

DATE OF MEETING | February 20, 2025 |

AUTHORED BY | DARCY FOX, MANAGER, BUILDING INSPECTIONS |

SUBJECT | BYLAW CONTRAVENTION NOTICE - CONSTRUCTION STARTED WITHOUT A BUILDING PERMIT – 5451 MILDMAY ROAD |

OVERVIEW

Purpose of Report

To obtain Council authorization to proceed with the registration of a Bylaw Contravention Notice on the property title of 5451 Mildmay Road. |

Recommendation

That Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 5451 Mildmay Road for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”. |

BACKGROUND

Building regulations for the City of Nanaimo are outlined in the “Building Bylaw 2016 No. 7224” and are enforced by the Building Inspections section and where necessary, Bylaw Services.

Where construction has been undertaken without a building permit, and in violation of the Building Bylaw, a report is brought forward for a resolution of Council to file a Bylaw Contravention Notice on the property title under Section 57 of the *Community Charter*. The purpose of registering a Bylaw Contravention Notice on the title of the affected property is to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened. |

DISCUSSION

An inspection was completed on 2024-MAY-08 in response to a complaint received regarding illegal construction. The inspection confirmed the construction of a deck at the back of the property, located within the riparian zone of Brannen Lake, without a building permit. A Stop Work Order was posted on the jobsite and correspondence was forwarded to the owner advising that complete deconstruction and removal was required by 2024-JUN-30 due to the location of the construction within the 15m watercourse setback. Following removal, there were further requirements for the area of disturbance to develop and implement a restoration plan, under the supervision of a Qualified Environmental Professional and approved by the City of Nanaimo Environmental Protection Officer. An inspector returned to the site on 2024-AUG-29 and confirmed no action to resolve the construction has taken place.

Pursuant to Section 57 of the *Community Charter*, it is recommended a notice be registered on the property title to reflect the work completed without a permit or inspections in contravention of “Building Bylaw 2016 No. 7224”.

As the construction is located within the 15m watercourse setback and is in contravention of the Zoning Bylaw, this matter will be forwarded to Bylaw Services for enforcement action. |

SUMMARY POINTS

- Construction requiring a building permit was undertaken without first obtaining a permit.
- The construction is not permitted in this location and removal is required with a restoration plan completed by a qualified environmental professional.
- The deadline for removal has passed.
- Registration of a Bylaw Contravention Notice is required on the title of the affected property to advise those with an interest in the property of the regulations contravened, to provide disclosure to future owners and to protect taxpayers against potential claims with regard to the regulations contravened.
- Further to the registration of the notice, this matter will be referred to Bylaw Services for removal enforcement.

Submitted by:

Darcy Fox
Manager, Building Inspections |

Concurrence by:

Jeremy Holm
Director, Planning & Development |