

To: Electoral Area Services Committee

Date: 2018-06-12

From: Louise Hinton, Bylaw Compliance and Enforcement Officer

File No: G03620.100

Subject: Building Bylaw, and BC Building Code Contraventions at 41630 Lougheed Hwy, Electoral Area G, legally described as Parcel "C" (W166297E) North West Quarter Section 5 and of the North East Quarter Section 6 Township 24 Except: Parcel "B" (Plain in Absolute

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 41630 Lougheed Highway Electoral Area G, Fraser Valley Regional District, British Columbia (legally described as Parcel "C" (W166297E) North West Quarter Section 5 and of the North East Quarter Section 6 Township 24 Except: Parcel "B" (Plain in Absolute Fees Parcel Book 11/329/1286F), New Westminster District; Parcel Identifier: 013-441-949.

STRATEGIC AREA(S) OF FOCUS

Support Healthy & Sustainable Community

Provide Responsive & Effective Public Services

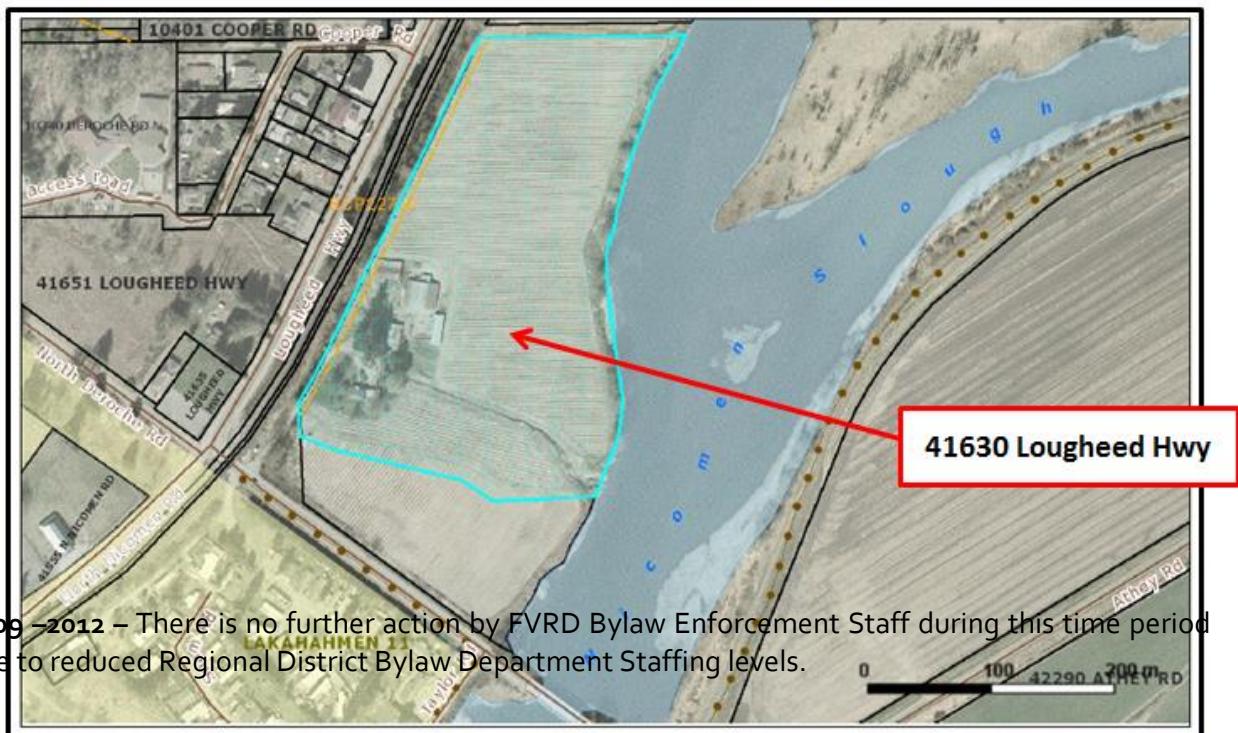
BACKGROUND

October 14, 2009 – Regional District Bylaw Staff was contacted by the Mission Detachment of the Royal Canadian Mounted Police (RCMP) regarding the subject property at **41630 Lougheed Hwy** stating that the RCMP had removed a Marijuana Grow Operation at 41630 Lougheed Hwy on June 29, 2009. The RCMP provided File No 2009-7468, and a copy of their inspection photographs taken that day. FVRD Bylaw Staff opened a



Bylaw Enforcement File on the subject property at 41630 Lougheed Hwy.





2009 – 2012 – There is no further action by FVRD Bylaw Enforcement Staff during this time period due to reduced Regional District Bylaw Department Staffing levels.

December 7, 2012 – A Real Estate Agent came to the front counter at the Chilliwack Regional District Office and spoke with Regional District Bylaw Staff regarding the subject property at 41630 Lougheed Hwy. FVRD Bylaw Staff notified the Real Estate Agent that there are outstanding bylaw enforcement issues on the property because of the RCMP contact regarding Marijuana Grow Operations on site.

July 8, 2013 – Regional District Bylaw and Planning Staff received a property inquiry at the front counter of the Regional District Chilliwack Office regarding the subject property at 41630 Lougheed Hwy, which is currently listed for sale. FVRD Bylaw Staff explained that there is open bylaw enforcement file on this property because of Marijuana Grow Operations found on site by the RCMP in 2009. FVRD Bylaw Staff explained that they would be required to go through the Building Permit process to decommission the Marijuana Grow Operations and that the Bylaw File would remain open regardless of a change in property ownership.

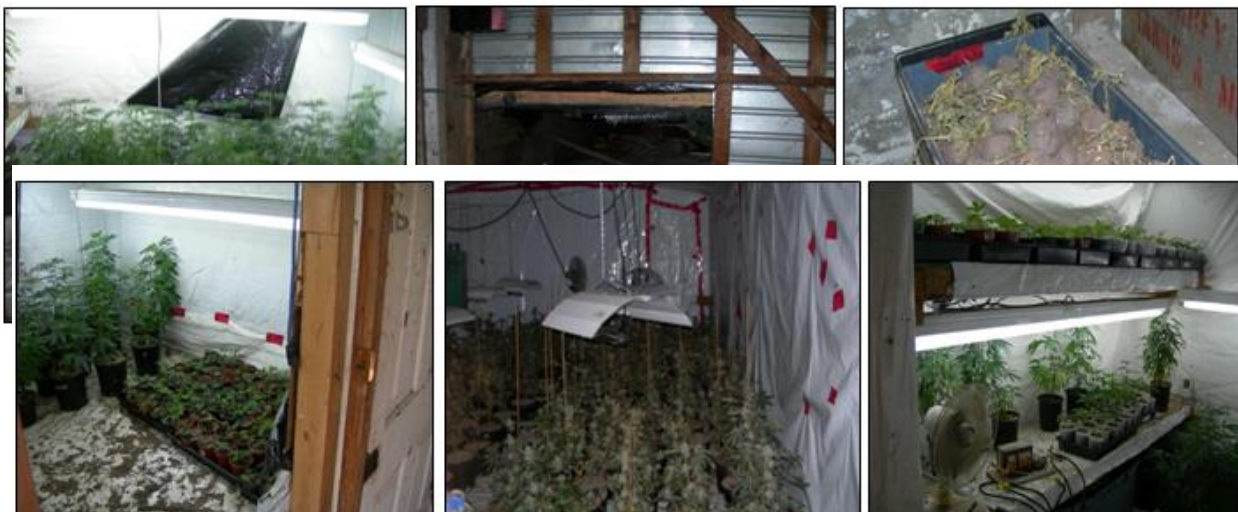
July 9, 2013 - Regional District Bylaw Staff received the following information from RCMP by email regarding what RCMP members discovered during their June 29, 2009 site inspection of the subject property at 41630 Lougheed Hwy (RCMP File: 2009-7468):

Accessory Buildings:

- **The small white shed located behind the Single Family Dwelling (SFD)** – contained a Marijuana Grow Operation.
- **The small shed behind that was joined by a roof to a large white shed** - contained a methamphetamine laboratory.
- **Back of a large metal shed/barn on the property** –contained second Marijuana Grow Operation.

Single Family Dwelling:

- RCMP found signs of an old Marijuana Grow Operation had been located in the basement of the Single Family Dwelling based on the following information:
 - A fireplace in the bedroom that was full of dried green plants which appeared to be dried marijuana;
 - Loose marijuana found on the dresser in the bedroom; and
 - Ten to Twelve black plant pots full of soil, and fifteen to twenty small starter pots with what appears to be small marijuana plants found at the end of the hallway in an open cupboard.



July 15, 2013 – Regional District Bylaw Staff received forwarded information that a Real Estate Agent, Mr. Gill wanted FVRD Bylaw Staff to call him back. Regional District Bylaw Staff attempted to contact Mr. Gill by telephone however there was no answer, so FVRD Staff left a voicemail message for Mr. Gill requesting a return call back.

March 18, 2014 – Regional District Bylaw Staff obtained a new title search of the subject property at 41630 Lougheed Hwy that confirmed that the property ownership changed November 26, 2012. Mr. Manmohan S. Heer and Mr. Jasbir Singh Banwait were listed as the new property owners of 41630 Lougheed Hwy since that date.

March 19, 2014 – Regional District Bylaw Staff sent a letter requesting access to the property for an inspection to the property owners Mr. Manmohan S. Heer and Mr. Jasbir Singh Banwait by regular mail with a deadline for a response of April 21, 2014.

May 8, 2014 – Regional District Bylaw Staff sent a second letter requesting access to the property for an inspection to the property owners Mr. Manmohan S. Heer and Mr. Jasbir Singh Banwait by regular mail with a deadline for a response of May 22, 2014.

June 24, 2014 – Regional District Bylaw Staff sent a third letter by regular mail to property owners Mr. Manmohan S. Heer and Mr. Jasbir Singh Banwait with a Bylaw Offence Notice Ticket (No. 23010), for a change of occupancy without a Building Permit under Section 6.1 of the *Fraser Valley Regional District's Building Bylaw No.1188, 2013*.

June 30, 2014 - Regional District Bylaw Staff received contact from one of the property owners Mr. Jasbir Singh Banwait by email inquiring about the subject property at 41630 Lougheed Hwy.

July 2, 2014 – Regional District Bylaw Staff sent a reply to the property owner Mr. Jasbir Singh Banwait by email listing the outstanding bylaw enforcement matters present on the subject property at 41630 Lougheed Hwy.

July 11, 2014 - Regional District Bylaw Staff continued correspondence with the property owner Mr. Jasbir Singh Banwait by email. It was agreed that FVRD Bylaw and Building Staff would meet Mr. Banwait at his property at 41630 Lougheed Hwy for a site inspection on July 15, 2014 between 1:30pm and 2:30pm.

July 15, 2014 - Regional District Building Inspection and Bylaw Staff attended subject property at 41630 Lougheed Hwy for a schedule site inspection. FVRD Building and Bylaw Staff arrived at 41630 Lougheed Hwy on July 15, 2014 at 13:30 hours and stayed on site until 14:00hrs. The property owner Mr. Jasbir Sing Banwait did not show up for the scheduled site inspection. While on site FVRD Bylaw Staff made a number of phone calls to several of the Mr. Banwait's different phone numbers, with no answer. The tenant of the property was on site during the inspection and relayed to FVRD Building and Bylaw Staff that Mr. Banwait was aware of the inspection today because he had called him earlier in the day to request he kennel this dogs before FVRD Staff arrived. The tenant stated that he has lived on the property for eight years and knows the history of the property. FVRD Bylaw Staff noted all the buildings from RCMP photos still remain on site.

July 16, 2014 - Regional District Bylaw Staff contacted the property owner Mr. Banwait by telephone after receiving a voicemail from him. Mr. Banwait stated that he did not attend yesterday's scheduled onsite meeting with staff because he had to work. Mr. Banwait asked if it was possible re-schedule the site inspection. FVRD Bylaw Staff explained that during the inspection yesterday FVRD Staff were able to see that all the structures that were in contravention Regional Bylaws remained on the property. Regional District Bylaw Staff relayed to Mr. Banwait that numerous Building Permit Applications were required to remediate the structures. FVRD Bylaw Staff sent a follow-up email to Mr. Banwait that outlined what Building Permit Applications were required to bring his property into compliance with Regional Bylaws by a deadline for response dated of July 31, 2014.

August 5, 2014 - Regional District Bylaw Staff sent a letter to the property owners Mr. Manmohan S. Heer and Mr. Jasbir Singh Banwait by regular mail to notify them that their Bylaw Offence Notice Ticket was overdue and was given a deadline for a response of September 6, 2014 or the matter would be referred to collections for follow-up.

November 4, 2014 - Regional District Bylaw Staff received information that Mr. Banwait paid his outstanding Bylaw Offence Notice Ticket No. 23010 after it was sent to collection agency for cost recovery.

November 2014 – February 2018 – There is no further action by FVRD Bylaw Enforcement Staff during this time period due to reduced Regional District Bylaw Department Staffing levels.

March 16, 2018 – Regional District Bylaw Staff pulled a title search of the subject property at 41630 Lougheed Hwy and the search verified that a the property ownership has changed and is now

ownership records indicate that Nicomen Valley Farm Corporation Incorporated has owned the property since September 7, 2016.

March 16, 2018 - Regional District Bylaw Staff sent a letter to both the NEW property owners Nicomen Valley Farm Corporation Inc. by way of the company's two listed directors Mr. Xiaohui Wang and Mr. Ji Zhang by regular mail. The letter advises the new property owners of staff's recommendation to proceed with the process of registering a Section 57 *Community Charter* notice on the title of their property at 41630 Lougheed Hwy. This letter gave the owners a final opportunity to achieve voluntary compliance by the deadline of April 6, 2018. Staff has not received a response or any Building Permit Applications from the property owners Nicomen Valley Farm Corporation Inc., Mr. Xiaohui Wang or Mr. Ji Zhang 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 would like you to consider the following information:

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.

All the buildings on the subject property at 41630 Lougheed Hwy, including the single family dwelling and all the accessory buildings were all constructed without the required building permits. The Single Family Dwelling had a foundation only building permit (BP008469) that was issued March 23, 1993 that subsequently expired due to inactivity. All the alteration works to the three accessory buildings and the Single Family Dwelling were all also constructed without the required Building Permits.

Single Family Dwelling:

It was discovered in 2009 that the Single Family Dwelling had been previously used as a Marijuana Grow Operation. Any residential 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 initially 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 would be for residential use, so a permit is required for the change of use to Marijuana Grow Operation.

Accessory Buildings:

In 2009 it was discovered that two of the three accessory structures on the property were used as Marijuana Grow Operations, the third accessory structure was used as a methamphetamine laboratory. The initial use of all three of the accessory buildings would be for storage use, so Building Permits are required for the change of use to Marijuana Grow Operations for the first two structures and the methamphetamine laboratory for the third accessory structure.

Multiple Building Permits are required for the works undertaken by the property owners.

Zoning Bylaw

This property is in Electoral Area G, and is zoned Flood Plain Agriculture (A-2) under the *Fraser Valley Regional District Land Use and Subdivision Regulation Bylaw No. 0559, 1992* (Bylaw 0559). The primary purpose of this zone is to contain a cohesive and well-defined community of agricultural lands generally free from encroachments by incompatible uses. Farming activities center on dairy, forage, berry and corn operations.

The Single Family Dwelling and two of the accessory structures both had alteration works to operate Marijuana Grow Operations. A Marijuana Grow Operation Use is listed as a permitted use in the A-2 zone.

One of the accessory structures has construction works to operate a methamphetamine laboratory. A methamphetamine laboratory use is not listed as a permitted use in the A-2 zone.

A methamphetamine laboratory use must be removed from the property as a rezoning of the property is not an option for this use.

Official Community Plan

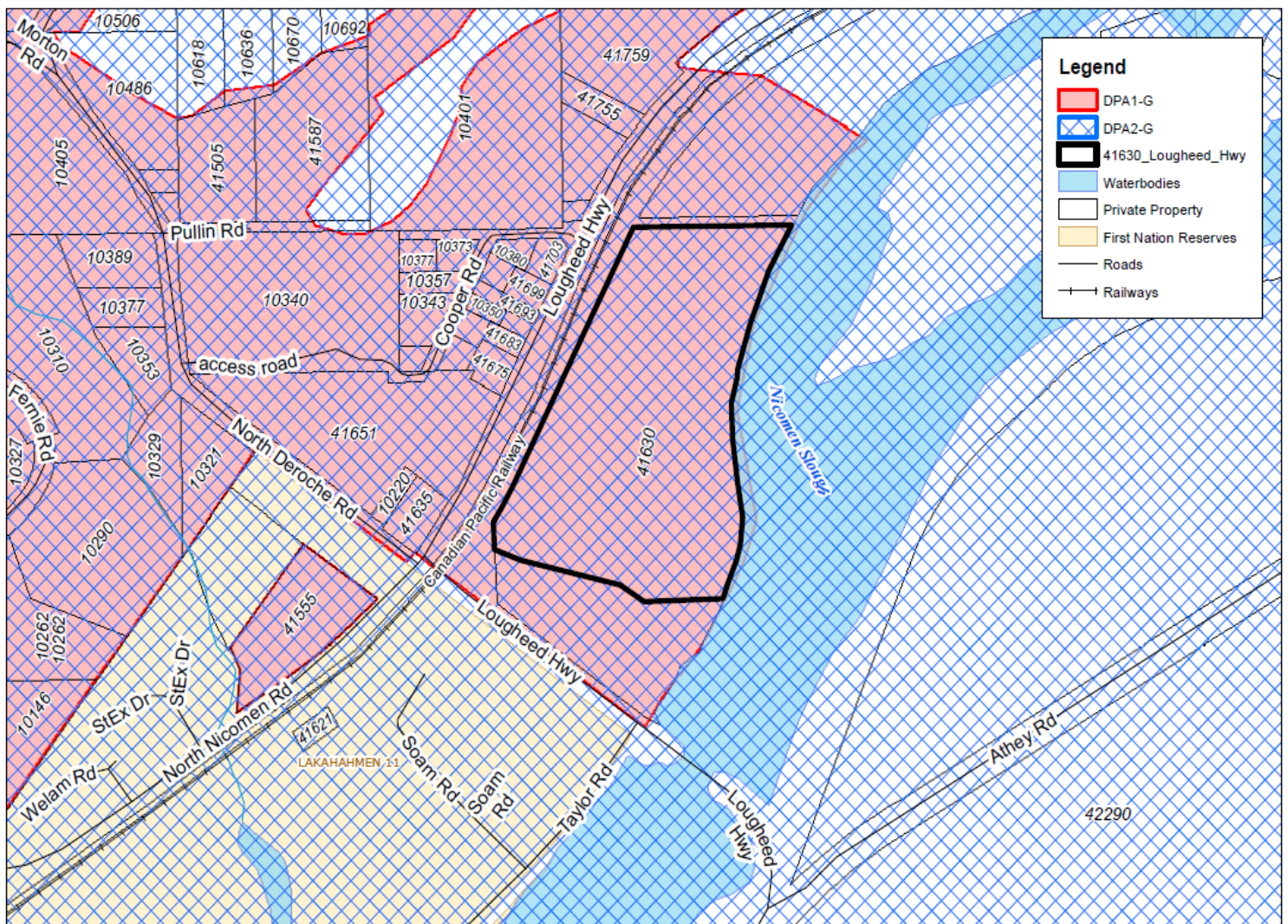
1. The subject property is within the *Geologic & Stream Hazard Development Permit Area 1-G* (DPA 1-G) under the *Fraser Valley Regional District Official Community Plan for Electoral Area G Bylaw No. 0866, 2008* (Bylaw 0866). This Development Permit area is designated for the protection of development 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 works that have occurred on the subject property.

A Development Permit is required for the construction that has taken place on the property.

DPA 1-G & DPA 2-G for 41630 Lougheed Hwy



Map produced by the FVRD GIS Dept. April 2018
Map is for Information Purposes Only.
Hazard Info from Area G OCP Bylaw 0866, 2008



0 60 120 240
Meters
1:5,000

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 alteration and construction works on the three accessory structures and the Single Family Dwelling are either:

1. Demolished with Building Permits issued by the FVRD, all with successful final inspections; or
2. Four fully completed Building Permits for the alteration and construction works to the three accessory structures and the Single Family Dwelling are issued by the FVRD and all receive successful final inspections. Prior to Building Permit issuance, application and issuance of a Development Permit for the construction is also required.

CONCLUSION

It is the opinion of the Bylaw Compliance and Enforcement Officer/Appointed Building Inspector that the construction works on the Single Family Dwelling and the three accessory buildings 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 four Building Permits for a change of use with remediation or Building Permits for demolition of the three accessory structures and 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.

Mike Veenbaas, Director of Financial Services

No further financial comments.

Paul Gipps, Chief Administrative Officer

Reviewed and supported