

To: Electoral Area Services Committee

Date: 2024-04-11

From: Louise Hinton, Bylaw Compliance and Enforcement Officer

File No: 4010-20-F02235.000/4

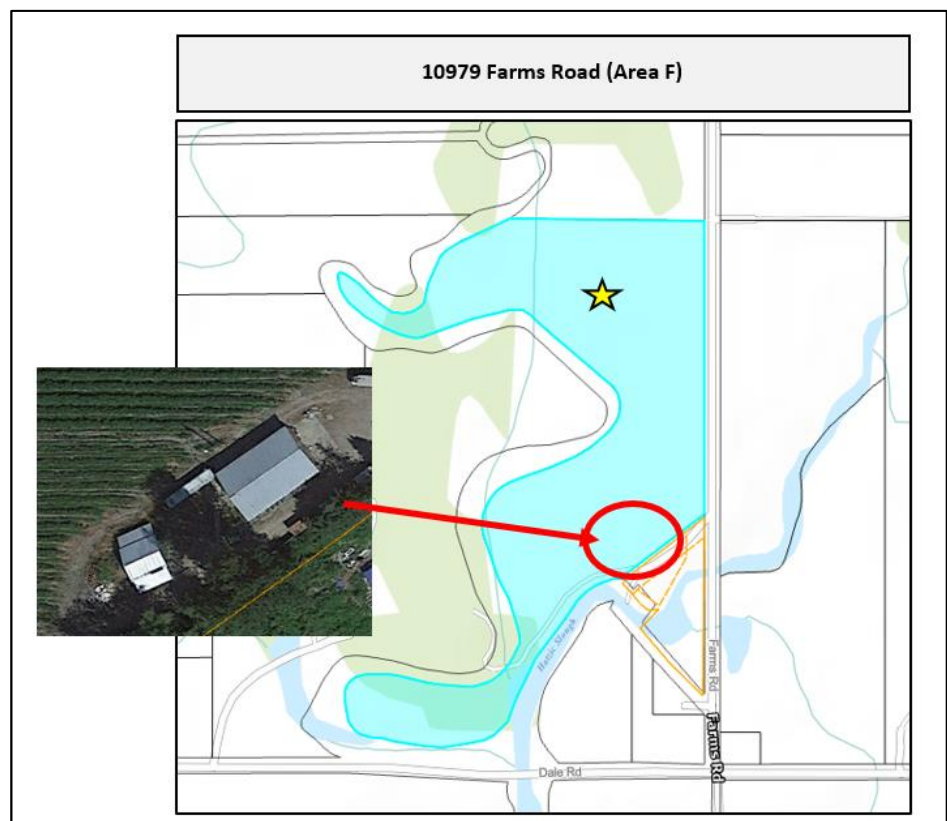
Subject: Bylaw Building Code Contraventions at 10979 Farms Road, Electoral Area F

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 10979 Farms Road, Electoral Area H, Fraser Valley Regional District, British Columbia, legally known as: LOT 1 SECTION 11 TOWNSHIP 18 NEW WESTMINSTER DISTRICT PLAN 4333 (PID: 006-898-254).

BACKGROUND

November 28, 2022 Joint site inspection - bylaw staff discover two large accessory structures along the southern section the property. Most of the area around the structures are in an unsightly condition due to accumulation of rubbish, debris, building materials, cannabis growing equipment, and refuse.



The following evidence was observed during inspection that the structures are being used for cannabis production:

- Large industrial fans units connected to both of the structures – can be heard actively running.
- Cannabis production equipment (venting and wiring) all over the ground outside around the structures and in the general area.
- Strong cannabis odor present.
- Potting buckets, soil, plastic jugs labelled hydroponics, and a large pile of cannabis leaves/plants in and around the area.
- Can see holes around the exterior of the structures to run venting and extra electrical to both buildings indicating construction to change the use of the building.

Inspection Photos:



January 5, 2023

Bylaw letter mailed to ownership.

January 12, 2024

Initial contact is made with ownership, who confirmed that cannabis has been growing in the structures for years. Tenant has been in place prior to their purchase of the property and confirmed Federal Health Canada cannabis production licences exist for this site. Bylaw Officer explained land use/building regulations for cannabis production, stated that each structure required a building permit. It was also explained that they should contact Regional District planning department to confirm the use would be permitted in those structures. Agreed and scheduled site inspection for March 14, 2023 as owner was going out of the country.

March 14, 2023

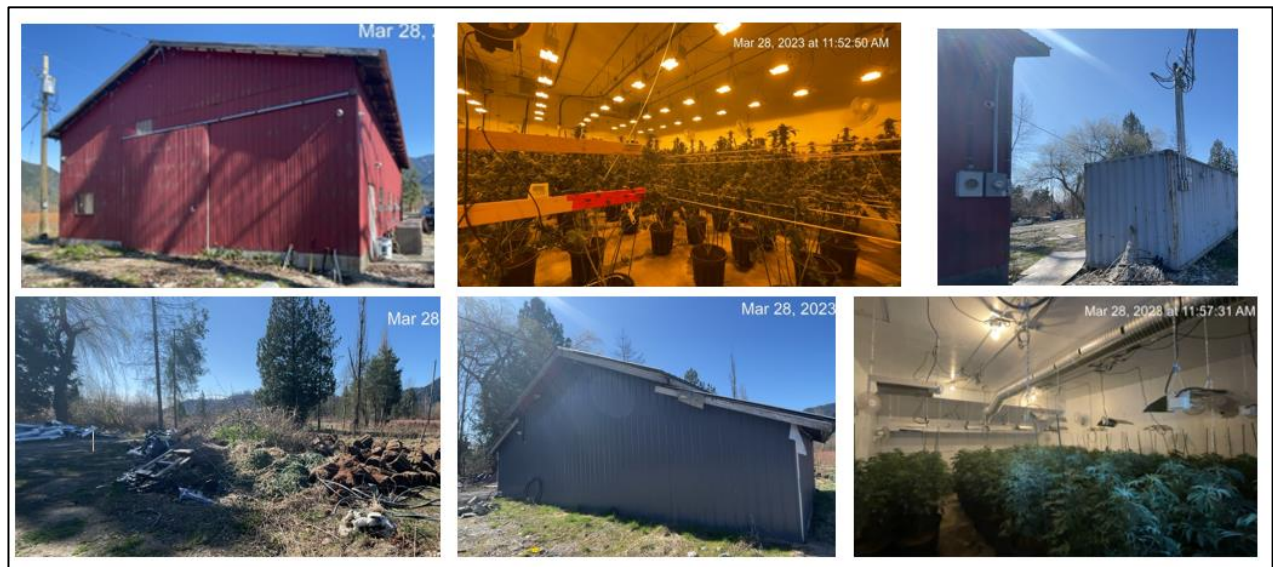
Bylaw Officer spoke with owner who requested to re-schedule site inspection to March 28, 2023. Bylaw Officer confirmed copies of production licences and access to both accessory structures will be required at time of site inspection.

March 28, 2023

Bylaw Staff conducted site inspection – ownership did attend scheduled meeting – tenants met staff on site in their place. The following was observed:

- Confirmed that both structures have been altered to convert the use of the accessory buildings to facilitate cannabis production.
- Both buildings are actively being used to produce cannabis.
- Both structures have entrance areas for electrical and operations with separate grow rooms constructed.
- Two large shipping containers on site – one for electrical for the growing operations, one used for storage.
- Tenant provided a copy of a valid Health Canada personal production licence.
- Bylaw Officer explained land use/building regulations for cannabis production, stated that each structure required a building permit. It was also explained that he should follow-up with his landlord and the planning department to confirm the use would be permitted in those structures.
- Officer advised clean up of unsightly conditions as materials are clearly associated with the growing operation.
- Explained that staff would follow-up with a list of preliminary building permit requirements.

Inspection Photos:



April 4, 2023	Bylaw Officer Email to ownership – provides list of <u>preliminary building permit application requirements</u> . Deadline to submit completed applications and clean-up unsightly property is <u>May 24, 2023</u> .
May 5, 2023	Bylaw Officer email to ownership requesting an update on any progress and specifically asked if he had been in contact with planning, and what professionals he has engaged to assist in the building permit requirements.
May 10, 2023	Owner email to Bylaw Officer advising they are in process of having a builder to help them apply for the permits. Bylaw Officer responds to email requesting clarity on response. Bylaw Staff received phone call from a real estate agent who intends to list the property for sale and wanted to see if there was open bylaw file on the site. Staff requests and received authorization from ownership and provides agent with details of outstanding bylaw contraventions. It is also explained to agent that bylaw violations run with the land regardless of change in ownership. Agent advises staff that ownership is working to clean-up the property, so he can take photos for the listing.
June 15, 2023	Property is now listed for sale. Bylaw Officer sends email to ownership and listing agent.
October 19, 2023 - February 20, 2024	Property is no longer listed for sale. Bylaw Staff conducted three additional site inspections, mailed four more enforcement letters and issued five bylaw offence tickets. In these four months there was no contact from ownership, no applications received.
February 20, 2024	Notification that December 5, 2023 bylaw ticket has been paid in full.
February 22, 2024	Letter mailed by registered mail from Chief Administrative Officer to owner providing notification of the show cause hearing scheduled for April 11, 2024.
March 25, 2024	Bylaw Staff spoke with owner's family member and scheduled in person meeting for March 28, 2024.
March 28, 2024	Meeting with ownership in person, the following is discussed: <ul style="list-style-type: none"> ➤ Review of Bylaw file to date and circumstances around non-compliance. ➤ Ownership requested to stop the notice on title show cause hearing. Bylaw Officer declined – citing safety concerns and non-compliance history. Advised notice can be removed from the title when compliance is achieved. ➤ Owner agreed to payment schedule for outstanding fines.

- Bylaw Officer provided again the list of preliminary building permit application requirements.
- A two month time-line is agreed to for owners to achieve for meaningful first steps towards compliance.

Owner paid January 23, 2024 bylaw ticket in full after the meeting.

March 28, 2024

Five (5) bylaw enforcement tickets have been issued to this property owner, with fines totalling \$2,530 including late fees to date. Two of the issued tickets have been paid in full. Fine amount of \$1,510 remains outstanding.

Issued Bylaw Ticket Summary						
Row	Ticket #		House	Street	Offence Date	Owing
1	BNE68699	Construction without a permit	10979	FARMS RD	24-Oct-23	\$510.00
2	BNE68611	Construction without a permit	10979	FARMS RD	05-Dec-23	\$0.00
3	BNE68600	Construction without a permit	10979	FARMS RD	23-Jan-24	\$0.00
4	BNE68642	Construction without a permit	10979	FARMS RD	13-Feb-24	\$500.00
5	BNE68643	Construction without a permit	10979	FARMS RD	13-Feb-24	\$500.00
TOTAL OUTSTANDING FINES						\$1,510.00

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 or structure, including excavation or other work related to construction until a building official has issued a valid and subsisting permit for the work.

The Regional District first discovered the construction to facilitate cannabis production use in both of the accessory structures on the subject property without a permit in November of 2022.

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 structures would be shop/storage or agricultural purposes, so a building permit is required for the change of use to cannabis production use within each structure. There are no building permit records on file for the construction work that has been conducted to alter the accessory structures as required by the Regional District Building Bylaw.

Two (2) separate Building Permits are required for the construction works undertaken by the property owner.

Zoning

This property is in Electoral Area F, and is zoned Agricultural 4 (AG-4) under the *Regional Zoning Bylaw No. 1638, 2021* (Bylaw 1638). The primary purpose of the Agricultural 4 (AG-4) zone is for Farm Use and Residential Use on lots at least 16.0 ha in lot area.

The accessory structures have both had alterations to facilitate cannabis production use. A cannabis production facility is not listed as a permitted use in the Agricultural 4 (AG-4) zone.

If a property owner is able to provide a copy of a valid (non-expired) Federal Health Canada Personal Cannabis Production Licence for their property then the use is permitted. The Regional District cannot restrict the use because production licences issued by the Federal Government of Canada have 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.

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 two accessory structures separately are either:

1. Demolished with a Building Permit issued by the FVRD, with a successful final inspection; or
2. Two fully completed Building Permits for the construction works to each of the accessory structures 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 two accessory structures that were conducted without a Building Permit violates the Regional District Building Bylaw, and the British *Columbia Building Code*. Staff further note that full compliance will only be achieved with the successful completion of two Building Permits for construction or two Building Permits for demolition of each of the accessory structures.

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.