

To: CAO for the Electoral Area Services Committee

Date: 2019-09-10

From: Louise Hinton, Bylaw Compliance and Enforcement Officer File No: F02784.030

Subject: Building Bylaw and BC Building Code Contraventions at 12958 Sylvester Road, Electoral Area F, Legally Described as: LOT 12 Except: Parcel A (Explanatory Plan 56487) Section 30 Township 21 New Westminster District Plan 38134 (PID: 000-533-785).

RECOMMENDATION

THAT the Fraser Valley Regional District Board direct staff to file a Notice in the Land Title Office in accordance with Section 57 of the *Community Charter* due to the contraventions of the *Fraser Valley Regional District Building Bylaw No. 1188, 2013 and the BC Building Code*, at 12958 Sylvester Road Electoral Area F, Fraser Valley Regional District, British Columbia, Legally described as: Lot 12 Except: Parcel A (Explanatory Plan 56487) Section 30 Township 21 New Westminster District Plan 38134 (PID: 000-533-785).

STRATEGIC AREA(S) OF FOCUS

Support Environmental Stewardship
Provide Responsive & Effective Public
Services

BACKGROUND

July 5, 2011 Bylaw Officer is contacted by the RCMP that a marijuana grow operation has been dismantled on the property within an underground bunker beneath a shop structure.

July 5, 2011 Bylaw Officer conducted a site inspection and the following was identified: (1) there is a large addition to the rear of the single family dwelling in progress of being constructed without a Building Permit; (2) there is a detached shop structure, (30' x 40') is built without permits; (3) the shop structure has showering facilities and in the attic space between the trusses, there are sixteen industrial air conditioners hooked up and operating. Inside the structure is a row of shelving units, under the shelving units is a large steel trap door that leads to a 60' x 80' concrete underground bunker. Inside the bunker are two rooms used for a marijuana growing operation. Water for the growing operation is obtained from a duct running to a pond at the front of the property. The growing operation is vented

underground through large 2' in diameter steel culvert material to a BBQ pit outside the garage; (4) FVRD Bylaw Officer posted stop work and no occupancy notices on the property.



- Oct. 11, 2011 Bylaw Officer speaks with owner by telephone – owner advises he will submit an Building Permit Application for the single family dwelling addition, and has an intention to try and remove the garage/storage structure with the underground concrete bunker.
- Oct. 12, 2011 Bylaw letter is mailed to owner – the deadline for response to FVRD is November 12, 2011.
- Oct. 12, 2011 Owner submitted an application for a Building Permit for the addition to the single family dwelling (BP012635).
- Oct. 19, 2011 Building Department sent letter to owner outlining the outstanding documents required to complete the Building Permit Application (BP012635).
- Oct. 27, 2011 Bylaw Officer speaks with owner who advises that he has a contractor on site removing the contents of the bunker, the house and the shop.
- Nov.16, 2011 Bylaw Officer speaks with owner the following is discussed: (1) owner states that the contractor has made progress -more than half of garage/storage structure and

	bunker contents have been removed; and (2) the drywall and steel studs have been removed.
Nov. 22, 2011	Bylaw Officer attempts to contact owner by telephone – no answer.
Dec. 2, 2011	Bylaw Officer attempts to contact owner by telephone – no answer, no voicemail.
Dec. 12, 2011	Bylaw Officer speaks with owner, the following is discussed: (1) the owner states he met with contractor regarding clean up; it is about 85% complete; and (2) the owner is thinking of converting the current shop/storage structure into a garage.
Dec. 20, 2011	Bylaw Officer speaks to owner – the contractor has finished emptying out the bunker and would like an on-site meeting, which is scheduled for January 3, 2012.
Jan. 11, 2012	Owner submitted an application for a Building Permit for the garage / storage building (BP012677).
Feb. 7, 2012	Building Department sent letter to owner outlining the outstanding documents required to complete the Building Permit Application (BP012677).
Jan. 13, 2013	Owner submitted an application for a Development Permit for the shop / storage building and the addition to the single Family Dwelling (DP001366).
Aug. 21, 2013	Owner submitted a Geotechnical Report and Deflection Berm Design for the existing rural single family dwelling and outbuilding on the subject property for the Development Permit Application (DP001366).
Nov. 14, 2013	Development Permit (DP001366) is completed.
2013 - 2018	FVRD Building Department and Planning Department staff continued to correspond with the property owner to finalize the Build Permit Applications. The Building Permit Applications were not completed and closed due to inactivity.
July 18, 2018	Two Bylaw letters mailed to property owners to let them know that the Building Permits for the addition to the single family dwelling (BP012635), and the garage/storage structure (BP012677) have been closed due to inactivity and referred back to the Bylaw Enforcement Department for follow-up.
Sept. 28, 2018	Both Bylaw letters, dated July 18, 2018 came back to FVRD returned to sender, marked as unclaimed by Canada Post.
Oct. 26, 2018	Bylaw letter mailed to stakeholders requesting an alternate mailing address for owner.

March 1, 2019

Bylaw Officer conducted a drive by inspection of the property - appears that there is little or no change on the property, however we are unable to confirm because they are unable to access the property due a metal gate at the driveway entrance.

INSPECTION PHOTOS:

October 5, 2011

Addition to the Single Family Dwelling without a Permit



Garage/Storage Building with underground bunker without a Permit (main floor)



Garage/Storage Building with underground bunker without a Permit (Bunker)



January 5, 2012

EMPTY - Underground Bunker



March 1, 2019



DISCUSSION

Section 57 of the *Community Charter* allows a Building Inspector to recommend a resolution to place a Notice on the Title of a property if a contravention of a bylaw or another enactment that related to the construction or safety of a building is observed. A Notice on Title serves as notice to anyone searching the title that the property may be in breach of local government bylaws or other enactments; provide disclosure to future owners; and protects against potential claims with regard to the contraventions.

Staff would like you to consider the following information:

Building Bylaw

Staff is authorized to regulate minimum construction standards within electoral areas via the *Fraser Valley Regional District Building Bylaw No. 1188, 2013* (Building Bylaw) for health, safety and the protection of persons and property. The bylaw provides that no person shall commence any construction, alternation, reconstruction, demolition, removal, relocation or change the occupancy of any building without a valid Building Permit.

The unpermitted construction works to alter the single family dwelling and the detached accessory garage/storage structure for the operation of a marijuana grow operation were first discovered in 2011 to have been done without the required Building Permits.

Any structure that has a change of use from its initial intended use is required to obtain a Building Permit to authorize the new use in order to comply with *Bylaw* and *BC Building Code* Regulations. The initial use of the accessory garage/storage structure would be for storage use, so a permit is required for the change of use to a Marijuana Grow Operation.

Any structure that houses a Marijuana Grow Operation requires a Building Permit to remediate the building for health purposes once the grow operation has been removed.

Two separate Building Permit Applications were made to the FVRD for these structures in 2011. However, none of the required documentation was ever been submitted to the FVRD for either of the applications. Both of the two Building Permit Applications were closed due to inactivity.

Two Building Permits are required for the construction works undertaken by the property owner.

Zoning Bylaw

This property is in Electoral Area F, and it is zoned Rural (R-1) of *Zoning Bylaw No. 559, 1992 for Area "G" Portions of "C" and "F"* (Bylaw 559). The primary purpose of this zone is to maintain the

existing rural character of the Plan area and to provide for residential uses that are environmentally sustainable and compatible with existing development.

The detached accessory garage/storage building that was used as a Marihuana Grow Operation. A Medical Marihuana Grow Operation is not listed as a permitted use in the R-1 zone.

If a Marijuana Grow Use is proposed, a successful re-zoning of the property would be required to authorize the unpermitted use of the Medical Marijuana Grow Use.

Official Community Plan

1. The subject property is within the *Geologic & Stream Hazard Development Permit Area 1-F* (DPA 1-F) under the *Fraser Valley Regional District Official Community Plan for Electoral Area F Bylaw No. 0999, 2010, (Bylaw 0999)*. This Development Permit area is designated for the protection of development from hazardous conditions. A Development Permit must be obtained prior to alteration of land or construction of, addition to, or alteration of a building or structure.
2. The subject property is within the *Riparian Areas Development Permit Area 2-F* (DPA 2-F) under the *Fraser Valley Regional District Official Community Plan for Electoral Area F Bylaw No. 0999, 2010, (Bylaw 0999)*. This Development Permit area is designated for the protection of the natural environment, its ecosystems and biological diversity. A Development Permit must be obtained prior to alteration of land or construction of, addition to, or alteration of a building or structure.

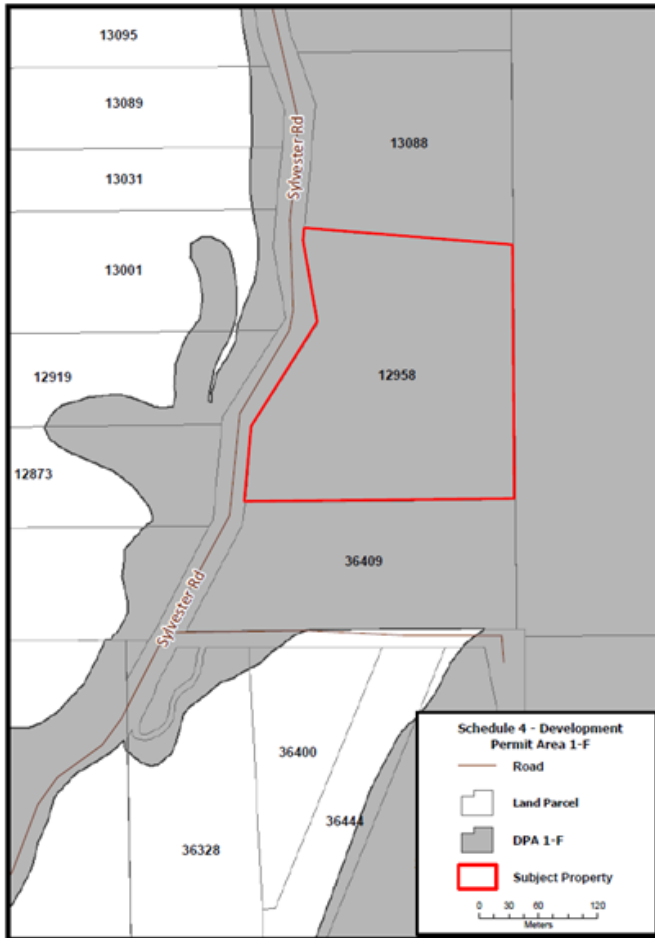
A Development Permit must be obtained prior to the alteration of land the disturbance of soil or vegetation; or construction of or addition to a building or structure within a Development Permit area or riparian assessment area.

A Development Permit for the unpermitted construction works to the single family dwelling and the garage/storage structure was completed on June 26, 2014 (DPA 001366). However, the Development Permit has now expired as the building permit for the construction works with respect to the Development Permit was not issued within two years of issuance. Additionally, it is unknown if any of the recommended mitigation works outlined in the relating to the construction works have been completed. Geo-technical

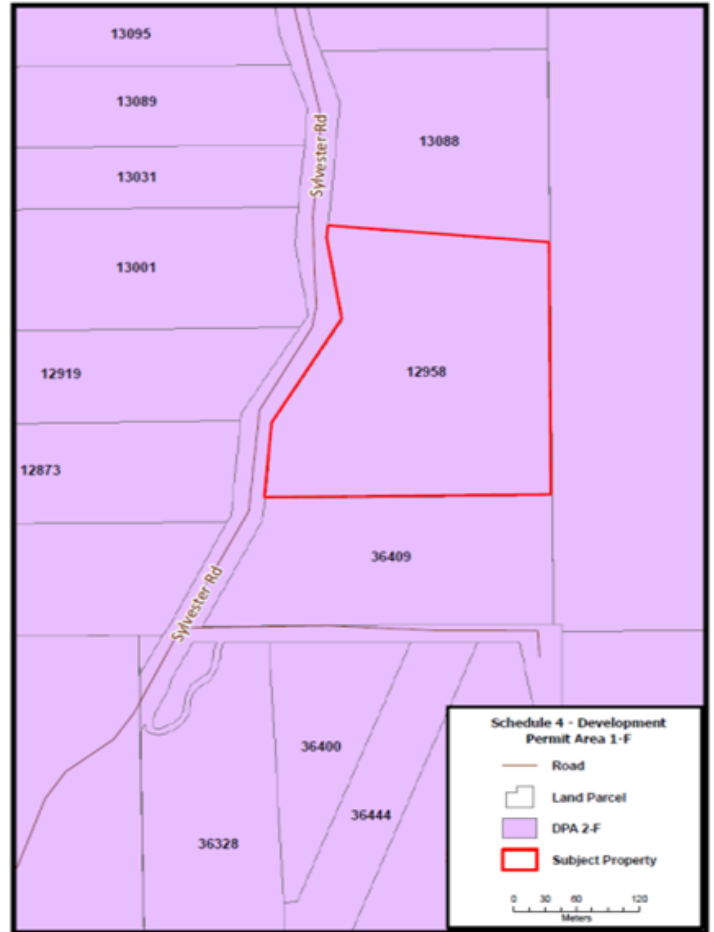
A new completed Development Permit is required for the construction works that have taken place on the property.

DEVELOPMENT PERMIT AREA MAP

(DPA 1-F – Hazard Map)



DPA 2-F – RAR Map



COST

Land Titles Office filing fee of approximately \$74.

The owner will be required to pay a removal fee of \$500 in accordance with the *Fraser Valley Regional Building Bylaw 1188, 2013*, after the unauthorized construction works on the addition to the single family dwelling and the garage/storage structure are either:

1. Demolished with two separate Building Permits issued by the FVRD, each with a successful final inspection; or
2. Two Fully completed Building Permits for the construction works to the single family dwelling and the garage/storage structure are issued by the FVRD and each receives a

successful final inspection. Prior to Building Permit issuance, application and issuance of a Development Permit for the construction is also required. If a Medical Marijuana Grow Use is proposed, a successful rezoning of the property is required to authorize the unpermitted Marijuana Grow Use.

CONCLUSION

It is the opinion of the Bylaw Compliance and Enforcement Officer/Appointed Building Inspector that the construction works on the addition to the single family dwelling and the garage/storage structure without Building Permits violates the *Regional District Building Bylaw*, and the *British Columbia Building Code*. Staff further notes that full compliance will only be achieved with the successful completion of two Building Permits for the construction works to the single family dwelling and the garage/storage structure and the issuance of a Development Permit. Regrettably, but in the interest of full public disclosure and as incentive to achieving voluntary compliance, I, as an Appointed Building Inspector, believe that the filing of Notice is appropriate in this instance and submit the above recommendation in accordance with Section 57 of the Community Charter.

Electoral Area Services Committee (EASC) approval and Regional District Board resolution is required to assess Section 57 notices.

The process of filing a Section 57 notice on property title is conducted in accordance with the Community Charter and the Local Government Act.

Regional District requirements for Building Permit works are being administered in accordance with related Fraser Valley Regional District Building Bylaw, Policies, and the BC Building Code.

COMMENTS BY:

Margaret Thornton, Director of Planning & Development

Reviewed and supported.

Mike Veenbaas, Director of Financial Services

No further financial comments.

Jennifer Kinneman, Acting Chief Administrative Officer

Reviewed and supported.