

To: Electoral Area Services Committee

Date: 2018-03-13

From: Louise Hinton, Bylaw Compliance and Enforcement Officer

File No: E06605.036

Subject: Regional District Building Bylaw Contraventions at 4135 Slesse, Road Electoral Area E, Fraser Valley Regional District, British Columbia (legally described as Lot 5 Section 33 Township 1 Range 29 West of the Sixth Meridian New Westminster District Plan 24

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, Zoning Bylaw for Electoral Area "E", 1976 of the Regional District of Fraser-Cheam, and the Fraser Valley Regional District Official Community Plan for Electoral Area E Bylaw No. 1115, 2011 at 4135 Slesse Road, Electoral Area E, Fraser Valley Regional District, British Columbia (legally described as Lot 5 Section 33 Township 1 Range 29 West of the Sixth Meridian New Westminster District Plan 24441); Parcel Identifier 009-331-247.

STRATEGIC AREA(S) OF FOCUS

Provide Responsive & Effective Public Services
Support Healthy & Sustainable Community

PRIORITIES

Priority #2 Air & Water Quality

BACKGROUND

August 19, 2015 - Regional District Bylaw Staff received a written complaint by email regarding multiple issues occurring at 4135 Slesse Road. The complainant outlined that the following issues were observed occurring on the property:

- The vacant property was being illegally occupied by squatters under a small tarp, and a large cube van with 5-10 people living in it;
- A shipping container was brought onto the property; complainant believes it to be marihuana grow operation;
- There is an accumulation of garbage which is attracting rats;
- The individuals occupying the property are beginning to intimidate the surrounding residents; and
- There is a concern regarding dumped sewage from the campers contaminating the water in the area.
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September 11, 2015 – Regional District Bylaw Staff performed a drive-by site inspection. Staff did not feel safe approaching the individuals on the property, but from the vehicle Regional District

October 1, 2015 – Regional District Bylaw Staff received a call from the Fraser Health Authority regarding a joint site inspection on this property.

October 7, 2015 - Regional District Bylaw Staff pulled a new title search of the property that identified Ms. Shannon Bauman, a non-resident as the owner of the property since January 28, 2015. Background research on the property identifies the following:

- Property is zoned Multi Use Residential (RS-2) under the Area E Zoning Bylaw No. 66.
- This is a vacant lot, so there is no primary use established.
- The property is located within the Chilliwack River Valley Slope Hazard Development Permit Area 3-E (DPA 3-E); and Riparian Areas Development Permit Area 5-E (DPA 5-E).
- In 2001 a development permit (DP 2001-02) was denied with a note stating that a geotechnical engineering report states the subject lands are not suitable for residential development due to land slide hazards and that the geotechnical engineering firm would not support the issuance of a building permit on the property.
- In 2005 a building permit for a single family dwelling (BPo11010) was cancelled due to development permit restrictions.
- In 2005 the Regional District requested the same geotechnical engineering firm to inspect the property after receiving information of possible slope movement. The geotechnical firm identified a landslide feature, but with no obvious evidence that slide movement was affecting Slesse Road and its ditch.

October 7, 2015 – Staff received another written complaint regarding similar above stated issues on the property.

October 8, 2015 - Regional District Bylaw Staff conducted a joint on-site inspection with the Fraser Health Inspector and members of the Royal Canadian Mounted Police (RCMP) to keep the peace. There were two individuals on site who identified themselves as tenants and authorized staff to perform the inspection. Business cards were given to the one of the tenants who stated they would speak with the property owner who resides in Vancouver, and provide staff the property owners contact information. Regional District Bylaw Staff requested the tenants have the property owner contact them as soon as possible. The following was observed during the site inspection:

1. Multiple people are residing within tents, recreational vehicles, shipping containers, and an accessory building; no primary dwelling noted on the property. Only two tenants were seen during the inspection, but there were multiple beds and living quarters throughout the property that implied more tenants might be residing on the property.
2. Two shipping containers have been placed on the property; the tenants confirmed that marijuana grow operations were within the shipping containers, but they had been recently removed. The shipping containers are also used for residential purposes.
3. Staff did not see seed container spilled on the road.
4. Staff confirmed the smell of marijuana but did not confirm the discharge of firearms. Staff noted that hundreds of aerosol canisters were visible. The tenants stated these canisters were "Bear Spray".
5. Staff confirmed the lack of adequate onsite waste system; the recreational vehicle sewer outlets were connected to hoses via duct tape; these hoses directed and dispelled the sewage to hand-made gulleys. The gulleys led towards the streams/ditches and off of the property. The tenants confirmed with staff that this is how they deal with their waste.

The following site inspection photos taken on **October 8, 2015** and illustrate the unsightly property, shipping containers placed without a permit, numerous prohibited land uses, land alteration, and sewage concerns:



October 13, 2015 – Regional District Bylaw Staff received a telephone call on this date from a concerned citizen who wished to remain anonymous, but wanted more information regarding what is involved in a filing a complaint. Staff explained where to find a complaint form online, as well as provided contact information for the Fraser Health Authority for their concerns regarding the sewage.

October 19, 2015 - Regional District Bylaw Staff drafts a memo to Director of Planning and Development M. Thornton outlining the status of the bylaw file. Direction is to proceed with enforcement.

November 9, 2015 - Regional District Bylaw Staff mailed a letter by regular mail to the property owner Shannon Bauman with three (3) attached Bylaw Offence Notice tickets attached for unsightly property, construction without a permit, and prohibited uses of land and structures. The letter was copied to the RCMP, the Fraser Health Authority, BC Safety Authority, Ministry of Environment, and the Ministry of Forrest Land and Natural Resources' Office.

December 2, 2015 - Regional District Bylaw Staff performed a drive by and took photographs. There was no activity on the site, but shipping containers, recreational vehicles and storage building are still present on the property, and there was no one on site.

December 2, 2015 - Regional District Bylaw Staff sent via regular mail a letter following no contact from the property owner regarding the outstanding bylaw offence ticket fines with a deadline of February 5, 2016 to pay the outstanding fines.

December 15, 2015 – Regional District Bylaw Staff contacted the RCMP and updated them on the status of the bylaw enforcement file.

January 4, 2016 - Regional District Bylaw Staff spoke with a Natural Resource Officer with the Ministry of Forests, Lands and Natural Resource Office (FLNRO). They have opened a file for this property, but after reviewing the photos and documentation provided by the Regional District they informed staff that they would not do any follow-up based on the current status.

March 2, 2016 - Regional District Bylaw Staff contacted the Chilliwack Adjudication Registry Staff by email to get information to place Judgement for the outstanding fines.

March 14, 2016 - Regional District Bylaw Staff received a phone call from an anonymous resident in the area of the subject property. The caller would not give their contact information because they are afraid of retribution. The resident caller stated that people are again living / camping on the property with a number of recreational vehicles and they are creating a huge mess. Caller said they have previously spoken to the police but will contact them again as they fear for their safety with these individuals on the property.

March 16, 2016 – The Upper Fraser Valley Bylaw Adjudication Registry Staff filed a judgment of Certificate of Amounts Owing under Small Claims Action No Co8920, and Certificate of Judgement under CA5047243 with the Provincial Supreme Court of Canada in Chilliwack BC for the outstanding bylaw ticket fines.

April 1, 2016 - Regional District Bylaw Staff mailed a follow-up letter to the property owner Ms. Shannon Bauman regarding the Certificate of Amounts Owing and Certificate of Judgement that has been filed against her property for the outstanding bylaw enforcement tickets, administration costs, and interest.

March 13, 2017 – Regional District Office received a letter by fax from the property owners legal counsel requesting the full details required to release the judgment from the property title.

March 17, 2017 - Regional District Bylaw Staff sent a response letter by fax to legal counsel for the property owner regarding the outstanding amount of money owed to the Regional District to have the small claims Certificate of Judgement for the outstanding fines removed from the property title.

March 17, 2017 – The Regional District receives payment in full for the outstanding bylaw tickets fines, and related costs from the property owner.

July 10, 2017 – A written complaint is received that there are continued similar concerns regarding the subject property: camping, no well, no septic, marijuana grow operation and related nuisance smells, related illegal activities, water used being discharged directly into the ditch with runs into the Chilliwack River with slimy growth and discharge.

July 11, 2017 - Regional District Bylaw Staff received a telephone call from an anonymous resident of the area, who stated that there has been recent activity on the property over the past couple of weeks, including gravel delivery for a driveway, and the placement of a double wide mobile home on the property. They stated that the original property owner was observed on site on July 10, 2017 and July 8, 2017. The original travel trailers are still on site and were vandalised over the winter. Caller said they had not observed anyone living on the property since last year.

July 12, 2017 - Regional District Bylaw Staff spoke with another complainant on the telephone who advises that works have been done to the ditch between the road and the property to widen the culvert, placement of gravel for the driveway, placement of two mobile home sections to create a double wide, and some works around the creek. The occupants from previous summers have not returned and the property does not appear to be occupied by anyone on a regular basis at this time. Caller stated they have seen the previous property owner on site while works are being done on the property.

July 19, 2017 – Regional District Bylaw, Building, and Planning Staff performed a joint site inspection of the property with RCMP in attendance. There were no tenants or property owner on site at the time of the inspection. The two Atco trailers have been relocated to this property without a valid building permit and appear to be placed within thirty (30) meters of a stream. Regional District Staff posted both Atco trailers with both a Stop Work Order and a No Occupancy Orders. It is noted that works have been done to the ditch to widen the driveway and large amounts of gravel has been placed on site. The recreational trailers and shipping containers remain on site; however they do not appear to be in use at this time.

The following site inspection photos were taken on **July 19, 2017** the photos illustrate shipping containers, Atco trailers, numerous prohibited land uses, and works within a ditch (culvert replacement):



July 25, 2017 - Regional District Bylaw Staff received an email from one of the complainants that the No Occupancy notices that were previously posted by Regional District Staff have been removed from the Atco trailers.

August 15, 2017 - Regional District Bylaw Staff mailed a letter by regular mail to the property owner Shannon Bauman with two (2) additional attached Bylaw Offence Notice tickets, for construction without a permit for the placement of the each of the two Atco trailers without building permits. The letter with the original tickets attached was mailed to the property owner's Vancouver address and a copy sent to the subject property on Slesse Road.

August 21, 2017 - Regional District Bylaw Staff received an email update from a complainant dated August 20, 2017, in writing stating that it appears that new persons maybe living in the newer recreational vehicle and although there is no car parked there now the blinds are closed on the recreational vehicle and activity has been heard on site.

August 23, 2017 - Regional District Bylaw Staff receives confirmation from Chilliwack Upper Fraser Valley Bylaw Adjudication Registry that the paperwork to release the judgement from the title of the property has been completed.

August 29, 2017 -- Regional District Bylaw Staff received a telephone call on this date from a concerned neighbour who advises that there is now someone living in one of the travel trailers fulltime and possibly dumping raw sewage into the ditch. Complainant also states that there are several other men that attend the property on the weekends to work on the Atco trailers - boarding windows and skirting.

November 7, 2017 - Regional District Bylaw, and Building Staff performed a joint site inspection of the property with RCMP in attendance. There is one man living in a recreational vehicle on site. There is an active marijuana grow operation in the shipping containers. There are visible evidence of new construction works (skirting, window boards, and new electrical works) completed on the Atco trailers despite the previously posted Stop Work Order. There are boxes of marijuana grow operation equipment inside the Atco trailers that appears to be preparing to set up to install another marijuana grow operation. There are still hoses running to the creek from the recreation vehicle.

Site Inspection Photographs dated **November 7, 2017** that illustrate shipping containers, Atco trailers placed without permits, numerous prohibited land uses, and continued electrical works on the Atco building:





January 25, 2018 – Regional District Staff submit a Natural Resource Violation Report with the Ministry of Forest, Lands and Natural Resource Operations' Compliance and Enforcement Branch for review.

January 25, 2018 – A final warning letter was sent to the property owner Shannon Bauman by registered mail advising her of staff's recommendation to proceed with the process of registering a Section 57 *Community Charter* notice on the title of his property. The letter had two (2) additional attached Bylaw Offence Notice tickets attached for disobeying a stop work order and for prohibited land use. This letter gave the owner a final opportunity to achieve voluntary compliance by the deadline of February 15, 2018. A copy of the letter was emailed to stakeholders and outside agencies. Staff has not received a response from the property owner to date.

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 requests consideration of the following information:

Building Bylaw

Staff is authorized to regulate minimum construction standards within Electoral Areas by 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 including the placement of shipping containers or Atco buildings.

Two shipping containers were discovered to have been placed on the property in September of 2015 and two Atco structures in July of 2017, all without building permits. The two shipping containers and the two Atco structures continue to remain on site.

Building permits are required for the placement of each of the two shipping containers, and each of the two Atco structures.

Any structure, including a shipping container that has a change of use from its initial intended use is required to obtain a building permit to authorize the new use to comply with Bylaw and BC Building Code Regulations. The initial use of the shipping container was for storage use only, so a permit is required for the change of use to the marijuana grow operation that currently occupies the shipping container.

A Building permit is required for the change of use works undertaken on the property.

Zoning Bylaw

This property is in Electoral Area E, and is zoned Multi Use Residential (RS-2) under the *Zoning Bylaw No. 66, 1979 of the Regional District of Fraser-Cheam* (Bylaw 66). The primary purpose of this zone is to maintain the existing rural character of the Plan area and to support rural lifestyles, and to provide for densities that are compatible with existing development and levels of servicing.

The two shipping containers currently house a Marijuana Grow Operation; a use that is not listed as a permitted use in this zone.

The recreational vehicles and trailers on the property are being used for camping; a use that is not listed as a permitted use in this zone.

A successful re-zoning of the property would be required to authorize the unpermitted uses of camping and the marijuana grow operation.

Official Community Plan

1. The subject property is within *Chilliwack River Valley Slope Hazard Development Permit Area 3-E* (DPA 3-E) under the *Fraser Valley Regional District Official Community Plan for Electoral Area E Bylaw No. 1115, 2011* (Bylaw 1115). This development permit area is designated for the protection of development from hazardous conditions. A development permit must be

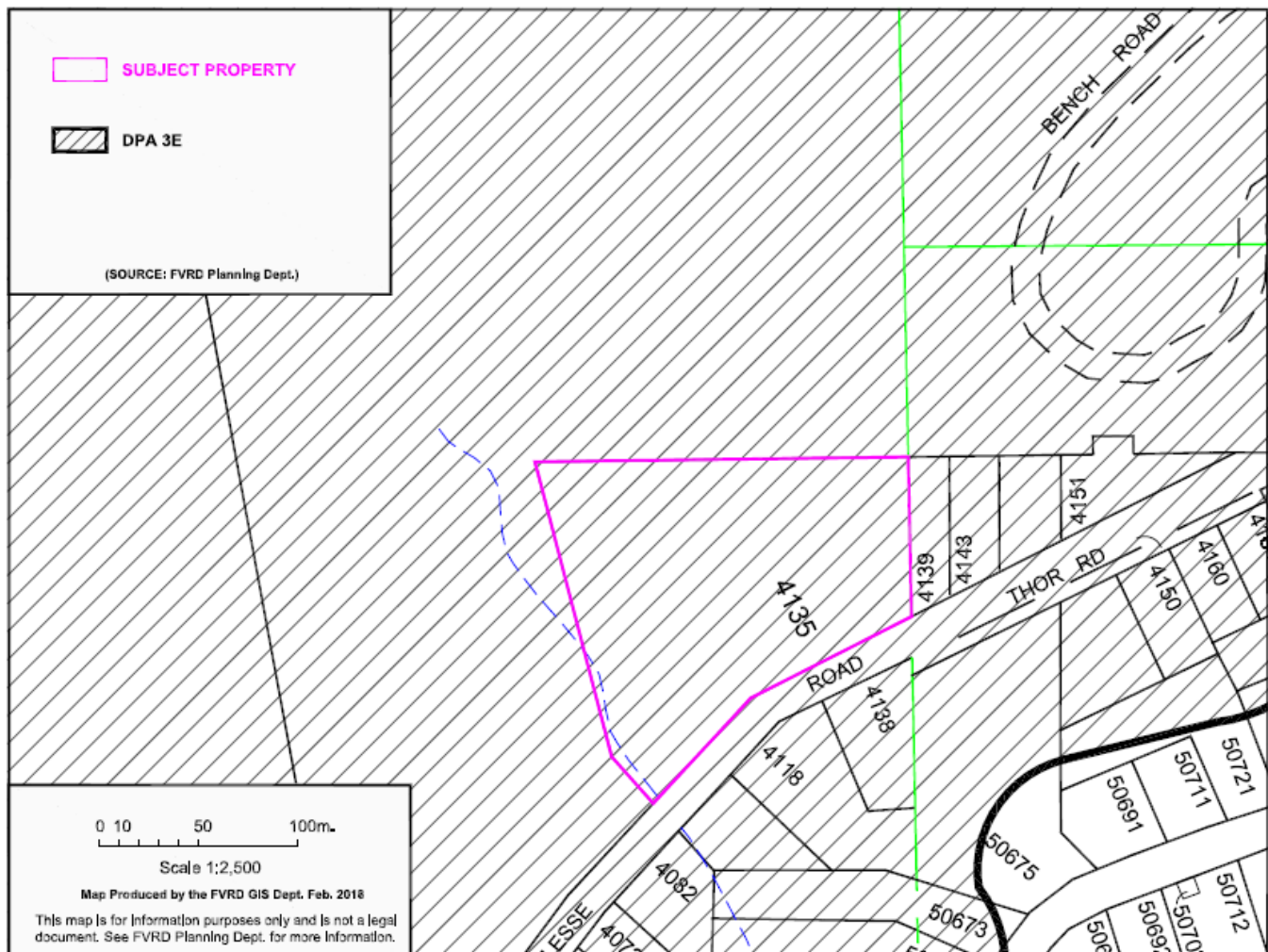
obtained prior to alteration of land or construction of, addition to, or alteration of a building or structure.

2. The subject property is also within the *Riparian Areas Development Permit Area 5-E* (DPA 5-E) under the *Fraser Valley Regional District Official Community Plan for Electoral Area E Bylaw No. 1115, 2011* (Bylaw 1115). 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 the alteration of land the disturbance of soil or vegetation; or construction of or addition to a building or structure within a riparian assessment area.

To date there has been no application for a Development Permit for any of the construction or land alteration works that have occurred on the subject property.

A Development Permit is required for the alteration and construction taken place on the property.

(3-E) DEVELOPMENT PERMIT AREA MAP



COST

Land Titles Office filing fee of approximately \$55.

The owner will be required to pay a removal fee of \$500 in accordance with the Fraser Valley Regional Building Bylaw 1188, 2013, after:

1. The two Atco structures and the two shipping containers are removed from the property with a Building Permit issued by the FVRD and receiving successful final inspection;

OR

2. Building Permits for the two Atco structures, the two shipping containers and the change of use for a marijuana grow operation are issued by the FVRD and receive successful final inspection. This will require a successful rezoning of the property to authorize the unpermitted uses of camping and the marijuana grow operation; and the application and issuance of a Development Permit for the alteration of land and construction.

CONCLUSION

It is the opinion of the Bylaw Compliance and Enforcement Officer/Appointed Building Inspector that the placement of the two shipping containers, the two Atco buildings, the change of use of the shipping containers, the non-permitted land uses, and the land alteration and construction without a development permit, all violate multiple Regional District Bylaws, and the British Columbia Building Code. Staff further notes that full compliance will only be achieved by completing the following:

1. The two Atco structures and the two shipping containers are removed from the property with a Building Permit issued by the FVRD and receiving successful final inspection;

OR

2. Building Permits for the two Atco structures, the two shipping containers and the change of use for a marijuana grow operation are issued by the FVRD and receive successful final inspection. This will require a successful rezoning of the property to authorize the unpermitted uses of camping and the marijuana grow operation; and the application and issuance of a Development Permit for the alteration and construction.

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 Bylaws, Policies, and the *BC Building Code*.

COMMENTS BY:

Margaret Thornton, Director of Planning & Development

Reviewed and supported.

Mike Veenbaas, Director of Financial Services

Not available for comment.

Paul Gipps, Chief Administrative Officer

Reviewed and supported