

To: Electoral Area Services Committee

Date: 2018-09-05

From: Dawn Smith, Planner II

File No: 9600-25-2018-02

**Subject: Site Specific Exemption for proposed medical marijuana facility at 38482 Bell Rd, Dewdney - Electoral Area "G"**

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## RECOMMENDATION

**THAT** the Fraser Valley Regional District Board consider the following options for a Site Specific Exemption request at 38482 Bell Rd, Electoral Area "G" as outlined in the corporate report dated September 5, 2018:

### Option 1 – Approve

**THAT** the proposed Site Specific Exemption to permit construction outside the Dewdney Dyke at 38482 Bell Rd be approved for a medical marijuana facility, as outlined in the Stirling Geoscience and Northwest Hydraulic Consultants geohazard reports dated May 15, 2018 and August 10, 2018;

**SUBJECT TO** the registration of a restrictive covenant with a priority charge on title of the property pertaining to the Site Specific Exemption at 38482 Bell Rd;

**AND FURTHER THAT** the Fraser Valley Regional District Board authorize its signatories to execute all documents relating to this matter.

### Option 2 – Refuse

**THAT** the Fraser Valley Regional District Board refuse the Site Specific Exemption application to allow construction outside the Dewdney dyke for the a medical marijuana facility at 38482 Bell Rd;

### Option 3 – Alternative options

**THAT** the Fraser Valley Regional District Board refuse the Site Specific Exemption application to allow construction outside the Dewdney dyke for the a medical marijuana facility at 38482 Bell Rd;

**AND FURTHER THAT** the applicant be directed to pursue alternatives to the Site Specific Exemption as outlined in the corporate report dated September 5, 2018.

**STRATEGIC AREA(S) OF FOCUS**

Provide Responsive & Effective Public Services  
Foster a Strong & Diverse Economy

**PRIORITIES**

Priority #3 Flood Protection & Management

**BACKGROUND**

The applicant/agent, Gary Fields, proposes to build a new 40,000 square ft. medical marijuana industrial building at 38482 Bell Rd, Electoral Area "G". The property is within the Fraser River floodplain and outside the Dewdney Dyke system protection. *FVRD Flood Management Bylaw No. 681, 2006* prohibits construction outside the dyke unless a Site Specific Exemption is obtained.

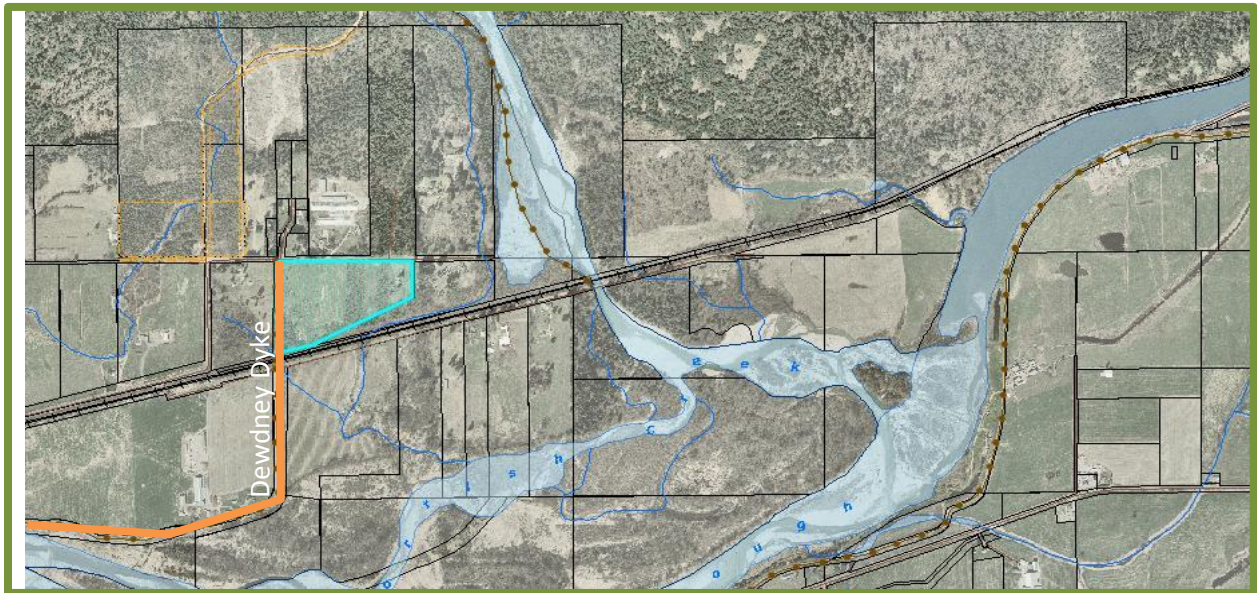
The Site Specific Exemption process requires the applicant to provide a geohazard report for the Regional Board's consideration. The applicant has provided a geohazard report by Stirling Geoscience and Northwest Hydraulic Consultants (NHC) which provides a detailed mitigation proposal that includes; flood construction elevation, erosion and bank protection works. The geohazard report includes a satisfactorily completed FVRD-EGBC GeoHazard Assurance Statement. However the proposal presents several policy considerations for Board regarding development in undyked lands which relate to risk management and alternative options. These considerations are explored in more detail below.

PROPERTY DETAILS			
Electoral Area		G	
Address		38482 Bell Rd	
PID		009-064-885	
Folio		775.02616.000	
Lot Size		10.3 hectares (25.44 acres)	
Owner	Danuta and Wladyslaw Wojcik	Agent	Gary Fields, Architect
Current Zoning	Rural 3 (R-3)	Proposed Zoning	No change
Current OCP	Limited Use (L)	Proposed OCP	No change
Current Use	Residential	Proposed Use	Medical marijuana facility – industrial building (40,000 sq ft)
Development Permit Areas		DPA 1-G and DPA 2-G	
Agricultural Land Reserve		No	

**ADJACENT LAND USES**

North	^	Residential – 7 lot subdivision & agricultural (greenhouse)
East	>	Inch Creek Hatchery – Department of Fisheries and Oceans (DFO)
West	<	Residential
South	v	Residential – agricultural

## NEIGHBOURHOOD MAP



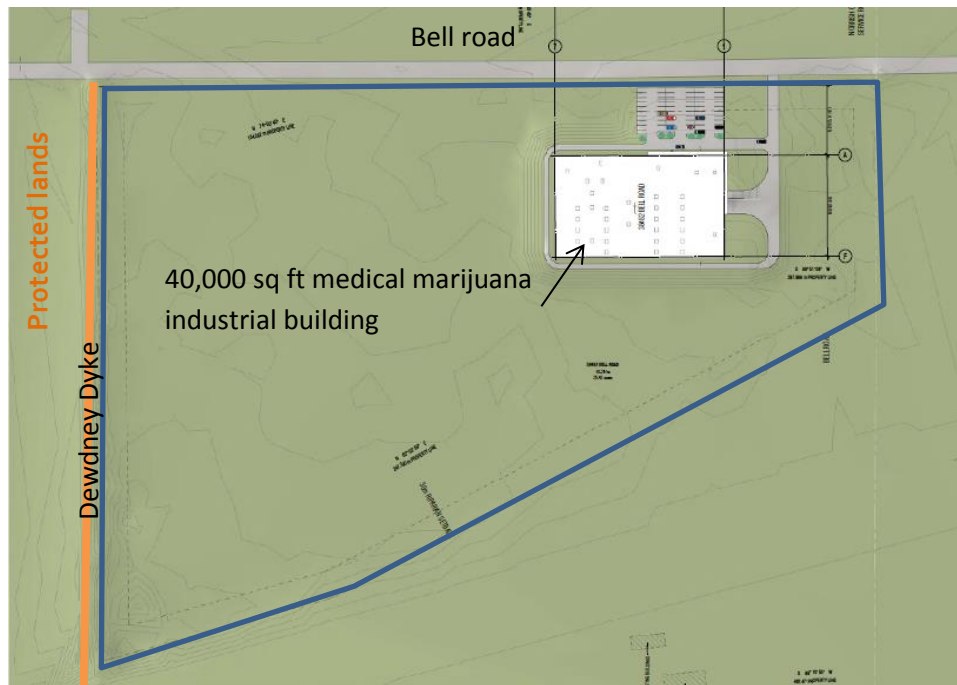
## PROPERTY MAP





## Proposal Details

The applicant proposes a 40,000 sq ft medical marijuana industrial building, which will house 80-100 employees, lab facilities, offices, meeting rooms, and propagation (grow) areas.



## Architectural Illustrations



## FVRD Policies

### Zoning

The proposed medical marijuana facility is a permitted use in the Rural 3 (R-3) zone. The R-3 zoning provides for a range of residential and agricultural uses, however other forms of industrial development are not permitted. Therefore the medical marijuana use is a 'niche' use for the subject lands, and alternative industrial uses on the subject lands would likely require a zoning bylaw amendment.

### FVRD Flood Management Bylaw No. 681, 2006

FVRD Floodplain Management Bylaw, Section 6.c prohibits construction in the outside the area protected by the Dewdney Dyke and Nicomen Island Dyke. The proposed medical marijuana facility would be located entirely outside the protection of the Dewdney Dyke system.

Given the proposal does not meet the Floodplain Management Bylaw, a Site Specific Exemption pursuant to Section 524 of the *Local Government Act* may be considered, provided the Regional Board has received a geohazard report by a professional engineer or geoscientist that the land may be used safely for the use intended. Further FVRD geohazard management policy requires a completed EGBC-FVRD Geohazard Assurance Statement.

### Official Community Plan

The OCP identifies the following geohazards for the subject parcel;

- Fraser River floodplain 1:200 year
- Unprotected (outside) Dewdney Dyke system
- Norrish Creek alluvial fan

As a result of geohazard conditions, the OCP designates the property as LIMITED USE. LIMITED USE areas have some or all of the following characteristics:

- significant geologic hazard;
- significant flooding hazard;
- environmental sensitivity;
- no community and development services; and,
- poor road access.

The Electoral Area "G" Official Community Plan (OCP) provides policy direction for development proposals within the undyked lands. Relevant policies are as follows:

Official Community Plan	
Objective	Policy
Minimize Risk	11.2.1 Minimizing exposure to flood risk and consequences of Fraser River flood events will be central concerns in land use planning decisions.
Use preventative policy & covenants	11.2.2 The Regional District will utilize floodplain management and zoning bylaws, official community plan policies and covenants to limit development within the floodplain and minimize exposure to risk.
1:200 year standard	11.2.3 The 1:200 year design flood will continue to be the basis for flood proofing measures.

Multi-layer protection; dykes plus building design	11.2.4 The Regional District will continue to rely on dykes and associated flood protection infrastructure combined with secondary (on-site) flood-proofing measures including the implementation of flood construction levels, siting, and floodplain setbacks to minimize exposure to flood hazards.
Use current flood hazard data/model	11.2.6 Fraser Valley Regional District Floodplain Management Bylaw No. 0681, 2005 should be updated to reflect the most current Fraser River flood profile modelling.
Explore land use options for undyked lands	11.2.7 In consultation with landowners, relevant Provincial agencies, and other interested parties, the Regional District should, as resources permit, conduct an assessment of undyked lands within Electoral Area "G" to identify land use possibilities and opportunities for conservation of floodplain functions and habitats.

### Provincial Policy

The Province of BC's Flood Hazard Area Land Use Management Guidelines, Section 1.3 supports flood plain bylaw reductions in a case of serious hardship and building cannot occur unless requirements are reduced. The granting of a site specific exemption where no other options exist is consistent with the Province of BC policy.

The subject property is located entirely in the un-dyked area and within the Norrish Creek alluvial fan. There are no opportunities to avoid the hazards, however there are a range of mitigation scenarios to address the hazards. These are discussed in subsequent section.

## DISCUSSION

### GeoHazard Report

The applicant has provided a comprehensive geohazard report by Stirling Geoscience and Northwest Hydraulic Consultants (NHC) that addresses both the Fraser River floodplain and erosion hazard, and Norrish Creek alluvial fan hazard. The report recommends an elevated building site in the northeast corner, which is the highest portion of the property and minimizes fill placement needs. The report utilizes the most recent Fraser River flood profile from the Province of BC.

Geohazard design recommendations include:

- Flood construction level (FCL) – 10.8 metres industrial portion and 12.0 metres habitable areas, or 0.6 metres above the crown of the road (whichever is higher). The FCL includes the 2014 Fraser River Design Flood Level Update, Ministry of Forests, Lands and Natural Resources; and,
- Bank/scour protection (50 kg size) along the perimeter of the building to protect from Fraser River and Norrish Creek hazard.

The professional geoscientist has provided a completed EGBC-FVRD Geohazard Assurance Statement that the report meets technical requirements.

## Mitigation Options

The proposed development is a unique proposal in the Electoral Areas and provides an opportunity to generate 80-100 jobs and economic investment in the rural areas. While the proposal provides socio-economic benefits to the community, it also raises 'big picture' considerations regarding development in the unprotected Fraser River floodplain, including;

- Public owned flood/erosion mitigation. The proposal (scenario 1) will require oversight, operations and maintenance of the flood protection works over the lifetime of the building by the property owner. For example this would include maintaining access, keeping area free of vegetation (ie. alders and blackberries), routine inspections, pre and post freshet inspections and maintenance. This would be the responsibility, co-ordination, and cost of the property owner.

There is no oversight by the Province of BC, FVRD or other agency. In contrast, these are generally the responsibilities of the FVRD or Dewdney Area Improvement District (DAID) for dyke systems in the Region.

- Emergency response in flood event. The subject property was within an Evacuation Alert area in the most recent 2018 Fraser River freshet. While the property was not inundated with floodwaters, it raises the possibility that 80-100 employees and equipment/assets may require a future evacuation given the flood risk.
- Consistency with OCP policies. OCP policies emphasize minimizing exposure to flood hazards, limiting development within the floodplain and relying on dykes plus on-site flood mitigation works.

For these reasons it is worthwhile to consider a range of alternatives which can still accommodate the proposal but address the long term oversight and maintenance of the mitigation works;

Scenario	Description	Comments
<b>1</b> PROPOSED	Elevated fill pad and scour/bank protection	FVRD Site Specific Exemption approval.  Onsite/private mitigation. No public operation and maintenance oversight (ie. brush clearing, inspections, reserve funds, etc).  Applicant will provide covenant, private operations and maintenance program, emergency management plan, and site drainage.
<b>2</b>	Extend neighbouring Dewdney Dyke – Dewdney Area Improvement District (DAID)	No FVRD Site Specific Exemption approval required. Provincial Inspector of Dykes approval required. DAID approval required.  DAID provide public operations and maintenance program. Applicant to provide emergency management plan and site drainage.
<b>3</b>	New standard dyke, maintained and operated by FVRD service area	No FVRD Site Specific Exemption approval required.  Provincial Inspector of Dykes approval required. Must protect two or more properties.

		Requires FVRD Service Area to provide public operations and maintenance program. Applicant to provide emergency management plan and site drainage.
<b>Alternatives...</b>		
<b>Scenario</b>	<b>Description</b>	<b>Comments</b>
<b>4</b>	Different location/property within dyke	No FVRD Site Specific Exemption approval required.  No Provincial Inspector of Dykes approval required.  If ALR lands, may require non-farm use approval if elevation (fill) is required and/or concrete floored building.
<b>5</b>	Subdivision and standard dyke	Complex.  Requires rezoning and OCP amendment approval,  No FVRD Site Specific Exemption approval required.  Provincial Inspector of Dykes approval required. Must protect two or more properties.  Requires FVRD Service Area bylaws provide public operations and maintenance program. Applicant to provide emergency management plan and site drainage.

### Restrictive Covenant

Should the Regional Board grant a site specific exemption, a restrictive covenant registered on title should include the following;

- acknowledge the flood and erosion hazard;
- disclose the NHC geohazard report;
- save-harmless the Regional District in the event of hazard occurrence;
- waive financial assistance in the case of hazard damage as required by the Province;
- Professional Engineer Commitment for Field Review and Professional Design of the mitigation works. A formal commitment from P. Eng to ensure the bank protection works are installed and completed under the supervision and design of a Professional Engineer expertise is necessary. FVRD Building Bylaw No. 1188, 2013 does not require building permit for the bank protection works.
- completion of protective works; bank protection must be constructed and completed in advance of issuance of building permit.
- operations and maintenance plan for protective works to ensure they function as designed for the life of the development.
- emergency response and evacuation plan to address actions to be taken when Fraser River water levels rise.



## **COST**

The Site Specific Exemption application fee of \$400 has been paid by the applicant. The costs associated with the registration of the covenant related to the site specific exemption application will be borne by the applicant if the Regional Board approves the exemption.

## **COMMENTS BY:**

### **Graham Daneluz, Deputy Director of Planning and Development**

Reviewed and supported. This is a major development in the undiked floodplain. It goes against the policies of the Official Community Plan. The Corporate Report outlines Alternative Options for consideration by the FVRD Board.

**Margaret Thornton, Director of Planning & Development**      Reviewed and supported.

**Mike Veenbaas, Director of Financial Services**      No further financial comment.

**Paul Gipps, Chief Administrative Officer**      Reviewed and supported