



COLUMBIA SHUSWAP REGIONAL DISTRICT

555 Harbourfront Drive NE, PO Box 978, Salmon Arm, BC V1E 4P1
T: 250.832.8194 | F: 250.832.3375 | TF: 1.888.248.2773 | www.csr.bc.ca

May 27, 2019

File No.: 3880 17 04
PR20170000004

REGISTERED MAIL

Clarence & Jannette De Weerd
7761 Columbia Drive
Anglemont, BC
V0E 1M8

Clarence & Jannette De Weerd



Dear Mr. & Mrs. De Weerd:

Re: Lot 159 Section 15 Township 23 Range 9 West of the 6th Meridian Kamloops Division Yale District Plan 15296
7761 Columbia Drive, Anglemont, BC
PID: 008-853-673

Please be advised that I have received a recommendation pursuant to Section 57 (1) of the Community Charter.

Pursuant to Section 57 (2) (a) you are hereby advised that this matter will be placed before the Columbia Shuswap Regional District (CSRD) Board of Directors for its consideration at its Thursday, June 20, 2019, Regular Board meeting, which commences at 9:30 AM, in the Board Room of the Columbia Shuswap Regional District, 555 Harbourfront Drive NE, Salmon Arm, BC.

You are invited to attend the Board meeting to be heard. You are permitted to make a written presentation or to be represented by legal counsel if you so wish.

Enclosed for your information is a copy of the recommendation of the Building Official and a copy of Section 57 of the Community Charter.

Yours truly,
COLUMBIA SHUSWAP REGIONAL DISTRICT
Per:

Charles A. Hamilton
Corporate Officer

Enclosures

ELECTORAL AREAS

A GOLDEN-COLUMBIA
B REVELSTOKE-COLUMBIA

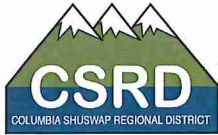
C SOUTH SHUSWAP
D FALKLAND-SALMON VALLEY

E SICAMOUS-MALAKWA
F NORTH SHUSWAP-SEYMOUR ARM

MUNICIPALITIES

GOLDEN
REVELSTOKE

SALMON ARM
SICAMOUS



MEMORANDUM

TO: Charles Hamilton
Corporate Officer

FROM: Michelle Boag
Building Official

SUBJECT: Community Charter Section 57; Note Against Land Title that
Building Regulations Contravened 7761 Columbia Drive, Anglemont,
Electoral Area F

File No: 3880 17 04

Date: May 1, 2019

Lot 159 Section 15 Township 23 Range 9 West of the 6th Meridian
Kamloops Division Yale District Plan 15296
Clarence and Jannette De Weerd

RECOMMENDATION: Whereas, during the carrying out of my duties, it was noted, in accordance with Section 57 subsections (1) (b) (i) and (1) (b) (ii) of the *Community Charter*, that the property owner had commenced construction of a retaining wall without the necessary building permit; I am recommending, in accordance with Section 57 (2) of the *Community Charter*, that the Corporate Officer give notice to the registered owner of Lot 159 Section 15 Township 23 Range 9 West of the 6th Meridian Kamloops Division Yale District Plan 15296 by the CSRD Board of Directors and that the Corporate Officer recommend to the Board that a Section 57 Notice of the contravention be filed on Title.

SHORT SUMMARY: This property is in contravention of the Columbia Shuswap Regional District Building Bylaw No. 660. A Building Permit has not been obtained for a retaining wall ranging up to ten feet in height that has been constructed by the owner at the rear of the property used for driveway access. At the request of CSRD staff, a survey of the retaining wall was submitted February 5, 2019 that confirmed this wall encroaches into a CSRD Easement and CSRD no construction/no disturb road access covenant area. In addition, the survey established that both ends of the wall also contravene side yard setback regulations as noted in Anglemont Zoning Bylaw No. 650. Due to these contraventions a Building Permit cannot be issued. A Stop Work Order was posted on site March 15, 2019. The owner has staunchly refused to supply information that may help in rectifying the retaining wall issues; staff therefore put forward a date of April 25, 2019 to receive information from the landowner that would illustrate a path towards bylaw compliance. April 25, 2019 has now passed without a response from the owners.

Placing a Section 57 Notice on Title serves as an efficient way to note a structure's potential non-compliance to the BC Building Code and CSRD Building Bylaw and also serves as an appropriate disclosure mechanism to potential future owners and other parties that may have an interest in

the property. This notice also serves to protect taxpayers from potential claims with regard to the BC Building Code and Building Bylaw contraventions.

POLICY:

Building Regulation Bylaw No. 660:

Part 4: Prohibitions

- 4.1 A person must not commence or continue any *construction, alteration, excavation, re-construction, demolition, removal, relocation or change the use or occupancy* of any *building or structure*, including other work related to construction:
- (a) except in conformity with the requirements of the *building code* and this bylaw; and
 - (b) unless a *building official* has issued a valid and subsisting *permit* for the work under this bylaw.
- 4.2 A person must not *occupy or permit the occupancy* of any *building or structure* or part of any *building or structure*:
- (a) unless a subsisting final inspection notice has been issued by a *building official* for the *building or structure* or the part of the *building or structure*; or
 - (b) contrary to the terms of any *permit* issued or any notice given by a *building official*.
- 4.9 A person must not contravene a notice of a *building official* issued under section 6.6.

Part 6: Powers of a Building Official

- 6.6 Subject to applicable enactments, a *building official* may by notice in writing require:
- (a) a person who contravenes any provision of this bylaw to comply with that provision within the time ordered;
 - (b) an *owner* to stop work on a *building or structure*, or any part of a *building or structure*, if the work is proceeding in contravention of this bylaw, the *building code*, or any other enactment of the Regional District or other applicable enactments, or if there is deemed to be an *unsafe condition*, and may enter on property to affix or post a stop work order in the form prescribed by the *building official*;
 - (e) an *owner* to have work inspected by a *building official* prior to covering;
 - (f) an *owner* to uncover any work that has been covered without inspection contrary to this bylaw or an order issued by a *building official*;
 - (g) a person to cease any *occupancy* in contravention of a provision of this bylaw;
 - (h) a person to cease any *occupancy* if any *unsafe condition* exists because of work being undertaken but not complete and where the *building official* has not issued a final inspection notice for the work;
 - (i) an *owner* to correct any *unsafe condition*; and
 - (j) an *owner* to correct any work that contravenes this bylaw, the *building code*, or any

other enactment.

Section 57 of the *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

(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) (1) 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 council.

FINANCIAL:

Legal, notification, and costs associated with placing a Section 57 Notice on Title would be less than \$1000. Further enforcement by way of a court injunction can vary from \$10,000-\$30,000 depending on the complexity of the file and the response received from the property owner. Development Services and Operations Management are working together with regard to the encroachment and covenant issues and staff may consider additional enforcement action in the future if the landowner continues to be uncooperative.

KEY ISSUES/CONCEPTS:

Staff have requested on numerous occasions, both in verbal and written communications, that the owner of the subject property provide the required information necessary that would create a path forward towards rectifying the identified retaining wall issues. The owner has failed to provide the information or to advise the CSRD when the information will be submitted to this office. In the absence of the required approvals, placing a Section 57 Notice on Title is a priority.

COMMUNICATIONS:

The Corporate Officer will give notice to the registered owner Lot 159 Section 15 Township 23 Range 9 West of the 6th Meridian Kamloops Division Yale District Plan 15296 in accordance with Section 57 (2)(a) of the *Community Charter*, and once notice has been given to the owner the matter will be placed on the June 20, 2019 CSRD Regular Board Agenda for consideration by the CSRD Board of Directors in accordance with Section 57 (2)(b) of the *Community Charter*.

LIST NAME OF REPORT(S) / DOCUMENT(S):

Location Map	Attached to Memorandum: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
Section 57 of the <i>Community Charter</i>	Attached to Memorandum: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
Photographs of the site	Attached to Memorandum: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>

REVIEWED BY:	Date Signed Off (MO/DD/YR)	Approval Signature of Reviewing Manager or Team Leader
Corporate Administration Services	05/27/19	Lynda A. Shykora
Manager, Development Services	05/24/19	Gerald Christie
Team Leader, Building & Bylaw Services	05/17/19	M. + E

Location Map



May 01, 2019

This map is for reference only. Not to be used for navigation. The data in this map is compiled from numerous sources and may not be complete or accurate. No warranty, expressed or implied, is made as to the accuracy of this information.

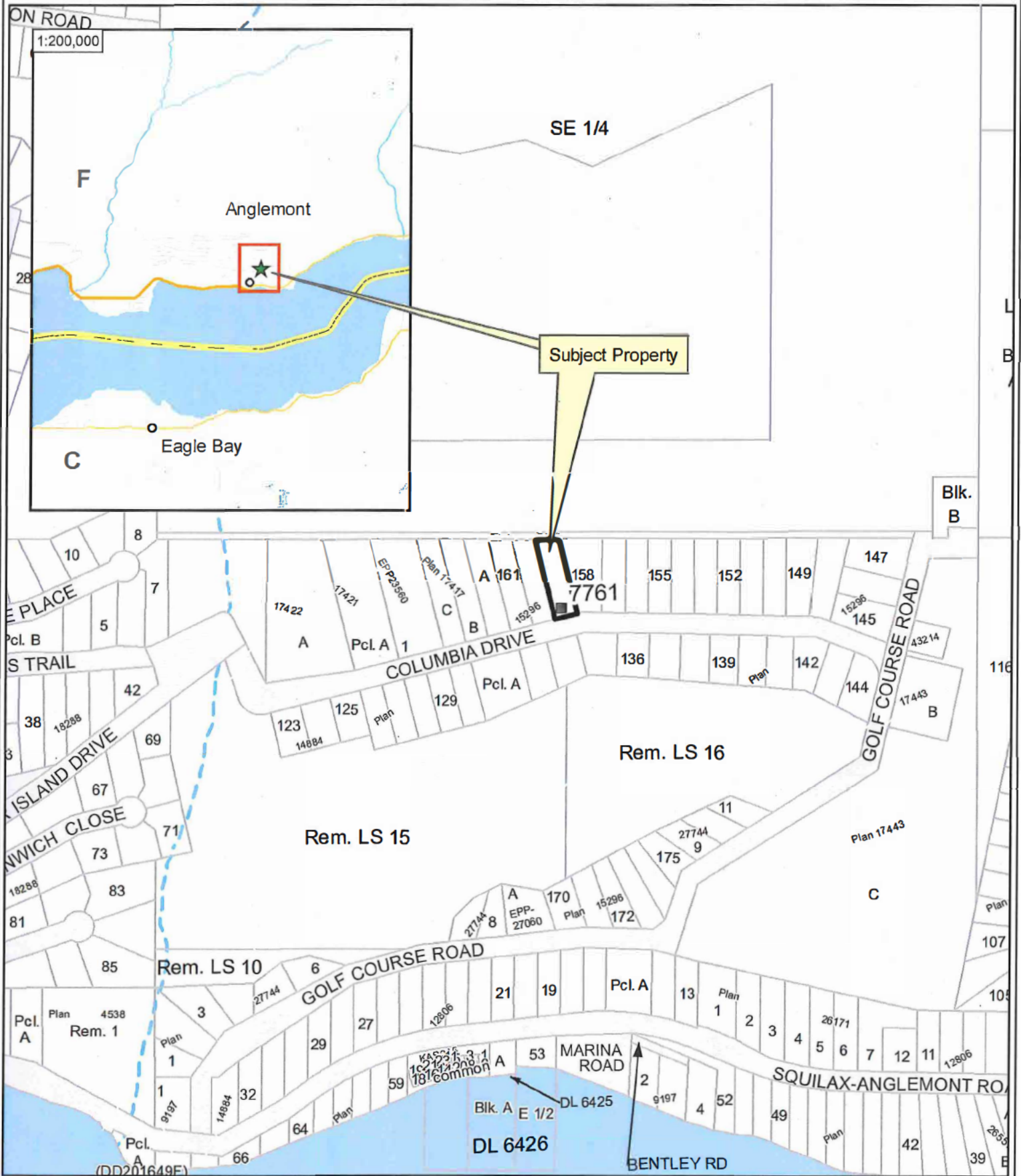


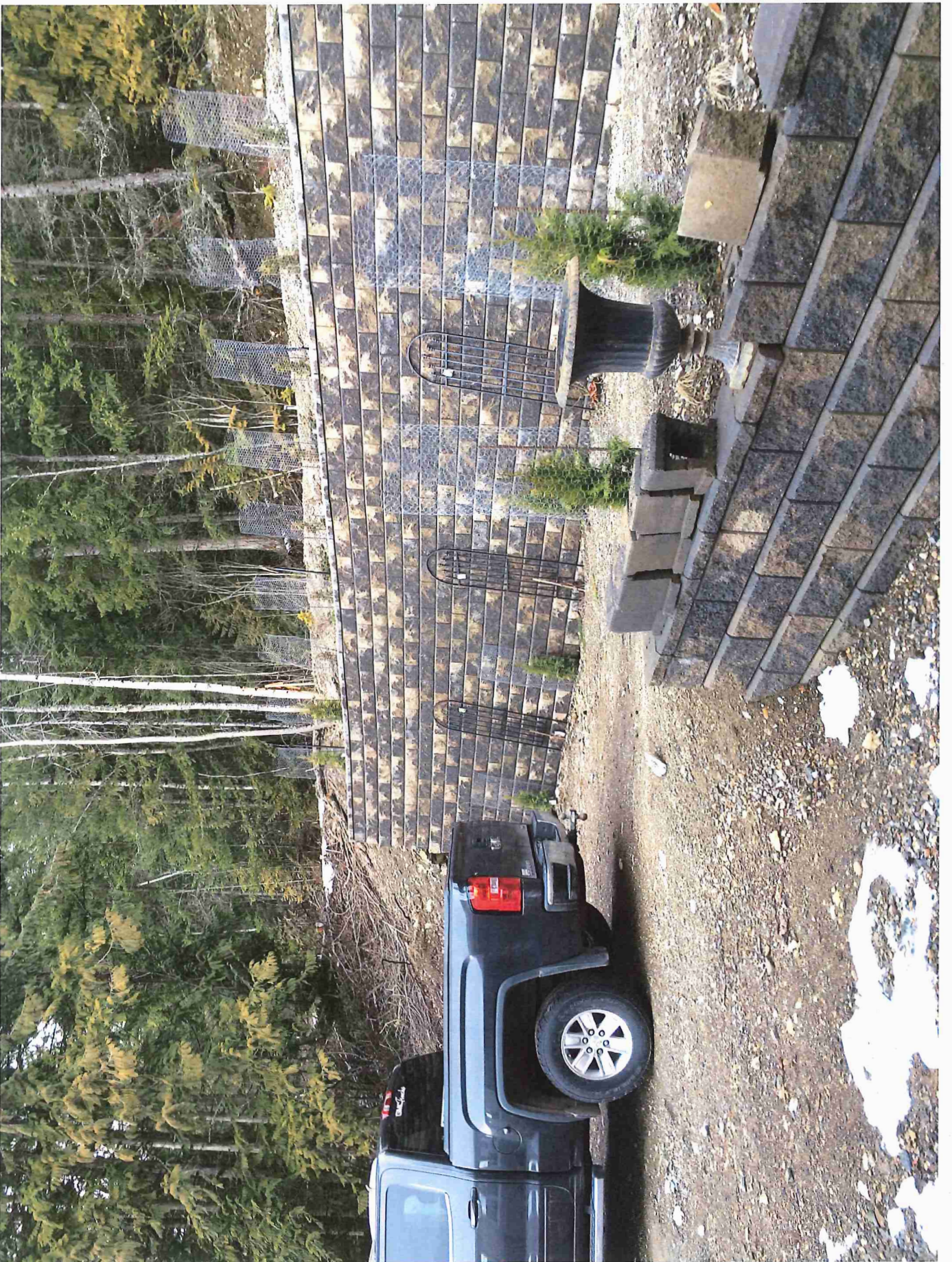
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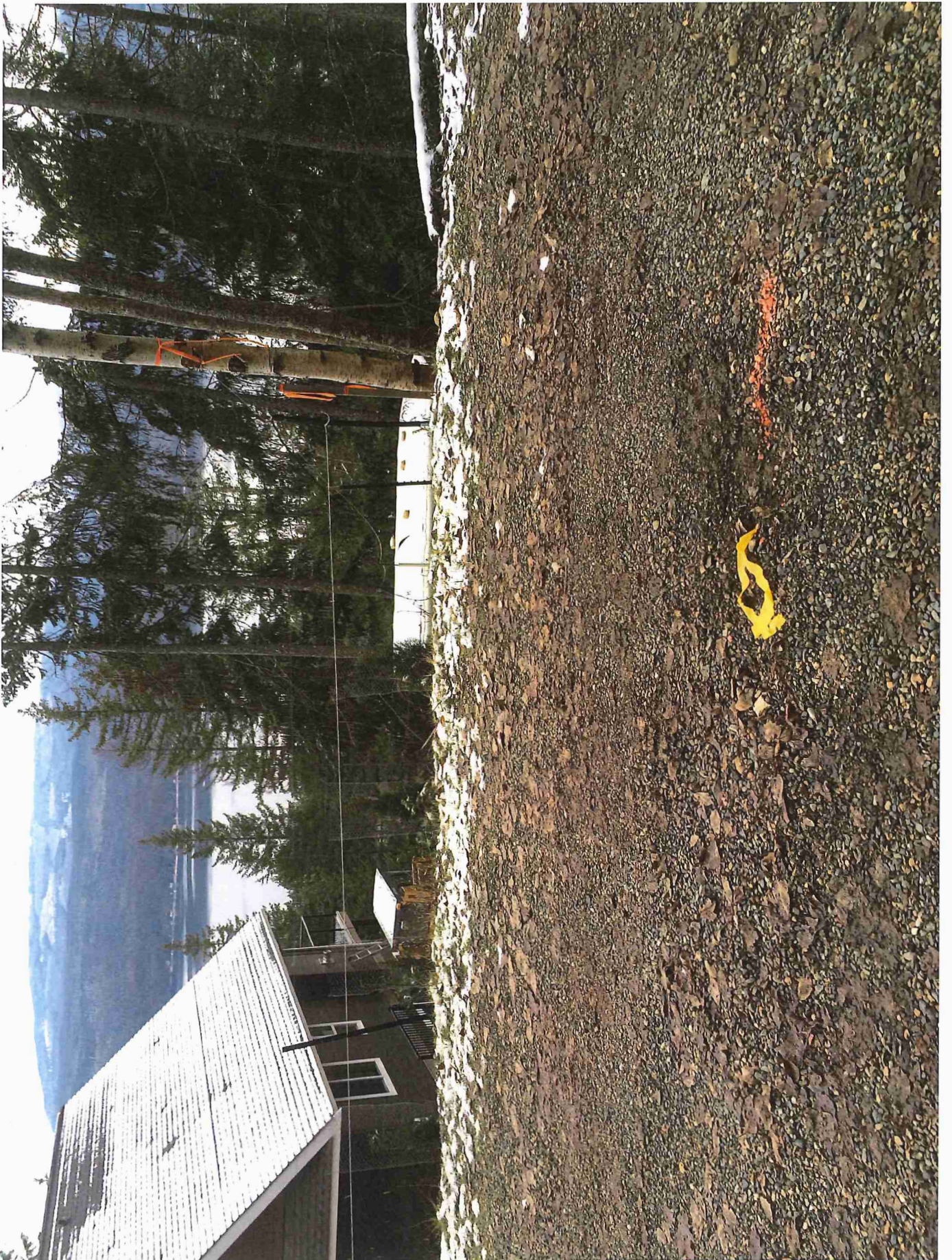
Map Notes

Clarence and Jannette
De Weerd
7761 Columbia Dr
Anglemont



















Note against land title that building regulations contravened

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(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).