

City of Surrey  
**PLANNING & DEVELOPMENT REPORT**  
Application No.: 7921-0053-00

Planning Report Date: July 12, 2021

**PROPOSAL:**

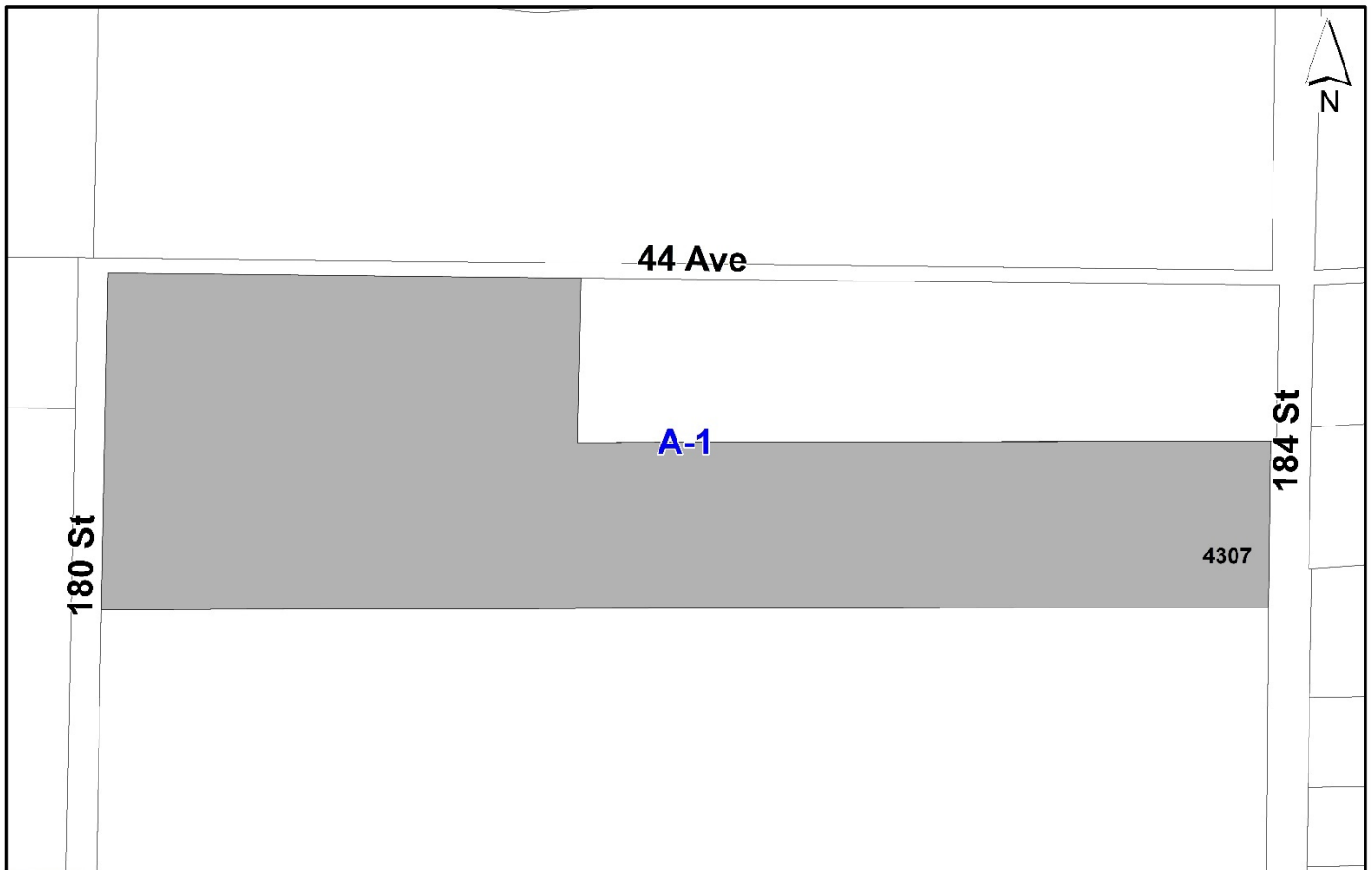
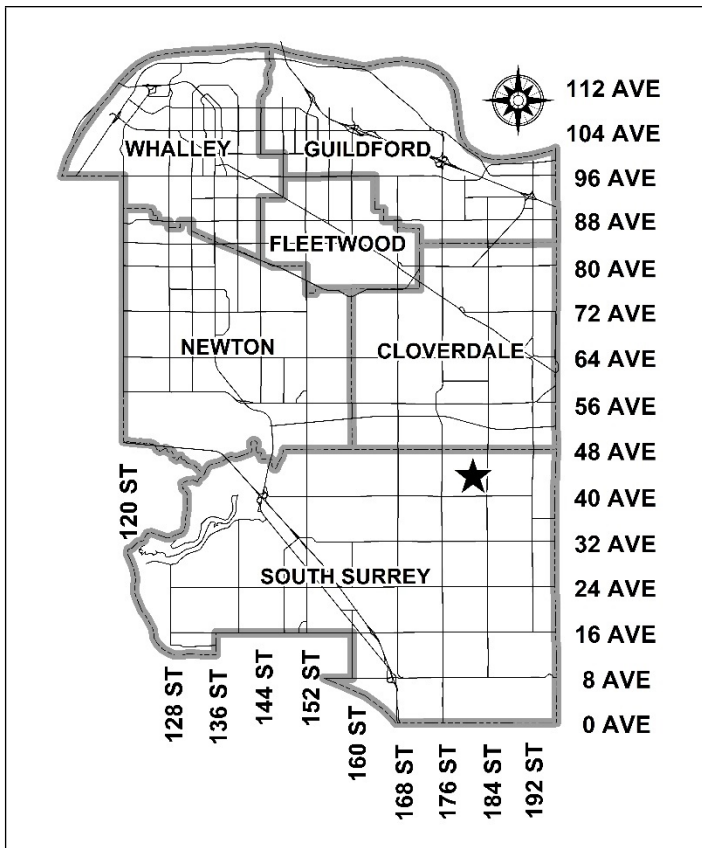
- **Non-adhering residential use** under Section 20.1 of the *ALC Act*.
- **Development Variance Permit**

to vary the farm residential home plate to permit the construction of a new single family dwelling in the ALR and to seek ALC approval to temporarily allow the retention of an existing dwelling during the construction of new single family dwelling.

**LOCATION:** 4307 - 184 Street

**ZONING:** A-1

**OCP DESIGNATION:** Agricultural



## RECOMMENDATION SUMMARY

- Approval for Development Variance Permit to proceed to Public Notification.
- Refer the subject non-adhering residential use application to the Agricultural Land Commission (ALC) with a recommendation of support.

## DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- Proposing to vary the siting requirements for a principal single family dwelling in the A-1 Zone.
- The applicant is proposing to retain the existing single family dwelling on the lot during construction of the new single family dwelling, which requires approval by the Agricultural Land Commission (ALC).

## RATIONALE OF RECOMMENDATION

- The Province adopted legislation on February 22, 2019, which created new restrictions on residential uses in the Agricultural Land Reserve (ALR), among other things.
- One of the new restrictions was that only one dwelling could be located on a property located in the ALR without approval of the Agricultural Land Commission through application.
- The *ALCA* authorizes a property owner to apply for a non-adhering residential use under section 20.1(2)(a).
- The existing dwelling is intended to act as a guard house during the construction of the new single family dwelling to deter construction theft.
- The applicant intends to remediate the area occupied by the current dwelling and use the land for agricultural production once the new dwelling is constructed.
- The applicant proposes a Development Variance Permit (DVP) to increase the maximum setback of the proposed dwelling and the maximum depth of the farm residential footprint.
- The dwelling is proposed to be located in a historically disturbed area, which was previously occupied by a farm building that was demolished in 2009.
- The proposed siting of the new single family dwelling will limit the proposal's disturbance to the farmable portion of the property and result in additional lands being returned to agricultural use.
- The Agriculture, Environment, and Investment Committee is supportive of the proposal.

## RECOMMENDATION

The Planning & Development Department recommends that:

1. Council approve Development Variance Permit No. 7921-0053-00 (Appendix III) varying the following, to proceed to Public Notification:
  - (a) to increase the maximum allowable setback of a single family dwelling from the front lot line in the "General Agriculture Zone (A-1)" from 50 metres to 84 metres; and
  - (b) to increase the maximum depth of the farm residential footprint in the "General Agriculture Zone (A-1)" from the front lot line from 60 metres to 90 metres.
2. Council authorize referral of the application to the Agricultural Land Commission.

## SITE CONTEXT & BACKGROUND

Direction	Existing Use	OCP Designation	Existing Zone
Subject Site	Agriculture	Agriculture	A-1
North, East (Across 184 Street), South, West:	Agriculture	Agriculture	A-1

### Context & Background

- The subject property is located at civic address 4307 – 184 Street and is approximately 12.1 hectares in area.
- The property is designated "Agricultural" in the Official Community Plan (OCP), is zoned "General Agricultural Zone (A-1)" and is located within the Agricultural Land Reserve (ALR).
- Approximately 1.3 hectares of the property fronting 184 Street is located outside of the 200 year floodplain, while the remainder of the site, to the west, is located within the floodplain. The proposed dwelling is located outside of the 200 year floodplain.
- The applicant is a second generation dairy farm operated under Nicomekl Farm Ltd. Their current operation consists of approximately 500 dairy cows. The cattle are milked and raised on separate properties in Surrey, which are owned by the applicant.
- The applicant has owned the subject property at 4307 – 184 Street since 1987. Since taking ownership, the site has been continuously cropped, with the 30 acre parcel producing corn or grass for hay or silage for their cattle.
- 4307 – 184 Street has farm status under the BC Assessment Act.

- The applicant currently resides at their main farm site located approximately 800 metres to the north at 4764 – 184 Street.
- 4307 – 184 Street is currently improved with a single family dwelling which was issued a building permit in 1965. Since the applicant has owned the site, the dwelling has been occupied by tenants, who were mostly employees of Nicomekl Farms Ltd.
- The proposed location of the new single family dwelling was previously occupied by a farm structure which was demolished in 2009.

## DEVELOPMENT PROPOSAL

### Planning Considerations

- The applicant is proposing to construct a new single family dwelling on the property. The dwelling is compliant with the maximum floor area restrictions of the Agricultural Land Commission (ALC) at approximately 350 square metres in area.
- The proposed dwelling does not comply with the siting requirements of the A-1 Zone. The applicant is proposing a development variance permit (DVP) to vary the maximum setback for a single family dwelling and the maximum depth of the farm residential footprint of the "General Agriculture Zone (A-1)".
- The applicant is proposing to have the rear of the single family dwelling setback 84 metres from the front lot line and proposing to have a 90 metres deep farm residential footprint as measured from the front lot line.
- The proposed dwelling will comply with the maximum farm residential footprint requirements of the A-1 Zone.
- The applicant has proposed to temporarily retain the existing single family dwelling during approvals and construction of the new dwelling. The temporary retention of the existing single family dwelling during the construction of a new dwelling requires the approval of a Non-Adhering Residential Use application by the ALC.

### Referrals

Engineering:                      The Engineering Department has no objection to the project.

Agriculture, Environment,  
and Investment Advisory  
Committee (AEIAC):

The application was reviewed by AEIAC at its June 9, 2021, Meeting, where the Committee passed a motion that the General Manager of Planning and Development support the proposal and forward the Non-Adhering Residential Use application to the Agricultural Land Commission.

AEIAC requested that staff clarify procedural requirements for the temporary retention of an existing single family dwelling during the construction of a new dwelling. The procedural requirements are listed below.

Should the ALC approve the subject Non-Adhering Use application, the applicants will be required to:

- Apply for a permit with the Building Division;
- post a \$30,000 bond for removal of the existing dwelling; and
- register a Restrictive Covenant on Title of the Land requiring the existing dwelling be removed from the property 30 days after the new dwelling receives final occupancy.

The standard procedure of the Building Division is to ensure the existing dwelling is removed from the property 30 days after final occupancy of the new dwelling, staff do encourage applicants to have the existing house demolished before occupancy of the new dwelling.

### **Natural Area Considerations**

- COSMOS identifies a Class A/O ditch located along the southern property line, flowing west from the proposed dwelling to the Erickson Creek located to the west of the subject site.
- While the ditch is identified in COSMOS, the ditch is not present in current aerial imagery. However, the ditch is evident in historical aerial images.
- The applicant retained a Qualified Environmental Professional (QEP) to evaluate the site and comment on the presence of protected streams adjacent to the development site. The QEP reported that there are no protected streams located along the southern property line. The QEP's report was accepted by the Ministry of Forests, Lands, Natural Resource Operations, and Rural Development (FLNRORD).

### **POLICY & BY-LAW CONSIDERATIONS**

#### **Regional Growth Strategy**

- The proposal complies with the site's Agricultural Regional Growth Strategy designation.

## Official Community Plan

- The proposal complies with the site's Agricultural Official Community Plan designation.

## Agricultural Land Commission Act and Regulations

- On February 22, 2019, the Agricultural Land Reserve Use Regulation (ALR Use Regulation) was approved by B.C.'s Lieutenant Governor in Council, bringing into force changes to the Agricultural Land Commission Act (ALCA) under Bill 52 -2018, Agricultural Land Commission Amendment Act, 2019.
- One of the key changes of Bill 52 -2018 was providing the ALC with new oversight over residential uses and structures on ALR land, including limiting the maximum floor area of a principal dwelling and generally limiting a property to one dwelling.
- Where a landowner seeks to exceed the maximum floor area allotment or construct more than one residence on a property, they must apply to the ALC for a Non-Adhering Residential Use.
- Section 20.1(2)(a) of the ALCA states that an owner can apply to the commission for permission under Section 25 for a Non-Adhering Residential Use.
- Section 7-A of the ALC Information Bulletin – 05 – Residences in the ALR, states that an application to the ALC is required if an owner wants to reside in the only residence on the property (also known as the "principal residence") while constructing a new residence to replace the principal residence.
- As such, the applicant has submitted a Non-Adhering Residential Use application to the ALC to seek permission to retain the existing principal dwelling during construction of the new single family dwelling.
- As part of the application review process by the ALC, comments from the local government are required. A resolution must be passed by Council to refer the application and provide comments to the ALC before the ALC will consider the application.
- The applicant is not proposing on residing in the existing dwelling during construction of the new single family dwelling. However, the applicant is seeking approval to have the house retained as it is presently occupied by employees of the farm operation and to have the house act as a guard house to dissuade construction theft.
- The applicant plans on remediating the area presently occupied by the existing single family dwelling after they receive occupancy on the new dwelling and demolish the existing dwelling.
- Staff find that the proposed temporary retention of the existing dwelling will not have a negative impact on the site's agricultural utility and recommends that the Non-Adhering Residential Use application be forwarded to the ALC for consideration, with a recommendation of support by Council.

## Zoning By-law

### Farm Residential Footprint Variance

- The applicant is requesting the following variances to the "General Agriculture Zone (A-1)"
  - to increase the maximum allowable setback of a single family dwelling from the front lot line from 50 metres to 84 metres; and
  - to increase the maximum depth of the farm residential footprint from the front lot line from 60 metres to 90 metres.
- The applicant is proposing to locate the new dwelling in an area that was previously disturbed by a farm building. The farm building was removed from the site in 2009.
- The applicant has indicated that the proposed development variance permit will allow the applicant to incorporate the maximum amount of the existing disturbed area into the proposed residential footprint and minimize the disturbance to the farmable land.
- The applicant is proposing to locate the dwelling further away from 184 Street as the street is heavily trafficked with drivers frequently driving faster than the posted speed limit. The applicants perceive that the increased setback will increase privacy, liveability and safety of the proposed residence.
- The proposed variances for increased setbacks represent approximately 4% of the property's depth.
- Staff support the requested variances to proceed for consideration.

## INFORMATION ATTACHED TO THIS REPORT

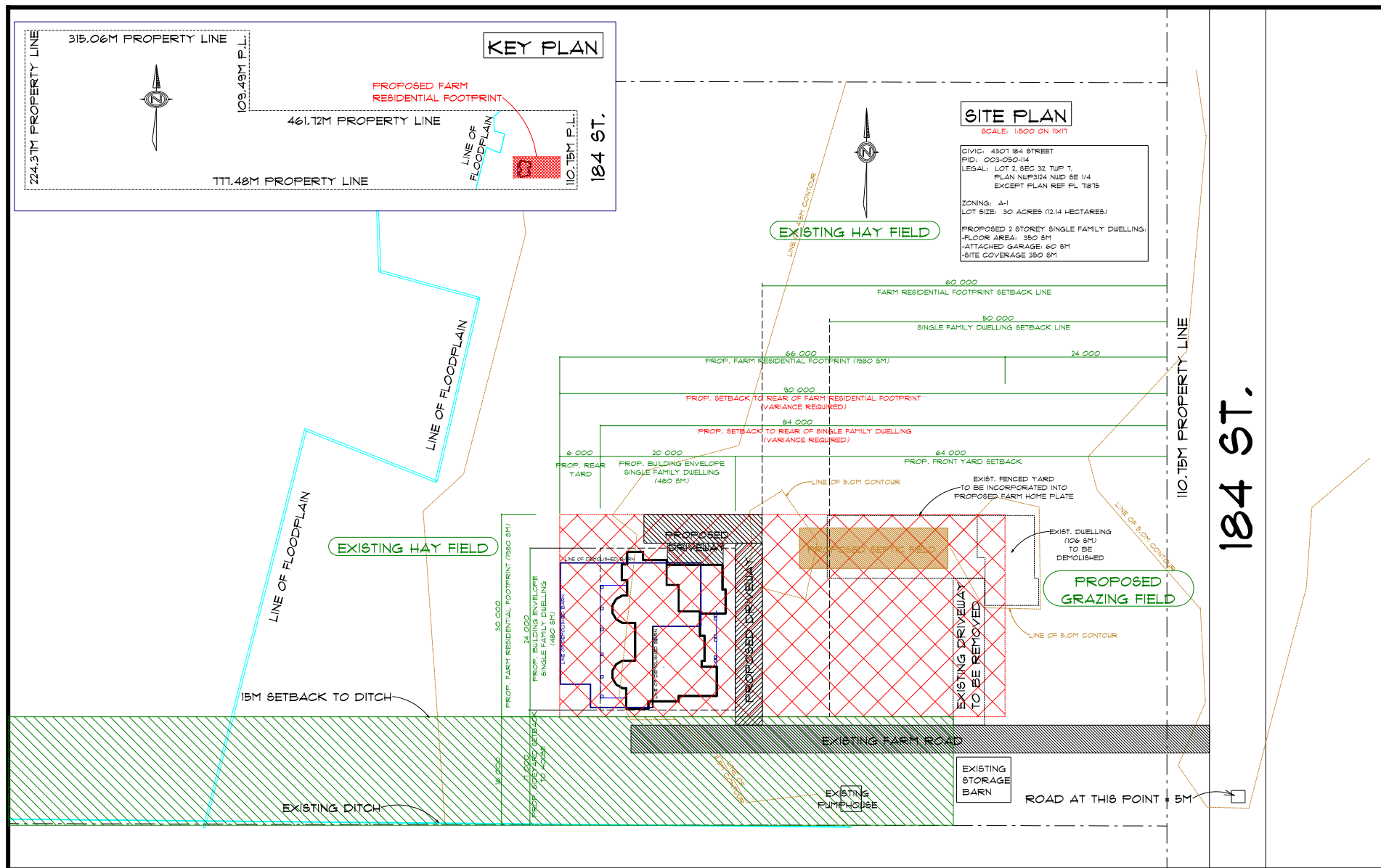
The following information is attached to this Report:

Appendix I.	Site Plan
Appendix II.	Draft Agriculture, Environment, and Investment Advisory Committee Minutes
Appendix III.	Development Variance Permit No. 7921-0053-00

*approved by Shawn Low*

Rémi Dubé  
Acting General Manager  
Planning and Development

BD/cm



**C. NEW BUSINESS**

**2. Development Application 7921-0053-00**

Ben Daly, Associate Planner

Address: 4307 184 Street

The proposal is for a Non-adhering Residential Use application to the ALC to temporarily retain the existing dwelling during construction of a new single family dwelling and proposed Development Variance Permit to increase the maximum setback and maximum depth of the farm residential footprint.

The following comments were made:

- The subject property is designated Agricultural in the Official Community Plan, is zoned General Agricultural Zone (A-1) and is located within the Agricultural Land Reserve.
- The proposed dwelling does not comply with the siting requirements of the A-1 Zone. The applicant is therefore proposing a development variance permit (DVP) to vary the maximum single family setback and farm residential footprint depth of the General Agriculture Zone (A-1).
- In response to a question from a member regarding procedural guidelines for the existing dwelling, staff noted that information will be provided in the Report to Council on the DVP application.

In general, the Committee supported the proposal.

It was

Moved by S. VanKeulen

Seconded by Councillor Nagra

That the Agriculture, Environment, and

Investment Advisory Committee recommend to the General Manager of Planning and Development to support Development Application 7921-0053-00.

Carried

CITY OF SURREY

(the "City")

DEVELOPMENT VARIANCE PERMIT

NO.: 7921-0053-00

Issued To:

(the "Owner")

Address of Owner:

1. This development variance permit is issued subject to compliance by the Owner with all statutes, by-laws, orders, regulations or agreements, except as specifically varied by this development variance permit.
2. This development variance permit applies to that real property including land with or without improvements located within the City of Surrey, with the legal description and civic address as follows:

Parcel Identifier: 003-050-114

Lot 2 Except: Parcel D (Bylaw Plan 71878), Section 32 Township 7 New Westminster  
District Plan 3124

4307 – 184 Street

(the "Land")

3. Surrey Zoning By-law, 1993, No. 12000, as amended is varied as follows:
  - (a) In Section F Yards and Setbacks of Part 10 General Agriculture Zone (A-1), the maximum allowable setback of a single-family dwelling from the front lot line is increased from 50 metres to 84 metres; and
  - (b) In Section J Special Regulations of Part 10 General Agriculture Zone (A-1), the maximum depth of the farm residential footprint from the front line is increased from 60 metres to 90 metres.
4. This development variance permit applies to only the portion of the Land and that portion of the buildings and structures on the Land shown on Schedule A which is attached hereto and forms part of this development variance permit.

5. The Land shall be developed strictly in accordance with the terms and conditions and provisions of this development variance permit.
6. This development variance permit shall lapse if the Owner does not substantially start any construction with respect to which this development variance permit is issued, within two (2) years after the date this development variance permit is issued.
7. The terms of this development variance permit or any amendment to it, are binding on all persons who acquire an interest in the Land.
8. This development variance permit is not a building permit.

AUTHORIZING RESOLUTION PASSED BY THE COUNCIL, THE      DAY OF      , 20   .  
ISSUED THIS      DAY OF      , 20   .

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Mayor – Doug McCallum

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City Clerk – Jennifer Ficocelli

