

**City of Surrey  
PLANNING & DEVELOPMENT REPORT**

File: 7909-0054-00

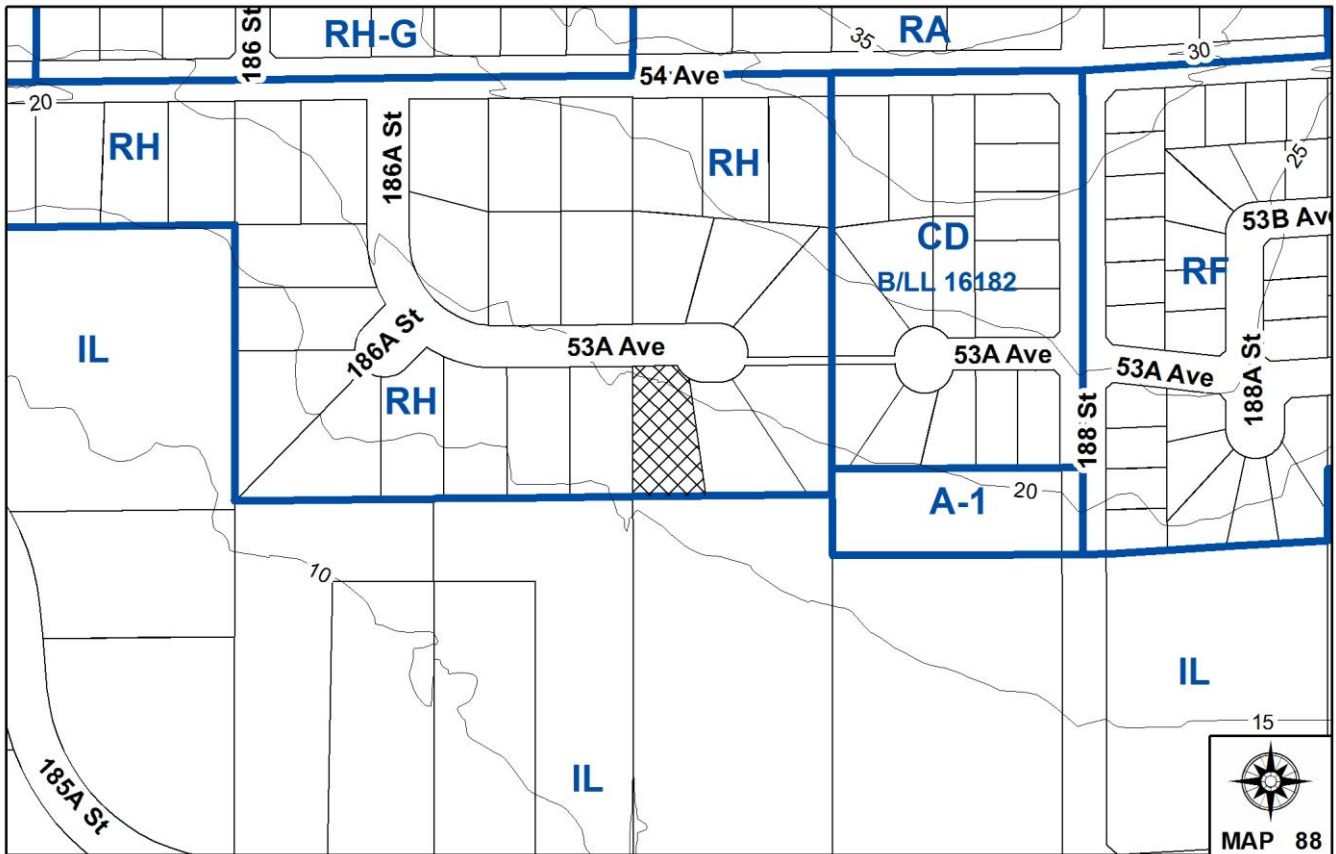
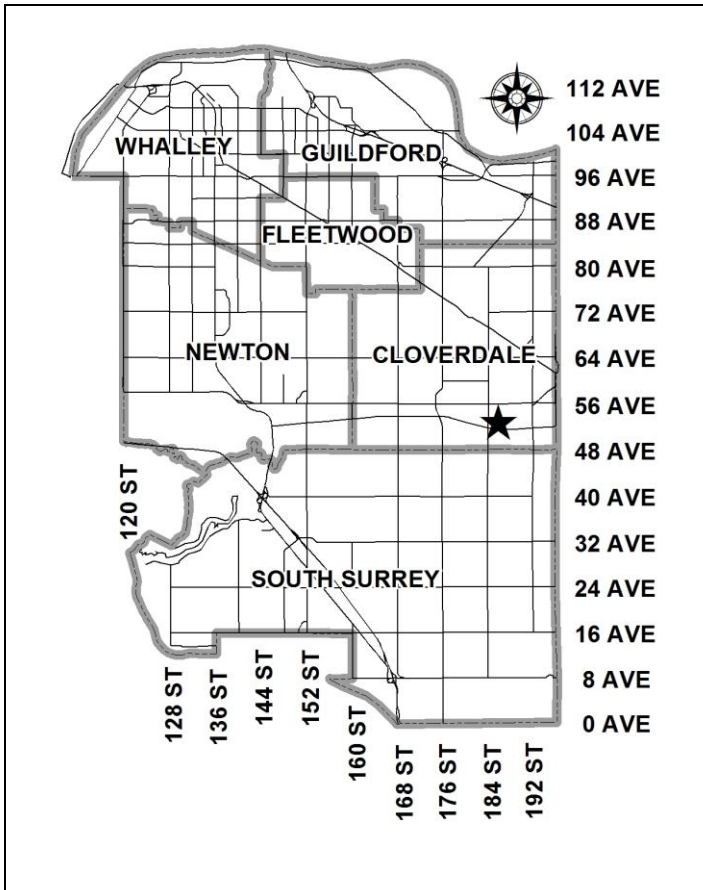
Planning Report Date: May 25, 2009

**PROPOSAL:**

- **Restrictive Covenant Amendment**
- **Development Variance Permit**

in order to reduce the east and west side yard setbacks.

**LOCATION:** 18684 - 53A Avenue  
**OWNERS:** Jagdish Singh Grewal and Herjinder Kaur Grewal  
**ZONING:** RH  
**OCP DESIGNATION:** Suburban



### RECOMMENDATION SUMMARY

- Approval to amend Restrictive Covenant No. BB551986.
- Approval for Development Variance Permit to proceed to Public Notification.

### DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- Seeking to amend Restrictive Covenant BB551986 to reduce a tree preservation setback area along the west property line from 7.5 metres (25 ft.) to 5.5 metres (18 ft.).
- Seeking reduced east side yard setback in the RH Zone from 4.5 metres (15 ft.) to 3.5 metres (11 ft.).

### RATIONALE OF RECOMMENDATION

- By reducing the east side yard setback and amending the Restrictive Covenant, the subject lot can accommodate the applicant's proposed house without affecting three (3) Douglas fir trees located near the west property line of the subject site.

RECOMMENDATION

The Planning & Development Department recommends that:

1. Council approve the applicant's request to amend Restrictive Covenant BB551986 by reducing the tree preservation setback area from 7.5 metres (25 ft.) to 5.5 metres (18 ft.) from the west side lot line, consisting of a 4.0-metre (13 ft.) "no-disturbance" zone plus a 1.5-metre (5 ft.) "excavation" area.
2. Council approve Development Variance Permit No. 7909-0054-00, (Appendix II) varying the following, to proceed to Public Notification:
  - (a) to reduce the minimum east side yard setback of the RH Zone from 4.5 metres (15 ft.) to 3.5 metres (11 ft.).

SITE CHARACTERISTICS

Existing Land Use: Vacant residential lot.

Adjacent Area:

<b>Direction</b>	<b>Existing Use</b>	<b>OCP Designation</b>	<b>Existing Zone</b>
North (Across 53A Avenue):	Vacant and developing residential lots.	Suburban	RH
East:	Vacant residential lot.	Suburban	RH
South:	Vacant industrial lot.	Industrial	IL
West:	Single family dwelling.	Suburban	RH

DEVELOPMENT CONSIDERATIONSBackground

- The 0.186 hectare (.46 acre) vacant subject lot is located on the south side of 53A Avenue, to the east of 186A Street in South Cloverdale. The subject lot was created as part of a 9-lot subdivision (application No. 7906-0063-00) after the rezoning to "Half-Acre Residential (RH)", was approved on June 25, 2007. The site is designated Suburban in the OCP (Official Community Plan).
- The tree survey submitted for completed development Application No. 7906-0063-00 showed a grove of three Douglas Fir trees along the west property line of the subject lot and the Arborist

Report for this application recommended a 7.5-metre (25 ft.) side yard setback on the subject lot to protect these trees.

- Two of these trees are within the subject property and the third tree is on the shared property line with the property to the west.
- Consequently, a 7.5-metre (25 ft.) "no-build" Restrictive Covenant to protect these three Douglas Fir trees was registered against the subject property.
- In August 2008, the applicant submitted a building permit application to construct a custom-designed house on the subject property. The proposed west side yard setback is based on the minimum 4.5 metres (15 ft.) in the RH Zone, which encroaches into the tree preservation "no-build" restrictive covenant area. The applicant has indicated he was unaware of this restrictive covenant.
- Consequently, the applicant has made application to amend the existing tree protection "no-build" restrictive covenant area and to request a Development Variance Permit (DVP) to relax the east side yard setback.
- Prior to proceeding with the current Restrictive Covenant (RC) amendment and Development Variance Permit (DVP) application, staff and the applicant discussed three alternative options for accommodating his proposed house on the subject lot. The following three alternative options were discussed:

1. Obtain written permission from the property owner to the west to remove the Douglas fir tree located on the shared property line and submit an application to seek Council approval to discharge the current tree preservation covenant.

*(The applicant has been unable to obtain written permission from his neighbour to remove the tree.)*

2. Revise the house plans so that the proposed house can be accommodated within the required 7.5m (25 ft.) west side yard setback (for tree retention) and submit a development variance permit application to reduce the east side yard setback from 4.5 metres (15 ft.) to 4.0 metres (13 ft.).

*(This option was not favoured by the applicant as this would result in additional costs for revising the house plans.)*

3. Shift the proposed house further south on the subject lot so that it does not encroach into the tree protection area and rezone to "Comprehensive Development (CD)" as the basement would not be at least 50% in-ground, thus counting towards the Floor Area Ratio (FAR).

*(This option was not favoured by Planning staff as the basement would only be 17% in-ground.)*

### Current Application

- The applicant is requesting to amend the existing "no-build" Restrictive Covenant from a 7.5-metre (25 ft.) west side yard setback, to a 5.5-metre (18 ft.) setback consisting of a 4.0-metre (13 ft.) "no-disturbance" zone plus a 1.5-metre (5 ft.) "excavation" area.
- In addition, the applicant is seeking a Development Variance Permit (DVP) to relax the minimum east side yard setback of the RH Zone from 4.5m (15 ft.) to 3.5m (11 ft.).
- In support of the current application, the applicant submitted an Arborist Report which reassessed the three Douglas fir trees near the west property line. This report recommends a 2.9-metre (9.5 ft.) setback to preserve these trees but cautioned that the review was based on an approximate location of the trees and that their exact location requires surveying. The Arborist Report recommendations were based on the three trees being located on the west property line.
- The applicant then submitted a tree survey which showed two of the trees being located 1.0 metre (3 ft.) or more inside the west property line and the third tree located on the west property line. It is noted that the removal of the tree located on the property line will require written permission from the neighbouring property owner.
- Notwithstanding the original Arborist Report prepared for Application No. 7906-0063-00, the City Landscape Architect has undertaken a detailed reassessment of the original tree protection "no-build" area and can support a reduction in the "no-build" area from the current 7.5 metres (25 ft.) to a 5.5-metre (18 ft.) setback consisting of a 4.0-metre (13 ft.) "no-disturbance" zone plus a 1.5-metre (5 ft.) "excavation" zone.
- The proposed restrictive covenant amendment and Development Variance Permit application to reduce the east side yard setback will preserve the existing trees and permit the applicant to build his house without major changes to his current building permit submission.

### Justification for Restrictive Covenant Amendment

#### (a) Requested Amendment:

- To reduce the tree protection setback area on the west side of the lot from 7.5 metres (25 ft.) to 5.5 metres (18 ft.) consisting of a 4.0-metre (13 ft.) "no-disturbance" zone plus a 1.5-metre (5 ft.) "excavation" zone, in order to accommodate a proposed house for the subject lot.

#### Applicant's Justification:

- The reduced tree protection area (together with a development variance permit to reduce the east side yard setback requirement) will allow the applicant to construct a new home on the subject lot based on his drawings submitted with his building permit application.

#### Staff Comments:

- The proposed Restrictive Covenant amendment will still adequately protect the three Douglas fir trees located near the west property line.

- On this basis, staff recommend that Council approve the applicant's request to amend the Restrictive Covenant.

### BY-LAW VARIANCE AND JUSTIFICATION

(a) Requested Variance:

- To reduce the minimum east side yard setback of the RH Zone from 4.5m (15 ft.) to 3.5m (11 ft.) for the subject lot.

Applicant's Reasons:

- In order to accommodate the proposed house, and to respect the proposed 5.5-metre (18 ft.) tree protection setback from the west property line, the east side yard setback must be reduced to 3.5m (11 ft.).

Staff Comments:

- Staff have reviewed the applicant's proposed house plans, and verified that they generally comply with the remaining requirements of the RH Zone.
- The proposed positioning of the house on the lot is such that there will be less wall area on the east side of the property compared to the west side of the property, thus minimizing the visual impact of the reduced side yard setback.
- The lot to the east is currently vacant and slightly larger than the subject lot.
- Staff support the proposed variance.

### INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

Appendix I.	Lot Owners, Action Summary and Project Data Sheets
Appendix II.	Development Variance Permit No. 7909-0054-00
Appendix III.	Tree Survey
Appendix IV.	Proposed Site Plan

Jean Lamontagne  
General Manager  
Planning and Development

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Information for City Clerk

Legal Description and Owners of all lots that form part of the application:

1. (a) Agent:      Name:                      Jagdish Singh Grewal  
                         Address:                      14298 - 72 Avenue  
                                                      Surrey, BC  
                                                      V3W 2R1  
                         Tel:                              604-502-8999
  
2.      Properties involved in the Application
  - (a)      Civic Address:              18684 - 53A Avenue
  
  - (b)      Civic Address:              18684 - 53A Avenue  
            Owners:                      Jagdish Singh Grewal and Herjinder Kaur Grewal  
            PID:                              027-249-565  
            Lot 1 Section 4 Township 8 New Westminster District Plan BCP32544
  
3.      Summary of Actions for City Clerk's Office
  - (a)      Amend Restrictive Covenant BB551986.
  
  - (b)      Proceed to public notification of Development Variance Permit No. 7909-0054-00.

## DEVELOPMENT DATA SHEET

**Proposed Zoning: CD**

Required Development Data	Minimum Required / Maximum Allowed	Proposed
<b>LOT AREA*</b> (in square metres)		
Gross Total		1,858 m <sup>2</sup>
Road Widening area		
Undevelopable area		
Net Total		1,858 m <sup>2</sup>
<b>LOT COVERAGE</b> (in % of net lot area)		
Buildings & Structures		
Paved & Hard Surfaced Areas		
Total Site Coverage	25%	25%
<b>SETBACKS</b> ( in metres)		
Front	7.5 m	7.5 m
Rear	7.5 m	26.8 m
Side #1 (West)	4.5 m	5.5 m
Side #2 (East)	4.5 m	3.5 m
<b>BUILDING HEIGHT</b> (in metres/storeys)		
Principal	9.5 m	9.5 m
Accessory	4 m	4 m
<b>NUMBER OF RESIDENTIAL UNITS</b>	n/a	
Bachelor		
One Bed		
Two Bedroom		
Three Bedroom +		
Total		
<b>FLOOR AREA: Residential</b>	n/a	
<b>FLOOR AREA: Commercial</b>	n/a	
Retail		
Office		
Total		
<b>FLOOR AREA: Industrial</b>	n/a	
<b>FLOOR AREA: Institutional</b>	n/a	
<b>TOTAL BUILDING FLOOR AREA</b>	465 m <sup>2</sup>	423 m <sup>2</sup>

*\* If the development site consists of more than one lot, lot dimensions pertain to the entire site.*