

To: CAO for the Electoral Area Services Committee

Date: 2019-03-12

From: Louise Hinton, Bylaw Compliance and Enforcement Officer

File No: C01406.219

Subject: Building Bylaw, and BC Building Code Contraventions at 20568 Edelweiss Drive, Electoral Area C, legally described as: Lot 19 District Lot 3847 Group 1 New Westminster District Plan 55971.

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 *BC Building Code*, at 20568 Edelweiss Drive Fraser Valley Regional District, British Columbia Electoral Area C, legally described as: Lot 19 District Lot 3847 Group 1 New Westminster District Plan 55971 (PID: 005-426-103).

STRATEGIC AREA(S) OF FOCUS

Support Healthy & Sustainable Community

Provide Responsive & Effective Public Services

BACKGROUND

Sept 10, 2008	Bylaw Officer receives complaint that the dwelling house is only partially built – there was a building permit, but not much work has been completed and the house is sagging in the middle.
Sept.11, 2008	Bylaw Officer and Building Inspector conduct site inspection. There was a large incomplete renovation to the main dwelling which is in a state of disrepair. Main roof line is sagging, broken windows, rotting materials.
May 28, 2009	Bylaw Officers conduct site inspection – no change.
June 5, 2012	Building Inspector conducts follow-up inspection – there is no change in condition of the renovation. The main dwelling roof is now steeply sagging in the middle.
Oct 24, 2013	Bylaw Officer receives information that there has been recent construction works done to the building.

Oct 25, 2013	Building Inspector conducts follow-up inspection – Construction works to the roof and upper floor of dwelling. Stop Work and No Occupancy Orders are posted.
Oct 29, 2013	File review completed – Historical permit (BP4083) for single family dwelling expired without any inspections in 1981. Bylaw letter mailed to owner, deadline for response to FVRD is Dec. 2, 2013.
Nov 28, 2013	Bylaw Officer receives phone call from owner and the following was discussed: (1) Owner doesn't think he needs a permit to renovate; (2) Bylaw Officer explained expiry of original permit without inspections – needs new permit; and (3) Owner has financial restraints, unable to apply for permit. Bylaw Officer located and faxes property plans and application package to Owner.
Dec 4, 2013	Second Bylaw letter mailed to owner, deadline for response to FVRD is Jan. 3, 2014.
Jan 16, 2014	Bylaw Officer phones the Owner and the following was discussed: (1) no permit application received yet; (2) letter was returned to sender; (3) warning of a ticket; (4) extension granted to submit application; and (5) owner states he will retain legal counsel as he doesn't think he needs a permit.
Feb 5, 2014	Owner came into FVRD Office – the following was discussed with Bylaw Officer: (1) Owner did not apply for a permit - paid for a copy of the 1981 house plans; (2) possibility of issuing a fine; (3) Owner says he is going to the Ombudsman as he doesn't believe FVRD has authority to make him get a permit; and (4) Owner states financial restraints.
Mar. 5, 2014	Third Bylaw letter mailed to Owner outlines recommendation of property for a Notice on title. Financial Stakeholders are copied on letter.
March 26, 2014	Owner makes Building Permit Application (BPA) to FVRD.
April 1, 2014	Financial Institution contacts FVRD Officer – Outstanding building permit is discussed.
June 25, 2014	Building Inspector conducts site inspection – A large amount of structural alternations observed, new plumbing, framing, drywall and mold present.
July 9, 2014	Building Department mailed letter to Owner listing outstanding required items to complete Building Permit Application (BPA).
May 15, 2015	Owner contacted Bylaw Officer, enquired if structure was still posted with orders – Bylaw Officer confirms still posted and permit is still in application stage only - not complete.

May 27, 2015	Second letter mailed to Owner by Building Department listing outstanding permit items.
July 14, 2015	Financial Institution contacts FVRD Bylaw Officer – Informed that Permit remains at application stage – requirements not fulfilled.
July 20, 2015	Bylaw Officer phones Owner and the following was discussed: (1) doesn't believe he is legally required to submit the items the Building Inspector as requested to complete application; (2) Bylaw Officer suggested owner speak to Building Inspector directly; and (3) Bylaw Officer reiterated that permit remains in application stage and structure remains posted with stop work and no occupancy orders.
Sept. 24, 2015	Financial Institution contacts FVRD Bylaw Officer – Informed that Permit remains at application stage – unissued.
Oct. 7, 2015	Third letter mailed to owner by Building Department listing outstanding permit items.
Nov. 23, 2015	Letter mailed to Owner by Building Department - closure of application due to inactivity.
Nov. 25, 2015	Financial Institution contacts FVRD Bylaw Officer – Informed that Permit application has been closed and referred back to Bylaw Enforcement Department for follow-up.
Nov. 26, 2015	Fourth Bylaw Letter mailed to Owner with Bylaw Ticket No. 22180 attached for construction without a permit. New deadline to complete BPA is January 5, 2016.
Jan 5, 2016	Bylaw Officer receives voicemail from Owner, attempts to re-contact, no answer.
Mar. 2, 2016	Financial Institution contacts FVRD Bylaw Officer – Informed of building permit closure and recommendation of property for a Notice on title.
April 12, 2016	Fourth Bylaw Letter mailed to owner with Ticket No. 22889 attached for construction without a permit. New deadline to fulfil requirements is May 13, 2016. First ticket remains unpaid and outstanding.
May 17, 2016	Owner had meeting with Chief Administrative Officer (CAO) and Bylaw Staff, the following is discussed: (1) first step is to get a structural engineer to prepare a report on the house; (2) mold specialist needed to access the house and clean up for air quality safety; (3) make house weather tight to prevent further damage; and (4) Owner requires letter from FVRD to renew his financing. Owner and FVRD agree to the action items discussed.
June 27, 2016	Owner provides photos of subject property to FVRD Staff.

June 28, 2016 Fifth letter mailed to Owner, this letter is from the Chief Administrative Officer.

Aug. 26, 2016 Bylaw Tickets are cancelled as good faith in response to action items discussed at May 17, 2016 meeting.

March 20, 2017 Financial Institution contacts FVRD Bylaw Officer – Staff forwarded information of no further action, but provided an open time line for action; and that next step is a Notice to Title.

Oct. 15, 2018 Bylaw Officer speaks with Owner and the following is discussed: (1) confirmed structure is unoccupied; (2) will attempt to waterproof as suggested by CAO; (3) intends to re-start building permit in the spring; and (4) explained Notice on Title process.

Feb 12, 2018 Bylaw Officer confirms no building permit application received for this project.

Bylaw Notice Offence tickets that are issued by a Bylaw Enforcement Officer can be cancelled by a FVRD Bylaw Officer at his or her discretion at any time in favor of voluntary compliance on the part of the property owner.

TOTAL TICKETS ISSUED					
	Ticket No.	Date	Offence	Fine Amount	Status
1.	BNE 22180	Nov. 26, 2015	Build without Permit	\$500	Cancelled
2.	BNE 22889	April 12, 2016	Build without Permit	\$500	Cancelled

INSPECTION PHOTOS OF SUBJECT PROPERTY:



September 2013



June 2014



June 2016



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 two story renovation works to the single family dwelling, including unsafe conditions within the structure were initially discovered in September 2008.

The unpermitted construction project remains incomplete. The Building Permit Application was cancelled in November of 2015 due to inactivity because building permit application requirements items were never submitted.

A Building Permit is required for the two story renovation works undertaken by the property owner; or a demolition Building Permit is required to remove the two story renovation works.

Official Community Plan

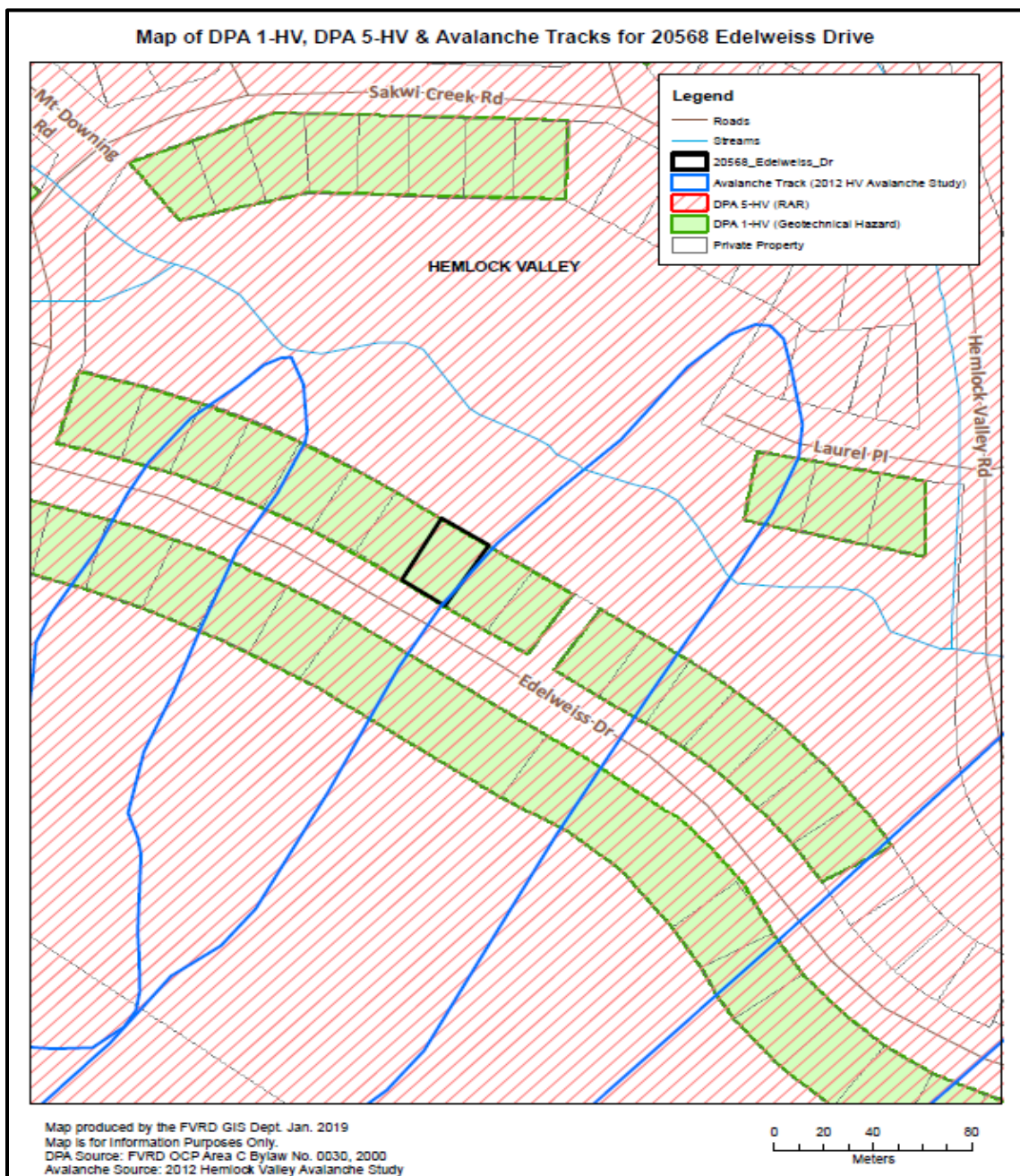
1. The subject property is within Area 1-M of the *Development Permit Area 1-HV* (DPA 1-HV) under the *Fraser Valley Regional District Official Community Plan for Hemlock Valley Bylaw No. 0030, 2000* (Bylaw 0030). This Development Permit area is subject to review for the protection of development from: debris flow, rock fall, landslides, creek floods, creek erosion and deposition, and gullyng. Safe line details are: 8 metre setback from top of the lower erosional or road cut slope. 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-HV* (DPA 5-HV) under the *Fraser Valley Regional District Official Community Plan for Hemlock Valley Bylaw No. 0030, 2000* (Bylaw 0030). 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 Hemlock Valley Avalanche Study written by David McClung, P. Eng. identifies the subject property as being outside of an avalanche site. Properties outside the avalanche site have a reduced risk of being affected by an avalanche 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 works that have occurred on the subject property.

A completed Development Permit is required for the construction works that have taken place on the property.

DEVELOPMENT PERMIT 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 is either:

1. Demolished with Building Permits issued by the FVRD with successful final inspections;
or
2. A fully completed Building Permit for the construction works to the single family dwelling structure is issued by the FVRD and all receives a successful final inspection. The application requires the application and issuance of a Development Permit for the construction works.

CONCLUSION

It is the opinion of the Bylaw Compliance and Enforcement Officer/Appointed Building Inspector that the unauthorized construction works to the Single Family Dwelling, that were done without a Building Permit and the construction 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 a fully completed Building Permit for the construction works to the single family dwelling structure and the issuance of a Development Permit.

Regrettably, but in the interest of full public disclosure and as an 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

Reviewed and supported.

Mike Veenbaas, Director of Financial Services

No further financial comment.

Paul Gipps, Chief Administrative Officer

Reviewed and supported.