

## ADMINISTRATIVE REPORT

**TO:** Board of Directors

**FROM:** B. Newell, Chief Administrative Officer

**DATE:** March 2, 2023

**RE:** Building Bylaw Infraction - Civic Address: 7496 Highway 97 – Area “C”

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### Administrative Recommendation:

**THAT a Notice on Title, pursuant to Section 302 of the *Local Government Act*, be filed against 7496 Highway 97, the title of lands described as Lot 1, Plan 29532, District Lots 1039S & 2450S SDYD, that certain works have been undertaken on the lands contrary to the Regional District Okanagan-Similkameen Building Bylaw No. 2805, 2018.**

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Folio: C-04573.100

Legal: Lot 1, Plan 29532, District Lots 1039S & 2450S SDYD

PID: 004-256-671

Zone: Agricultural One Zone (AG1)

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### Purpose:

To commence enforcement against 7496 Highway 97 for construction of an accessory building, within the Riparian Area, without a building permit.

### Site Context:

The subject property is approximately 10.5 acres (4.3 ha) in area and is situated at 7496 Highway 97, approximately 2 km north of the Town of Oliver.

### Regulatory Provisions:

Regional District of Okanagan-Similkameen Building Bylaw No.2805, 2018 (“Building Bylaw”).

The property is zoned Agricultural One Zone (AG1) under RDOS Zoning Bylaw 2800. The property is wholly within the Agricultural Land Reserve (ALR). The area of the property which is the subject of this enforcement action is located in a Watercourse Development Permit (WDP) Area.

## **Background:**

A Stop Work Notice was first issued on February 7, 2020 for an accessory building which was under construction. The Building Official noticed the building on February 5, 2020. It was being framed and the roof was on. The building has three bay-type doors and appears to be a farm building. The building is in the middle of the property next to a mobile home. The property is being farmed and has Farm Status from BC Assessment. In addition to the mobile home there is an accessory building and a dwelling at the north end of the property.

The following contact has been made with the property owner in an attempt to resolve this matter:

**February 7, 2020** - STOP WORK NOTICE Letter #1 sent to owner requesting application by March 7, 2020. The building location is in a Watercourse Development Permit (WDP) area. Copy of map with WDP area showing attached to letter and need for a WDP explained.

**March 27, 2020** – No contact from owner. Building Official attended the site. Construction has continued despite Stop Work Notice. Photo taken.

**April 2, 2020** - Final Stop Work Notice Letter sent with Bylaw Offence Notice #888 for \$500.

**April 28, 2020** – Owner disputed Bylaw Offence Notice 888. Confirmed no application for permits (building or WDP) received.

**December 8, 2020** - Screening Officer upheld Bylaw Offence Notice. Owner states that he does not need a building permit.

**January 30, 2023** – Further notice to owner to bring property into compliance.

**February 23, 2023** – No contact from owner.

It is unknown whether there are health & safety related deficiencies.

In order to close the permit file a building permit must be issued and all inspection completed. A Watercourse Development Permit (WDP) may be required before a building permit can be applied for. A farm building would be exempted from requiring a WDP, but that cannot be determined until the owner applies for a permit.

The Building Bylaw infraction is considered to be Category 2 as the building is not for residential use.

**Analysis:**

Reasonable efforts have been made to achieve voluntary compliance with the property owner.

In July 2009 the Board adopted a Policy (Resolution B354/09) to provide for a consistent and cost effective approach to the enforcement of Building Bylaw violations. This policy provides the Board with three categories of infractions and the recommended action for each.

**Category 1** (Minor Deficiencies) – Place notice of deficiencies on folio file.

**Category 2** (Major Deficiencies) – Place Section 302 Notice on the property title.

**Category 3** (Health & Safety Deficiencies/Building without Permit) – Place Section 302 Notice on title and seek compliance through injunctive action.

As there are potential construction deficiencies on this property which are not a health and safety concern, a Section 302 Notice on Title is recommended by staff. The Notice on Title advises the current and future owners of the deficiency and protects the RDOS from liability.

**Alternatives:**

1. Place a notice of deficiencies on the folio file (Category 1) and abandon further enforcement action
2. Place a Section 302 Notice on property title and proceed with injunctive action (Category 3)
3. Do not proceed with enforcement action

**Respectfully submitted:**

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Mark Petry, Manager of Building and Enforcement Services

Attachments:            Parcel Maps  
                                 Photo





