

To: Electoral Area Services Committee
From: Gavin Luymes, Planning Technician

Date: 2020-12-08
File No: BP014195

Subject: Modification of Covenant BT217825 for 53722 Berston Road, Area D

RECOMMENDATION

THAT the Fraser Valley Regional District Board approve the amendment of Covenant BT217825 registered on title to 53722 Berston Road, substantially as drafted and attached hereto.

STRATEGIC AREA(S) OF FOCUS

Provide Responsive & Effective Public Services

BACKGROUND

The applicant has applied for a Building Permit to construct a shop at 53722 Berston Road, Area D. Covenant BT217825, registered on title of the subject property, prohibits construction of floor area at an elevation below 0.4 metres above the crown of the road. The applicant has asked the Regional District to amend the covenant to permit construction below this elevation. Out of the Box Engineering has submitted a report certifying that the proposed construction will be safe for the use intended, attached hereto.

The shop in question has been constructed without a Building Permit and is subject to bylaw enforcement. Though the property owner applied for a Building Permit in January 2018, the permit was not obtained before the shop was constructed. The shop was posted with No Occupancy and Stop Work notices on August 12, 2020. The property owner is retroactively seeking a Building Permit for the shop under the same application made in 2018.

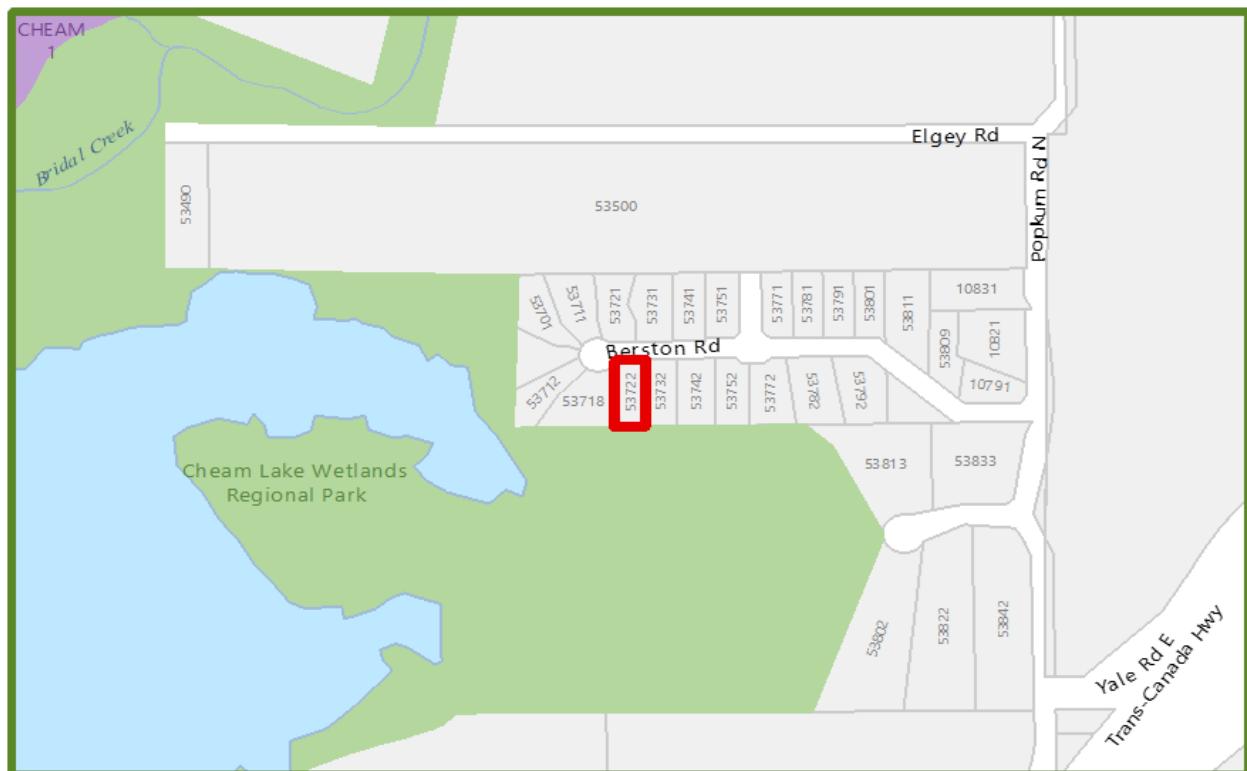
PROPERTY DETAILS	
Electoral Area	D
Address	53722 Berston Road
PID	025-437-372
Folio	733.06469.008

Lot Size	0.494 acres		
Owner	Ryan & Katie McKay	Agent	n/a
Current Zoning	Suburban Residential 1 (SBR-1)	Proposed Zoning	No change
Current OCP	Suburban Residential (SR)	Proposed OCP	No change
Current Use	Residential	Proposed Use	No change
Development Permit Areas	Riparian Areas Development Permit Area 6-D		
Agricultural Land Reserve	No		

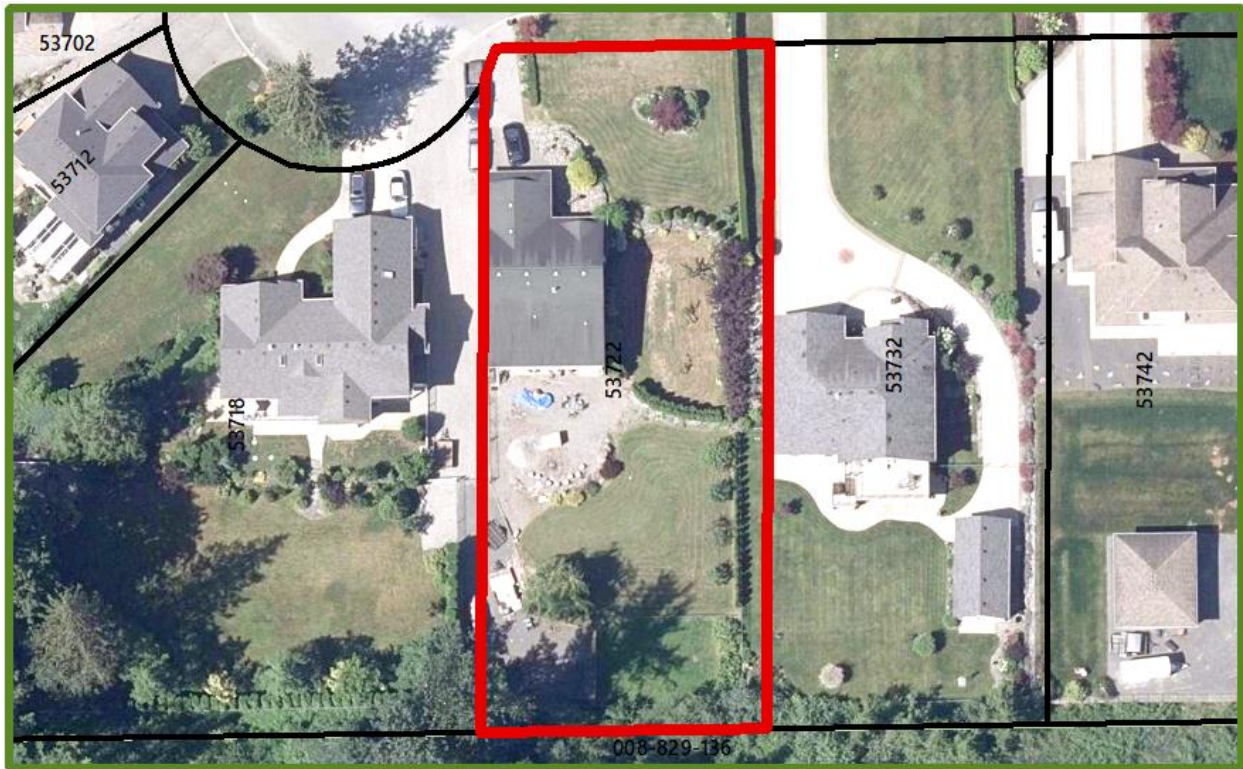
ADJACENT ZONING & LAND USES

North	^	Suburban Residential 1 (SBR-1); Berston Road, Single Family Residence
East	>	Suburban Residential 1 (SBR-1); Single Family Residence
West	<	Suburban Residential 1 (SBR-1); Single Family Residence
South	v	(P-1); Cheam Lake Wetlands Regional Park

NEIGHBOURHOOD MAP



PROPERTY MAP



DISCUSSION

The requested covenant modification is necessary because of lot grading and topography. The subject property slopes significantly downward from Berston Road. Covenant BT217825 requires that habitable floor area be located 0.4 metres above the crown of Berston Road. The grade of the lot is below Berston Road, meaning that new construction at grade requires modification of the covenant. Covenant BT217825 has been modified 13 times since 2002 to address this requirement for various lots in the development, including for the basement of the subject property. This modification cannot be applied to the current shop.

According to plans submitted by the applicant, the shop meets all setback and height requirements (Appendix 1: Construction Drawings). The shop and proposed rock pit are approximately 30 metres from the septic field, which is located in the front yard of the property (Appendix 2: Septic Field Location). The septic location restricts buildable area in the front yard of the property.

The shop has been substantially constructed without a Building Permit in accordance with plans submitted in 2018. The property is subject to bylaw enforcement for building without a permit. All fees associated with the Building Permit application will be doubled. The Board is not obliged to amend this covenant for a building constructed without a permit, but Building Permits for structures under bylaw enforcement are ordinarily issued in cases where Board approval is not required.

COST

There is no FVRD application fee for covenant modification. The applicant is responsible for all legal, construction, and engineering fees associated with the covenant modification.

CONCLUSION

The property owner of 53722 Berston Road has asked the Fraser Valley Regional District Board to amend Covenant BT217825 for construction of a shop below required Flood Construction Level. Covenant BT217825 has been amended 13 times for various lots in the subdivision (including on the subject property) to allow construction below Flood Construction Level in accordance with the recommendation of a Professional Engineer. FVRD has received a sealed report, designs, and commitment from a Professional Engineer confirming that the shop is safe for the use intended at the present elevation. For this reason, staff recommend the Fraser Valley Regional District Board approve the amendment of Covenant BT217825 registered on title to 53722 Berston Road, substantially as drafted and attached hereto.

If the requested modification is not accepted, the property owner will be unable to obtain a Building Permit for the shop. Bylaw enforcement will continue against the property.

Option 1 – Issue (Staff Recommendation)

Staff recommend that the Fraser Valley Regional District Board approve the amendment of Covenant BT217825 registered on title to 53722 Berston Road, substantially as drafted and attached hereto.

Option 2 – Refuse

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

MOTION: THAT the Fraser Valley Regional District Board refuse the requested amendment of Covenant BT217825.

Option 3 – Refer to Staff

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

MOTION: THAT the Fraser Valley Regional District Board refuse the requested amendment of Covenant BT217825.

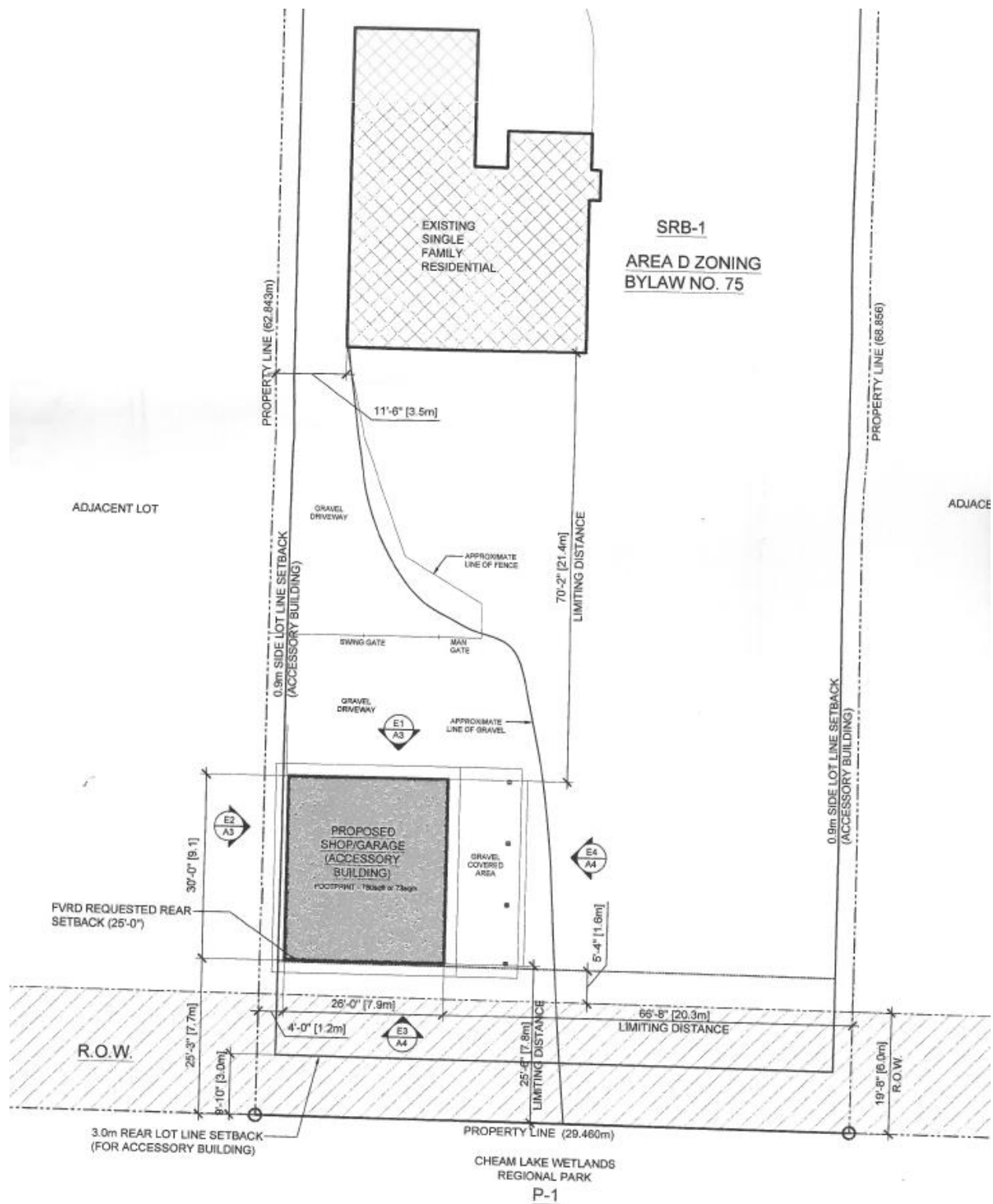
COMMENTS BY:

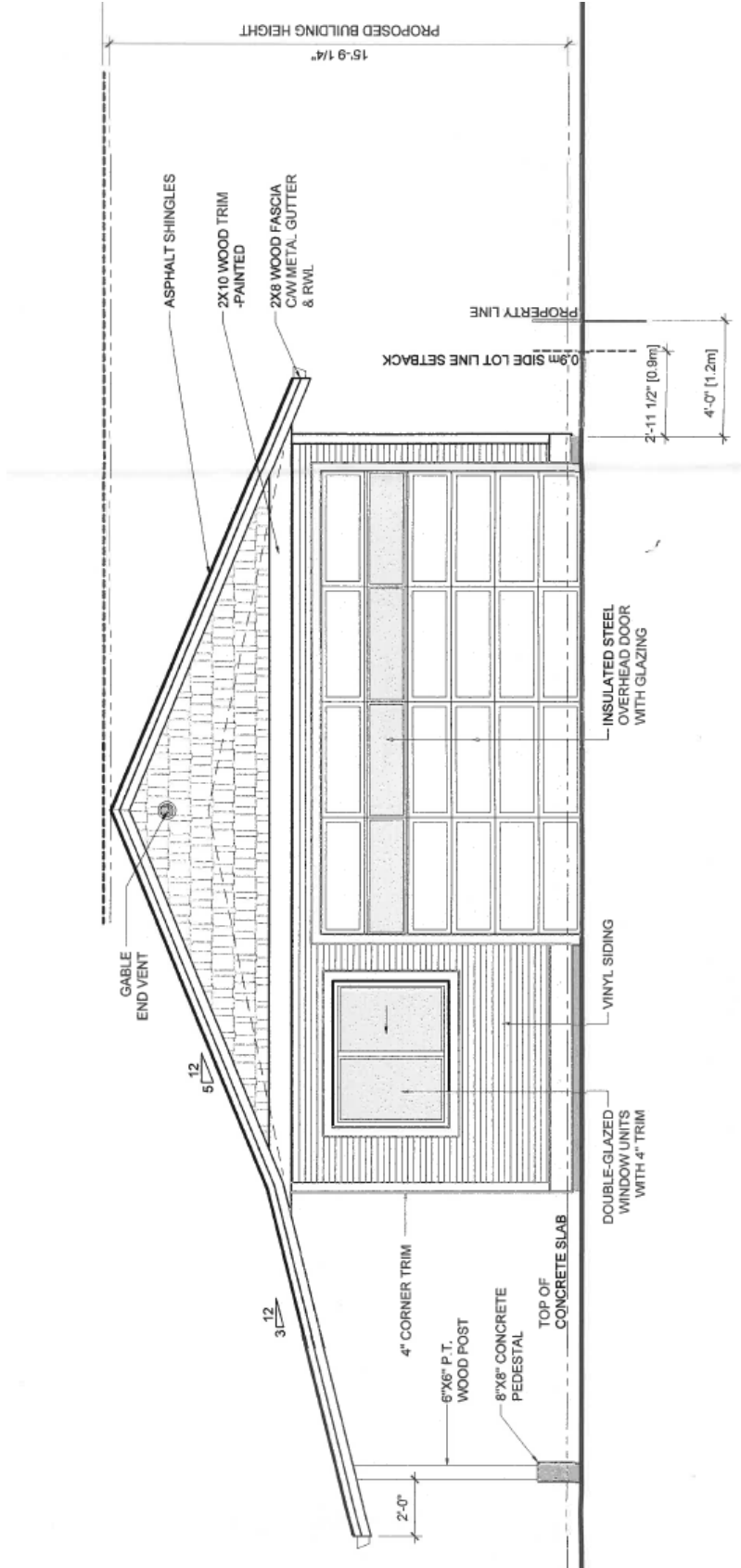
Graham Daneluz, Director of Planning & Development: Reviewed & Supported

Kelly Lownsbrough, Chief Financial Officer/ Director of Finance: Reviewed & Supported

Jennifer Kinneman, Chief Administrative Officer: Reviewed and supported.

Appendix 1: Construction Drawings





Appendix 2: Septic Field Location

