

City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7917-0027-00

Planning Report Date: May 8, 2017

PROPOSAL:

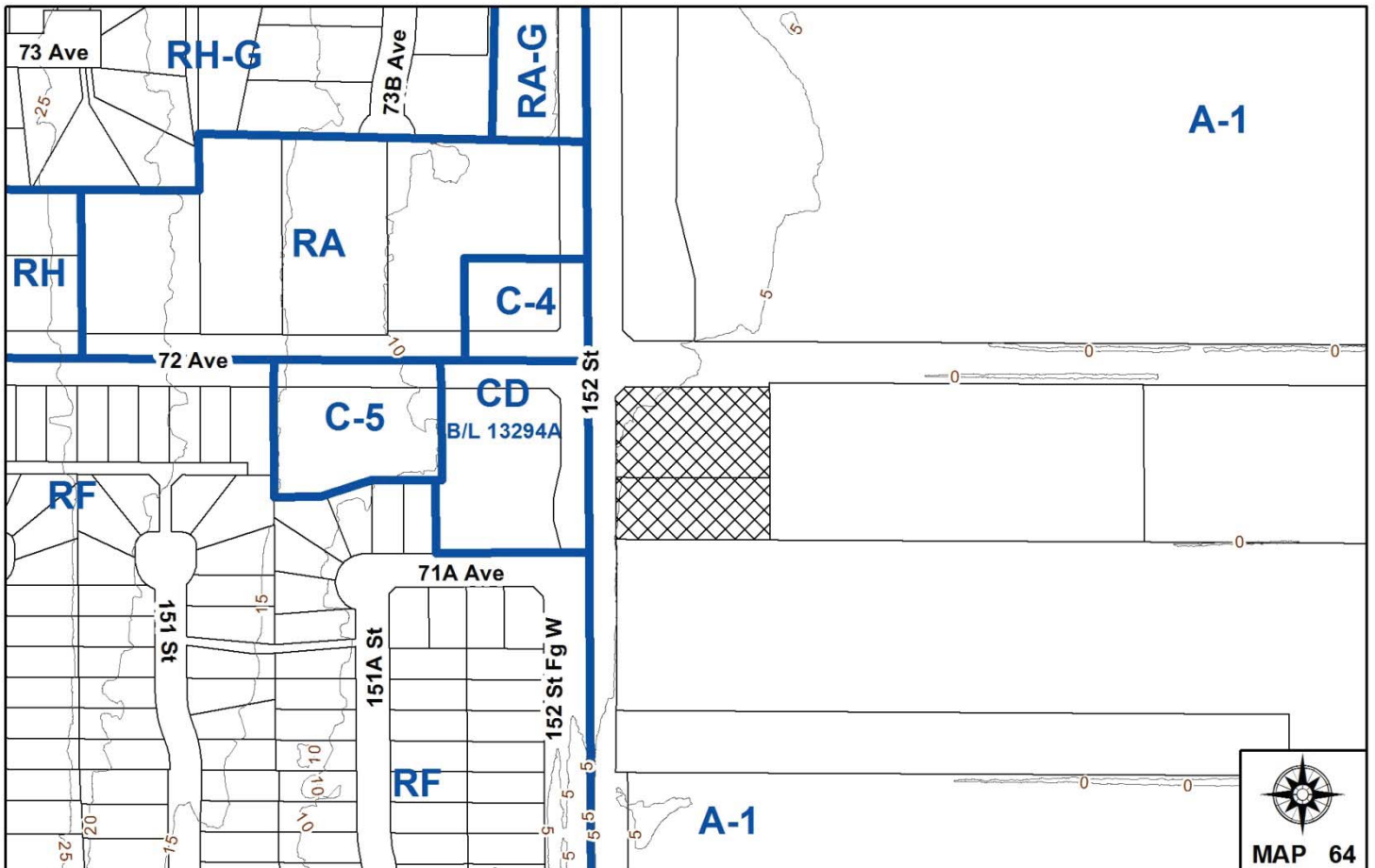
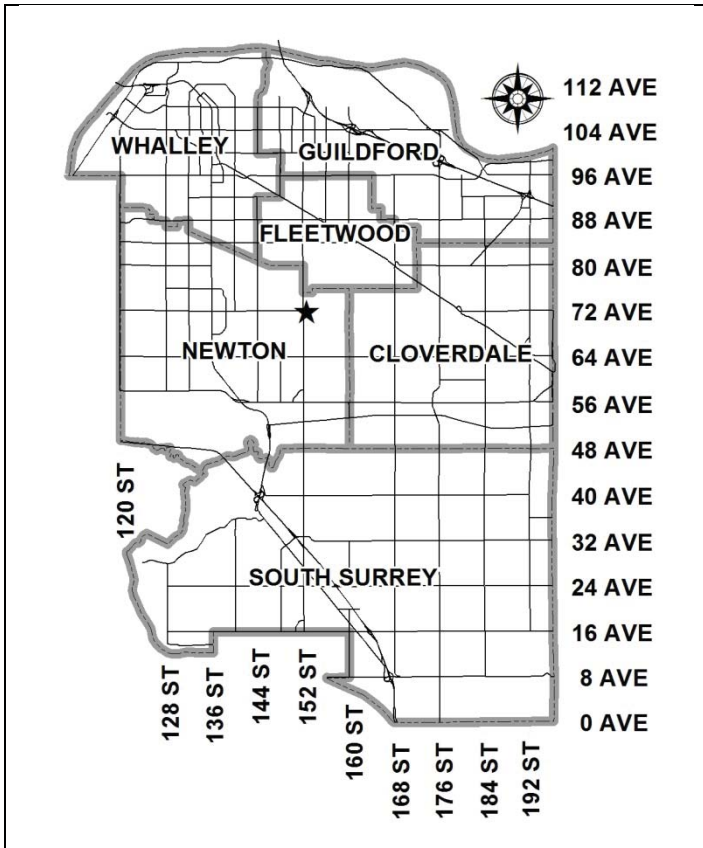
- **ALR exclusion** under Section 30(1) of the *ALC Act*.

LOCATION: 7180 - 152 Street
 7160 - 152 Street

OWNER: Sukhjot K Bains
 Satnam S Bains
 Jaspal K Bains
 Nirmal S Bains
 Amol & Jas Holdings Ltd.

ZONING: A-1

OCP DESIGNATION: Agricultural



RECOMMENDATION SUMMARY

- Refer the application to the Agricultural Land Commission (ALC).

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- The proposal for exclusion does not align with the City of Surrey's existing policies and plans for agricultural land in the Agricultural Land Reserve.

RATIONALE OF RECOMMENDATION

- The *Agricultural Land Commission Act* (ALCA) allows for any owner of land within the ALR to apply to the Agricultural Land Commission (ALC), through local government, to have their land excluded from the ALR.
- The ALC is tasked with upholding the integrity of the provincial agricultural land base, has the expertise to assess the merits of exclusion applications, and determine the suitability and capability of lands for agricultural purposes.
- The applicant contends that the proposed exclusion properties at 7160 and 7180 – 152 Street are not suitable for agriculture due to the history of non-agricultural uses and the small size of the parcels.

RECOMMENDATION

The Planning & Development Department recommends that Council pass a resolution authorizing the referral of the application to the Agricultural Land Commission.

REFERRALS

Engineering:	The Engineering Department does not have Engineering requirements in regards to the exclusion request. However, preliminary comments for any future land use proposal have been provided (Appendix III).
Agricultural and Food Security Advisory Committee (AFSAC)	At AFSAC's April 6, 2017 meeting, the committee recommended that Development Application 7917-0027-00 not be forwarded to the Agricultural Land Commission for exclusion (Appendix IV).

SITE CHARACTERISTICS

Existing Land Use: Single family residential dwellings.

Adjacent Area:

Direction	Existing Use	OCP/NCP Designation	Existing Zone
North (Across 72 Avenue):	Vacant agricultural land and Surrey Lake Park in the ALR.	Agricultural	A-1
East:	Agricultural land in the ALR.	Agricultural	A-1
South:	Agricultural land in the ALR.	Agricultural	A-1
West (Across 152 Street):	Gas station and convenience store.	Urban / Neighbourhood/Local Commercial	CD (By-law No. 13294A)

DEVELOPMENT CONSIDERATIONSBackground

- The subject properties are located at 7160 – 152 Street and 7180 – 152 Street and together are approximately 0.56 hectares (1.4 ac.) in size.
- The properties are designated "Agricultural" in the Official Community Plan (OCP), zoned "General Agricultural Zone (A-1)" and located within the Agricultural Land Reserve (ALR).
- The subject sites are not classified as farmland under the *Assessment Act*.

- The applicant indicates that there is minimal history of farm activity on these lots and they are currently being used for residential purposes.
- The subject lots are part of a contiguous section of the ALR boundary between 69 Avenue and 76 Avenue, along 152 Street. The ALR surrounds the properties to the north, east, and south.
- The areas west of the subject properties, at the intersection of 152 Street and 72 Avenue, have a mixture of small scale commercial uses. Surrounding the commercial lots are single family residential lots.

Current Proposal

- The applicant is proposing to remove the two subject properties from the ALR through an ALR exclusion application.
- The applicant has not proposed an alternative land use for these properties at this time. Their stated intention is to leave the site's current OCP "Agricultural" land use designation and A-1 Zone in place at this time.
- Inclusion of land into the ALR to offset the exclusion of the subject parcels has not been proposed with this application.
- The applicant has provided the following rationale for their exclusion proposal:
 - Due to the small lot sizes, 0.23 hectares (0.6 ac.) and 0.33 hectares (0.8 ac.) respectively, and the history of non-agricultural uses, the subject lots are not conducive for farming. The properties would be better suited for development similar to the properties across 152 Street at 72 Avenue;
 - Under Section 23(1) of the ALCA, restrictions on the use of agricultural land in the ALR do not apply to lands that, on December 21, 1972, was, by separate certificate of title issued under the Land Registry Act, R.S.B.C. 1960, c. 208, less than 2 acres in area. As per the regulation, the subject properties are exempt from the restrictions on uses in the ALR and should be formally removed from the ALR;
 - The development of this site would improve farming activities to the east of the subject sites as a new development would act as a buffer for the farm lands from traffic along 152 Street; and
 - Inclusion offsets for the land being removed from the ALR have not been proposed due to the size of the subject parcels. Previous exclusion applications for much larger parcels have been considered and approved without compensation elsewhere in Surrey.

Policy Considerations

- There are a number of policies and regulations that protect the supply of agricultural land in Surrey that need to be considered with a proposal to remove land from the ALR. These policies and regulations are described below.

Agricultural Land Commission (ALC)

- The mandate of the ALC is to preserve agricultural land and to actively engage farmers and ranchers to collaboratively encourage and enable agricultural businesses throughout the province.
- The ALC has the authority over the boundary of the ALR and the discretion to determine whether land currently in the ALR is appropriately designated and defensible as ALR Lands.
- Under Section 30(1) of the *Agricultural Land Commission Act (ALCA)* an owner of land may apply to the ALC to have their land excluded from the ALR. The *ALCA* does not specify criteria under what circumstances these applications should or could occur.
- However, under Section 30(4)(a) of the *ALCA*, if the land subject to the exclusion application is zoned to permit agricultural or farm uses, an application to the ALC may not proceed unless authorized by resolution from a local government.
- As the subject properties are zoned for agricultural and farm uses, the decision to refer the subject exclusion application to the ALC is the prerogative of City Council.
- Under Section 30(2) of the *ALC*, if Council passes a resolution to refer the application to the ALC, the Commission may:
 - refuse permission to have land excluded from an agricultural land reserve;
 - grant permission to have land excluded from an agricultural land reserve; or
 - permit a non-farm use or subdivision of the land.

Metro Vancouver

- The proposed exclusion parcels are designated "Agricultural" in Metro Vancouver's *Regional Growth Strategy (RGS)* and are located outside of the Urban Growth Containment Boundary. The Urban Containment Boundary is intended to establish a stable, long-term regional defined area for urban development and to reinforce the protection of agricultural areas. The "Agricultural" designation in the *RGS* is intended to reinforce provincial and local objectives for the protection of agricultural land base of the region.
- Amendments to the Urban Containment Boundary and the "Agricultural" designation of the *RGS* must come from the affected municipal government, and require an affirmative two-thirds weighted vote of the Metro Vancouver Board and a regional public hearing. This step would occur subsequent to a Council-authorized referral of the exclusion to ALC, and subsequent to ALC granting permission to exclude the subject site from the ALR.

Surrey's Official Community Plan (OCP)

- Surrey's OCP outlines various policies to be considered with the respect to agricultural lands inside and outside the ALR. Relevant policies for lands within the ALR include:
 - Maintain the integrity of the ALR and its existing boundaries;
 - Protect and support the continued designation and use of agricultural land for agricultural purposes regardless of soil types and capabilities;
 - Encourage locating non-soil based agricultural structures on less productive soils, where feasible, in order to fully utilize prime soil resources; and
 - Require 2 hectares (5 acres) of land, within Surrey, of equivalent or better soil capacity, to be included into the ALR for each 1 hectare (2.5 acres) of land excluded from the ALR with the submission of an Agricultural Impact Assessment detailing how this conversion provides a net benefit to agriculture in Surrey.

Policy for Considering Applications for Exclusion of Land from the Agricultural Land Reserve (O-51)

- On May 17, 2004, City Council adopted Resolution R04-1316, supporting the policy for the establishment of criteria to be used in the evaluation of applications for exclusion of land from the Agricultural Land Reserve (ALR).
- The intention of the policy is not directed at lending support to or encouraging ALR exclusions. The policy focuses on maintaining the City's longstanding practice of protecting agricultural lands for agricultural purposes consistent with the OCP.
- The application is evaluated under Section 4 of this policy. This section identifies seven criteria for exclusion consideration:
 1. Soil Capability
 - If the land proposed for exclusion has a Soil Capability Rating of Class 1, 2, 3, or 4, the exclusion application will generally not be supported; and
 - If the land has a Soil Capability Rating of Class 4 to 7, it still may lend itself to non-soil bound agriculture, especially if it is surrounded by other agricultural uses, and the exclusion application will generally not be supported.

The applicant has not provided an agrologist report identifying the Soil Capability Rating of the subject sites. The applicant states that the small size and the history of non-agricultural activities indicate the lack of agricultural capacity of the site.

2. Proposed Use

- If an application for ALR exclusion is intended for uses that will result in a departure from the sustainable development principles of the OCP and will encourage speculative pressures on ALR lands, such an application will generally not be supported.

The applicants notes that under Section 23(1) of the ALCA that the restrictions on use of agricultural land in the ALR do not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the Land Registry Act, R.S.B.C. 1960, c. 208, less than 2 acres in area. As per the regulation, the subject properties are exempt from the restrictions on uses in the ALR. The applicants have provided supporting documentation in this regard, which has been verified by Planning Staff. However, the use of the land is still regulated by Surrey's A-1 Zone.

The applicant is not proposing to change the land use of the subject properties at this time. They intend to retain the existing A-1 Zone and "Agricultural" land use designation.

3. Alternative Site for the Proposed Use

- If the land proposed for exclusion from the ALR is to be zoned for a use that can be accommodated on alternative sites in the City that are not in the ALR the application will generally not be supported.

The applicant is not proposing to change the land use at this time.

4. Location of the Site

- If the land proposed for exclusion does not abut an existing non-agricultural area and does not provide a logical and continuous extension of the existing development pattern of the adjacent non-ALR area, the application will generally not be supported; and
- Where an area proposed to be excluded from the ALR is not contained within permanent well defined boundaries (ie. roads, topographic, or other natural features) the application for exclusion will generally not be supported. If a site is isolated or separated from the rest of the ALR by significant developed area or by physical barrier, exclusion may be considered.

The applicant feels that the small size of the lots and their location along 152 Street are impediments to farming this land. They also note that the properties are located across the street from an urban area, which include some commercial properties. Further, the applicants indicate that by excluding the two lots from the ALR the "future development of the lots will provide physical barrier, isolation, screen and security needed from 152 Street to the adjacent agriculture lot immediately east of the properties".

Staff notes that between 69 Avenue and 76 Avenue, 152 Street acts as a clear demarcation between the developed areas to the west of and the agricultural areas to the east of this arterial road which are located in the ALR. As such, the subject properties contribute to the defensible north-south ALR boundary along the east side of 152 Street. It is noted that the change to this defined boundary may influence other property owners in the area to consider applications to exclude similar lands. In practice 152 Street acts as a defined boundary, separating urban development from lands within the ALR.

Staff also notes that, without knowing the proposed future land use for this property, it is not possible to determine if locating a non-agricultural land use at this site would be beneficial to the neighbouring parcels.

5. Roads and Services

- If the area proposed for exclusion from the ALR does not have primary vehicular access from an abutting arterial street or provincial road or requires the extension of engineering services on a local agricultural road, the application will generally not be supported.

The applicant notes that the subject sites are fronting 152 Street, which is an arterial road, and has access from 72 Avenue.

6. Interface Buffering

- Applications for exclusion will not be supported unless the landscaping and other buffering features fully meet or exceed the buffering requirements set out in the OCP.

The applicants are not proposing to change the OCP land use designation or zoning at this time. However, they have indicated that they will work with City Staff to meet any screening and buffering requirements upon future development.

The properties would be subject to a Farm Protection Development Permit if a change in land use is proposed. The Development Permit would outline the buffering and landscaping requirements upon future development.

7. Impacts on Adjacent Agricultural Activities

- Unless the impact upon the areas adjacent to the lands proposed to be excluded is fully mitigated, the application will generally not be supported.

The applicants are not proposing to change the land use of the properties at this time. If the land is excluded from the ALR, mitigation of potential impacts will be addressed as part of a future rezoning and Farm Protection Development Permit application.

- Section 5 of Policy O-51 outlines that if the criteria contained in Section 4 of the policy are met, an application for exclusion must also demonstrate that compensation will be provided that is satisfactory to Council and to the ALC. The compensation is intended to ensure that the overall productive capability of Surrey's ALR lands will be retained. Compensation will include, among other things, the inclusion of other land into the ALR to offset the impact of land being removed.

To date, no compensation has been proposed by the applicants.

PRE-NOTIFICATION

Pre-notification is not required by the City for ALR exclusion applications.

ALC regulations require the applicant to provide neighbouring property owners with notification of the exclusion application, which was provided through signage, newspaper notices, and mail outs in January 2017. No comments were received by the City during the pre-notification period.

PROJECT EVALUATION AND DISCUSSION

- The applicant is proposing to exclude the two subject properties, totaling 0.56 hectares (1.4 acres) of land, from the ALR.
- The applicant has not proposed an alternative land use for the subject sites at the present time. Their declared intention is to retain the sites current OCP land use designation of "Agricultural" and its A-1 Zone.
- It is the position of staff that the current application is unable to satisfy all the criteria outlined in Policy No. O-51 that would support exclusion of the subject parcels from the ALR. The proposal also does not comply with the specific objectives outlined in the OCP for the preservation of farmland.
- When considered at the April 7, 2017 meeting, the Agriculture and Food Security Advisory Committee (AFSAC) recommended the application not be referred to the Agricultural Land Commission.
- Under Section 23(1) of the *Agricultural Land Commission Act (ALCA)*, restrictions on use of agricultural land in the ALR do not apply to the subject properties as the properties were lots of record prior to December 21, 1972 and are less than 2 acres in area. However, the property owner's use of the land is still restricted by regional and municipal regulations for agricultural land under the Regional Growth Strategy (RSG), Official Community Plan (OCP), and Zoning By-law.
- In response to the exemptions of restrictions on use in the ALR under Section 23(1) of the ALCA, Staff discussed the option of changing the land use of the subject properties to a use that would be complementary to agriculture without removing the parcels from the ALR with the applicant. However, it is ultimately up to the property owner to determine and propose their desired land use change through a formal application to the City, following which, a comprehensive Planning review of the application would be undertaken by Staff.
- If the applicants wished to pursue a non-agricultural use for the subject properties, with or without the exclusion, they would require the following:
 - An amendment to the Urban Containment Boundary and a change to the subject's sites "Agricultural" designation under Metro Vancouver's RSG;
 - An amendment to the City of Surrey's OCP to change the "Agricultural" land use designation;

- Rezoning to an appropriate zone; and
- A Farm Protection Development Permit to mitigate any impacts the proposed development may have on neighbouring agricultural parcels.
- The ALC is structured and best-suited to accurately and objectively assess the merits of exclusion applications, with staff trained to determine the suitability and capability of lands for agricultural purposes. However, the City has the authority to evaluate and implement land use changes within its boundaries in accordance with its plans and policies.

OPTIONAL COURSES OF ACTION

The following is a summary of the optional courses of action for consideration, and the benefits and concerns of each approach.

Option A: Refer the Application to the Agricultural Land Commission

Pros:

- The ALC is tasked with upholding the integrity of the provincial agricultural land base, has the expertise to assess the merits of exclusion applications, and determine the suitability and capability of lands for agricultural purposes.
- City staff do not have the expertise to determine the agricultural suitability and capability of land.

Cons:

- Without a proposed land use change to accompany the exclusion application, it is difficult to determine the merits of exclusion as the intended future use of the properties is unknown.
- There is the potential of setting a precedent that would generate future applications to exclude land from the ALR.

Option B: Deny the Application

Pros:

- Denying the application would be consistent with the City's policies relative to the protection of farmland as a resource for agriculture.
- This option is consistent with the recommendation of the Agriculture and Food Security Advisory Committee (AFSAC).

Con:

- The applicant would not be able to present their case for exclusion to the authority (the ALC) that ultimately makes decisions on exclusions.

CONCLUSION

- The Planning & Development Department recommends Option A, which is to refer the application to the ALC.
- However, if Council is of the view that the relative merits of the application are not sufficient to allow the application to proceed, the application may be denied (Option B) and staff will close the exclusion application.

INFORMATION ATTACHED TO THIS REPORT

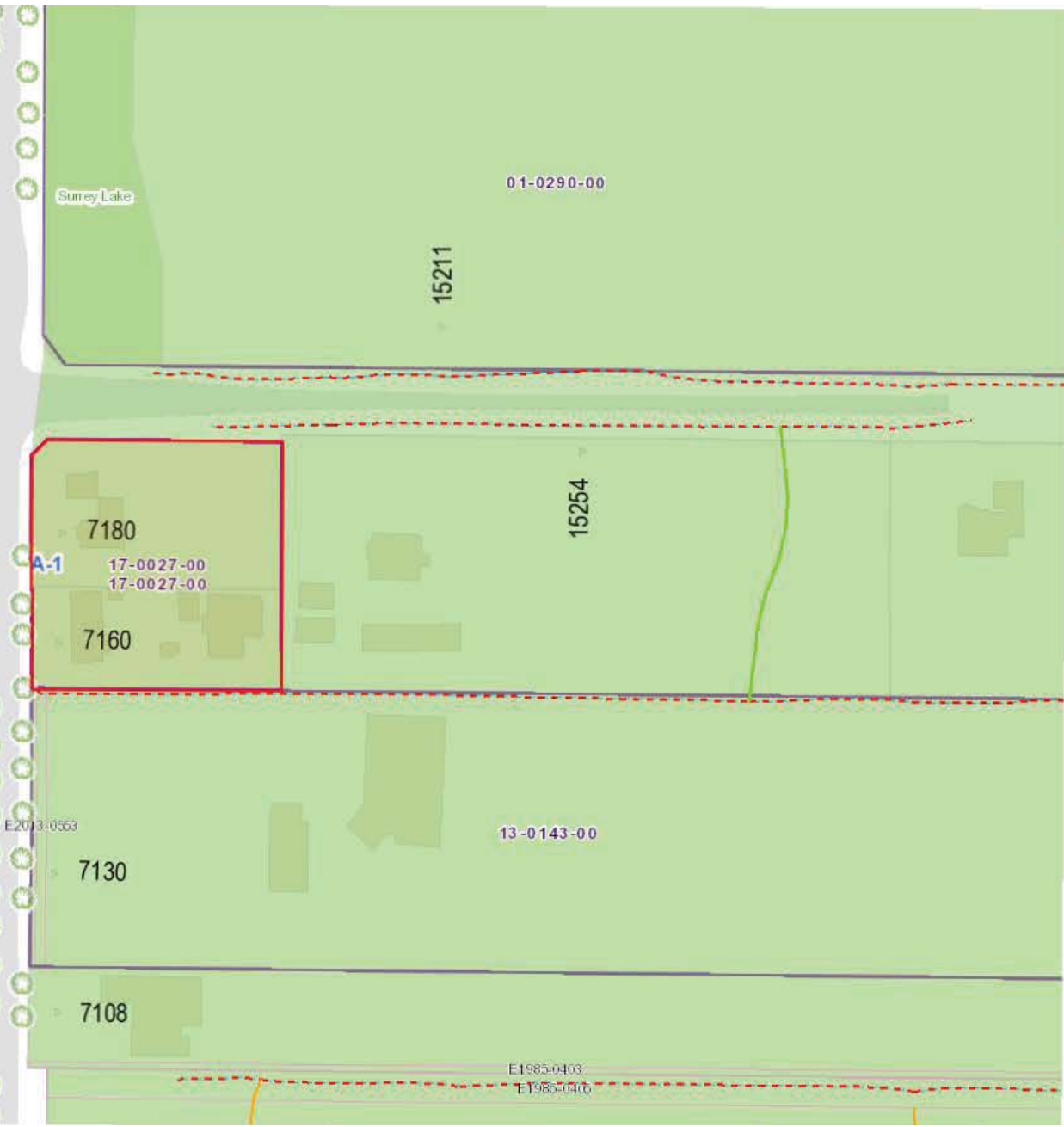
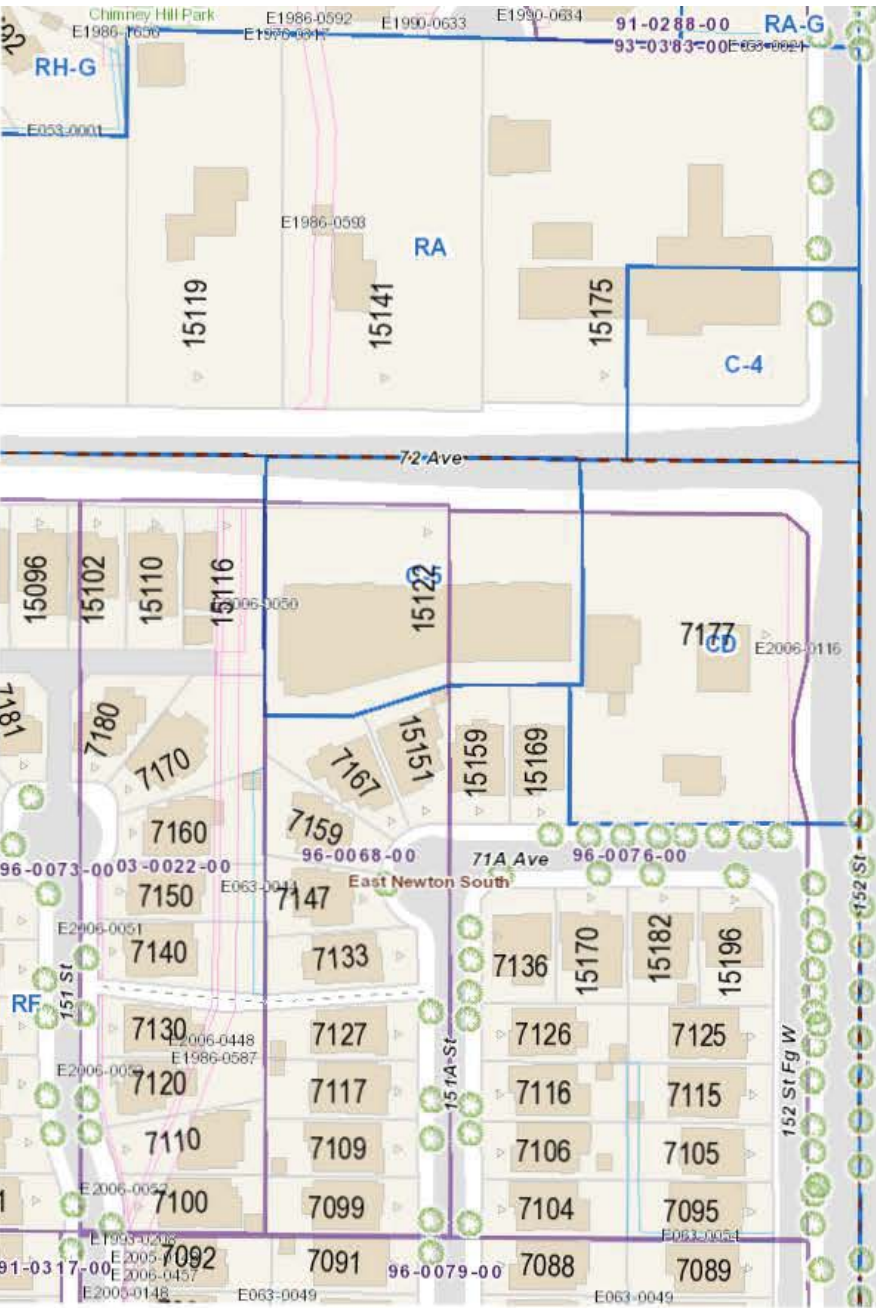
The following information is attached to this Report:

Appendix I.	Lot Owners and Action Summary
Appendix II.	Site Location and ALR Map
Appendix III.	Engineering Summary
Appendix IV.	Agricultural and Food Security Advisory Committee Minutes

original signed by Ron Hintsche

Jean Lamontagne
General Manager
Planning and Development

ARR/da



TO: **Manager, Area Planning & Development
- South Surrey Division
Planning and Development Department**

FROM: **Development Services Manager, Engineering Department**

DATE: **May 2, 2017** PROJECT FILE: **7817-0027-00**

RE: **Engineering Requirements
Location: 7160 152 St**

ALR EXCLUSION

There are no engineering requirements relative to the ALR Exclusion.

Any future land use changes such as rezone or subdivision may trigger requirements as follows:

- The subject lot falls beyond current 200 year flood plain levels. Future developments on the site must account for changes to the flood plain as well as provide mitigation measures for increased runoff as necessary.
- Dedication along 152 Street to meet 30 m arterial road standards will be required.
- Dedication along 72 Avenue to meet ultimate roads standards and traffic signal improvements will be required.
- Driveway access restrictions will apply to eliminate access to 152 Street and ensure sufficient distance from the intersection along 72 Avenue.
- Since the lots are less than 2 acres in size, sanitary service connections are likely to be required to meet City by-laws. The site is within the Fraser Sewer Area but not within Metro Vancouver's Urban Containment Boundary as defined in the Regional Growth Strategy. Referral to the Metro Vancouver Board for inclusion of the land into the Urban Containment Boundary will be required to allow sanitary sewer servicing.



Rémi Dubé, P.Eng.
Development Services Manager

Present:

Councillor Starchuk, Chair
M. Bose, Vice-Chair
B. Sandhu
H. Dhillon
J. Sandhar
J. Zelazny
M. Hilmer
P. Harrison
S. VanKeulen

Agency Representative:

D. Geesing
T. Pellett

Regrets:

G. Hahn
D. Arnold

Staff Present:

C. Stewart, Planning & Development
M. Kischnick, Planning & Development
R. Dube, Engineering
T. Mueller, Legislative Services

The Vice-Chair called the meeting to order at 9:06 a.m.

A. ADOPTION OF MINUTES

1. The committee is requested to pass a motion adopting the minutes of March 2, 2017.

It was

Moved by P. Harrison
Seconded by M. Hilmer

That the minutes of the Agriculture and Food Security Advisory Committee meeting held March 2, 2017, be adopted as presented.

Carried

B. DELEGATIONS**C. OUTSTANDING BUSINESS****D. NEW BUSINESS**

1. **Proposed Exclusion from the ALR for two contiguous lots**
Adam Rossi, Planning Technician
File: 6800-75; 7917-0027-00

Staff provided the following comments:

- The subject properties are located at 7160 – 152 Street and 7180 – 152 Street and taken together are approximately 0.56 (1.4 acres) hectares in size.

- The properties are designated "Agricultural" in the Official Community Plan (OCP), zoned "General Agricultural Zone (A-1)" and located within the Agricultural Land Reserve (ALR). The subject sites are not classified as farmland under the *Assessment Act*.
 - The subject lots are part of a contiguous section of the ALR boundary between 69 Avenue and 76 Avenue, along 152 Street. The ALR surround the properties to the north, east, and south.
 - The applicant indicated that there is minimal history of a farm activity on these lots and they are currently being used for residential purposes. The applicant is requesting to have the two subject properties removed from the ALR, but to leave the Agricultural land use designation and A-1 zone in place.
 - Staff noted that at this time there is no alternative land use proposed, land offset has not been proposed for this application and there has been no inclusion elsewhere for the ALR.
 - City of Surrey Policy O-51 - Policy for Considering Applications for Exclusion of Land from the Agricultural Land Reserve; was adopted by Council on May 17, 2004 (Res. R04-1316); and supports the establishment of criteria to be used in the evaluation of applications for exclusion of land from the Agricultural Land Reserve (ALR). Staff clarified that the intention of the policy is not directed at lending support to, or encouraging ALR exclusions, but rather, the policy focuses on maintaining the City's practice of protecting agricultural lands for agricultural purposes consistent with the Official Community Plan (OCP).
 - Staff noted that the application before the Committee, should be evaluated under Section 4 of City Policy O-51 and that there are seven specific criteria for exclusion consideration as follows:
 1. Soil Capability;
 2. Proposed Use;
 3. Alternative Site for the Proposed Use;
 4. Location of the Site;
 5. Roads and Services;
 6. Interface Buffering; and
 7. Impacts on Adjacent Agricultural Activities.
- Staff noted that with respect to Policy O-51, Section 4; Item 3 - Alternative Site for the Proposed Use; at this stage, they are unable to comment on what is proposed or whether it can be suitably accommodated elsewhere.
- The Applicant's rationale; as summarized in the Planning Report notes that due to the small lot sizes the subject area is not conducive for farming.

- Under Section 21 of the *ALR Act* the lots of record prior to December 21, 1972 are less than 2 acres combined and therefore restrictions on the use of agricultural land do not apply but are still bound by the City zoning regulations.
- In terms of Application No. 7917-0027-00, the land use has been proposed to remain the same but if it is formally removed from the Agriculture Land Reserve (ALR) it could feasibly open up the discussion as to what the City wishes to do in this area.

The Committee provided the following comments:

- The Committee asked if it was common for an application to come forward without a particular project associated with the lands. Staff noted that it happens; however, Planning Staff typically want to know what is going on before it goes forward for Committee review and approval.
- The Committee noted that there is no Development Variance Permit (DVP) and therefore the application is not supported to just grant the exclusion and that without knowing what is proposed, there is no way to know how the neighbouring property would be impacted.
- In response to a question from the Committee, staff clarified that in order for the applicant to do anything on the site other than what is permitted in the zone would have to go through a land use rezoning process.
- The Committee asked for clarification as to whether the property was being purchased for residential use only; staff noted that in its current state it has been primarily residential;
- Staff clarified that the intent of the proposal is to remove the subject site from the ALR with the intent that the lands use would be dealt with in the future.
- The Vice-Chair noted that 152 Street is a defensible boundary and the lots are small with only marginal agricultural activity. The Committee endorsing the request for exclusion could breed expectations; and, without a proposed use it is difficult to gauge what the potential impact on neighbouring properties will be.

It was

Moved by S. VanKeulen

Seconded by P. Harrison

That the Agriculture and Food Security

Advisory Committee recommend to the General Manager of Planning and Development that Application No. 7917-0027-00 not be forwarded to the Agriculture Land Commission (ALC) due to concerns raised by members of the Committee and because there is no proposed use for the site; therefore, the potential impact on neighbouring properties cannot be adequately assessed.

Carried