

DATE OF MEETING APRIL 15, 2021

AUTHORED BY DAVID LABERGE, MANAGER, BYLAW SERVICES

SUBJECT REMEDIAL ACTION ORDER – 4470 BURMA ROAD

OVERVIEW

Purpose of Report

To provide Council with background information respecting a shed structure constructed without a permit, having no potable water, sewer, or electricity services, being used as a residence on a 30-acre, rural, residential property at 4470 Burma Road, and to seek approval to impose remedial action requirements pursuant to the provisions of the Community Charter to have the structure removed or demolished.

Recommendation

That Council:

1. issue a Remedial Action Order at 4470 Burma Road pursuant to Sections 72 and 73 of the *Community Charter*;
2. direct Staff to advise the owner they may request that Council reconsider the Remedial Action Order by providing written notice within 14 days of the date on which notice of the remedial action requirement was sent;
3. direct Staff or its authorized agents to take action in accordance with Section 17 of the *Community Charter* without further notice and at the owner's expense if the said remedial action is not undertaken within 30 days of Council's resolution; and
4. direct the remedial action consist of removal or demolition of the shed structure.

BACKGROUND

4470 Burma Road is a 30-acre agricultural, rural, residential-zoned property. On 2019-OCT-30, the dwelling situated on the property was extensively damaged by fire, rendering it uninhabitable. The residence had been occupied by tenants who were renting the property.

City Staff inspected the property several days after the fire incident, and found that people were living in several recreational vehicles (trailers) on the property using power service from the burned-out house. Utility services to the property were discontinued, and direction was given to remove the trailers from the property. Subsequent inspections confirmed the property was vacant and uninhabited.

The property owner applied for a demolition permit to remove the burned residential building on 2020-JUN-29. A 2020-OCT-26 inspection confirmed the building had been removed.

On 2020-JAN-29, the City received information from the community that a person was living in a shed on the property that had been constructed from materials salvaged from the burned house. There were a number of concerns expressed about activities occurring on the property, which also involved police attendance. The matter relevant for consideration by Council is that an inspection determined that a wooden shed structure had been constructed and was being

occupied as a dwelling. The use of the structure would not meet the definition of principle use as a dwelling, as there was no potable water, sewer or electrical service. A metal chimney suggests that the shed is heated with a wood-burning appliance. The Building Inspections Section declined to attend to view the property in the circumstances as the use of an accessory structure built without a principle-use structure and without inspection or permit without services would not be permitted.

The person occupying the shed was eventually contacted, and advised that she has been a caretaker for the property for six years and is living in the shed periodically. When advised that she could not use the shed as a dwelling, the occupant advised she only stayed there periodically to be with her dogs.

The property owner was contacted by a bylaw officer and informed that the structure had to be removed as it was constructed without inspection or building permit, and could not be occupied as a dwelling. The owner advised that the occupant had a lease and could do what she wanted on the property, and that he would deal with the shed when a new building permit was obtained.

The bylaw officer observed the shed structure was listed for sale on Facebook Marketplace several days later. It was still on the property at the time of the last inspection.

On 2021-MAR-09, the Fire Rescue Department attended the property to extinguish a rubbish fire.

DISCUSSION

The shed structure was constructed without inspection or building permit. Accessory structures are only permitted when the principal use of the property is being performed. The shed would not meet the definition of residential use building without potable water, sewer or electrical service. The residential building situated on the property was destroyed by fire in 2019. The Fire Rescue Department extinguished a rubbish fire on the property in 2021. The shed is being used as a dwelling and appears to be heated with a wood-burning appliance. The property owner is aware of the requirement to remove the structure.

OPTIONS

1. That Council:
 1. issue a Remedial Action Order at 4470 Burma Road pursuant to Sections 72 and 73 of the *Community Charter*;
 2. direct Staff to advise the owner they may request that Council reconsider the Remedial Action Order by providing written notice within 14 days of the date on which notice of the remedial action requirement was sent;
 3. direct Staff or its authorized agents to take action in accordance with Section 17 of the Community Charter without further notice and at the owner's expense if the said remedial action is not undertaken within 30 days of Council's resolution; and
 4. direct the remedial action consist of removal or demolition of the shed structure.
 - Advantages: The structure contravenes the "City of Nanaimo Zoning Bylaw 2011 No. 4500", was constructed without a permit, and is uninspected. It is a hazard and liability to permit it to be used as a dwelling.

- Disadvantages: The removal of the structure will displace the occupant who has lived on the property for six years.
2. That Council direct Staff to take alternative action.
 3. That Council take no action.
 - Advantages: The property occupant would not be displaced.
 - Disadvantages: The City is aware that the shed is being used as a residence contrary to zoning regulations. It is uninspected and appears to be heated with a wood-burning appliance. There have been two fires on the property. It is a hazard and potential liability.

SUMMARY POINTS

- The residence on the property at 4470 Burma Road was destroyed by fire in 2019.
- A demolition permit was obtained, and the burned-out structure was removed in 2020.
- A shed was built without a permit or inspection using materials from the burned-out structure that is now being occupied as a temporary residence.
- An accessory building cannot be constructed without a principle-use structure, and cannot be occupied as a residence.
- A Remedial Action Order consisting of the removal or demolition of the shed structure is recommended.

ATTACHMENTS:

ATTACHMENT A: Letter to Owner dated 2021-FEB-24

ATTACHMENT B: Photos of structure

Submitted by:

David LaBerge
Manager, Bylaw Services

Concurrence by:

Bill Corsan
Director, Community Development

Dale Lindsay
General Manager, Development Services