

To: Electoral Area Services Committee

Date: 2018-07-10

From: Louise Hinton, Bylaw Compliance and Enforcement Officer

File No: G03602.000

Subject: Building Bylaw and BC Building Code Contraventions at 42935 Athey Road, Electoral Area G, legally described as the whole of the Island in the east half of Section 4 Township 24 which is situate in Zait Scullachan Slough containing 6.25 acres more or less

RECOMMENDATION

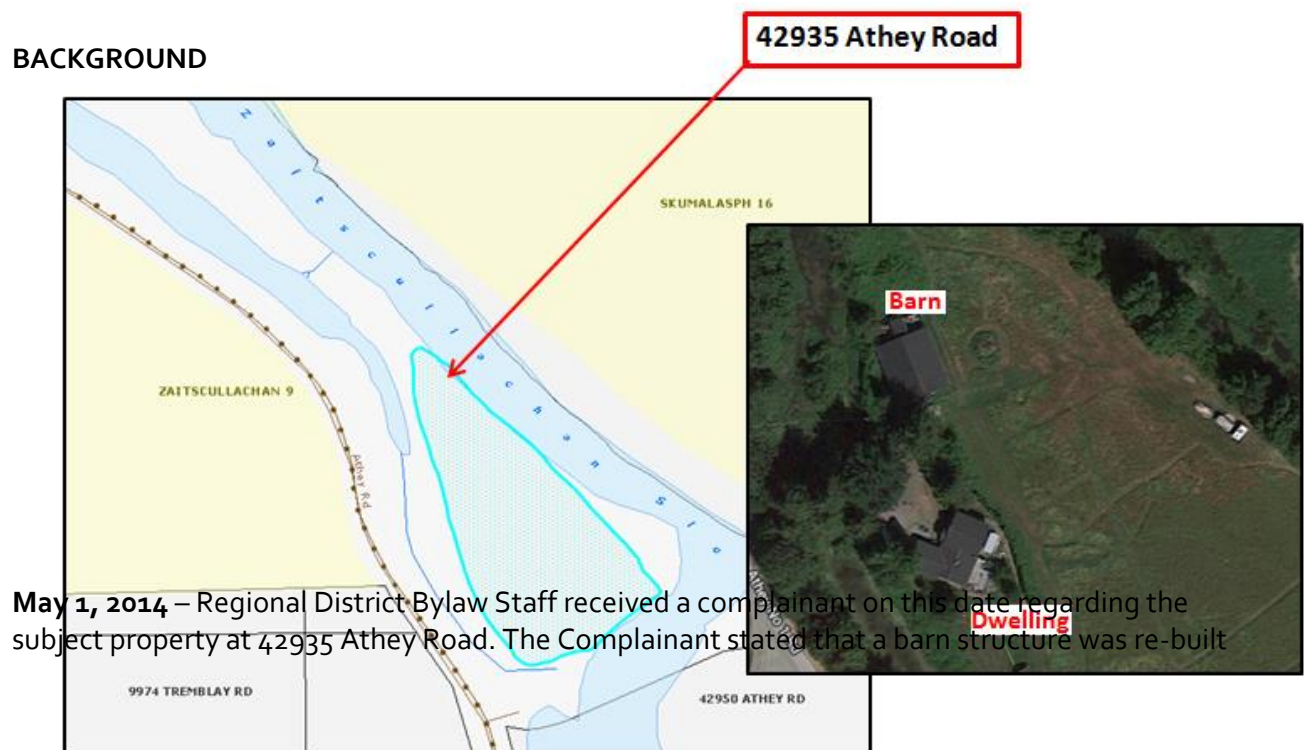
THAT the Fraser Valley Regional District Board direct staff to file a Notice in the Land Title Office in accordance with Section 57 of the *Community Charter* due to the contraventions of the *Fraser Valley Regional District Building Bylaw No. 1188, 2013*, at 42935 Athey Road Electoral Area G, Fraser Valley Regional District, British Columbia; legally described as the whole of the Island in the east half of section 4 township 24 which is situate in Zait Scullachan Slough containing 6.25 acres more or less as shown on the plan of said Township dated the 18th day of September, 1893 New Westminster District. Parcel Identifier: 002-428-971.

STRATEGIC AREA(S) OF FOCUS

Support Environmental Stewardship

Provide Responsive & Effective Public Services

BACKGROUND



right next to the slough approximately one year before on the existing barn foundation. The complainant stated that the barn structure may be used for a Marijuana Grow Operation.

May 16, 2016 – Regional District Bylaw Staff obtained a new title search of the subject property at 42935 Athey Road that confirmed that the property ownership changed February 2, 2016. Mr. Edward Forber is listed as the new property owner of 42935 Athey Road since that date.

FVRD Bylaw Staff sent a letter requesting access to the property for an inspection of 42935 Athey Road to the property owner Mr. Edward Forber by regular mail with a deadline for a response of June 16, 2016.

June 21, 2016 - Regional District Bylaw Staff spoke to the Property Owner Mr. Forber regarding the re-built accessory barn structure. FVRD Bylaw Staff told Mr. Forber that the barn would require a Building Permit for a new structure since the entire structure itself (excluding the foundation) was destroyed by the fire, and the barn is also located outside the dyke. Mr. Forber stated that he did get an electrical permit and has construction drawings, but noted that it would be difficult for him to complete the Permit at this time. FVRD Bylaw Staff spoke to Mr. Forber regarding the possibility of placing a Section 57 Notice on the title of the property. A follow-up email was sent to Mr. Forber with an attached Section 57 Notice on Title Information Package.

June 2016 – February 2018 - There is no further action by FVRD Bylaw Staff during this time period due to reduced staffing levels.

February 19, 2018 – Regional District Building Inspector contacted the Mission Detachment of the Royal Canadian Mounted Police (RCMP) to see if there is a Health Canada Medical Marijuana Grow Licence issued for the subject property at 42935 Athey Road.

March 19, 2018 – FVRD Bylaw Staff sent a letter requesting access to the subject property at 42935 Athey Road for an inspection to the property owner Mr. Edward Forber by regular mail with a deadline for a response of April 9, 2018.

March 21, 2018 - Regional District Bylaw Staff received contact from the Property Owner of the subject property 42935 Athey Road, Mr. Edward Forber, by telephone. FVRD Bylaw Staff discussed the history of the file with Mr. Forber and we agreed to schedule a date for a site inspection for some time in April once he has had a chance to look at the calendar. Mr. Forber agreed to re-contact FVRD to set a date.

March 22, 2018 – Regional District Bylaw Staff received contact from the property owner of the subject property 42935 Athey Road, Mr. Edward Forber, by telephone. It was agreed to schedule the site inspection for May 2, 2018.

May 2, 2018 - Regional District Bylaw, Building Inspection, and Management Staff attended the subject property at 42935 Athey Road for a scheduled site inspection. The Property Owner Mr. Edward Forber was on site and there was a full walk through inspection of the accessory barn structure and surrounding area. FVRD Staff confirmed that the accessory barn structure that sustained a structure fire has been completely re-built and is currently being used as a Marijuana Grow Operation.

There is no Building Permit on file for the existing barn, so a full Building Permit would be required. The details of what would be required for a Building Permit and options for compliance with Regional District Bylaws were discussed with the Property Owner. Mr. Forber explained that the finances required to complete the Building Permit are likely an issue at this time and he won't be able to take care of the Building Permit requirements in a timely manner. He advised that staff should proceed with a Section 57 Notice on Title of the property as the best course of action moving forward at this time. Site Inspection Photos taken.

The following site inspection photos taken on **May 2, 2018:**



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

Minimum construction standards are regulated within electoral areas by *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 accessory barn structure on the subject property at 42935 Athey Road was initially constructed without a required Building Permit. On an unknown date, the accessory barn structure sustained a structure fire that destroyed the entire building except for the foundation. The barn structure has been completely re-constructed into an accessory building without a required Building Permit.

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

Zoning Bylaw

This property is in Electoral Area G, and is zoned Flood Plain Agriculture (A-2) under *the Dewdney Alouette 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 accessory barn structure has been completely re-built and is currently being used to operate Marijuana Grow Operation. A Marihuana Grow Operation Use is listed as a permitted use in the Flood Plain Agriculture (A-2) zone provided that it is approved by the appropriate provincial and federal authorities.

The subject Property at 42935 Athey Road is entirely within the Agricultural Land Reserve.

Official Community Plan

1. 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.

Section 15.2.2(b) of the OCP Bylaw No. 0866 provides an exemption for the Riparian Regulations for development that does not involve residential, commercial, institutional or industrial uses. The Agricultural Land Commission has designated the growth of marijuana as a permitted farm or

Agricultural Use. The accessory barn structure on the subject property is being used for the growth of Marijuana, therefore the Riparian Area Regulation in DPA 2-G does not apply.

A Development Permit does not need to be obtained prior to the building of the barn structure on the subject property at 42935 Athey Road.

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 unauthorized construction works on the accessory barn structure is either:

1. Demolished with a Building Permit issued by the FVRD, with a successful final inspection; or
2. A fully completed Building Permit for the construction works to the accessory barn structure is issued by the FVRD and receives a successful final inspection.

CONCLUSION

It is the opinion of the Bylaw Compliance and Enforcement Officer/Appointed Building Inspector that the construction works on the accessory barn structure without a Building Permit violates 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 a Building Permit for the construction of the accessory barn structure or a Building Permit for demolition of the accessory barn structure.

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

COMMENTS BY:

Graham Daneluz, Deputy 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