

To: CAO for the Electoral Area Services Committee

Date: 2018-12-11

From: Graham Daneluz, Deputy Director of Planning & Development

File No: 3015-20-2018-08

Subject: Non-Farm Use Application for Cannabis Production - 58551 Dent Rd, Laidlaw, Area "B"

RECOMMENDATION

THAT the FVRD Board forward the Non-Farm Use application for a cannabis production facility at 58551 Dent Road, Electoral Area "B" to the Agricultural Land Commission with support subject to an offer and commitment from the landowner to register a covenant in favour of FVRD regarding the use of the building, lighting, and odours as described in the Report dated 2018-12-11.

STRATEGIC AREA(S) OF FOCUS

Foster a Strong & Diverse Economy

BACKGROUND

Proposal Description

Mr. Michael Watson, the owner of the property at 58551 Dent Road in Laidlaw, Area "B", proposes to construct a facility for the growing and production of medical marihuana and cannabis on the property. He has applied for a Non-Farm Use in the Agricultural Land Reserve to facilitate this development.

The facility would consist of a two storey building with a footprint of about 17,350 square feet (98.6 feet by 176' feet) and a total floor area of about 35,000 square feet. Cannabis plants would be started, grown to maturity and processed within the building, which would also include office space, a storage vault and miscellaneous other rooms.

The property is a 19.6 acre parcel farm parcel within the Agricultural Land Reserve. Mr. Watson also owns the adjacent parcels to the east and west. The three parcels together amount to 23.7 acres and function as a single farm unit. The cannabis facility would occupy about 0.5 acres of the farm.

The property is currently used for raising beef cows and horses and producing hay crops. According to the applicant, an old barn on the property was recently used for the production of medical marihuana under a federal license, but this activity has now ceased.

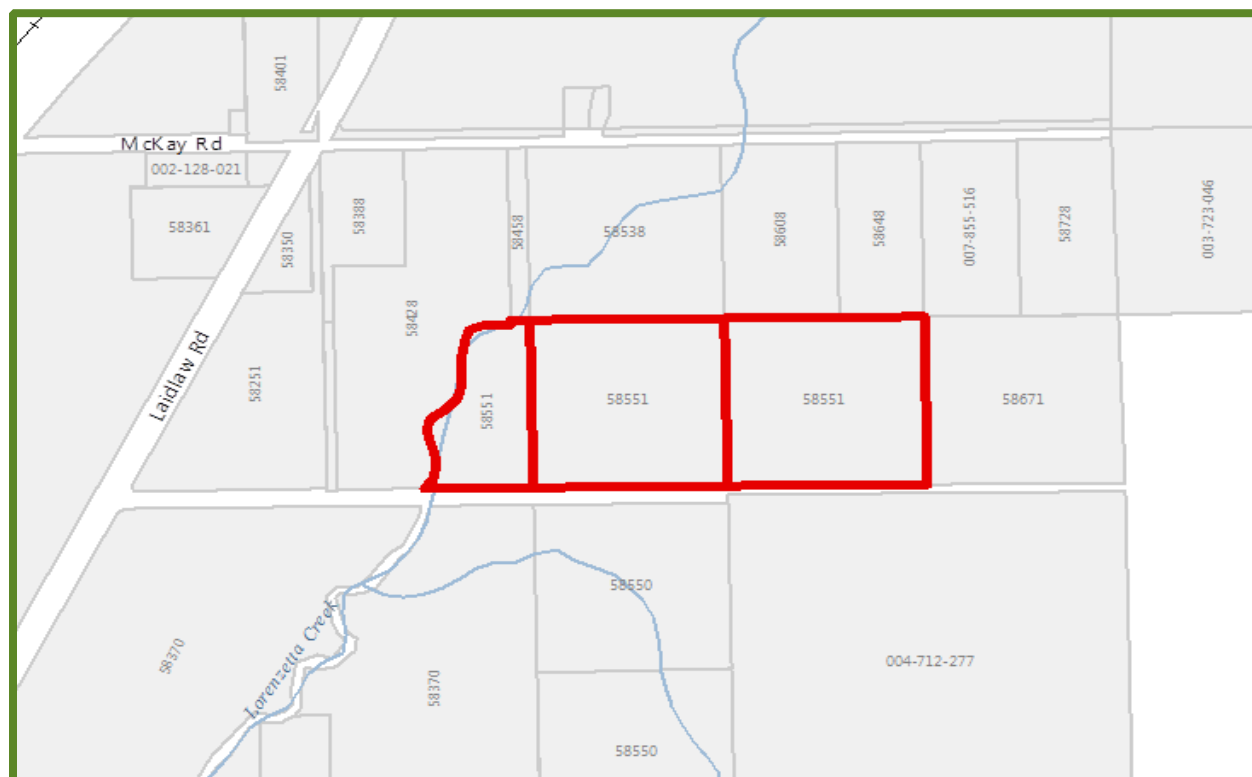
PROPERTY DETAILS

Electoral Area	B		
Address	58551 Dent Road		
PID	011-945-354 and 011-945-311 (primary), 011-945-303 (extra)		
Folio	732.06228.000		
Lot Size	19.16 acres and 3.97 acres		
Owner	Michael Watson	Agent	NRG Consulting Ltd.
Current Zoning	Agricultural (Ag-1)	Proposed Zoning	No change
Current OCP	Agricultural (AG)	Proposed OCP	No change
Current Use	Farm	Proposed Use	Cannabis Production
Development Permit Areas	n/a		
Hazards	Fraser River Floodplain, Lorenzetta Creek floodplain		
Agricultural Land Reserve	Yes		

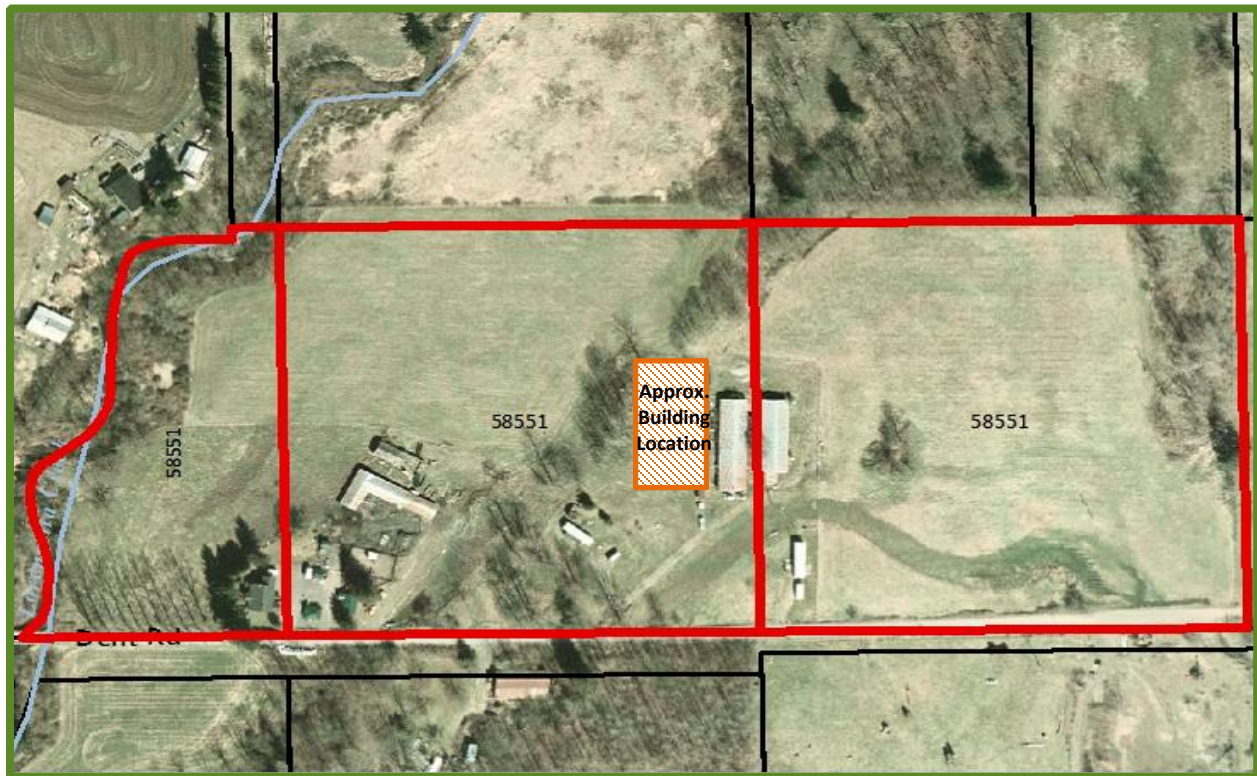
ADJACENT ZONING & LAND USES

North	^	Agricultural (Ag-1) / Farm
East	>	Agricultural (Ag-1) / Farm
West	<	Agricultural (Ag-1) / Farm
South	v	Agricultural (Ag-1) / Farm

NEIGHBOURHOOD MAP



PROPERTY MAP

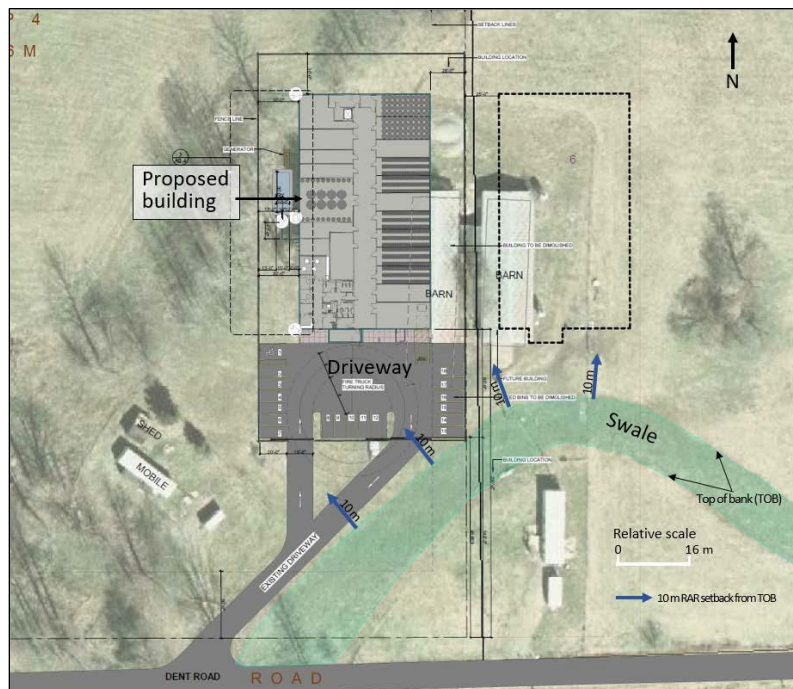


DISCUSSION

The location of the proposed cannabis production facility is shown on the Property Map above. Additional details are shown in the site plan at right.

The proposed industrial-style building would be constructed as a category 'F - Factory Industrial Low Hazard Occupancy' under the BC Building Code.

The applicant has provided reports by qualified professionals to demonstrate the feasibility of the proposed development, including geohazard, soils, riparian and code



compliance reports.

Agricultural Land Reserve Regulation

Local governments are not able to prohibit farm uses on lands within the Agricultural Land Reserve (ALR).

Before July 13, 2018, the production of medical marihuana was classified as a farm use in the ALR without restriction.

On July 13, 2018, the Agricultural Land Commission made changes to the *Agricultural Land Reserve Regulation (ALR Reg)* that greatly scaled-back the type of cannabis production that is permitted as a farm use in the ALR. The production of cannabis is now defined as a farm use only if it is:

1. produced in a field; or,
2. produced in a structure that:
 - i. has a base consisting entirely out of soil, or
 - ii. was under construction, or was constructed, before July 13/18 for the purpose of growing crops inside it.

As a result of this change, Mr. Watson must now apply to the Agricultural Land Commission, through the FVRD, to allow the proposed cannabis production facility.

The storing, packing, preparing and processing of cannabis is permitted within the ALR as long as at least 50% of the processed cannabis is produced on the farm.

Zoning

The subject property is zoned Agricultural (Ag-1) under Zoning Bylaw No. 85. Medical Marihuana Grow Operation– defined as, “the cultivation, growth, storage, distribution, testing or research of marihuana for medical purposes as lawfully permitted and authorized under the applicable federal or provincial law”– is permitted in the Ag-1 zone.

At the time the zoning provisions regarding medical marihuana were adopted, the production of marihuana for medical purposes was a farm use under the *ALR Regulation* and local governments were unable to prohibit or significantly regulate it within the ALR. The change in the *ALR Regulation* described above gives local governments more latitude to prohibit or regulate cannabis production facilities that are not farm uses under the *ALR Regulation*.

Health Canada Licensing

The applicant has submitted correspondence from Health Canada to demonstrate that he is in the process of obtaining a license from the Office of Medical Cannabis for production medical marihuana under the federal *Access to Cannabis for Medical Purposes Regulation*. However, Health Canada will not issue the license until construction on the facility is completed. If the Non-Farm use is approved,

building permitting will be coordinated with Health Canada licensing to ensure that the final building inspection occurs only once the federal license has been granted.

Community Impacts

Cannabis production facilities can have negative impacts on the surrounding community, including 'light spill' from security lighting and unpleasant odour emissions. Implications of the introduction of an industrial-style building in rural farm communities should also be considered.

Light & Odour

Generally, the location of the proposed facility should minimize nuisance to adjacent properties. The facility would be at least 200 metres from nearest existing residence not on land owned by the applicant. There are no schools, parks or other sensitive land uses in the Dent Road area.

Industrial-style Building

Two storey industrial-style buildings surrounded by security fencing may be seen by residents as incompatible with the rural-agricultural aesthetics of the area. On the other hand, large agricultural buildings have similar visual impacts and are accepted in farm communities. A rendering of the proposed building is shown below.



An additional concern about the use of the building may arise if the cannabis production stops. Two storey industrial buildings are not commonly used on farms and they are conducive to a wide range of uses not permitted by the zoning bylaw or the *ALR Regulation*. This could result in difficult enforcement challenges if cannabis production ceases and is replaced with non-conforming uses.

Covenant

To address the potential community impacts described above, the Board may wish to request a covenant from the applicant requiring that:

1. exterior lighting is designed by a qualified professional to avoid light-spill onto adjacent properties and light pollution to the sky (i.e. maintain a dark sky);

2. the cannabis production facility be fitted with odour emission controls designed by a registered professional; and,
3. the use of the building be restricted to cannabis production facility and farm uses that accord with both FVRD Zoning Bylaw No. 85 and the *ALR Regulation*; and, provide a mechanism to recover all costs associated with any enforcement activities related to non-permitted use of the building.

Process

Non-farm Use applications are submitted by the applicant to the ALC Application Portal and the application is send directly to FVRD. The process is shown in the flowchart below.

The FVRD Board may either:

1. Forward the application - with 'support' or any other comments it deems appropriate - to the ALC (by way of an authorizing resolution) so that the Commission may make a decision on it; or,
2. Do not forward the application to the ALC in which case the application will not proceed.

If the application proceeds to the ALC and it is approved, FVRD may then issue a building permit for the construction. Flood protection, setbacks and building code matters will be addressed through the building permit process.

COST

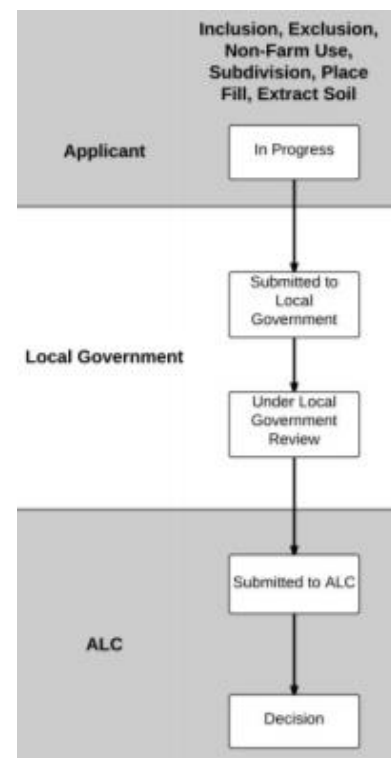
The applicant has paid an application fee of \$1500. FVRD will retain \$300 and forward \$1200 to the ALC.

CONCLUSION

Staff recommend that the FVRD Board resolve to forward the application to the ALC with support subject to the offer and registration of a covenant to address lighting, odour, and character and use of the building. The proposed land use is consistent with the zoning bylaw. The location is distant from schools, parks and other sensitive uses. The nearest residence (not owned by the applicant) is over 200 meters away. Impacts to the community can be mitigated through good design.

Alternatives

If the Board wishes to consider alternatives to the staff recommendation, it might:



1. Do nothing. Do not forward the application to the ALC. The application will not proceed any further. No resolution is needed for this. However, if a resolution is desired the Board may resolve to deny forwarding the application to the ALC.
2. Resolve to forward the application to the ALC without conditions. In this case, the Board could consider a resolution such as:

THAT the FVRD Board forward the Non-Farm Use application for a cannabis production facility at 58551 Dent Road to the Agricultural Land Commission.

COMMENTS BY:

Margaret Thornton, Director of Planning & Development Reviewed and supported. Staff intend to provide a comprehensive report in early 2019 to the Electoral Area Services Committee (EASC) to review the current status of legislation regulating cannabis production, and obtain input from EASC members on policy direction for cannabis uses. This application was submitted prior to a comprehensive policy being developed by the FVRD, and is being forwarded to EASC on an individual basis.

Mike Veenbaas, Director of Financial Services No further financial comments.

Paul Gipps, Chief Administrative Officer Reviewed and supported