

DATE OF MEETING JULY 18, 2024

AUTHORED BY DAVID LABERGE, DIRECTOR, PUBLIC SAFETY

SUBJECT ILLEGAL CONSTRUCTION – 3712 SUNDOWN DRIVE

OVERVIEW

Purpose of Report

To inform Council that substantial alterations and additions have been made to exterior stairs and raised decks at 3712 Sundown Drive without a building permit rendering the structure unsafe and in contravention of the BC Building Code, and to recommend that a Remedial Action Requirement be issued.

Recommendation

That Council:

1. Declare that the exterior stairs and decks at 3712 Sundown Drive are unsafe, contravene the Provincial building regulations, and creates hazardous conditions.
2. Impose remedial action requirements in relation to the provisions of Sections 72 and 73 of the *Community Charter*.
3. Direct the remedial action requirements to include:
 - a. A building permit application signed by all owners on title must be submitted within 90 days from the date the remedial action requirement is imposed. The permit application must include:
 1. BC Building Code-compliant, designer-quality drawings.
 2. A signed/sealed survey prepared by a BC Land Surveyor, with all decks and stairs meeting City of Nanaimo Zoning Bylaw setback requirements without encroaching into Statutory Right-of-Ways.
 3. Structural Engineer's sealed design and Schedule B for design and field review of the foundation and framing.
 4. Geotechnical Engineer's sealed Schedule B for design and field review of bearing capacity of soil, compaction of engineered fill, structural considerations of soil including slope stability and seismic loading.
 5. Geotechnical Engineer sign off on the bearing capacity of foundations which have already been poured or the foundations must be removed and re-excavated for inspection.
 6. Design and field review (Schedule B) of glass guards on upper decks completed by an engineer or an Architectural Schedule B for structural capacity of architectural components.
 - b. The building permit must be picked up and paid in full within 14 days of issuance.

- c. The scope of work set out in the building permit application must be completed within 90 days from the date the building permit is issued.
4. Direct staff to advise the owner(s) that they may request Council reconsider the Remedial Action Requirement by providing written notice within 14 days of the date on which notice of the remedial action requirement was sent.
5. 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 the timeline set out in Council's resolution.

BACKGROUND

In October 2022, Building Inspections became aware that significant work was being undertaken on three deck structures and exterior stairs attached to the residence at 3712 Sundown Drive without permit or inspections. A building inspector attended to the property and observed numerous building code deficiencies which are hazardous. A Stop Work Order was posted on 2022-OCT-26.

The owners were informed of the Stop Work Order by letter and directed to submit a complete building application with BC Building Code compliant designer-quality drawings by 2023-JAN-16. The owners contacted Building Inspections acknowledging the correspondence and advised that they had been unaware that a permit was required for the work that had been undertaken and that a permit application would be submitted as directed.

A building permit application was received on 2023-JAN-06 but was incomplete and subsequently canceled.

Council authorized staff to register notice of bylaw contravention on the property title in accordance with Section 57 of the *Community Charter* at the 2023-MAY-18 Public Hearing. The matter was forwarded to the Bylaw Department for enforcement action.

A second building permit application was received 2024-JAN-01 but was incomplete and could not be processed. The application was cancelled after 60 days, and no further application has been received.

DISCUSSION

Substantial construction and alteration have been undertaken without a building permit, and the decks and exterior stair structures have not been constructed to BC Building Code standards. A building inspector has determined that existing deficiencies are hazardous. Detailed information on the requirements for a building permit application have been provided.

Pursuant to Section 72(1) of the *Community Charter*, Council may impose a remedial action requirement in relation to hazardous conditions. A remedial action requirement may require the

owner to remove an unsafe structure, bring it up to a standard specified by bylaw, or otherwise deal with it in accordance with the direction of Council.]

OPTIONS

1. That Council:

1. Declare that the exterior stairs and decks at 3712 Sundown Drive are unsafe, contravene the Provincial building regulations, and creates hazardous conditions.
2. Impose remedial action requirements in relation to the provisions of Sections 72 and 73 of the *Community Charter*.
3. Direct the remedial action requirements to include:
 - a. A building permit application signed by all owners on title must be submitted within 90 days from the date the remedial action requirement is imposed. The permit application must include:
 1. BC Building Code-compliant, designer-quality drawings.
 2. A signed/sealed survey prepared by a BC Land Surveyor, with all decks and stairs meeting City of Nanaimo Zoning Bylaw setback requirements without encroaching into Statutory Right-of-Ways.
 3. Structural Engineer's sealed design and Schedule B for design and field review of the foundation and framing.
 4. Geotechnical Engineer's sealed Schedule B for design and field review of bearing capacity of soil, compaction of engineered fill, structural considerations of soil including slope stability and seismic loading.
 5. Geotechnical Engineer sign off on the bearing capacity of foundations which have already been poured or the foundations must be removed and re-excavated for inspection.
 6. Design and field review (Schedule B) of glass guards on upper decks completed by an engineer or an Architectural Schedule B for structural capacity of architectural components.
 - b. The building permit must be picked up and paid in full within 14 days of issuance.
 - c. The scope of work set out in the building permit application must be completed within 90 days from the date the building permit is issued.
4. Direct staff to advise the owner(s) that they may request Council reconsider the Remedial Action Requirement by providing written notice within 14 days of the date on which notice of the remedial action requirement was sent.
5. 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 the timeline set out in Council's resolution.

2. That Council direction is sought. |

SUMMARY POINTS

- Extensive construction and renovations to three decks and exterior stairs has been undertaken at 3712 Sundown Drive without a building permit or inspection.
- A Stop Work Order was issued and notice of bylaw contravention has been registered on title.
- Two incomplete applications for a building permit to undertake work to bring the structures into compliance with the Building Code have been submitted.
- A remedial action requirement is recommended to compel the owner to obtain a building permit and complete necessary work to bring the property into compliance with the BC Building Code and to mitigate hazardous conditions.

Submitted by:

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Concurrence by:

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