

To: Electoral Area Services Committee

Date: 2019-02-12

From: Graham Daneluz, Deputy Director of Planning & Development

File No: 3015-20-2019-01

**Subject: Non-Farm Use Application for a Cannabis Facility at 59710 Lougheed Hwy, Area "B"**

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## RECOMMENDATION

**THAT** the Fraser Valley Regional District Board forward the Non-Farm Use application for a cannabis production facility at 59710 Lougheed Highway, Electoral Area "B" to the Agricultural Land Commission with support subject to: 1) the two storey 25,000 square foot facility being located entirely within the portion of the parcel zoned Industrial (I-1); and 2) an offer and commitment from the landowner to register a covenant in favour of FVRD regarding outdoor lighting and odours controls as described in the Report dated 2019-02-12;

**AND THAT** the Agricultural Land Commission refer the application to the Skawahlook and Chawathil First Nations prior to making a decision.

## STRATEGIC AREA(S) OF FOCUS

Foster a Strong & Diverse Economy

Provide Responsive & Effective Public Services

## BACKGROUND

### Proposal Description

0989561 BC LTD (DBA Canandia Bioceuticals LTD) proposes to construct a facility for the growing and production of medical marihuana (cannabis) at 59710 Lougheed Highway north of Ruby Creek in Electoral Area "B". The property is within the Agricultural Land Reserve (ALR). They have applied for a Non-Farm Use in the ALR to facilitate this development on the 12.8 hectare property.

The facility would consist of a two storey industrial-style building with a footprint of about 2,322 m<sup>2</sup> (25,000 s.f.). This building is the subject of the Non-Farm Use application. Various soil-bottom greenhouses are also proposed but these are consistent with the rules of the Agricultural Land Commission and do not require Non-Farm Use approval.

In December, 2018, the Board directed staff to develop a policy to guide consideration of non-farm use applications for cannabis facilities. This policy is under development. The application is being brought forward in advance of the policy in response to the applicant's timing constraints.

### PROPERTY DETAILS

<b>Electoral Area</b>	B		
<b>Address</b>	59710 Lougheed Highway		
<b>PID</b>	002-119-803		
<b>Folio</b>	732.00201.400		
<b>Lot Size</b>	12.78 hectares (31.58 ac)		
<b>Owner</b>	0989561 BC Ltd. (Canandia Bioceuticals)	<b>Agent</b>	Madrone Environmental Services Ltd.
<b>Current Zoning</b>	Rural 4 (R-4) & Industrial (I-1)	<b>Proposed Zoning</b>	No change
<b>Current OCP</b>	N/A	<b>Proposed OCP</b>	-
<b>Current Use</b>	Vacant land	<b>Proposed Use</b>	Cannabis facility
<b>Development Permit Areas</b>	n/a		
<b>Hazards</b>	Floodplain; Landslide		
<b>Agricultural Land Reserve</b>	Yes		

### ADJACENT ZONING & LAND USES

<b>North</b>	^	Highway Commercial (C-2), Vacant Land
<b>East</b>	>	Rural Resource (R-4), Vacant Land / Chawathil 4 IR
<b>West</b>	<	Industrial (I-1), Telus Communications Tower; Skawahlook 1 IR
<b>South</b>	v	Rural Resource (R-4), Fraser River

### NEIGHBOURHOOD MAP



## PROPERTY MAP



The property is subject to flood and erosion hazards from the Fraser River as well as large-scale landslide hazard from the slope to the north. The applicant has provided a geohazard assessment from Madrone Environmental Services which indicates that the property may be safe for the proposed use.<sup>1</sup> Hazards will require further consideration and mitigation; this will be addressed through the building permitting process.

The property also contains documented archaeological sites generally along the Fraser River foreshore. These sites are identified and protected by Covenant W164781 registered on the land title. An archaeology impact assessment of the property was completed in 2012 by the Stó:lō Research & Resource Management Centre.<sup>2</sup> No archaeological resources were discovered in area of the proposed cannabis facility (within the portion of the parcel zoned I-1 as shown above). The proposed construction would avoid known archaeological resources.

<sup>1</sup> Madrone Environmental Services LTD. Geo-Hazard and Flood Hazard Assessment 59710 Lougheed Hwy, Hope, BC. April 10, 2018.

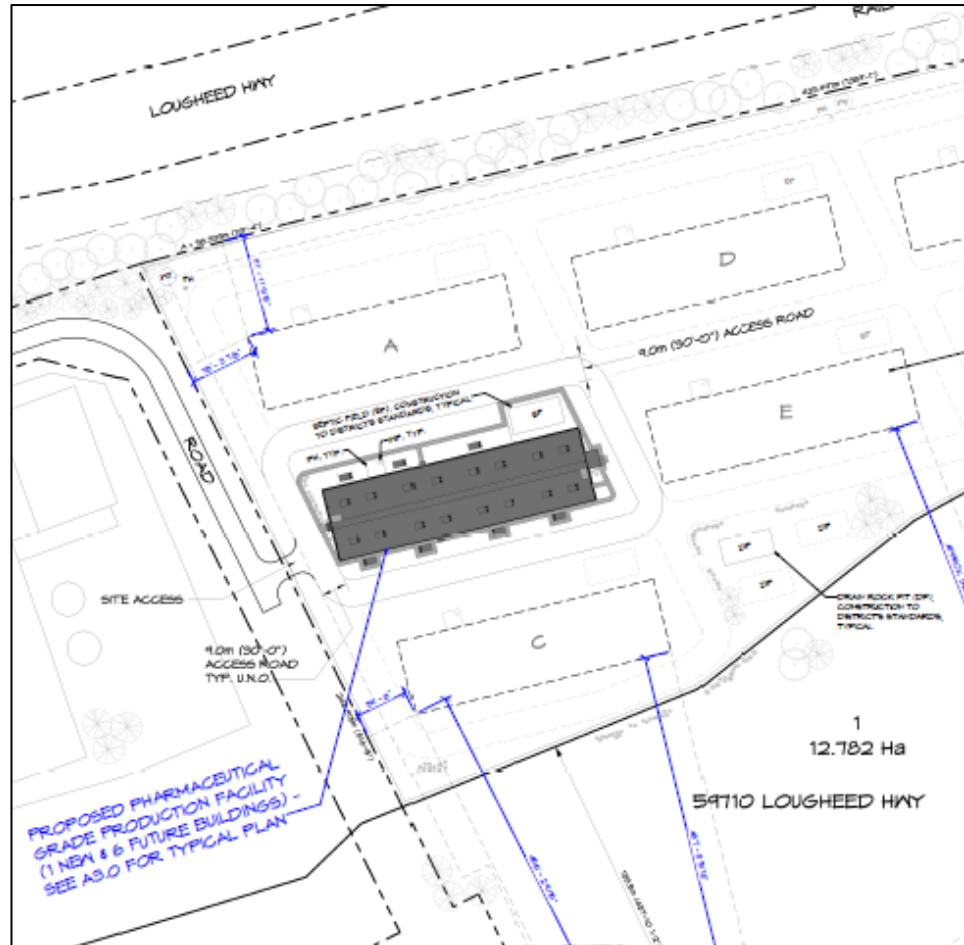
<sup>2</sup> Stó:lō Research & Resource Management Centre. Archaeological Impact Assessment of a Proposed Pet Cemetery and Pet Crematorium Commercial Development in the District of Kent, BC. February 20, 2012.

## DISCUSSION

0989561 BC LTD, doing business as Canandia Bioceuticals LTD, owns the property at 59710 Lougheed Highway north of Ruby Creek in Area "B". Canandia proposes to construct a facility for the growing and production of medical marihuana (cannabis) on the property. They have applied for a Non-Farm Use in the Agricultural Land Reserve to facilitate this development.

The facility would consist of a two

storey industrial-style building with a footprint of about 2,322 m<sup>2</sup> (25,000 s.f.). This building is the subject of the Non-Farm Use application. Various soil-bottom greenhouses, as shown in the plan above (indicated as building A, C, D, E etc.), are also proposed but these are consistent with the rules of the Agricultural Land Commission and do not require Non-Farm Use approval.



### Agricultural Land Reserve Regulation

Local governments are not able to prohibit farm uses on lands within the Agricultural Land Reserve (ALR). Before July 13, 2018, the production of medical marihuana was classified as a farm use in the ALR without restriction.

On July 13, 2018, the Agricultural Land Commission made changes to the *Agricultural Land Reserve Regulation (ALR Regulation)* that greatly scaled-back the type of cannabis production that is permitted as a farm use in the ALR. The production of cannabis is now defined as a farm use only if it is:

1. produced in a field; or,
2. produced in a structure that:
  - a. has a base consisting entirely out of soil, or

- b. was under construction, or was constructed, before July 13/18 for the purpose of growing crops inside it.

As a result of this change, the applicant must now apply to the Agricultural Land Commission, through the FVRD, to allow the proposed cannabis production facility.

The storing, packing, preparing and processing of cannabis is permitted within the ALR as long as at least 50% of the processed cannabis is produced on the farm.

### **Zoning**

The subject property is zoned Rural (R-4) and Industrial (I-1) under *Zoning Bylaw No. 801*. Medical Marihuana Grow Operation – defined as, “the cultivation, growth, storage, distribution, testing or research of marihuana for medical purposes as lawfully permitted and authorized under the applicable federal or provincial law”– is permitted in the both the R-4 and I-1 zones.

At the time the zoning provisions regarding medical marihuana were adopted, the production of marihuana for medical purposes was a farm use under the *ALR Regulation* and local governments were unable to prohibit or significantly regulate it within the ALR. The change in the *ALR Regulation* described above gives local governments more latitude to prohibit or regulate cannabis production facilities that are not farm uses under the *ALR Regulation*.

### **Health Canada Licensing**

The applicant is in the process of obtaining a license from the Health Canada Office of Medical Cannabis for production of medical marihuana under the federal *Access to Cannabis for Medical Purposes Regulation*. However, Health Canada will not issue the license until construction on the facility is completed. If the Non-Farm use is approved, building permitting will be coordinated with Health Canada licensing to ensure that the final building inspection occurs only once the federal license has been granted.

### **Community Impacts**

Cannabis production facilities can have negative impacts on the surrounding community, including ‘light spill’ from security lighting and unpleasant odour emissions.

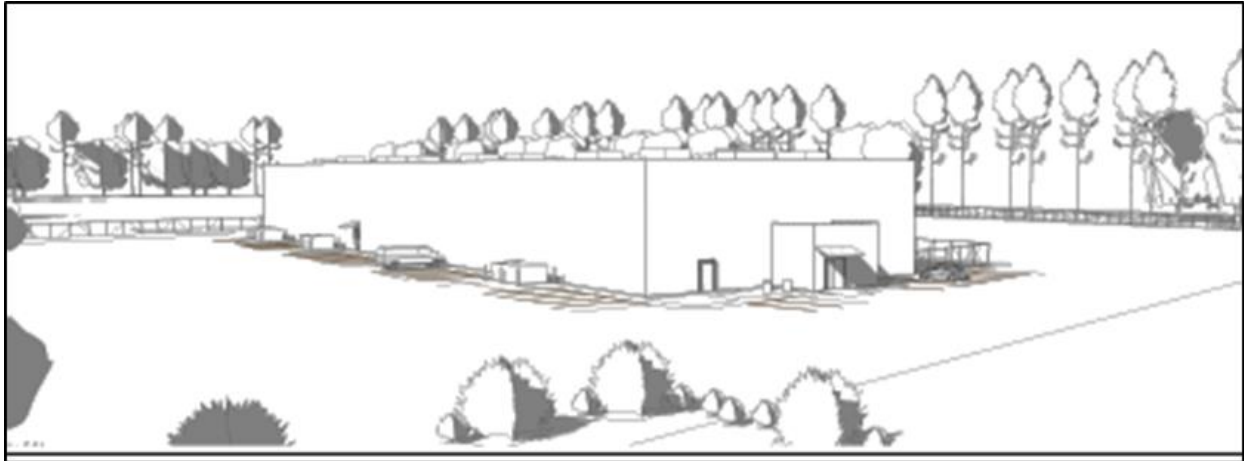
#### Light & Odour

Generally, the location of the proposed facility should minimize nuisance to adjacent properties. The facility would be at least 700 metres from the nearest residence. There are no schools, parks or other sensitive land uses in the immediate area. Any nuisance to the surrounding community can be effectively mitigated through sensitive design of exterior lighting and building systems to manage odour emissions (from the cannabis facility only).



### Industrial-style Building

Two storey industrial-style buildings surrounded by security fencing may be seen by residents as incompatible with the rural-agricultural aesthetics of the area. On the other hand, a mushroom composting facility has been developed on the parcel to the west and large agricultural buildings have similar visual impacts that are accepted in rural communities. A rendering of the proposed building is shown below. Note that additional greenhouse structures are also proposed.



A concern about the use of the building may arise if the cannabis facility ceases to operate. Two storey industrial buildings are not commonly used on farms and they are conducive to a wide range of industrial uses not permitted by the zoning bylaw in the R-4 zone or under the *ALR Regulation*. This could result in difficult enforcement challenges if cannabis production is replaced with non-conforming uses.

For that reason, staff recommend that the production facility building be located on the 1.09 hectare portion of the parcel that is zoned Industrial (I-1). Should the use of the building for cannabis production cease, the industrial-style building could be used for Resource Industrial Uses consistent with the zoning bylaw (provided that the use is approved by the ALC). There is sufficient space in the portion of the parcel zoned I-1 to construct the proposed building and it appears that a safe building envelope will be available there.

### **Covenant**

To address the potential community impacts described above, the Board may wish to request a covenant from the applicant requiring that:

1. exterior lighting is designed by a qualified professional to avoid light-spill onto adjacent properties and light pollution to the sky (i.e. maintain a dark sky); and,
2. the cannabis production facility be fitted with odour emission controls designed by a registered professional.

In 2013, Covenant CA3328546 in favour of FVRD was registered on the property title in conjunction with the rezoning of a portion of the property to permit a pet cemetery. The covenant required that the land be development in accordance with the recommendation of a hydrogeological report containing recommendation to prevent groundwater contamination from the cemetery use. This covenant may require amendment to facilitate the proposed cannabis facility. If so, the amendment can occur in the course of the building permitting process.

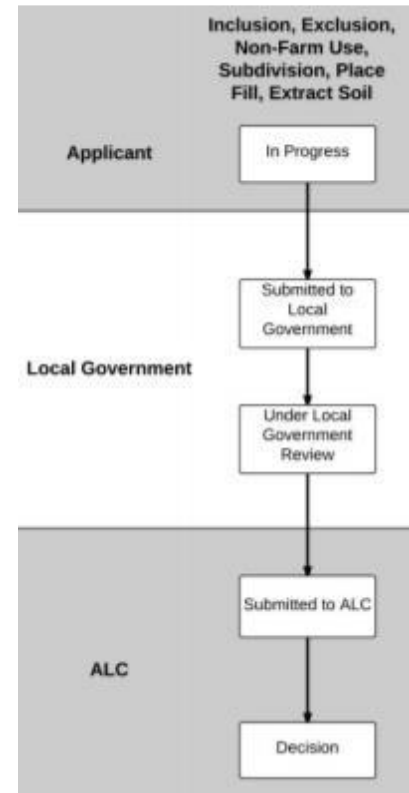
### Process

Non-farm Use applications are submitted by the applicant to the ALC Application Portal and the application is send directly to FVRD. The process is shown in the flowchart to the right.

The FVRD Board may either:

1. Forward the application - with 'support' or any other comments it deems appropriate - to the ALC by way of an authorizing resolution so that the Commission may make a decision on it; or,
2. Do not forward the application to the ALC in which case the application will not proceed.

If the application proceeds to the ALC and it is approved, FVRD may then issue a building permit for the construction. Flood and landslide hazards, access, setbacks and building code matters will be addressed through the building permit process.



### COST

The applicant has paid an application fee of \$1500. Of this, FVRD will retain \$300 and \$1200 will be forwarded to the Agricultural Land Commission.

### CONCLUSION

Staff recommend that the FVRD Board resolve to forward the application to the ALC with support subject to: 1) the two storey 25,000 square foot facility being located entirely within the portion of the parcel zoned Industrial (I-1); and, 2) an offer and commitment from the landowner to register a covenant in favour of FVRD regarding outdoor lighting and odours controls. The location is distant from schools, parks and other sensitive uses. The nearest residence is over 700 meters away. Impacts to the community can be mitigated through good design.

It is also recommended that the ALC refer the application to the Skawahlook and Chawathil First Nations. The subject property is located between Skawahlook IR 1 and Chawathil IR 4. Although the cannabis facility would be relatively distant from the nearest residence, any impact the facility would have would be greatest in the Skawahlook and Chawathil communities.

### Alternatives

If the Board wishes to consider alternatives to the staff recommendation, it might:

1. Do nothing. Do not forward the application to the ALC. The application will not proceed any further. No resolution is needed for this. However, if a resolution is desired the Board could consider a resolution such as:

THAT the FVRD Board deny forwarding the Non-Farm Use application for a cannabis production facility at 59710 Lougheed Highway, Area "B" to the Agricultural Land Commission.

2. Resolve to forward the application to the ALC without conditions. In this case, the Board could consider a resolution such as:

THAT the FVRD Board forward the Non-Farm Use application for a cannabis production facility at 59710 Lougheed Highway, Area "B" to the Agricultural Land Commission.

### **COMMENT BY:**

**Margaret Thornton, Director of Planning & Development**      Reviewed and supported.

**Mike Veenbaas, Director of Financial Services**      No further financial comment.

**Paul Gipps, Chief Administrative Officer**      Reviewed and supported.