

To: CAO for the Electoral Area Services Committee

Date: 2019-04-09

From: Andrea Antifaeff, Planner 1

File No: 3090-20-2019-08

Subject: Application for Development Variance Permit 2019-08 to waive requirements related to exceptions to minimum parcel size to facilitate at two (2) lot subdivision at 54660 Trans Canada Highway, Electoral Area A

RECOMMENDATION

THAT the Fraser Valley Regional District Board issue Development Variance Permit 2019-08 to vary requirements related to exemptions to minimum parcel size to facilitate a two (2) lot subdivision at 54660 TransCanada Highway, Area "A", subject to consideration of any comments or concerns raised by the public.

STRATEGIC AREA(S) OF FOCUS

Provide Responsive & Effective Public Services

BACKGROUND

The owners of the property have made an application for a Development Variance Permit (DVP) in order to waive requirements related to exceptions to minimum parcel size (for subdivision) as outlined in *Zoning Bylaw for the Rural Portions of Electoral Area "A", Regional District of Fraser-Cheam Bylaw No. 823, 1989* to facilitate a two (2) lot subdivision.

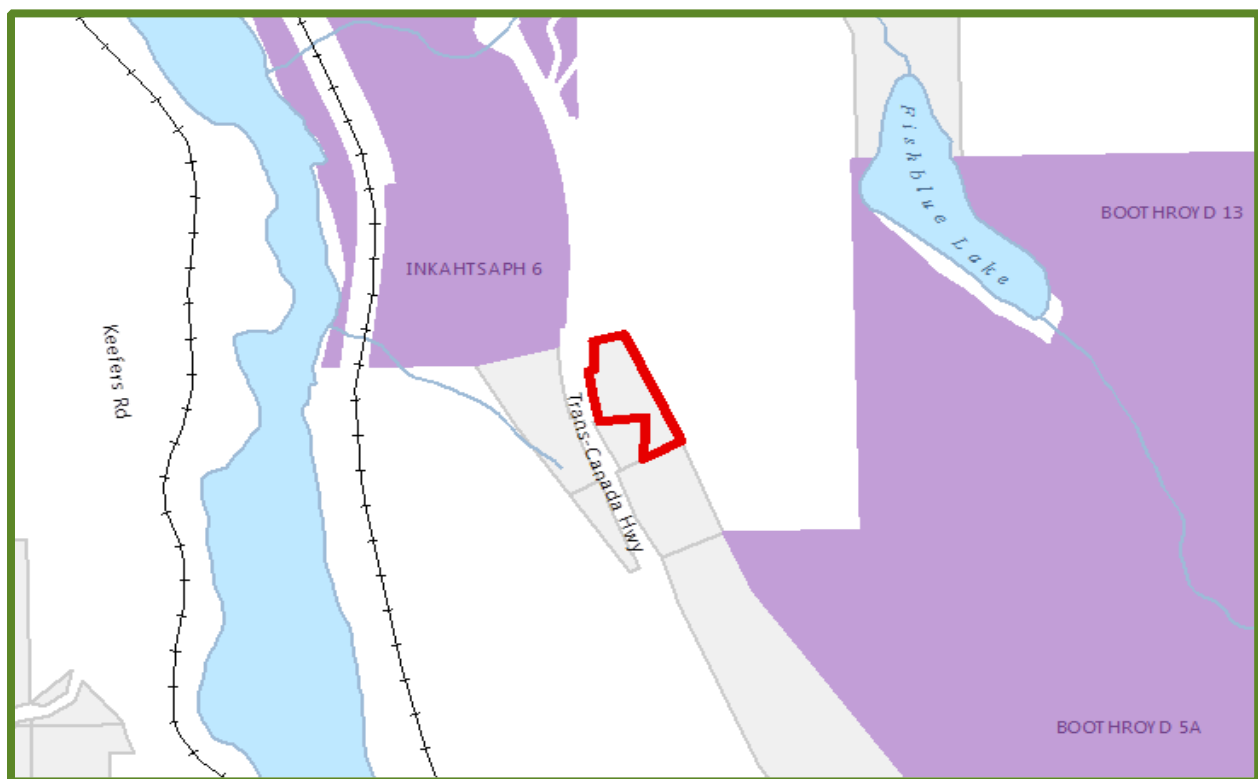
PROPERTY DETAILS			
Electoral Area	A		
Address	54660 Trans Canada Highway		
PID	008-063-338		
Folio	732.00036.110		
Lot Size	6.59 acres		
Owner	Kenneth & Mary Lou Campbell	Agent	Chris O'Connor
Current Zoning	Rural (R-1)	Proposed Zoning	No change
Current OCP	N/A	Proposed OCP	N/A
Current Use	Residential	Proposed Use	No change

Development Permit Areas	N/A
Agricultural Land Reserve	Yes

ADJACENT ZONING & LAND USES

North	^	Rural Resource (R-4); Crown Land
East	>	Rural Resource (R-4); Crown Land
West	<	Rural (R-1); Residential/Farm
South	v	Rural (R-1); Vacant

NEIGHBOURHOOD MAP



PROPERTY MAP



DISCUSSION

The owners of the property have made an application to the Ministry of Transportation and Infrastructure (MOTI) to subdivide the property into two (2) lots. The FVRD provided comments to MOTI regarding the subdivision on February 21, 2017 (attached as Appendix "B"). The subject property, 54660 Trans Canada Highway, is zoned Rural 1 (R-1) and is located within the Agricultural Land Reserve. In 2016, the property owners received approval from the Agricultural Land Commission to subdivide the property into two lots. This approval from the Agricultural Land Commission will expire May 2019.

The proposed subdivision would create two lots that are 1.33 hectares in size, which is smaller than the 2.0 hectare minimum parcel size as specified in the Zoning Bylaw (March 29, 1990). The property has two existing single family dwellings and the subdivision will create two (lots) with one existing single family dwelling on each lot.

The Zoning Bylaw allows for exceptions to minimum parcel size requirements where:

- the property had two principal buildings (containing dwelling units) that were legally constructed prior to the adoption date of the Zoning Bylaw; and,
- the owner obtained Occupancy Permits for the buildings from the Regional District

The subject property does not meet the above requirements as the two buildings were constructed in 1993 and 2002 and the owner has not obtained Occupancy Permits from the Regional District.

Variance Requested – DVP 2019-08

In order to proceed with the two lot subdivision a Development Variance Permit has been requested to waive the following exceptions to minimum parcel size clauses in the Zoning bylaw:

- the construction dates of the two (2) existing residences; and,
- the conditions for occupancy.

Neighbourhood Notification and Input

All property owners within 30 metres of the property will be notified by the FVRD of the development variance permit application and be given the opportunity to provide written comments or attend the Board meeting to state their comments. FVRD staff encourage the applicant to advise neighbouring property owners and residents of the request variance in advance of the mail-out notification. To date not letters of support or objection have been submitted.

COST

The application fee of \$350.00 has been paid by the applicant.

CONCLUSION

The property owners have applied for a DVP to waive the construction dates of the two existing residences and the conditions for occupancy to facilitate a two (2) lot subdivision at 54660 Trans Canada Highway, Electoral Area A. Staff recommend that the FVRD Board issue the permit. The variance is not anticipated to negatively affect surrounding properties.

OPTIONS

Option 1 – Issue (Staff Recommendation)

Staff recommend that the FVRD Board issue Development Variance Permit 2019-08 for the property located at 54660 Trans Canada Highway, Electoral Area A to waive the construction dates of the two existing residences and the conditions for occupancy to facilitate a two (2) lot subdivision, subject to consideration of any comments or concerns raised by the public.

Option 2 – Refuse

If the Board wishes to refuse the application, the following motion would be appropriate:

MOTION: THAT the Fraser Valley Regional District Board refuse Development Variance Permit 2019-08 for the property located at 54660 Trans Canada Highway, Electoral Area A.

Option 3 – Refer to Staff

If the Board wishes to refer the application back to staff to address outstanding issues, the following motion would be appropriate:

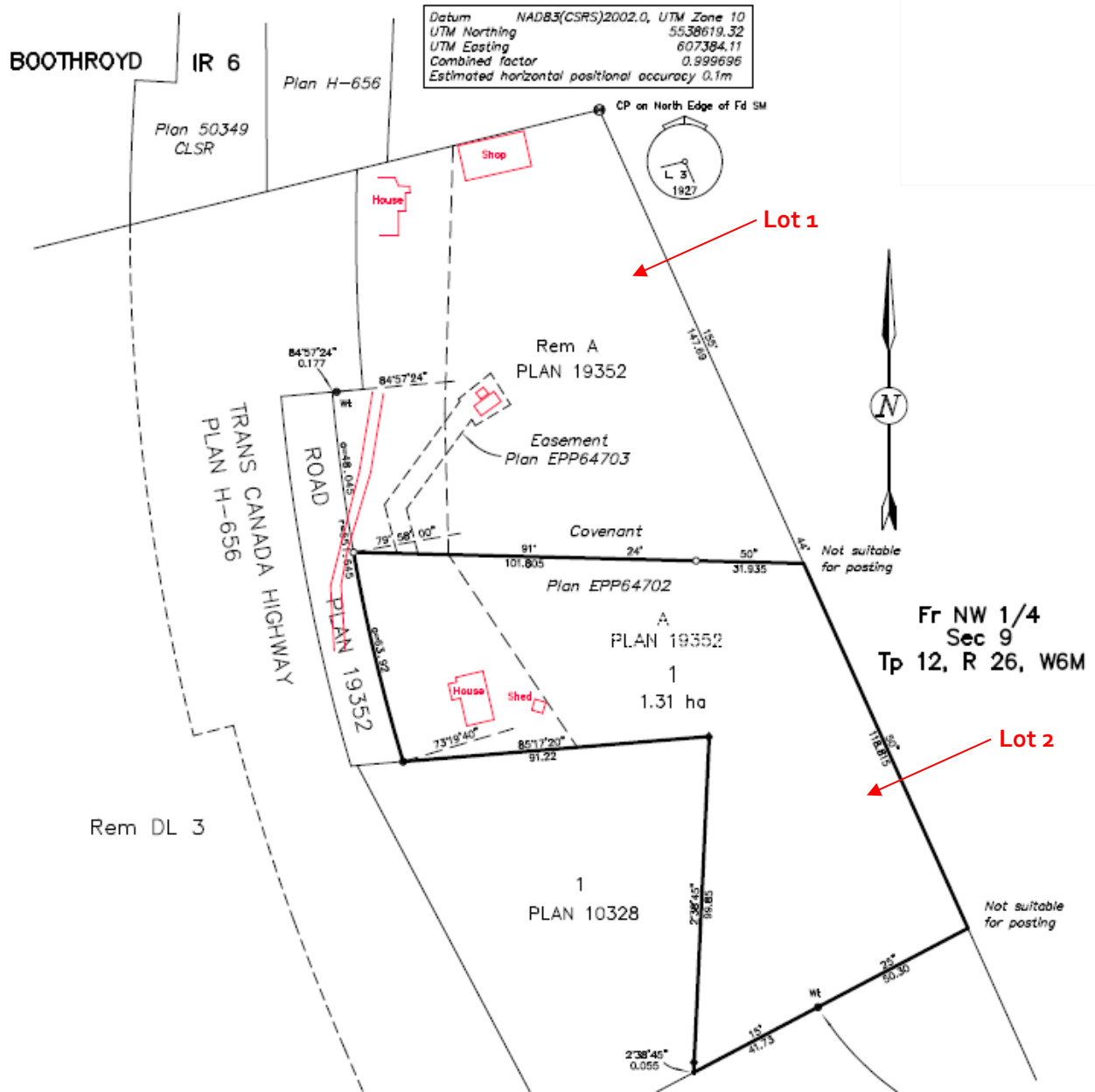
MOTION: THAT the Fraser Valley Regional District Board refer the application for Development Variance Permit 2019-08 for the property located at 54660 Trans Canada Highway, Electoral Area A to FVRD staff.

COMMENTS BY:

Graham Daneluz, Deputy Director of Planning & Development:	Reviewed and supported.
Margaret Thornton, Director of Planning & Development:	Reviewed and supported.
Mike Veenbaas, Director of Financial Services:	No further financial comments.
Paul Gipps, Chief Administrative Officer:	Reviewed and supported

Appendix "A"

Proposed Subdivision Layout



Appendix "B"

FVRD Letter to MOTI



**PLANNING &
DEVELOPMENT**

www.fvrd.ca | planning@fvrd.ca

MOTI File: 2016-00792
FVRD File: 3320-20 2016-00792

February 21, 2017

Ministry of Transportation
45890 Victoria Street
Chilliwack, BC V2P 2T1

Dear James A. Ferguson:

Re: Proposed Conventional Two (2) Lot Subdivision Application for 54660 Trans Canada Highway, Lot A District Lot 3 Yale (Formerly Lytton) Division Yale District Plan 19352

The Fraser Valley Regional District has reviewed the proposed conventional 2-lot subdivision application as noted above and as shown in the enclosed **Appendix A**. This letter from the Fraser Valley Regional District (FVRD), given to Ministry of Transportation and Infrastructure and copied to the applicants for convenience, is a list of the FVRD requirements and general information, and is in no way a final approval for any purpose.

The comments and requirements of this letter are valid for a period of one year from the above noted date and subject to the applicant fulfilling all requirements of applicable Fraser Valley Regional District bylaws and regulations.

Please note that we reserve the right to add additional requirements to this letter if necessary. Notification of further requirements will be provided to both the developer and the approving officer.

We are advising the applicant of our comments and requirements by copy of this letter. We request that the applicant provide a copy of this letter to all professionals engaged on their behalf. We also recommend that the applicant meet with us to discuss Fraser Valley Regional District requirements prior to undertaking work on the relevant items.

FRASER VALLEY REGIONAL DISTRICT REQUIREMENTS

1. Fees and Payment: *For Information*

Charge	Charge Rate
School Site Acquisition Charges (Per Newly Created Lot)	Not Applicable
Development Cost Charges (Per Newly Created Lot)	Not Applicable



2. FVRD Land Use Bylaw Compliance Summary: *Development Variance Permit Required*

Zoning

Proposed Lot	Zone	Minimum Size	Proposal	Complies
Remainder A	R-1	2.0 hectares	approx. 1.33 hectares	No
Lot 1	R-1	2.0 hectares	approx. 1.33 hectares	No

The proposal does not comply with *Zoning Bylaw for the Rural Portions of Electoral Area "A", Regional District of Fraser-Cheam Bylaw No.823, 1990*.

The subject property, 54660 Trans Canada Highway, is zoned Rural (R-1). The proposed subdivision includes lots that are smaller than the minimum required parcel size of 2.0 hectares as specified in the zoning bylaw.

Per s. 6.3.0 (f) of the zoning bylaw, the minimum parcel size shall not apply where the number of new parcels in a proposed subdivision does not exceed the number of wholly separate and independent principle buildings containing dwelling units which have been legally constructed and permanently erected on the land to be subdivided, provided that:

- (i) Each new parcel so created contains at least one wholly separate and independent principal building containing a dwelling unit which was legally constructed prior to the date of adoption of this bylaw and for which the owner applies to and receives from the Regional Board an Occupancy Permit pursuant to the building regulations of the Regional District; and
- (ii) Where a proposed parcel is not served by a community sewer system, the written approval of the Medical Health Officer is given; and
- (iii) For other than parcel size, each new parcel so created meets the bylaw requirements of the Regional District for the intended use.

A Development Variance Permit is required to vary the above listed exemption clauses in the zoning bylaw that relates to the construction dates of the two (2) existing residences and the conditions for occupancy. Provided that a Development Variance Permit is attained, subject to the approval of the Regional Board, the zoning bylaw regulations will be considered met.

Official Community Plan

The subject property is located outside of the Official Community Plan boundary and is therefore not subject to OCP policies or designations.



3. Agricultural Land Reserve: *For Information*

The property is located within the Agricultural Land Reserve (ALR), therefore, approval from the Agricultural Land Commission (ALC) is required. The CEO of the ALC, by delegated authority, approved the proposed subdivision on May 31, 2016 per Resolution #172/2016, subject to the following conditions:

- a. The subdivision be in substantial compliance with the plan submitted with the application;
- b. The subdivision plan must be completed within three (3) years from the date the decision.

A copy of the Decision is enclosed (**Appendix B**).

4. Park Dedication: *Not Required – For Information*

The proposed two (2) lot subdivision does not require park dedication under section 510 of the *Local Government Act* as fewer than 3 additional lots are being created.

5. Frontage Requirements: *For Information*

Pursuant to section 512 of the *Local Government Act*, the minimum frontage on a highway must be a minimum of 10% of the perimeter width. The proposed frontages of Remainder Lot A and Lot 1 meet this requirement.

6. Hazards and Geotechnical Report: *Restrictive Covenant Required*

The subject property is identified as being subject to rockfall hazards and related geotechnical issues. The applicant has provided a site specific geotechnical hazard assessment dated November 2010 which has been recently updated to include a cover letter from the author dated October 22, 2016 (**Appendix C**).

The report identifies the hazard affecting the property and concludes that the land may be used safely for the use intended, the proposed two (2) lot residential subdivision, on the condition that a safe residential area defined by the 27.5° rockfall shadow zone is enforced via a restrictive covenant registered on the property title. The hazard report is accompanied by reference plan EPP64702 of the safeline identified in the report.

The registration of a restrictive covenant and reference plan EPP64702 per section 56 of the *Community Charter* is required to identify the safe building sites on each proposed lot as recommended by the geotechnical hazard assessment.

7. Fraser Valley Regional District – Levels of Service Requirements: *Verification Required – See Below*

SUMMARY	
MINIMUM LEVELS OF SERVICE Single Family Residential (1 ha or greater)	APPROVAL AGENCY
Proven Water Supply	Interior Health Authority (IHA) and Ministry of Transportation and Infrastructure (MOTI) – Approving Officer (AO)
On-Site Sewage Disposal	
Overhead Wiring	Ministry of Transportation and Infrastructure (MOTI) – Approving Officer (AO)

Fraser Valley Regional District Subdivision and Servicing Bylaw No. 1319, 2015

The minimum levels of service standards per *Fraser Valley Regional District Subdivision and Servicing Bylaw No. 1319, 2015* are as follows:

I. Proven Water Supply: *Verification, Easement, and Development Variance Permit Required*

Bylaw No. 1319, 2015 water supply standard for parcels greater than 1.0 hectare (Policy 7.13.5):

7.13.5. Where a *Community Water System* is not required as prescribed by the level of service and an independent on-site water supply system is deemed appropriate, the following is required for *Approval* by the *Approving Officer*:

- a. The quality of the water must be approved by the [Interior Health Authority];
- b. The capacity of the well confirms to the requirements outlined in Schedule B of this bylaw without compromising the capacity of the water source;
- c. Flow rates shall be no less than 18 litres per minute for one hour;
- d. Capacity shall be no less than 2500 litres per day for each *Parcel* that includes, or can reasonably be expected in the future to include, a residential dwelling unit; and,
- e. Quality standards must meet the requirements set by the Guidelines for Canadian Drinking Water Quality.

The FVRD Subdivision and Development Servicing Bylaw No. 1319, 2015 requires an independent, on-site water supply for each parcel created through subdivision. However, the applicant has proposed that the water supply to the newly created Lot 1 be supplied by its own intake and supply line from the existing well located on the Remainder Lot A, with access secured by an easement.

The minimum flow and capacity requirements for on-site water supply, as noted above from section 7.13.5 are based on water supply to a single parcel. As the existing well is proposed to supply water for two separate parcels, the FVRD has determined that the following flow and capacity is acceptable:

On-Site Water Supply Requirements		
Metric	For One Parcel (Per Bylaw)	For Two Parcels (As Proposed)
Flow Rates	18 L/min	18 L/min
Capacity	2500 L/day	3,750 L/day

In order to proceed with the off-site water supply for the proposed Lot 1, secured through an easement, a Development Variance Permit is also required. Additionally, an Operating Permit may be required from Interior Health for the supply of water to more than one parcel from a single source.

Alternatively, the applicant may consider providing an independent on-site water supply system for the proposed Lot 1 that is consistent with FVRD bylaws and Provincial Regulations in order to eliminate the requirement for a Development Variance Permit, an access easement, and an Operating Permit.

II. On-Site Sewage Collection and Disposal: *Verification Required*

Bylaw No. 1319, 2015 on-site sanitary system standard for parcels greater than 1.0 hectare (Policy 7.14.2):

7.14.2. Where a *Community Sanitary Sewer System* is not required as prescribed by the level of service, and an on-site sanitary system is deemed appropriate, the following is required for *Approval* by the *Approving Officer*:

- A certified *Hydrogeologist* experienced with *Groundwater* and quaternary deposits shall certify that the ground percolation rates are suitable for the subsoil absorption of septic waste from an in-site sanitary system. Where a *Type 1 sanitary Sewer System* is proposed, this certification can be provided by a *Registered Onsite Wastewater Practitioner*;
- A *Medical Health Officer* from the [Interior Health Authority] shall approve the conditions for the proposed on-site sanitary system; and
- The proposed establishment of the on-site sanitary system shall be in accordance with the *Public Health Act*, *Environmental Management Act* and to the standards of the [Interior Health Authority].

III. Overhead Wiring: *Verification Required*

Bylaw No.1319, 2015 specifies overhead wiring as a minimum level of service for the proposed subdivision (Policy 7.17.1):

Every proposed *Subdivision* shall have written confirmation that arrangements have been made to supply electrical power to each *Parcel* being created by the Subdivision.

8. Property Title Encumbrances: *Resolution/Discharge of Certificate of Pending Litigation Required*

A recent search of the property title (**Appendix D**) shows a Certificate of Pending Litigation (CA4124897) registered in favour of August Sturm against the title. This means that in order to register the required restrictive covenant on the property title, the covenant will be subject to the rights claimed under the Certificate of Pending Litigation. As it is not possible to obtain priority over the Certificate of Pending Litigation, the FVRD runs the risk of losing the covenant should the claim be successful. Given the critical nature of the required geotechnical covenant, to use the land only in the manner certified by the qualified professional engineer, the FVRD cannot enter into the covenant until the title has been cleared of the Certificate of Pending Litigation and a priority agreement can be registered in conjunction with the registration of the section 219 covenant.

CONCLUSION

The Fraser Valley Regional District can support the Ministry of Transportation and Infrastructure's issuance of a preliminary layout approval (PLA) for the proposed subdivision provided the FVRD requirements outlined in this letter are satisfied. The applicants are encouraged to arrange a meeting with the FVRD to review the details of this letter. If you have any questions or concerns about the information provided, please contact Katelyn Hipwell, Planner 1 at 604-702-5011 or khipwell@fvrd.ca.

Sincerely,



Digitally signed by
Katelyn Hipwell
Date: 2017.02.21
14:08:22 -08'00'

Katelyn Hipwell
Planner 1

cc: Ken and Mary Lou Campbell, Applicant
Robert Dufresne, Alternate EA Director, Electoral Area "A"
Terry Raymond, EA Director, Electoral Area "A"
Margaret Thornton, Director of Planning and Development