

To: Electoral Area Services Committee

Date: 2024-04-11

From: Louise Hinton, Bylaw Compliance and Enforcement Officer

File No: 4010-20-H03802.020/4

**Subject: Building Bylaw, and BC Building Code Contraventions at 3640 Vance Road, Electoral Area H**

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### RECOMMENDATION

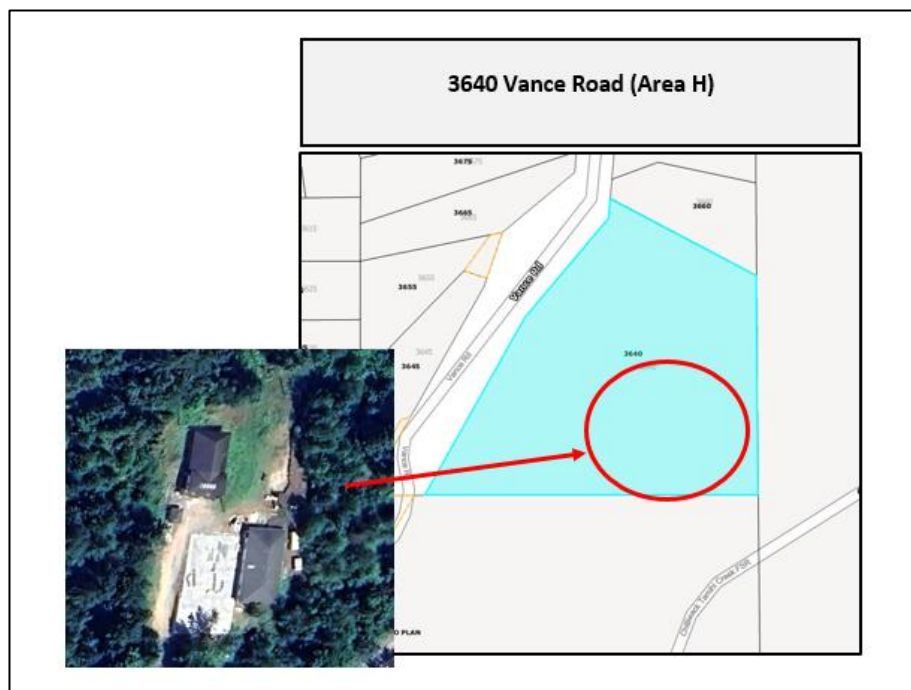
**THAT** the Fraser Valley Regional District Board direct staff to file a Notice in the Land Title Office in accordance with Section 57 of the Community Charter respecting contraventions of Fraser Valley Regional District Building Bylaw No. 1188, 2013 and the BC Building Code at 3640 Vance Road, Electoral Area H, Fraser Valley Regional District, British Columbia, legally known as: PARCEL A SECTION 30 TOWNSHIP 25 NEW WESTMINSTER DISTRICT PLAN LMP8784, (PID: 018-103-103).

### BACKGROUND

August 12/13, 2021 Bylaw Staff receives concerns about a large cannabis growing operation on a property on Liumchen Creek Forrest Services Road and that BC Hydro is installing more transformers. Fire safety concerns are expressed.

Bylaw Staff makes initial contact with Fire Chief and BC Hydro.

August 31, 2021 Bylaw Staff makes contact with Technical Safety BC who confirmed that trees were required to be cut down to safely accommodate a large electrical upgrade being put in for a cannabis growing operation in the shop structure.



August 2022 –  
January 2022

Bylaw Staff obtains additional contact information for owner and mails three letters to the owner in an attempt to gain access.

April 26, 2022

Staff determine property has been sold – and mail access letters to new owner.

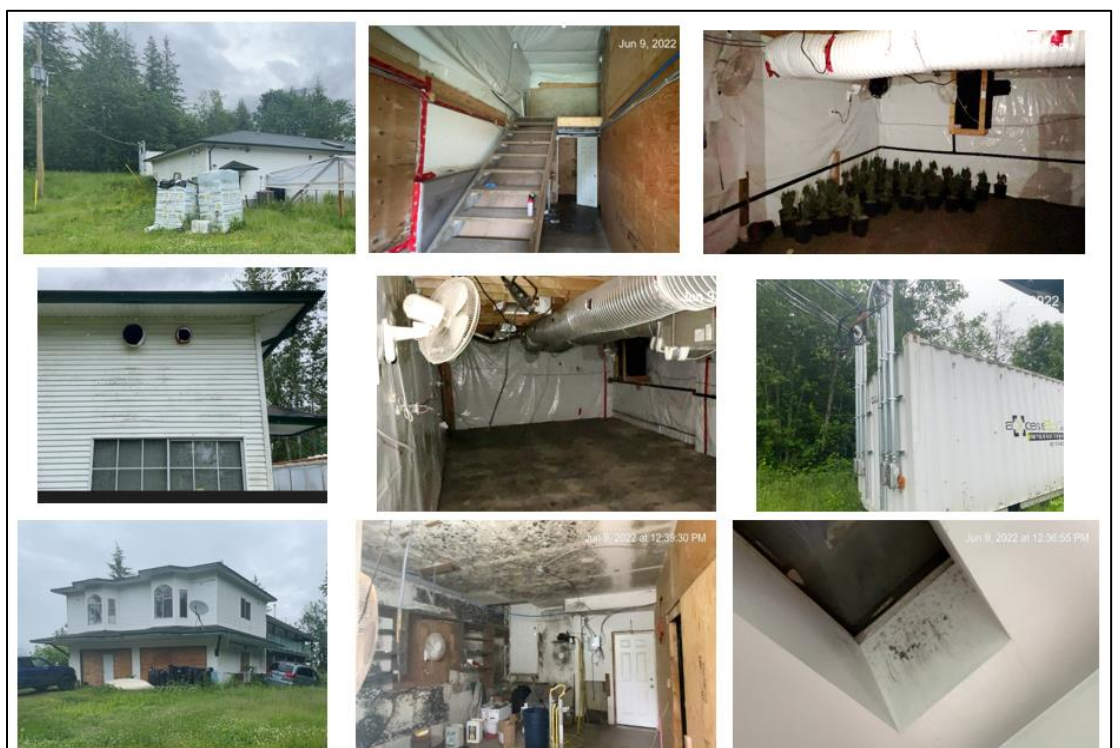
May 24, 2022

Phone call with new owner – site inspection scheduled, staff request translation assistance for the owner.

June 9, 2022

Building and Bylaw Staff conduct Site inspection, the following was observed:

- Cannabis growing items are present around the exterior property (pro-mix oil, outdoor industrial fans, significant hydro connection private pole and shipping container, planter buckets, industrial water containers).
- Alterations and structural work to the shop structure to facilitate cannabis production (second story with new stair, plastic barriers, venting, electrical). Cannabis plants present upstairs. Hallway created with a number of grow rooms.
- Owner confirmed there is Federal Canada Medical Cannabis Grow licence issued to this property – **but didn't have it on site. It is explained that a copy is required to permit this use.**
- Significant slope on the west side of the dwelling down to Vance Road.
- Alterations inside residential dwelling structure that indicate cannabis growing may have been conducted. Basement area inspection was not conducted as the room beyond the access door was discovered to have significant amounts of mold present.
- Staff posted stop work and no occupancy notices on both structures and communicated building permits are required for both structures. Staff were clear with the owner that nobody was to access the dwelling due to the level of mould that is present on the lower floor.



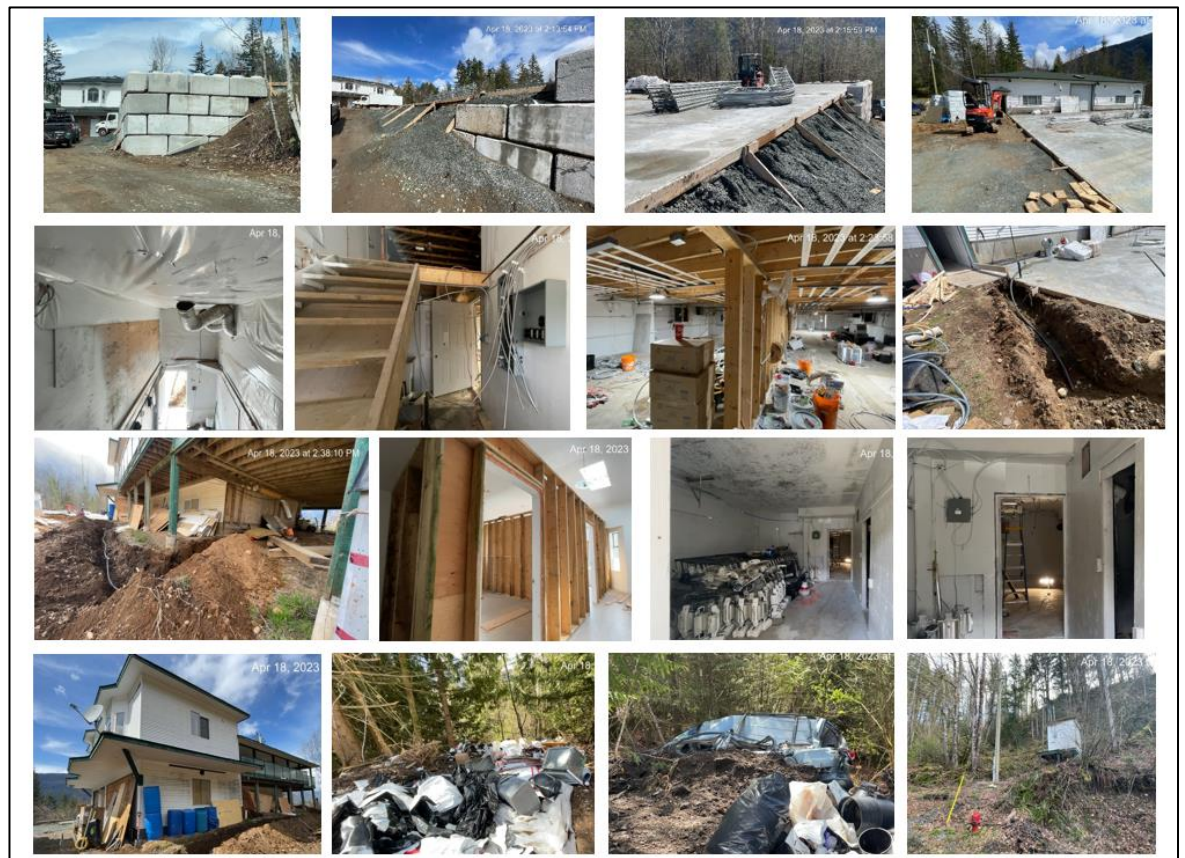
April 18, 2023

Additional Bylaw complaint received that there were large propane tanks, truckloads of cement, worried about cannabis growing use on site.

April 18, 2023

Building and Bylaw Staff conduct follow-up site inspection, owner and tenant are present, and the following was observed:

- Stop work and no occupancy notices have both been removed.
- New retaining wall (4 lock blocks high) has been constructed to the north of the driveway supporting a large deposit of gravel fill and a new concrete pad in front of the shop. Tenant advised he built the retaining wall
- Additional alterations have been made to the shop for purpose of cannabis production since previous inspection.
- Trenching has been dug around site to run electrical between the shop and the around the side and rear of residential dwelling.
- Inside dwelling non-structural wall in open area to create what appears to be grow rooms, mold in the basement area has been painted over, and grow equipment present (lights, fans etc.).
- Unsightly property - Cannabis growing materials, rubbish, debris, building soil, refuse including derelict vehicles are dumped down side of the slope are present around the exterior property.
- Inspector re-posted all structures with stop work and no occupancy notices.
- Staff have similar conversations about works without permit, permissibility of uses, permit requirements, likely a Section 56 will be required.
- Bylaw officer again explained to owner that a copy of the Federal Cannabis licence is needed immediately to be submitted to determine if the use could be permitted.





April 2023 – Several counter inquiries from contractor/owner with both planning and building staff advising permits and planning approval will be required.

April 24, 2023 Building Inspector email to owner and contractor with preliminary list of building permit requirements.

July 7, 2023 Bylaw Staff attempted to conduct site inspection and is unable to access site due to locked gate.

July 11, 2023 – October 31, 2023 Building, Planning, and Bylaw Staff work with several contractors/professionals/agents of owners to provide information and guidance on steps for compliance. No applications or steps towards compliance achieved to date.

November 1, 2023 Meeting with ownership and family members present for translation assistance. Ownership request to have permission to leave site as is. Bylaw Officer declines - explains what is required to resolve bylaw contraventions and cites safety concerns. Officer asks for copy of cannabis production licence from Health Canada – ownership states they have one, but it is expired and do not plan to renew it. Officer is clear that nobody is to be working on site or in the dwelling for safety reasons – stop work orders and no occupancy remain in place. Ownership requested requirements be written out for them. Staff confirmed a formal letter will be mailed.

November 2, 2023 – February 20, 2024 Bylaw Staff mailed three enforcement letters and six tickets with little contact from ownership and no steps towards compliance achieved.

February 22, 2024 Letter mailed by registered mail from Chief Administrative Officer to owner notifying of the show cause hearing scheduled for April 11, 2024.

March 28, 2024 Six (6) bylaw enforcement tickets have been issued to this property owner, with outstanding fines totalling \$3,060 including late fees.

Issued Bylaw Ticket Summary						
Row	Ticket #	Offence Date	Offence	House	Street	Owing
1	BNE68613	15-Jan-24	Construction without a permit	3640	VANCE RD	\$ 510.00
2	BNE68614	15-Jan-24	Construction without a permit	3640	VANCE RD	\$ 510.00
3	BNE68615	15-Jan-24	Construction without a permit	3640	VANCE RD	\$ 510.00
4	BNE68639	20-Feb-24	Construction without a permit	3640	VANCE RD	\$ 510.00
5	BNE68640	20-Feb-24	Construction without a permit	3640	VANCE RD	\$ 510.00
6	BNE68641	20-Feb-24	Construction without a permit	3640	VANCE RD	\$ 510.00
TOTAL OUTSTANDING FINES						\$ 3,060.00

## 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.

### 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.

The Regional District first discovered the construction to facilitate cannabis production use in the single family dwelling and shop structures on the subject property without a permit in June of 2022. Further in April 2023, it was additionally discovered that there had been additional construction to build a large retaining wall on the property without a permit.

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 single family dwelling structure would be for residential use and the initial use of the shop structure would be accessory shop/storage use, so a permit is required for the change of use to cannabis production use.

Any residential structure that houses a cannabis growing operation and or has water damage and or mould requires a Building Permit to remediate the building for health purposes.

Section 5.4 (q) of the FVRD Building Bylaw states that a building permit is not required for retaining walls if they are below 1.2 meters or (47 inches) above finished graded measured at any point within 1.2m from the face of the wall or structure. Therefore retaining walls built above 1.2 meters (47 inches) in height are required to obtain a building permit prior to start of construction. A retaining wall over the height of 1.2 m was constructed on the subject property without a required building permit.

The most recent building permit record on file for this property is in 2007. The Single Family Dwelling and shop structures each had permits for their initial construction as required by the Regional District Building Bylaw. There are no building permits on file for the change of use for cannabis production, remediation or construction of the retaining wall.

**Three (3) separate Building Permits are required for the construction works undertaken by the property owner.**

### Zoning Bylaw

This property is in Electoral Area H, and is zoned Urban Residential (UR-1) under the *Regional Zoning Bylaw No. 1638, 2021* (Bylaw 1638). The primary purpose of the Urban Residential 1 (UR-1) zone is for residential use on serviced lots at least 557.0m<sup>2</sup> in area or lots without full servicing that are at least 1.2ha lot area.

The single family dwelling and shop structure are being used to facilitate cannabis growing. Cannabis production facility is not listed as a permitted use in the (UR-1) zone.

If a property owner is able to provide a copy of a valid (non-expired) Health Canada Personal Cannabis Production Licence for their property then the use would be allowed. The Regional District cannot restrict the use because Federal Government issued licenses take precedence over local government zoning.

**A successful re-zoning of the property or a valid (non-expired) Federal Health Canada Personal Production Licence, would be required to authorize the unpermitted use of a cannabis production facility in this zone.**

### Hazards

Section 56 of the *Community Charter* is a tool for building inspectors to be able to make sure site conditions are safe for construction and or development purposes. An Inspector can require that the owner of a property provide a report certified by a qualified professional that indicates that the buildings may be used safely for the use intended in accordance with the condition(s) specified in the **professional's** report.

**A Section 56 Report and Covenant are required to be completed for the construction works that have taken place on the property.**

### **COST**

Land Titles Office filing fee of approximately \$74.

The owner will be required to pay a removal fee of \$500 for the registration in accordance with the *Fraser Valley Regional Building Bylaw 1188, 2013*, after the construction works on each of the three structures separately (single family dwelling, shop, and retaining wall) are each either:

1. Demolished with a Building Permit issued by the FVRD, with a successful final inspection; or
2. Three fully completed Building Permits for the construction works to the single family dwelling, shop, and retaining wall are issued by the FVRD and each permit receives a successful final inspection.

## CONCLUSION

It is the opinion of the Bylaw Compliance and Enforcement Officer/Appointed Building Inspector that the construction works to the single family dwelling, the shop and the retaining wall that were conducted without a Building Permit violate 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 three Building Permits for construction or three Building Permits for demolition of the single family dwelling, the shop and retaining wall.

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:

Bill Ozeroff, Manager of Inspection Services: reviewed and supported

Graham Daneluz, Director of Planning & Development: reviewed and supported

Kelly Lownsbrough, Director of Corporate Services/CFO: Reviewed and supported.

Jennifer Kinneman, Chief Administrative Officer: Reviewed and supported.