2018 New title Search pulled – ownership since 2003 remains the same.
- April 19, 2018 Bylaw letter to owners requesting access for site inspection. Deadline for the owner to respond to FVRD is May 22, 2018.
- May 3, 2018 Building Inspector and Bylaw Officer attend the property for a site inspection with owner. The following was identified on site during the

inspection: A large log home with attached garage is on the property – 3000+ square feet with 3 kitchens 4 bedrooms and 4.5 bathrooms, including a secondary suite. Extensive structural alterations appear to be completed to the original 1970's dwelling. (2) A 650 square foot separate 1 bedroom cabin with bath and full kitchen. (3) A Park Model Trailer has been placed at the front of the property on a gravel pad with full hook-ups.

- May 15, 2018 Bylaw cease and desist letter sent to the owner.
Bylaw letters sent to the listing realtor – notification of outstanding bylaw infractions.
- June 11, 2018 Joint meeting (Planning, Building, and Bylaw staff) with owner and his builder/contractor – The following was discussed: (1) extensive bylaw file history; and (2) options, limitations and requirements of Building Permits; and (3) non-permitted land uses.
- Aug 27, 2018 Bylaw letter mailed to owner with two bylaw tickets (28630 & 28631) attached for building without a permit and for non-permitted land use.
- Sept 7, 2018 Payment received in full for both bylaw offence tickets.
- Sept 28, 2018 Building Permit application is submitted to FVRD for bylaw compliance – (removal of stove, wiring and venting from two illegal suites). Building Inspector spoke with builder on the telephone and explained that the permit application submitted was incomplete and required structural engineering to address all the unauthorized construction that was done without permits.
- Nov 11, 2018 Building Inspector sent a follow-up email to the owners builder/contractor that outlined the following: (1) the permit application submitted was insufficient; (2) FVRD requires proof that the cabin existed prior to FVRD zoning or a Building Permit to convert the use back to storage; and (3) permits are required for construction to the dwelling, including additions decks, and interior renovations.

Property Images and Inspection Photos

September 24, 2000 – Inspection Photo

Shows the front view of the single family dwelling structure prior to most of the renovations.



April 2006 Aerial Photo Image of Property

Shows the original roof line of the dwelling structure: (1) No front or rear peaks or extension in the roof line, and (2) the current large attached, covered decks have not been constructed as yet.



November 9, 2007 – Site Inspection Photos

Shows the construction without permits: (1) detached accessory structure has been converted to a cabin, and (2) structural roof works to dwelling; and (3) two attached covered decks

Dwelling with Garage / Property / Cabin



Front Entry re-construction / Front attached deck



Rear attached covered Deck



November 14, 2007 – Site Inspection Photos

Shows posted orders for attached covered deck additions, and covered front entrance to the single family dwelling, and continued construction works despite previous bylaw enforcement inspection.



May 22, 2013 – Aerial Image of Property

Shows the changes in the roofline and attached decks / sunrooms in cabin



May 3, 2018 -- Site Inspection Photos

Photos show the construction works without permits to whole dwelling: interior renovations – extra square footage, secondary suite, several kitchens, two attached covered deck structures, structural roof works, the change of use of the accessory structure to a residence (cabin), and the placement of the park model trailer with hookups.

Dwelling / Structures / Property



Garage



Detached accessory structure - Converted to a residence (Cabin)



Placement of Park Model Trailer



DWELLING – INTERIOR RENOVATIONS:

3 Kitchens



Basement - Fishermans Kitchen

Basement suite

Main Floor

Secondary Suite



4.5 Bathrooms



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 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 Building Bylaw No. 1188, 2013* (Building Bylaw) for health, safety and the protection of persons and property. The bylaw provides that no person shall commence any construction, alternation, reconstruction, demolition, removal, relocation or change the occupancy of any building.

The extensive interior renovation and structural alteration works to the single family dwelling and garage, the detached accessory structure (cabin), and the placement of the park model trailer on the property were all done without the required Building Permits.

The interior renovations and structural alterations to the dwelling house include the construction of an elevated new entrance way at the front of the house, roof line alterations at front and rear, two attached covered decks, the construction of a secondary suite in the lower floor of the dwelling, two additional kitchens, and several additional bathrooms.

There are only 3 building permits on record for this property since the initial construction of the 1970 era dwelling house – however all the permits on file have either expired or were denied.

- 1977 permit (BP004486) – Expired: FVRD records indicate that this is the attached garage, but are unable to verify very little about this non-completed permit due to the lapse in time.
- 1988 Permit (BP000465 – Addition to Dwelling) - Expired
- 2007 Permit (BP011500 - Two attached decks) - Denied The current owner applied for a Building Permit for the two attached decks that were being constructed without permits – the permit was denied due to the erosion hazard from the Chilliwack River.

There are no permits for the structural works to the entrance way, roof line, additional bathrooms, kitchens or any other works to the dwelling.

The detached cabin structure was initially used for accessory storage use. It was discovered in 2007 that the detached cabin had been converted into a residential structure and was being used for residential purposes. Any structure that has a change of use from its initial intended use is required to obtain a Building Permit to authorize the new use in order to comply with *Bylaw* and *BC Building Code* Regulations. The initial use of the detached cabin building was for storage use only, so a permit is required to change the use back to a storage use as a second residential use is not permitted on the property.

The Placement of the Park Model Mobile home also requires a Building Permit.

Achievement the Building Permit requirements on the subject property will likely be challenging due to the location in proximity to the Chilliwack River and the high risk of erosion.

Multiple Building Permits are required for the works undertaken by the property owner; or multiple demolition Building Permits are required to remove all construction completed without permits.

Zoning Bylaw

This property is in Electoral Area E, and is zoned *Country Residential* (CR) under the *Zoning Bylaw No. 66, 1979 of the Regional District of Fraser-Cheam* (Bylaw 66). The primary purpose of this zone is to identify land which by reason of adequate drainage, sufficient supply of potable water, adequate sewage disposal system, assurance from flooding or erosion and soil instability, and is best suited for rural living.

The subject property has a single family dwelling with a non-permitted secondary suite on the lower floor, a detached cabin structure, and a Park Model Trailer that are all being used for residential purposes. Only one residential use is permitted and the secondary suite use is not an authorized use in the CR Zone.

The single family dwelling and the detached cabin structures continue to be used to operate a short term tourist accommodation use on the property. A tourist accommodation use is not listed as a permitted use in the CR Zone.

A successful re-zoning of the property would be required to authorize the unpermitted tourist Accommodation Use. A secondary residential use of the detached cabin on the property will not be permitted unless the property owner can provide documentation to prove that the cabin was constructed on the property for residential purposes prior to the adoption of Zoning Bylaw No. 66 in 1979.

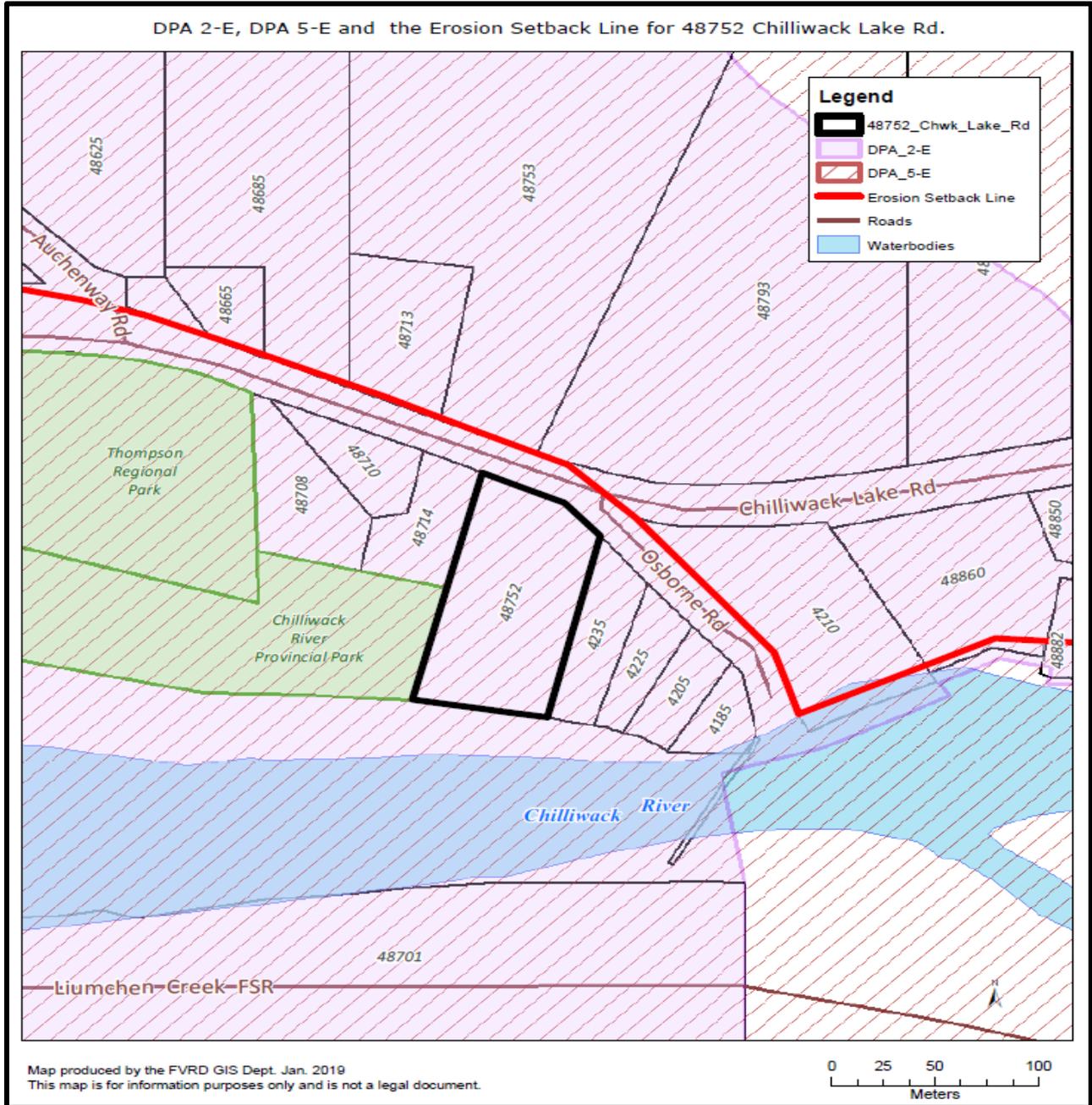
Official Community Plan

1. The subject property is within the *Chilliwack River Development Permit Area 2-E* (DPA 2-E) under the *Fraser Valley Regional District Official Community Plan for Electoral Area E Bylaw No. 1115, 2011* (Bylaw 1115). This Development Permit area is designated for the protection of the natural environment and protection of development from hazardous conditions such as flooding and erosion associated with the Chilliwack River. A Development Permit must be obtained prior to alteration of land or construction of, addition to, or alteration of a building or structure.
2. The subject property is within the *Riparian Areas Development Permit Area 5-E* (DPA 5-E) under the *Fraser Valley Regional District Official Community Plan for Electoral Area E Bylaw No. 1115, 2011* (Bylaw 1115). This Development Permit area is designated for the protection of the natural environment, its ecosystems and biological diversity. A Development Permit must be obtained prior to alteration of land or construction of, addition to, or alteration of a building or structure.
3. The subject property is located within the erosion set back line under the *Fraser Valley Regional District Official Community Plan for Electoral Area E Bylaw No. 1115, 2011* (Bylaw 1115). Properties within the erosion set back line areas have significant hazardous risks to the safety of people and property due to the high likelihood of erosion during a single major event.

A Development Permit must be obtained prior to the alteration of land the disturbance of soil or vegetation; or construction of or addition to a building or structure within a Development Permit or riparian assessment area. To date there has been no completed application for a Development Permit 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 alterations works that have taken place on the property.

DPA 2-E) DEVELOPMENT PERMIT AREA MAP



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 Building Bylaw 1188, 2013*, after the unpermitted construction works to the single family dwelling and the detached cabin structure are either:

1. Demolished with Building Permits issued by the FVRD with successful final inspections; or
2. Multiple fully completed Building Permits for the extensive renovation works to the existing single family dwelling structure, and the detached cabin, and the placement of the park model trailer are issued by the FVRD and all receive successful final inspections. The applications require successful rezoning of the property and the application and issuance of a Development Permit for the alteration of land and construction works.

CONCLUSION

It is the opinion of the Bylaw Compliance and Enforcement Officer/Appointed Building Inspector that the extensive unauthorized renovation works to the Single Family Dwelling, the detached cabin, and the placement of the Park Model trailer, that were done without Building Permits and the construction and land alteration works that were done without a Development Permit violate multiple *Regional District Bylaws*, and the *British Columbia Building Code*. Staff further notes that full compliance will only be achieved with the successful completion of multiple fully completed Building Permits, successful rezoning of the property to permit the existing residential and tourist accommodation and the issuance of a Development Permit.

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 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 property 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

The ongoing review of all outstanding Bylaw Enforcement files identified this property as containing structures that are not authorized under the Zoning Bylaw and require Building Permits and a Development Permit for life safety. Reviewed and Supported.

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

Paul Gipps, Chief Administrative Officer:

Reviewed and supported