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**TO:** Electoral Area Services Committee      **MEETING:** March 10, 2020  
**FROM:** Tom Armet  
          Manager, Building & Bylaw Services      **FILE:** 20200000036  
**SUBJECT:** Building Bylaw Contravention – 4265 Park Avenue

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### RECOMMENDATION

That a Notice of Bylaw Contravention be registered on the title of Lot A, District Lot 36, Plan EPP64468, Newcastle District (4265 Park Avenue), pursuant to Section 57 of the *Community Charter*.

### SUMMARY

In response to a complaint, RDN staff inspected the subject property and confirmed that a large addition to a single-family dwelling was being constructed without building and development permit approvals from the RDN. A Stop Work Order was issued and over the ensuing months, numerous notices were sent to the owner with direction to comply with RDN zoning and building regulations, without response.

A further complaint was recently received of more illegal construction underway on the property. A staff inspection confirmed that a large garage, sited in close proximity to a watercourse, was under construction without building or development permit approvals. A Stop Work Order was issued, and the owner was again directed to cease any further work and seek the necessary approvals, without response. It is recommended that a Notice of Bylaw Contravention be registered on the property title to alert parties of interest to the contravention.

### BACKGROUND

The subject property is located on the ocean and adjacent to a watercourse in an environmentally sensitive coastal region in Electoral Area H. Any land alteration or construction on the property is subject to development permit requirements in accordance with *Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500*. Development permit approvals must be in place prior to any construction being commenced with building permit authorization. The location of the subject property is included for reference as Attachment 1.

#### ***Structural addition to residence***

October 2015 – A Stop Work Order was issued on a large addition to a single-family dwelling being constructed without permits. No response from the property owner (*see Attachment 2 for photos of the unauthorized addition*).

November 2015 – A notice was sent to the property owner advising of the requirement to cease all work and obtain necessary approvals. No response from the property owner.

December 2015 – A second notice was sent, with no response from the property owner.

June 2016 – A third notice was sent, with no response from the property owner.

June 2017 – A letter was sent from the Planning Department regarding development permit requirements, with no response from the property owner.

April 2018 – A building permit application was received however it was not approved due to development permit requirements not being met. No further response or action was taken by the property owner to comply with regulations or to apply for a development or building permit for the addition.

October 2018 – The agent for the property owner contacted the RDN to advise they were preparing a development permit application. No application was received.

### ***Accessory building construction***

February 2020 – Acting on a complaint, staff inspected the property and confirmed that a large garage was under construction in close proximity to a watercourse, without permits (see *Attachment 2 for photos of unauthorized garage*). A Stop Work Order was issued, and the property owner was advised to cease all work and occupation of the building. The addition to the dwelling was also noted to be complete and occupied in contravention of the initial Stop Work Order.

The non-compliant accessory building is situated approximately seven metres from a watercourse, in a sensitive development permit area.

Section 57 of the *Community Charter* authorizes the Board to consider a resolution that directs the Corporate Officer to file a Notice on the title of a property that results from the contravention of a bylaw, a Provincial building regulation, or any other enactment, that relates to the construction or safety of buildings or other structures, or work that was carried out without the necessary permit(s). A Notice on title also serves to alert prospective purchasers or others having an interest in the property, to the contraventions.

Two structures were constructed without approvals in contravention of RDN zoning and building regulations. The property owner has failed to comply with staff direction, therefore it is recommended that a Notice of Bylaw Contravention be registered on the property title.

### **ALTERNATIVES**

1. Register a Notice of Bylaw Contravention on the title of the property.
2. Not register a Notice of Bylaw Contravention on title and provide alternate direction to staff.

## FINANCIAL IMPLICATIONS

There are no financial implications in the registration of a Notice on title. Once the bylaw contravention has been corrected, the property owner may apply to have the Notice removed upon payment of a \$500 fee in accordance with *Building Regulations Fees and Charges Bylaw No. 1595, 2010*. Should it become necessary to pursue legal action to bring the property into compliance with RDN regulations, a Court Order may be required to either remove the non-compliant structures or compel the owner to comply with building and zoning regulations. The cost of obtaining such an Order can reach several thousand dollars and if challenged by the owner, the costs could escalate further. If successful, the RDN may recover a portion of legal costs.

## STRATEGIC PLAN IMPLICATIONS

Social Wellbeing – Make the Region a safe and vibrant place for all, with a focus on children and families in programs and planning.

Environmental Stewardship – Protect and enhance the natural environment, including land, water, and air quality for future generations



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Tom Armet  
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February 25, 2020

Reviewed by:

- G. Garbutt, General Manager, Strategic & Community Development
- P. Carlyle, Chief Administrative Officer

Attachments:

1. Subject property location photo
2. Construction photos