



VILLAGE OF SILVERTON

AGENDA

SPECIAL MEETING OF COUNCIL TO BE HELD

June 10, 2021

ONLINE – GoToMeeting (as posted)

4:00 PM

A. CALL TO ORDER

B. THE VILLAGE OF SILVERTON ACKNOWLEDGES THE INDIGENOUS PEOPLES ON WHOSE TRADITIONAL TERRITORIES WE STAND

C. ADDITION OF LATE ITEMS IF ANY

D. ADOPTION OF THE AGENDA

E. NEW BUSINESS

1. Notice on Title

Recommendation:

Whereas the Building Inspector has provided a recommendation to the Village of Silverton Corporate Officer, according to Section 57(1)(b) of the Community Charter;

Therefore Be It Resolved That the Corporate Officer of the Village of Silverton be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Village of Silverton relating to land at PID 010-750-967, 010-750-991, 010-751-033, 010-751-084, 010-751-114, 010-751-203, Lots 1-6, Block 35, DL 434, LD 26, BC Jur. Code 572 AND PID 010-750-941, 010-750-916, 010-750-894, 010-750-860, Lots 9-12, Block 34, DL 434, LD 26, BC Jur. Code 572; AND

FURTHER, if an active Building permit or Building application is in place, that it be cancelled; AND

FINALLY, that information respecting the resolution may be inspected at the office of the Village of Silverton on normal working days during regular office hours.

At the will of the Chair and providing that proper notice was given to the Village as stated in the letter provided to the property owner and property owner legal representative on May 27, 2021, the property owner(s) or property owner representative(s) will be given an opportunity to address Council regarding Agenda item E 1 for a maximum of five (5) minutes as per Council Procedural Bylaw No. 512 – 2019 “Each address must be limited to 5 minutes unless a longer period is agreed to by unanimous vote of those [council] members present”.

F. ADJOURNMENT



Village of Silverton

Notice on Title Report

Special Meeting of Silverton Village Council June 10th at 4pm

Executive Summary

The purpose of this report is to present information for Council consideration to place a Notice on Title on the following property as a consequence of a building bylaw contravention:

File: 136000

Registered Owners: Mountainside Property Management Ltd.

Civic Address: 12 Lake Avenue

Legal Description: PID 010-750-967, 010-750-991, 010-751-033, 010-751-084, 010-751-114,
010-751-203, Lots 1-6, Block 35, DL 434, LD 26, BC Jur. Code 572
AND
PID 010-750-941, 010-750-916, 010-750-894, 010-750-860, Lots 9-12,
Block 34, DL 434, LD 26, BC Jur. Code 572

Zoning: C – 1, Commercial

Background

The following is the report from the RDCK Building Service regarding the property described above:

April 6, 2017- An application to calculate an occupant load for a restaurant liquor license was received from Stanley Roger McClay who was authorized by the registered owner of the Silverton Lakeshore Inn, Maurice Palmer of Pacific Holdings Ltd. to be their representative.

April 12, 2017- A copy of the floor plan submitted with the application was emailed to the RDCK Building Manager John Southam from Peter Southin, Building/Plumbing official for review.

April 27, 2017- A field inspection was done by Mr. Southam, Mr. Southin, Leonard Casley, Fire Chief (Silverton and New Denver) and Susan Yurachuck who was considering renting part of the building.

May 2, 2017- Mr. Southin requested and received a copy of the Fire System Checklist for the Silverton Inn dated August 26, 2016 from Cris Outram, Service Department Manager with Martech Electrical.

May 8, 2017- An email was sent to the Registered Owner of the Silverton Lakeshore Inn, Maurice Palmer from Mr. Southam in reply to the permit application and a follow up to the field

inspection done on April 27, 2017. The email listed deficiencies that would require correction to allow an occupant load calculation to be issued.

May 14, 2017- An email was forwarded from Rosamarie Renido to Pacific Holdings Ltd. questioning the 12 listed deficiencies in the email from Mr. Southam. Mr. Palmer added to the email from Rosamarie Renido with comments directed to Mr. Southam.

June 1, 2017- An email was received from Mr. Palmer requesting an answer to the questions forwarded from Rosamarie Renido.

June 2, 2017- Mr. Southam responded to Mr. Palmer's email re-emphasising the requirement for the established list of documents to proceed and added that the Hotel has many *unsafe conditions*. Mr. Southam used the BC Building code definition of *Unsafe condition* to mean: "...any condition that could cause undue hazard to the life, limb or health of any person authorized or expected to be on or about the premises." Mr. Southam offered to talk to Mr. Palmer by phone as the construction activity at the time was very high and his capacity to respond was limited for written communication. He also pointed out that any works that occurred prior to Mr. Palmer's ownership, which create *unsafe conditions* remain the responsibility of Mr. Palmer as owner to correct.

June 8, 2017- Mr. Palmer requested from the Village of Silverton a copy of the as built plans for the Hotel and the septic field for his engineer to review for the new plans he is preparing.

June 9, 2017- Darrel Garceau, CAO Village of Silverton responded to Mr. Palmer's request and stated that they "would pull all they had to assist with his process".

June 12, 2017- A request by email was received from Mr. Palmer to review previous permits and inspections issued to the Hotel by the Village of Silverton. Mr. Southam responded that Mr. Garceau, had previously clarified with Mr. Palmer that any historical records would be made available if requested for viewing at the Village of Silverton office. Mr. Southam informed Mr. Palmer that he was going to be in Silverton on Thursday June 15 and would like to access the Hotel at approximately 12:30pm and asked who he should talk to on site

June 13, 2017- Mr. Palmer responded by email stating that he was hoping that the Engineers would be on site when Mr. Southam arrived and that he would see him there on Thursday June 15, 2017.

June 15, 2017- Mr. Southam went to the site and no one was there to allow access to the building.

July 1, 2017- Ming Xing, Professional Engineer of Camacs Consulting Ltd. did an inspection on the subject glulam beam. An Engineering Letter was provided dated August 28, 2017 regarding the inspection July 1, 2017.

July 5, 2017- Phone conference call between Mr. Southam, Ming Xing and Simeon Patenio, owner's representative.

July 10, 2017- Preliminary plans emailed to Mr. Southam for review.

August 24, 2017- Email received from Mr. Patenio regarding the status of the plan review.

August 29, 2017- Mr. Southam responded to the email and added comments regarding fire separations, cooking exhaust hood system, status of the ROWP report and backflow concerns on the water supply. Notes were written on the submitted plans.

September 12, 2017- Mr. Patenio submitted sealed drawings and letter regarding the inspection of the glulam beam done by Mr. Xing on July 1, 2017 to Mr. Southam.

September 13, 2017- Mr. Southam forwarded to plans to Mr. Southin for the permit file and also emailed Mr. Patenio requesting the Schedules which should have been sent with the sealed drawings. A Schedule A and B were later received and dated September 13, 2017 from the 2012 BC Building Code.

October 17, 2017-Mr. Patenio emailed Mr. Southam requesting help to find a ROWP as none were available.

October 18, 2017- Mr. Southam responded with a list of ROWP's for Mr. Patenio to review and requested clarification from the owner as to who will be the point person for the renovation and beyond by completing the attached owners representative form. Mr. Southam also requested a revised application form as the scope of the project includes renovations and,

- A signed and dated letter from the owner committing to:
 - completion of a sewerage system evaluation by a qualified ROWP or Registered Professional;
 - an evaluation of the existing kitchen hood and extinguishing system by a Registered Professional familiar with the requirements of NFPA 96 (depending upon the existing installation circumstance additional permitting maybe required, the Professional shall advise in writing as to what was found)
 - Fire-stopping of plumbing system revisions (a plumber can perform this work, especially the one who made the more recent modifications).
 - Acceptance that we will not close the building permit nor authorize further occupancy until such time as the items above and the renovations included in the scope of the sealed drawings are completed and inspected.

November 2, 2017- A revised application form, owner's representative form authorizing Robert Dyck and a signed and dated letter as requested from the owner was received.

November 3, 2017-Mr. Palmer sent an email requesting that any faxes regarding the permits and work that were received the previous day be disregarded and that he had a company that would look after the interior work and help apply for the permits.

November 5, 2017- Mr. Palmer sent an email regarding the inspection done in April 2017 and his concern of snow piled on the Hotels septic field.

November 26, 2017- A copy of an inspection report for electrical work done by Martech Electrical Systems was received for corrected non-compliance dated June 30, 2015.

January 3, 2018- Mr. Palmer sent an email to Mr. Garceau regarding filing a lawsuit against the Village of Silverton and the two inspectors involved.

January 4, 2018- Mr. Garceau responded to Mr. Palmer and welcomed the opportunity to discuss his concerns and arrange a meeting.

January 10, 2018- Mr. Palmer responded and stated he would talk it over with his lawyer to set up a meeting before they filed a claim.

January 21, 2018- Mr. Palmer informed by email that he was meeting with his lawyer to discuss a meeting prior to filing.

January 22, 2018- Mr. Southam sent an email to Mr. Palmer welcoming the proposal to meet. Mr. Southam requested clarification whether the Engineer and Owners Representative are still retained for the scope of the project and if not who would be attending to these matters. Mr. Palmer responded that it would be up to his lawyer if a meeting was to take place prior to filing litigation.

January 23, 2018- Mr. Palmer sent an email regarding a meeting February 8, 2018 at the earliest with his lawyer.

January 24, 2018- Mr. Southam responded to Mr. Palmer informing him that Mr. Garceau was away on vacation. Mr. Southam noted that as per his previous email that he is and has been available at Mr. Palmer's convenience to meet at the Nelson office.

March 8, 2018- A meeting on site was held at 12:45pm. Present at the meeting Mr. Southam, Mr. Southin, Mr. Casley, Mr. Garceau, Mr. Palmer, Ms. Hillary Elliot Administrative Assistant, Village of Silverton and Thomas R Humphries Lawyer representing Mr. Palmer.

March 13, 2018- A summary of the meeting on March 8, 2018 was sent to all present from Mr. Garceau requesting review and advise if the summary accurately reflects the discussion.

September 18, 2020- An email was received by Ms. Hillary Elliott, CAO Village of Silverton from Mr. Palmer informing the Village that a caretaker would be moving into the building on October 1st 2020 as people are still breaking in. He also stated that he would like to get the liquor license back without any issues from the inspectors. The email was forwarded to Mr. Southam and Mr. Southin. Mr. Southam responded To Ms. Elliott and suggested withholding the Business License to prevent opening / occupancy of the building with so many known problems and that Liquor Licensing will entail a significant effort on Mr. Palmer's behalf. Contacting Jim Booth, Liquor Licensing in Nelson was recommended to seek advice to the process required with so many years since the previous licensing.

October 8, 2020- Ms. Elliott responded to Mr. Palmer stating that it would be exciting to have the old Hotel used again with all public safety / building codes up to present day standards if opened to the public. Mr. Palmer responded in following emails regarding not needing permits to change fire doors and that the Bar and Restaurant were not open to the public. He also stated that he has 5 people living in the Hotel as they could not find anywhere else to live. Ms. Elliott responded that the occupancy of the Building was only acceptable for 1 person which would

consider the building to be a single-family dwelling for water and garbage charges. Mr. Palmer responded that all the rooms are rented out and the water and garbage charges would be fine. He also noted that he would not be going for a liquor licensing due to Covid. Ms. Elliott responded thanking Mr. Palmer for confirmation of intending to fill the Hotel rooms, however occupancy of more than one person (caretaker) would require the previously identified deficiencies to be addressed.

November 10, 2020- Mr. Simeon Patenio contacted Mr. Southam by email referring to communications between them 3 years previously and that the owner Mr. Palmer has requested forwarding a building permit application, attached to this email. Mr. Patenio requested that all forthcoming communication or any further requirements be kindly address to Robert Dyck the assigned representative & cc'd to Mr. Palmer, Mr. Xing and himself. The application was received at the Nakusp RDCK office and assigned a permit application number #26299. It was noted that the owner authorized himself as the owners authorized representative on the form dated November 7, 2020. Robert Dyck was listed as the representative on the permit application page 2 which was copied and re-dated from the permit application received in 2017.

November 18, 2020- Mr. Peter Southin emailed Mr. Dyck and Mr. Xing requesting updated documentation which references the 2018 BC Building code as the previous cancelled permit application was received when the 2012 BC Building code was in place. Mr. Southin also requested a construction value for the project to determine the permit fee.

November 23, 2020- Mr. Xing contacted Mr. Southin by phone and agreed that The Schedule A and B would need to be re-submitted using the 2018 BC Building code and the plans re-dated but were acceptable as drawn.

January 9, 2021- Mr. Southin received an email from Mr. Palmer questioning why the application and Engineering from the cancelled permit application could not be used. He noted that at the time they did not have the money to do the project.

January 12, 2021- Mr. Southin responded to Mr. Palmer explaining why the previous application and now out-dated documentation could not be used. Mr. Southin quoted the conversation with Mr. Xing on November 23, 2020 in the email. Mr. Southin also included the copy of the email from Mr. Palmer received on November 3, 2017 directing to disregard the email received the previous day which was the application form and related documentation.

April 26, 2021 No further action by owner to permit and resolve the “*Unsafe conditions*” in the building”.

Legislative Considerations

1. Section 57 Community Charter

Note against land title that building regulations contravened

57 (1) A building inspector may recommend to the council that it consider a resolution under subsection (3) if, during the course of carrying out duties, the building inspector

(a) observes a condition, with respect to land or a building or other structure, that the inspector considers

(i) results from the contravention of, or is in contravention of,

(A) a municipal bylaw,

(B) a Provincial building regulation, or

(C) any other enactment

that relates to the construction or safety of buildings or other structures, and

(ii) that, as a result of the condition, a building or other structure is unsafe or is unlikely to be usable for its expected purpose during its normal lifetime, or

(b) discovers that

(i) something was done with respect to a building or other structure, or the construction of a building or other structure, that required a permit or an inspection under a bylaw, regulation or enactment referred to in paragraph (a) (i), and

(ii) the permit was not obtained or the inspection not satisfactorily completed.

(2) A recommendation under subsection (1) must be given in writing to the corporate officer, who must

(a) give notice to the registered owner of the land to which the recommendation relates, and

(b) after notice under paragraph (a), place the matter before the council.

(3) After providing the building inspector and the owner an opportunity to be heard, the council may confirm the recommendations of the building inspector and pass a resolution directing the corporate officer to file a notice in the land title office stating that

- (a) a resolution relating to that land has been made under this section, and
- (b) further information about it may be inspected at the municipal hall.

(4) The corporate officer must ensure that all records are available for the purpose of subsection (3) (b).

(5) If the registrar of land titles receives a notice under subsection (3) and payment of the prescribed fee, the registrar must make a note of the filing against the title to the land that is affected by the notice.

(6) The note of a filing of a notice under this section is extinguished when a new title to the land is issued as a result of the deposit of a plan of subdivision or a strata plan.

(7) In the event of any omission, mistake or misfeasance by the registrar or an employee of the registrar in relation to the making of a note of the filing under subsection (5), or a cancellation under section 58, after the notice is received by the land title office,

- (a) the registrar is not liable and neither the Provincial government nor the Land Title and Survey Authority of British Columbia is liable vicariously,

- (a.1) the assurance fund or the Land Title and Survey Authority of British Columbia as a nominal defendant is not liable under Part 19.1 of the *Land Title Act*, and

- (b) the assurance fund or the minister charged with the administration of the *Land Title Act* as a nominal defendant is not liable under Part 20 of the *Land Title Act*.

(8) Neither the building inspector nor the municipality is liable for damage of any kind for the doing of anything, or the failure to do anything, under this section or section 58 that would have, but for this subsection, constituted a breach of duty to any person.

(9) The authority under this section is in addition to any other action that a building inspector is authorized to take in respect of a matter referred to in subsection (1).

2. BC Building Code

Options

1. Do not accept recommendation as presented – the property will remain in contravention of the BC Building Code.
2. Accept recommendation as presented – file Notice on Title.

Recommendation(s)

Whereas the Building Inspector has provided a recommendation to the Village of Silverton Corporate Officer, according to Section 57(1)(b) of the Community Charter;

Therefore Be It Resolved That the Corporate Officer of the Village of Silverton be directed to file a Notice with the Land Title and Survey Authority of British Columbia, stating that a resolution has been made under Section 57 of the *Community Charter* by the Village of Silverton relating to land at PID 010-750-967, 010-750-991, 010-751-033, 010-751-084, 010-751-114, 010-751-203, Lots 1-6, Block 35, DL 434, LD 26, BC Jur. Code 572 AND PID 010-750-941, 010-750-916, 010-750-894, 010-750-860, Lots 9-12, Block 34, DL 434, LD 26, BC Jur. Code 572; AND

FURTHER, if an active Building permit or Building application is in place, that it be cancelled;
AND

FINALLY, that information respecting the resolution may be inspected at the office of the Village of Silverton on normal working days during regular office hours.

Hillary Elliott
CAO, Village of Silverton