

To: Electoral Area Services Committee

Date: 2018-04-10

From: Louise Hinton, Bylaw Compliance and Enforcement Officer

File No: G03638.000

Subject: Building Bylaw, and BC Building Code Contraventions at 41330 North Nicomen Road Electoral Area G, Fraser Valley Regional District, British Columbia (legally described as Lot 1 Section 6 Township 24 New Westminster District Plan 6914; and Parcel Identifier

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*, at 41330 North Nicomen Road Electoral Area G, Fraser Valley Regional District, British Columbia (legally described as Lot 1 Section 6 Township 24 New Westminster District Plan 6914; and Parcel Identifier 011-252-723)

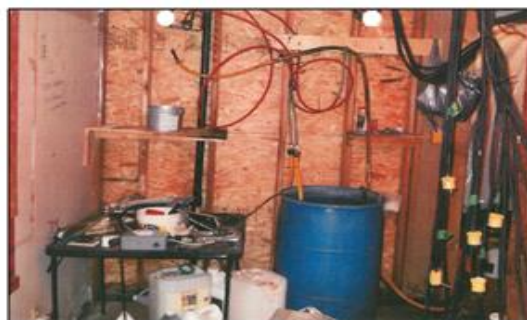
STRATEGIC AREA(S) OF FOCUS

Support Healthy & Sustainable Community

Provide Responsive & Effective Public Services

BACKGROUND

January 30, 2012 Regional District Bylaw Staff Received information that Royal Canadian Mounted Police (RCMP) had an enforcement file (No. 2011-5908) for a marijuana grow operation that was discovered on the property in the Single Family Dwelling in 2011.





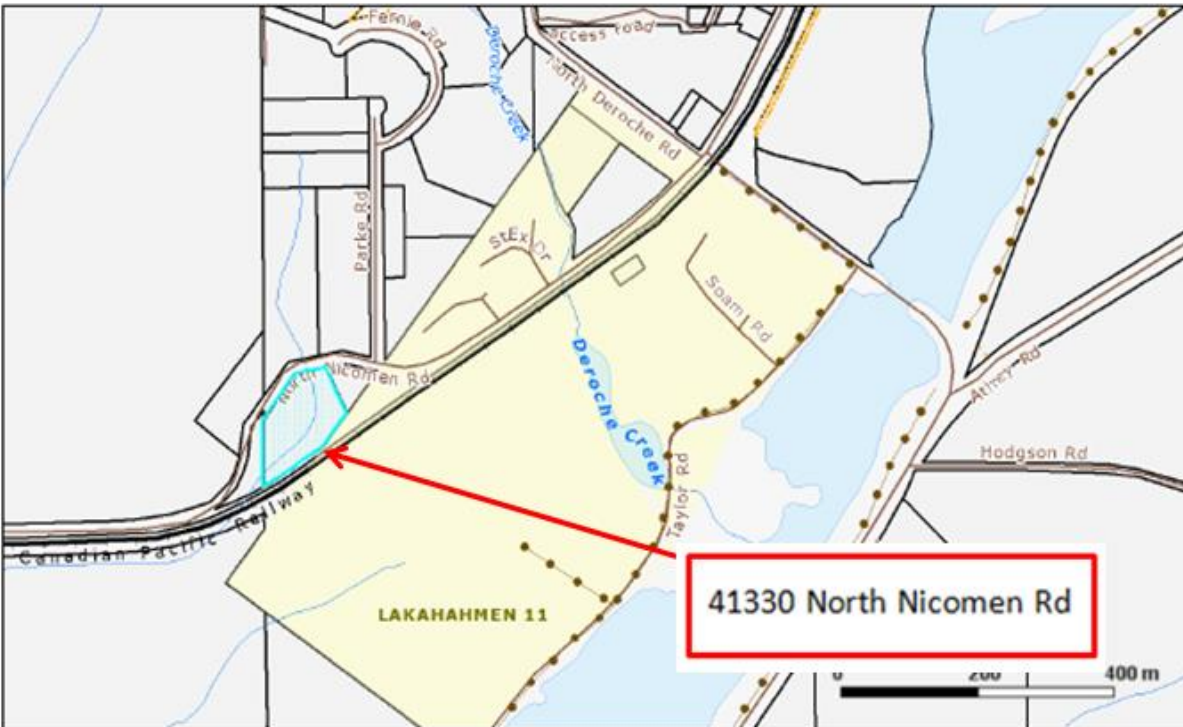
FRASER VALLEY REGIONAL DISTRICT

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22 February 2018

Property Information Report

Civic Address:	41330 NORTH NICOMEN RD	Lot Size:	3.27 ACRES
Folio Number:	775.03638.000	Electoral Area:	G
PID:	011-252-723	Map Scale:	1:8626
Legal Description:	LOT 1, SECTION 8, TOWNSHIP 24, NEW WESTMINSTER DISTRICT, PLAN NWP0014		



Land-use Information

Zoning Designation:	Contact Planning Department	Zoning Bylaw:	Contact Planning Department
OCP Designation:	Contact Planning Department	OCP Bylaw:	Contact Planning Department
DPA Designation:	Contact Planning Department	ALR:	Contact Planning Department
In Mapped Floodplain:	Contact Planning Department	Watercourse:	Contact Planning Department

July 25, 2012 – Regional District Bylaw Staff attended the property at 41330 North Nicomen Road for a joint site inspection with RCMP Staff to keep the peace. The tenant of the home was on site during the inspection. Regional District Bylaw Staff observed numerous structural alterations, electrical works, possible plumbing works, and a marijuana grow operation in numerous rooms in the Single Family Dwelling. Inspection staff posted a Stop Work and No Occupancy Notice on the main Single Family Dwelling. It was noted that the tenant would not allow inspection staff access to a room in the basement that was locked.

The following site inspection photos taken on **July 25, 2012** illustrate the construction without a permit to house a marijuana growing operation:



November 14, 2012 - Regional District Bylaw Staff spoke with the previous property owner Mr. Breslin on the telephone; he made assurances to FVRD staff that he would make a Building Permit application to remediate the single family dwelling. Mr. Breslin requested staff forward all permit information by email to him. Staff let him know that they would recommend a notice to be placed on the title on the property because of the marijuana grow operation use. Mr. Breslin stated he understood the steps moving forward, and as such FVRD staff followed up with an email.

December 20, 2012 - Regional District Bylaw Staff conducted a scheduled file review that revealed that the Regional District still has not received a Building Permit application for this property. Staff spoke with property owner Mr. Mike Breslin by telephone. Mr. Breslin confirmed both the property where he currently resides and that he received FVRD staff's previous email. Regional District Bylaw Staff notified Mr. Breslin that he needs to submit his completed Building Permit application for the single family dwelling before the deadline of two weeks (January 11, 2013) or staff would begin the process to place a notice on title of property.

Regional District Bylaw Staff mailed a letter to the property owner Mr. Breslin outlining the existing bylaw enforcement issues on the property, inclusive of the change in occupancy with a deadline of January 11, 2013 to comply. Stakeholders were emailed a scanned copy of the letter.

April 5, 2013 - Regional District Bylaw Staff contacted Mission RCMP, requesting an update on this file.

January 19, 2018 - Regional District Bylaw Staff pulled a title search of the property at 41330 North Nicomen Road and the search verified that Mr. Maninder Deol has owned the property since August 2016.

January 25, 2018 – A final warning letter was sent to the property owner Mr. Deol by registered mail advising him of staff's recommendation to proceed with the process of registering a Section 57 *Community Charter* notice on the title of his property. This letter gave the property owner a final opportunity to achieve voluntary compliance by the deadline of February 15, 2018. A copy of the letter was emailed to stakeholders.

January 29, 2018 - Regional District Bylaw Staff spoke with the property owner Mr. Deol over the phone and explained that the Building Permit has been outstanding since 2012 and even though he only became the owner of the property in recent years; the bylaw enforcement issues still needed to be resolved. Mr. Deol explained that his full intention is to demolish the building, but that it couldn't be done in the near future. The conversation was not completed and was to be continued at another time.

Early February 2018 – Regional District Building Inspection Staff spoke with Mr. Deol over the phone and it was agreed that a notice on title is the best course of action moving forward.

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 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.

The subject building was initially a single family dwelling with a residential use. A final inspection was never carried out on the single family dwelling, and therefore an Occupancy Certificate was never issued. It then was discovered in 2011 that the single family dwelling was being used for a marijuana grow operation. In 2012 Regional District Bylaw Staff confirmed that there had been construction alterations completed on the Single Family Dwelling to cause the change of use without a required Building Permit. 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. 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 subject building was for residential use, so a permit is required for the change of use to marijuana grow operation.

A Building Permit is required for the works undertaken by the property owner.

Zoning Bylaw

This property is in Electoral Area G, and is zoned Rural 3 (R-3) under *the Fraser Valley Regional District Land Use and Subdivision Regulation Bylaw No. 59, 1992 (Bylaw 59)*. 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 and levels of services. The rural designation exists on rural lots that have good road access but that may have potential geotechnical hazard, servicing limitations, or other constraints.

The single family dwelling building previously housed a Marijuana Grow Operation; a use that is not a listed as a permitted use in this zone.

If a Marijuana Grow Use is proposed, a successful rezoning of the property is required to authorize the unpermitted use of the Marijuana Grow Use.

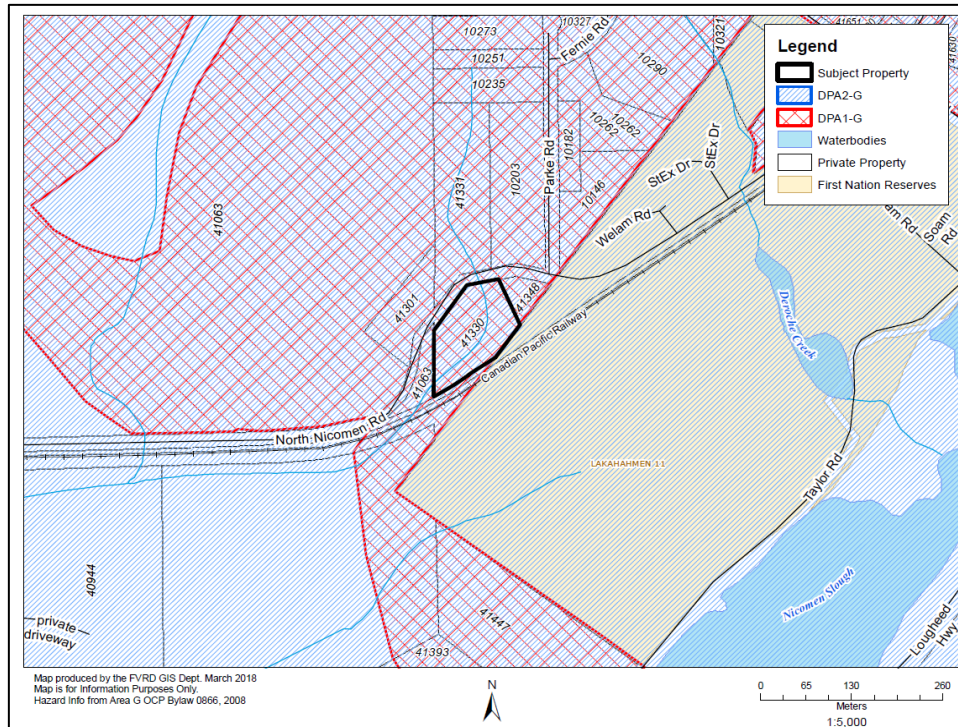
Official Community Plan

1. The subject property is within the *Geologic & Stream Hazard Development Permit Area 1-G (DPA 1-G)* under the *Fraser Valley Regional District Official Community Plan for Electoral Area G Bylaw No. 0866, 2008 (Bylaw 0866)*. 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-G (DPA 2-G)* under the *Fraser Valley Regional District Official Community Plan for Electoral Area G Bylaw No. 0866, 2008 (Bylaw 0866)*. 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 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 construction that has taken place on the property.

(1-G) 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 the unpermitted construction works on the single family dwelling is either:

1. Demolished with Building Permit issued by the FVRD with a successful final inspection; or
2. A fully completed Building Permit for the construction works to the single family dwelling is issued by the FVRD and 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 Marijuana Grow Use is proposed, a successful rezoning of the property is required to authorize the unpermitted use of the Marijuana Grow Use.

CONCLUSION

It is the opinion of the Bylaw Compliance and Enforcement Officer/Appointed Building Inspector that the construction without a permit and change of use on the single family dwelling and construction without a development permit violate multiple Regional District Bylaws, and the British Columbia Building Code. Staff further notes that full compliance will only be achieved with the successful completion of a Building Permit for a change of use with remediation or a Building Permit for demolition of the single family dwelling.

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.
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Mike Veenbaas, Director of Financial Services	No further financial comment.
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Paul Gipps, Chief Administrative Officer	Reviewed and supported.
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