

April 23, 2020

Subject Property:

1384 Commercial Way

Lot 6, District Lot 3821S, Similkameen Division
Yale District, Plan 17297

Application:

Development Variance Permit PL2020-8720

The applicant has installed razor wire fencing at 1384 Commercial Way. Razor wire fencing is specifically prohibited by Zoning Bylaw No. 2017-08. The applicant would like the razor wire fencing to remain, and has requested Council grant an exemption to this regulation of the Zoning Bylaw on a site-specific basis.

Subject Property



Information:

You can find the staff report to Council and Development Variance Permit PL2020-8720 on the City's website at www.penticton.ca/latestannouncements. Select the Public Notice category.

Please contact the Planning Department at planning@penticton.ca or (250) 490-2501 with any questions.

Council Consideration:

Council will consider the development variance permit at its Regular Council Meeting scheduled for **1:00 pm, Tuesday, May 5, 2020.**

In response to the COVID-19 pandemic, council meetings will remain closed to the public. All meetings will be live streamed via the City's website at: www.penticton.ca/city-hall/city-council/council-meetings. Select the 'Watch Live' button.

Public Comments:

Please submit a petition or written comments by mail or email no later than **9:30 am, Tuesday, May 5, 2020** to:

Attention: Corporate Officer, City of Penticton

171 Main Street, Penticton, B.C. V2A 5A9

Email: corpadmin@penticton.ca

No letter, report or representation from the public will be received by Council after the conclusion of the May 5, 2020 Council meeting.

Please note that all correspondence submitted to the City of Penticton in response to this Notice must include your name and address and will form part of the public record and will be published in a meeting agenda when this matter is before the Council or a Committee of Council. The City considers the author's name and address relevant to Council's consideration of this matter and will disclose this personal information. The author's phone number and email address is not relevant and should not be included in the correspondence if the author does not wish this personal information disclosed.

Audrey Tanguay

Planning Manager

Date: May 5, 2020
To: Donny van Dyk, Chief Administrative Officer
From: Steven Collyer, Planner 1
Address: 1384 Commercial Way
Subject: Development Variance Permit DVP PL2020-8720

File No: RMS/1384 Commercial Way

Staff Recommendation

THAT Council deny "Development Variance Permit PL2020-8720", for Lot 6 District Lot 3821S Similkameen Division Yale District Plan 17297, located at 1384 Commercial Way, a permit to allow razor wire fencing.

Strategic priority objectives

Community Safety: The City of Penticton will support a safe, secure and healthy community.

Community Design: The City of Penticton will attract, promote and support sustainable growth and development congruent with the community's vision for the future.

Proposal

The applicant has installed razor wire fencing on the subject property at 1384 Commercial Way. Razor wire fencing is specifically prohibited by Zoning Bylaw No. 2017-08. The applicant would like the razor wire fencing to remain and has requested an exemption to this regulation of the Zoning Bylaw.

Background

The subject property is located on the south side of Commercial Way in the industrial area of Penticton (Figure 1). The property is zoned M1 (General Industrial) and is designated 'Industrial' by the Official Community Plan (OCP). The property is used by the owners of Warkentin Stucco and Arcylic Ltd. to store materials and vehicles associated with this business.



Figure 1 - Location Map

The applicant recently installed razor wire fencing along the frontage of the subject property (Figure 2). As shown in the photos of the property (Attachment 'B'), the top of the fence now consists of both barbed wire and razor wire. The applicant indicates in their Letter of Intent (Attachment 'A'), that the reason for installing the razor wire is to deter theft and trespassing on the property. The applicant has provided examples of crime occurring in the industrial area (Attachment 'C') as further justification for installing the razor wire fencing on the property.



Figure 2 - Location of razor wire fencing (orange)

A remedial request was sent to the applicant from Bylaw Services, dated February 7, 2020, requiring the applicant to comply with the Zoning Bylaw and remove the razor wire fencing. The applicant is currently in contravention of Section 5.6.1.6 of the Zoning Bylaw:

"Barbed wire and electric fencing is prohibited in all zones except for A, M1 M2 and M3. Razor wire is prohibited in all zones." (underline added)

The applicant was given until February 28, 2020 to comply with the remedial request and remove the razor wire fencing. As an alternative, the applicant has submitted the subject Development Variance Permit application, requesting Council to allow razor wire fencing on a site-specific basis.

Financial implication

This application does not pose any financial implications to the City. Development costs are the responsibility of the applicant.

Analysis

When considering a variance to a City bylaw, staff encourages Council to consider if there is a hardship on the property that makes following the bylaw difficult or impossible, whether approval of the variance would cause a negative impact on neighbouring properties, and if the variance request is reasonable.

Razor wire fencing is prohibited in all zones in Penticton as per Section 5.6.1.6 of the Zoning Bylaw. The razor wire on the subject property was installed in addition to barbed wire (Attachment 'B'). Compliance with the Zoning Bylaw would require the applicant to remove the illegal razor wire which was recently added to the fence. The applicant has described challenges they are experiencing with theft and trespassing as the reason for installing razor wire. While staff understand there may be underlying challenges with securing private property, it is staff's opinion that razor wire is not an appropriate solution.

Allowing razor wire fencing on the subject property may be precedent-setting for the industrial area. Razor wire fencing may negatively impact the perception and character of the community. It introduces public safety concerns which do not exist if the razor wire fencing were not installed. Barbed wire fencing is a permitted type of fencing in the M1 Zone, as an alternative to razor wire. Barbed wire fencing or other security alternatives would comply with City bylaws while averting any negative impacts on neighbouring properties associated with razor wire.

Staff have reviewed the Zoning Bylaw regulations of other communities in the BC Interior related to razor wire fencing. Findings are summarized in the table below:

Municipality	Razor Wire Fencing			Zoning Bylaw Section
	Prohibited Entirely	Prohibited (with exceptions)	Not Addressed	
Cranbrook			X	n/a
Kamloops			X	n/a
Kelowna		(penitentiaries, jails or places of incarceration)		7.5.7
Oliver			X	n/a
Osoyoos	X			4.13
Penticton	X			5.6.1
Revelstoke			X	n/a
Summerland	X			5.5.3
Vernon	X			6.5.10
West Kelowna		(Service Commercial C5 Zone)		3.10

The majority of the municipalities reviewed prohibit razor wire fencing, similarly to Penticton. West Kelowna is the only municipality which allows razor wire fencing in one commercial zone, while Kelowna permits razor wire only in association with penitentiaries or jails.

Staff are not in support of this Development Variance Permit application for the following reasons:

- Compliance with the Zoning Bylaw is easily achieved by removing the razor wire,
- There are concerns with public safety and the perception of safety in the community associated with allowing razor wire,
- Allowing razor wire on the subject property may set a precedent, and
- Razor wire fencing is generally not permitted in other municipalities in the region.

While Staff understand there may be challenges with securing property and valuables in the industrial area, razor wire fencing is not considered to be the appropriate solution. Other options are available to the applicant which comply with the Zoning Bylaw; for example, the M1 Zone allows metal storage containers. As such, staff are recommending that Council deny the Development Variance Permit application.

Alternate recommendations

Council may feel the request to allow the razor wire fencing to remain is appropriate. Staff are recommending against this direction, as approval of razor wire fencing in this instance may set precedence to allow razor wire fencing on other industrial properties which may result in negative impacts on the broader character and perception of safety in the community. If Council feels that razor wire fencing is appropriate, Council should approve the Development Variance Permit.

1. THAT Council approve "Development Variance Permit 2020-8720."

Attachments

Attachment A – Letter of Intent

Attachment B – Photos of Existing Razor Wire Fencing

Attachment C – Examples of Crime in the Industrial Area (Submitted by the Applicant)

Attachment D – Draft Development Variance Permit PL2020-8720

Respectfully submitted,

Steven Collyer

Planner 1

Concurrence

Director Development Services <i>BL</i>	Chief Administrative Officer
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Warkentin Stucco and Acrylic Ltd.
PO Box 104, Kaleden BC, V0H 1K0
Phone 250 490 0028
e-mail: [REDACTED]

~~Feb 13 2020~~

March 13 / 2020

Alvin [Signature]

To: Pentiction City Council, 171 Main Street, Pentiction BC

Dear Council,

I am writing to request a meeting with Pentiction City Council, with regards to Zoning Bylaw No 2017-08. File 181038.

The purpose of meeting with council is to provide updated information needed by Pentiction City council to make an informed decision in this case.
Please consider the following in your discussion.

- My company has experienced 2 thefts in recent years at this location. During the first theft, the old fence was scaled and a work truck stolen. The truck was driven through the property gate, which resulted in a \$1800.00 gate repair and the purchase of a new truck. The second theft was in July 2019, the old fence was scaled and \$3000.00 of equipment stolen.
- My company holds commercial insurance, the annual premium is \$1960.00. Deductable \$1000.00.
- My company has installed a security alarm system to the building on the property. Installation cost \$1800.00. Annual maintenance and service \$470.00.
- Annual property taxes \$5,040.00
- I am in the process of discussing this case with neighbourhood businesses to obtain accurate information about theft in recent years, with the objective of bringing the importance of enhanced security options to the attention of our current City Council. In my opinion, what was satisfactory 5 years ago, is not longer sufficient, due to the unusually high crime rate in Pentiction, which has been published in many research articles.

- My company generously donates to local charities, understanding the importance of solving the problem of theft at a grassroots level, mental health and poverty being the main issues.
- At the same time, I do not see fairness in being restricted when it comes to protecting my own assets, which I have worked so hard to obtain. The high crime rate in Penticton needs to be addressed considering property owners as well.
- The razor wire at my business was installed by a local reputable company, Premier Fencing. The owner of this company has informed me that he needs to spend a half day of every week repairing fencing due to theft in Penticton. It is evident that the current fencing bylaws do not protect property owners.
- The razor wire I had installed is 6 feet above ground level. In my opinion, this is high enough and will serve to discourage a thief.

Respectfully submitted,



Albert Warkentin
Owner/Operator

Attachment B – Photos of Existing Razor Wire Fencing



BC Fasteners

Feb 26 2020

B.C. FASTENERS BREAK INS.

B.C FASTENERS & TOOLS
104-1750 DARTMOUTH ROAD
PENTICTON

DEC.20 / 2018

ROCK THROWN THROUGH FRONT
WINDOW , NO ENTRY.
\$ 700.00 DAMAGE FOR WINDOW
REPLACEMENT.

JANUARY 7 / 2019

POWER CUT TO BUILDING AT MAIN
POWER MAST ON ROOF.
LARGE HOLE CUT IN ROOF WHERE AIR
VENT WAS. THIEVES NEW WHERE ALL THE

BC Fasteners

POWER TOOLS WERE LOCATED. CLIMBED DOWN FROM THE CEILING ON ROPES AND HOISTED ALL POWER TOOLS OUT THRU THE ROOF , THAN THEY LEFT THE SAME WAY. FOUND A FEW TOOLS DUMPED OUT BACK BEHIND THE SEACANS .BUT NEVER RECOVERED THE BULK OF THE POWER TOOLS. APP. \$ 20000.00 IN STOLEN POWER TOOLS AND ABOUT \$ 5000.00 IN DAMAGES TO REPAIR ROOF AND MISC.

JUNE 23 /2019

THIEVES ON THE ROOF CUT THE POWER TO THE AIR CONDITIONING UNIT AND PUSHED IT OVER TO HAVE ACCESS TO THE AIR VENT SHAFT , CLIMBED IN AND

BC Fasteners

MANAGED TO TAKE APP. \$ 60000.00 IN
POWER TOOLS AND MISC OTHER ITEMS.
DESTROYING 2 WASHROOMS TO THE
POINT WHERE EVERYTHING HAD TO BE
REPLACED IN BOTH. APP.\$ 10000.00 IN
DAMAGES TO THEM BOTH. ALL THE WHILE
AVOIDING THE ALARM AND MOTION
SENSORS FOR ALMOST 6 HOURS.
EVENTUALLY TRIPPING THE ALARMS.
EVENTUALLY 1 PERSON CAUGHT A WEEK
LATER BUT 2 OTHERS AND ALL THE
MERCHANDISE WAS NEVER RECOVERED.

AUGUST 20 / 2019

STOLEN F350 TRUCK DRIVEN THRU FRONT
OF BUILDING THRU FRONT DOOR AND
WINDOWS . 4 EMPTY POWER TOOL CASES

BC Fasteners

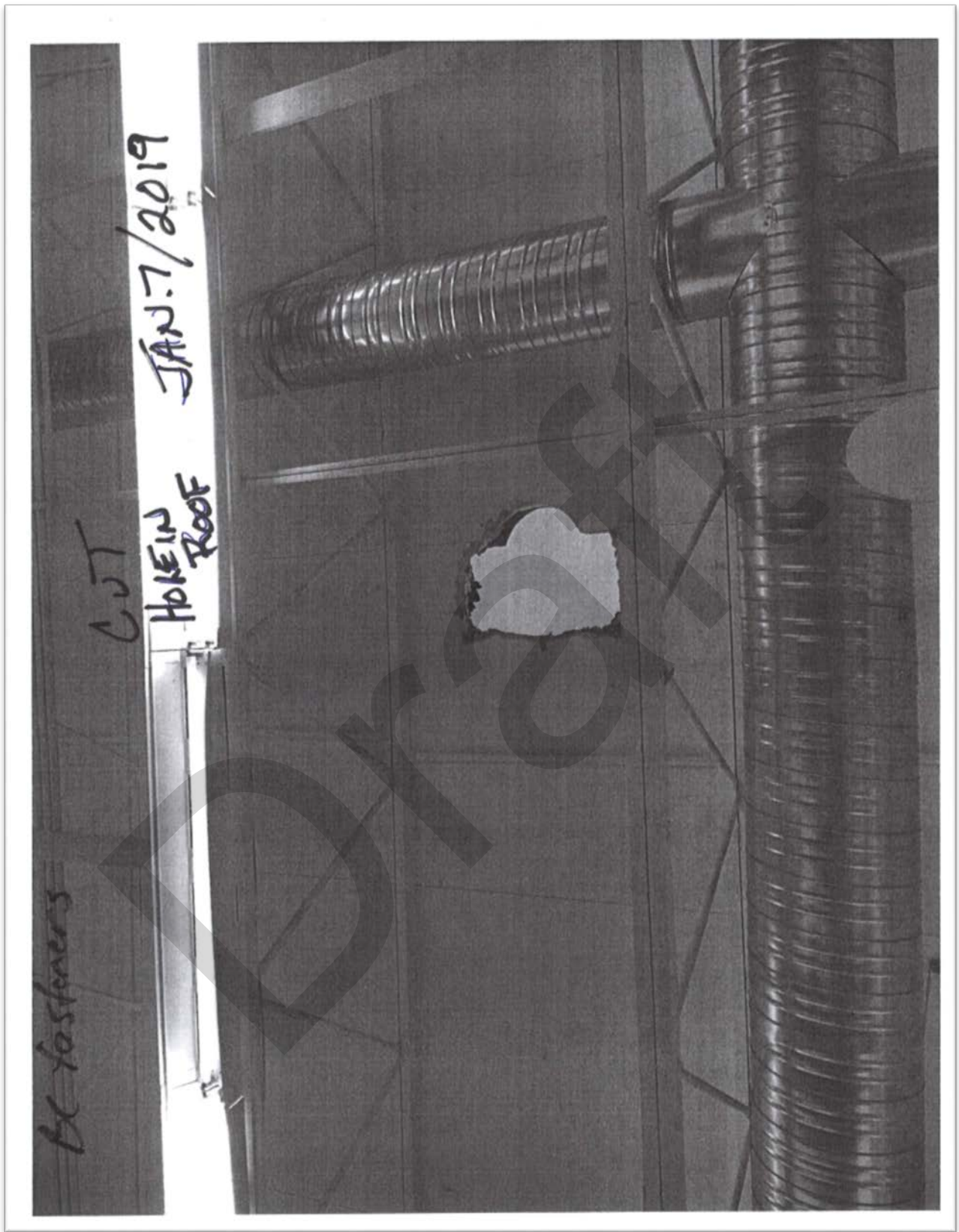
TAKEN (STUPID THIEVES) , BUT NOT
BEFORE CAUSING OVER \$ 25000.00 IN
DAMAGE TO THE BUILDING.

SEPT.1 / 2019

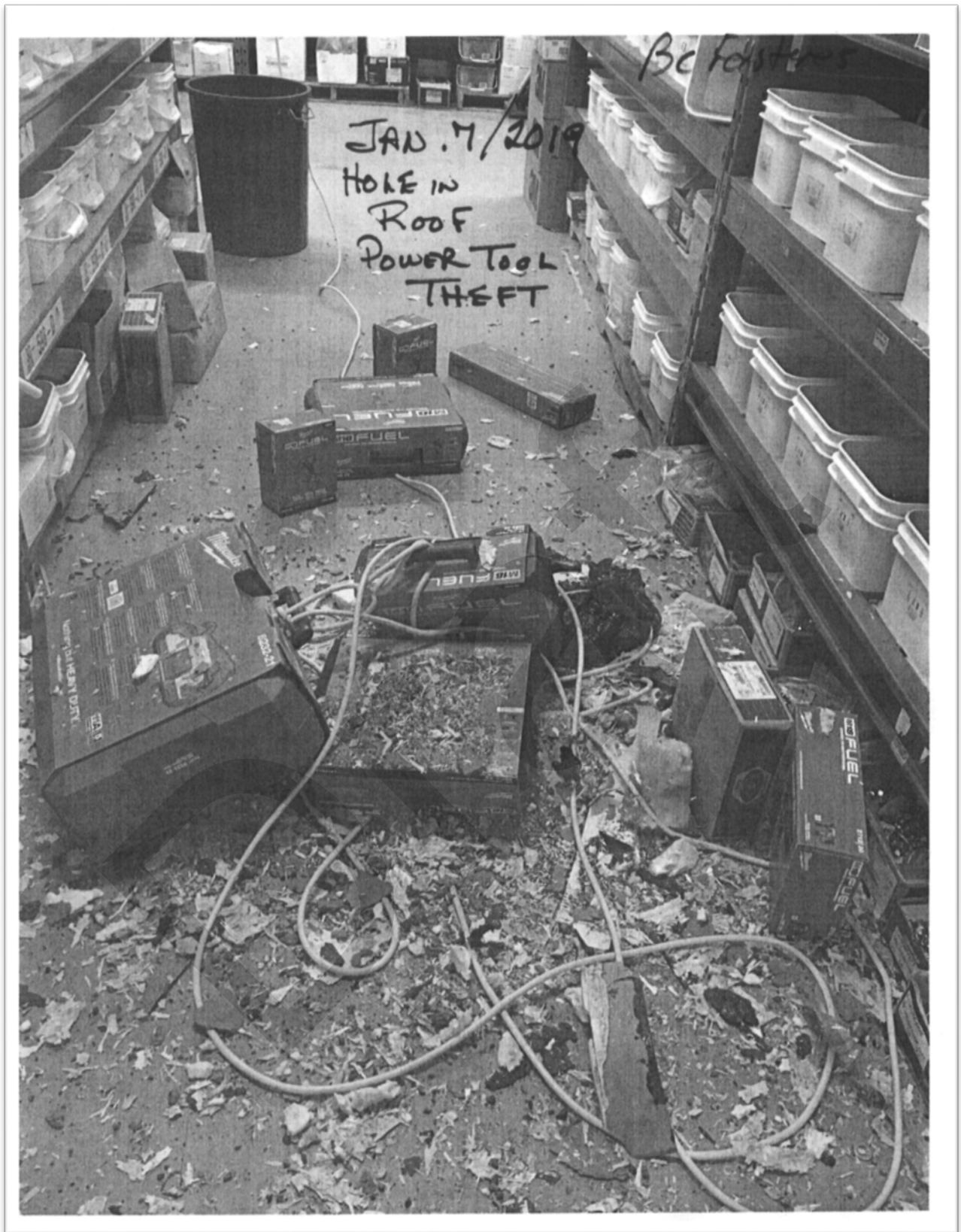
.....
, NEW ALARM SYSTEM INSTALLED AND
4000LB CONCRETE BLOCKS INSTALLED
AROUND THE FRONT AND SIDE OF THE
BUILDING .

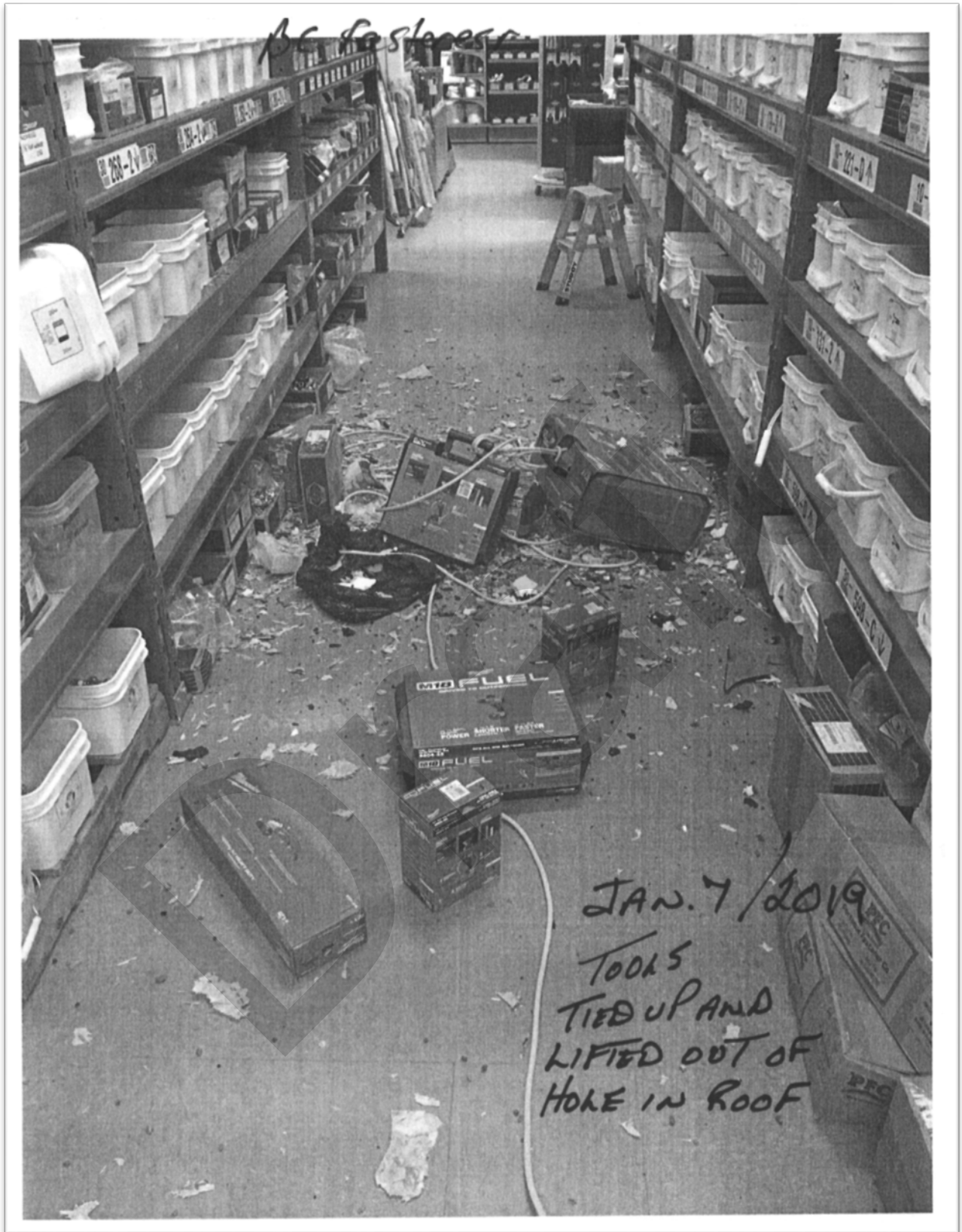
SINCE INSTALLING THE CONCRETE BLOCKS
THERE HAS NOT BEEN ANY ISSUES.

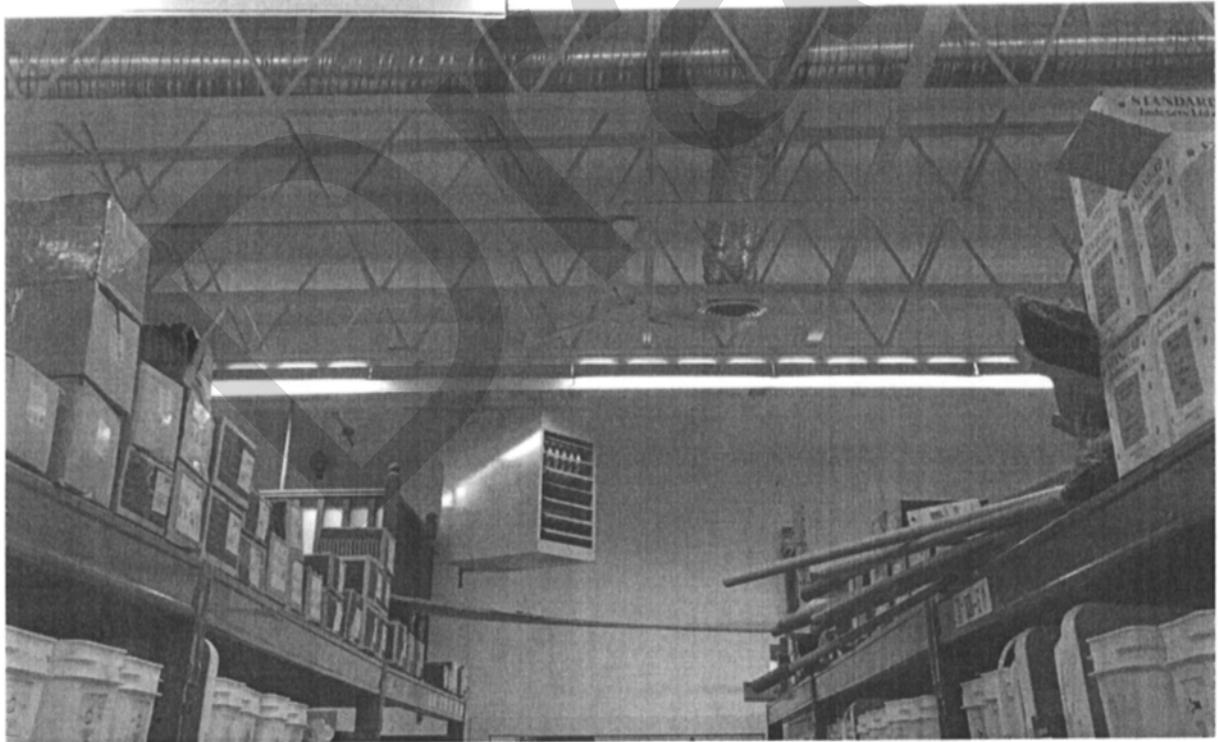
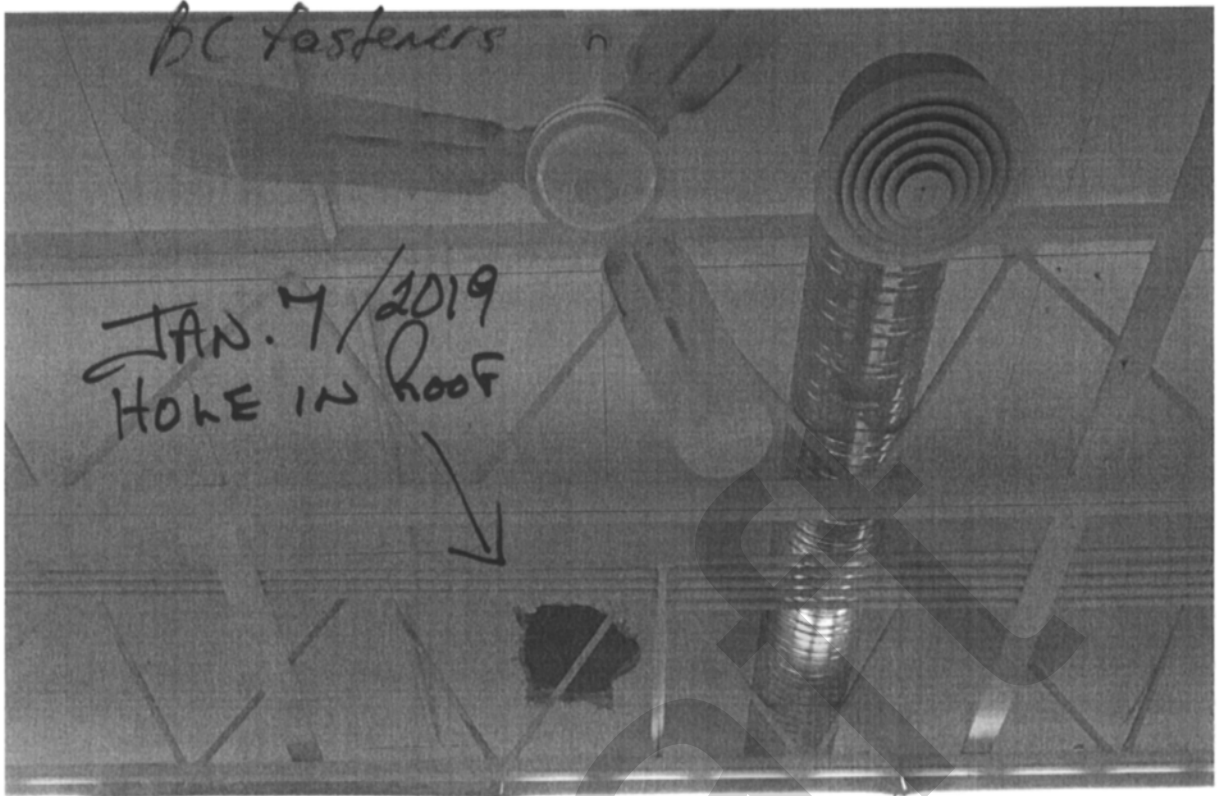
JUST THE USUAL CRACKHEADS COMING
UP IN BEHIND THE BUILDINGS AT NIGHT
TO DO WHAT EVER THEY DO IN THE DARK.

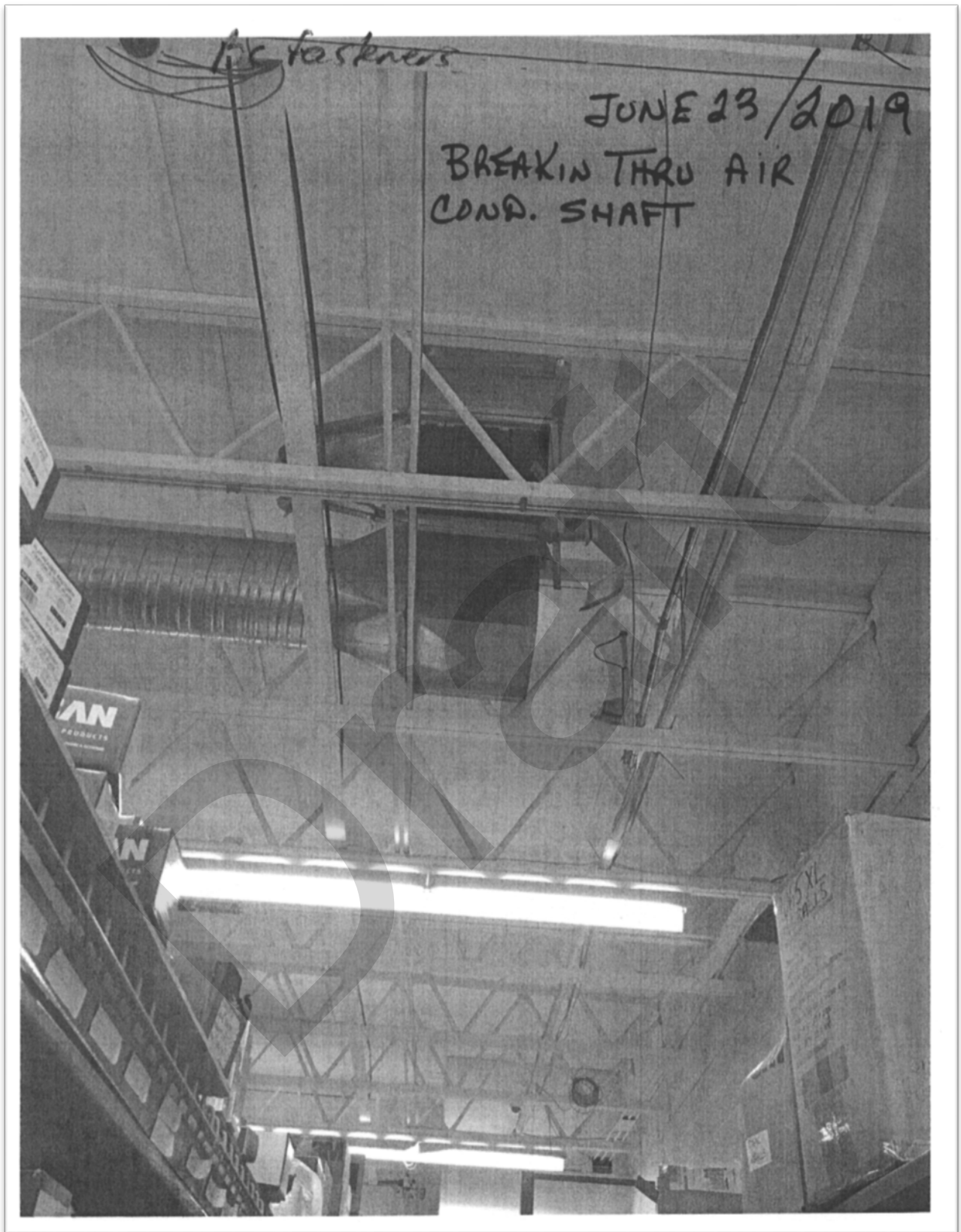


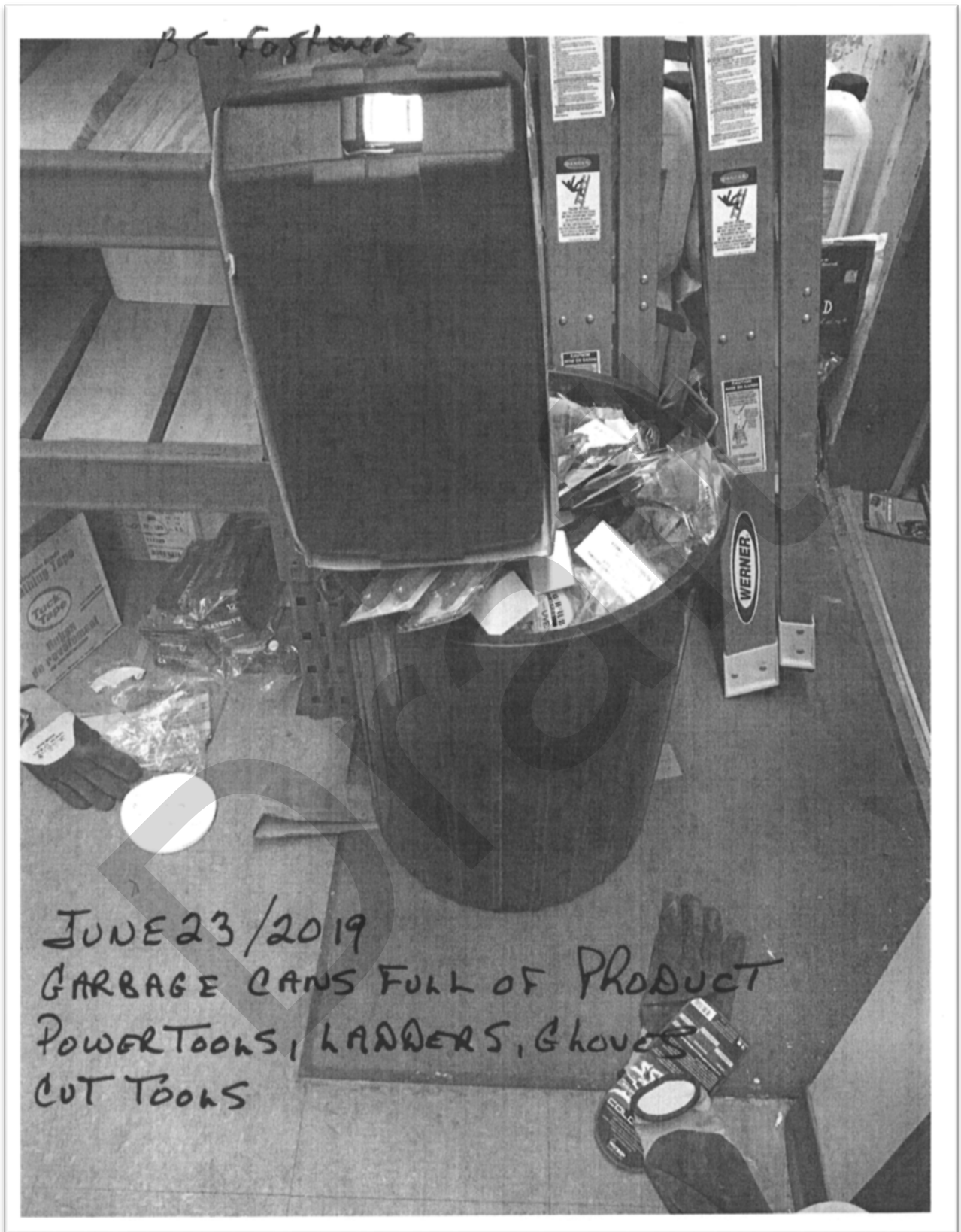






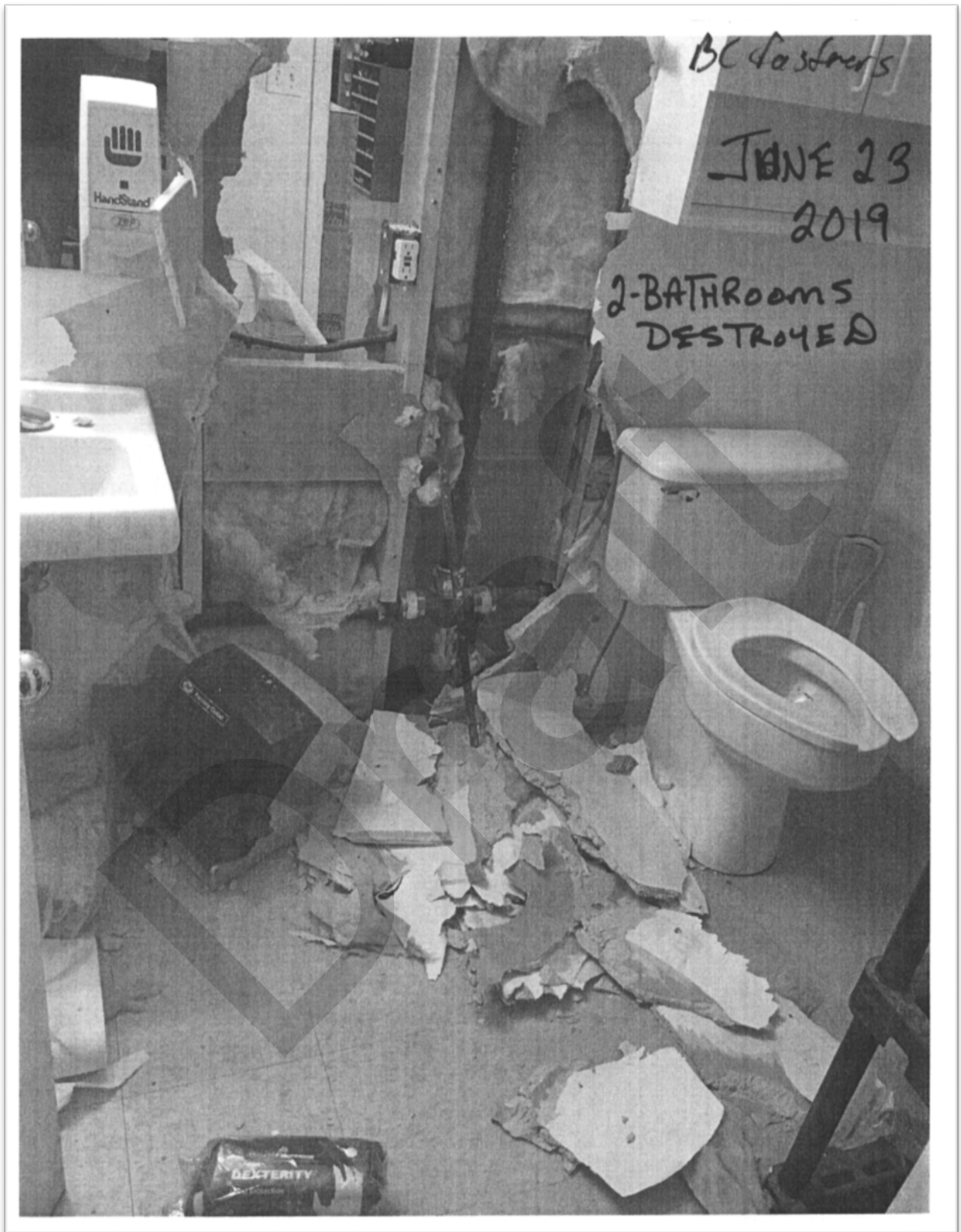












Mail body: Fw: Pics from albert

— Forwarded Message —
From: Nick Goffard [REDACTED]
To: [REDACTED]
Sent: Wednesday, March 4, 2020, 12:21:52 p.m. PST
Subject: Pics from albert



BC fasteners. theft protection



City of Penticton
171 Main St. | Penticton B.C. | V2A 5A9
www.penticton.ca | ask@penticton.ca

Development Variance Permit

Permit Number: DVP PL2020-8720

Owner Name
Owner Address

Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:
 - Legal: Lot 6 District Lot 38215 Similkameen Division Yale District Plan 17297
 - Civic: 1384 Commercial Way
 - PID: 008-419-558
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2017-08 to allow for the construction of razor wire fencing, as shown in the plans attached in Schedule 'A':
 - a. Section 5.6.1.6: to permit razor wire fencing.

General Conditions

4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule 'A'.
5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. **This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.**
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.
8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the ____ day of _____, 2020.

Issued this ____ day of _____, 2020.

Angela Collison
Corporate Officer

DRAFT

