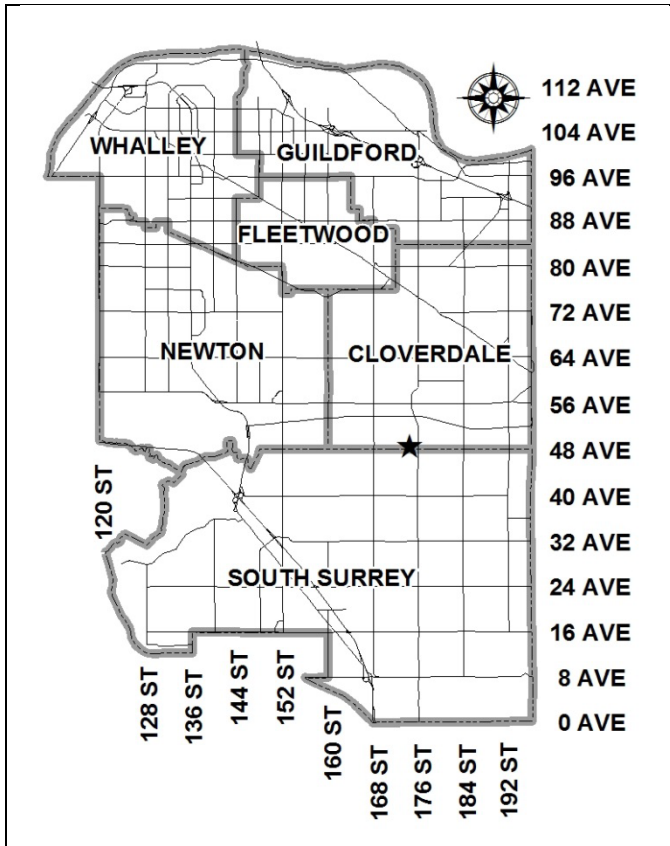


City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7914-0211-00

Planning Report Date: December 1, 2014



PROPOSAL:

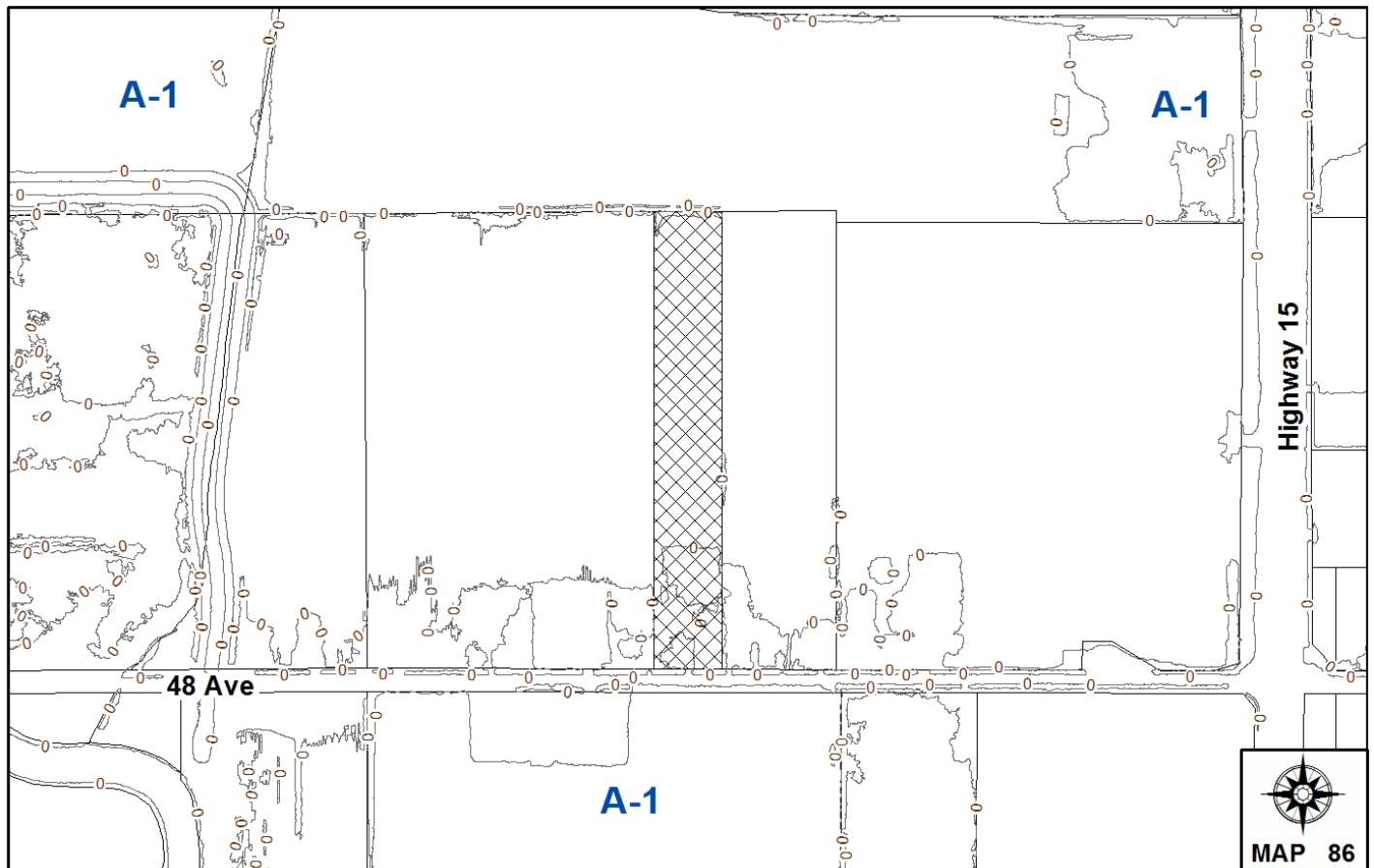
- **Development Variance Permit**
in order to increase the farm residential setback regulations to permit the construction of a replacement single family dwelling on an agricultural lot.

LOCATION: 17325 - 48 Avenue

OWNER: Harjinder S Dhillon

ZONING: A-1

OCP DESIGNATION: Agriculture



RECOMMENDATION SUMMARY

- Denial of Development Variance Permit.

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- Seeking to increase the maximum farm residential setback regulations of the A-1 Zone.

RATIONALE OF RECOMMENDATION

- The proposal was considered by the Agriculture and Food Security Advisory Committee (AFSAC) on October 2, 2014. The AFSAC recommended to the General Manager of Planning and Development that the requested farm residential setback variance not be supported, as the proposal represents no benefit to agriculture.
- Although approximately the rear 4.5-acre portion of the subject 6-acre lot is used for growing blueberries, because this A-1-zoned lot is less than 4 hectares (10 ac.) in size, only one single family dwelling is permitted. The owner is requesting to construct a new house while living in the current house on the lot, which limits the potential siting of the new house.
- The existing home is sited on the south-west corner of the lot, with the septic field behind the house, to the north. The driveway, off 48 Avenue, is located in the middle of the lot and the water well is located to the east of the driveway, behind the alignment of the existing house. Several outbuildings on the property exist to the north of the well and the septic field.
- The owner proposes to remove one outbuilding and a deck structure and proposes to site the new house to the north of the existing water well, increasing the maximum permitted depth of the residential footprint by 5 metres (16 ft.) and increasing the maximum front yard setback of the house by 10 metres (33 ft.).
- The existing single storey house will be required to be demolished upon completion of the construction of the new house; bonding to ensure its demolition will be required as part of the building permit process. The applicant has not indicated his intent for the land currently occupied by the existing house, but using this land for agricultural purposes is unlikely unless the septic system is relocated.
- No variances would be required if the owner demolishes the existing home and builds a new home in the same general location as the existing home.
- To address the applicant's desire to avoid the costs of a new septic field or a new water well and to enable living on the site while a new house is constructed, staff have suggested siting the new house on the south-east portion of the site and if necessary, reducing the front yard setback to less than the required 7.5 metres (25 ft.).
- Three other possible house locations have been suggested by staff but they are not acceptable to the applicant for various reasons.

RECOMMENDATION

The Planning & Development Department recommends that Council deny Development Variance Permit No. 7914-0211-00.

If, however, Council finds merit in this application, Council could approve Development Variance Permit No. 7914-0211-00 (Appendix V) varying the following, to proceed to Public Notification:

- (a) to increase the maximum front yard setback of a single family dwelling in the A-1 Zone, from 50 metres (164 ft.) to 60 metres (197 ft.); and
- (b) to increase the maximum depth of the farm residential footprint of the A-1 Zone from 60 metres (197 ft.) to 65 metres (213 ft.).

REFERRALS

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

Agriculture and Food Security Advisory Committee (AFSAC): At their October 2, 2014 meeting, AFSAC recommended that Application No. 7914-0211-00 not be supported as proposed, as any new single family dwelling could be accommodated on the site without imposing any undue or unreasonable burden, in accordance with the A-1 Zone; and that the variance would provide no net benefit to agriculture.

SITE CHARACTERISTICS

Existing Land Use: 6-acre lot currently in blueberry production with a single family dwelling and accessory farm buildings.

Adjacent Area:

Direction	Existing Use	OCP Designation	Existing Zone
North:	Agricultural parcel (40 ac.) with single family dwelling and accessory farm buildings with Mound Farm Park to the north-west.	Agricultural	A-1
East:	Agricultural parcel (10 ac.) with single family dwelling and accessory farm buildings.	Agricultural	A-1
South (Across 48 Avenue):	Agricultural parcel (54 ac.) with single family dwelling and duplex.	Agricultural	A-1
West:	Agricultural parcel (25 ac.) with single family dwelling and accessory farm buildings.	Agricultural	A-1

DEVELOPMENT CONSIDERATIONS

Background

- The 2.4-hectare (6-acre) subject lot is located in the Agricultural Land Reserve (ALR) and within the 200-year floodplain.
- The subject site is currently a blueberry farm with a single storey house located at the southwest portion of the lot.
- Although approximately the rear 4.5-acre portion of the subject 6-acre lot is used for growing blueberries, because this A-1-zoned lot is less than 4 hectares (10 ac.) in size, only one single family dwelling is permitted. The owner is requesting to construct a new house while living in the current house on the lot, which limits the potential siting of the new house.
- The existing home is sited on the south-west corner of the lot, with the septic field behind the house, to the north. The driveway, off 48 Avenue, is located in the middle of the lot and the water well is located to the east of the driveway, behind the alignment of the existing house. Several outbuildings on the property exist to the north of the well and the septic field.
- On September 17, 2013, the owner applied to the Board of Variance to relax the setback requirements of the A-1 Zone in order to locate a proposed new house further from the street than the zone allows.
- The Board of Variance did not consider the requested variance as it is not consistent with the process described in Corporate Report No. R207; 2012. Any Development Variance Permit application proposing variances to farm residential setbacks or farm residential footprints should be referred to the Agriculture and Food Security Advisory Committee (AFSAC) for comment.
- On September 26, 2013 staff left a voicemail for the owner that they should apply for a Development Variance Permit through the Planning and Development Department instead.
- The application to the Board of Variance was cancelled on September 26, 2013. The Board of Variance application fee was refunded in July 2014.
- On July 15, 2014 the owner submitted the subject Development Variance Permit application for the requested farm residential setback variances.

Current Proposal

- The owner would like to build a replacement house while living in the current house, however, due to the location of a water well and the expense to relocate that water well, the owners would like to locate the house behind the well (Appendix I). Furthermore, the proposed location of the new house is in an area with more compacted soils which would reduce the pre-loading requirements for the site.

- The owner proposes to remove one outbuilding and a deck structure and proposes to site the new house to the north of the existing water well, increasing the maximum permitted depth of the residential footprint by 5 metres (16 ft.) and increasing the maximum front yard setback of the house by 10 metres (33 ft.).
- The applicant is not proposing to vary the maximum area of the farm residential footprint of 2,000 square metres (0.5 acre) in the A-1 Zone.
- The existing single storey house will be required to be demolished upon completion of the construction of the new house; bonding to ensure its demolition will be required as part of the building permit process. The applicant has not indicated his intent for the land currently occupied by the existing house, but using this land for agricultural purposes is unlikely unless the septic system is relocated.
- On October 2, 2014, the application was referred to the Agriculture and Food Security Advisory Committee (AFSAC).
- Following a discussion of the application, the AFSAC made the following recommendation:

"That the Agriculture and Food Security Advisory Committee recommend to the G.M. of Planning and Development that Application No. 7914-0211-00 not be supported as proposed, as any new single family dwelling could be accommodated on the site without imposing any undue or unreasonable burden, in accordance with the A-1 Zone; and that the variance would provide no net benefit to agriculture."

Alternative Siting Options Suggested by Staff

- Staff have suggested four (4) alternative locations for a new house that would not require any relaxations to the maximum farm residential footprint.
- Initially, staff suggested siting the new home behind the existing home, however there would be additional costs associated with relocating the existing septic field.
- As City water exists on 48 Avenue for domestic purposes, the well water is for agricultural purposes. Staff suggested a new well be sited further north, the existing well be discontinued and the new home to be sited in accordance with the A-1 Zone.
- To minimize costs associated with relocating the water well, staff also suggested the new home be located on the east side of the driveway, fronting 48 Avenue, where no buildings currently exist. If necessary, a reduction in the front yard setback could be supported. The subject site fronts 48 Avenue which, at this location, is a dead-end road that terminates 550 metres to the west, at the Nicomkel River.
- Another suggested alternative is for the existing home to be removed and the new home built in the same location. This would not impact the septic field or the water well.
- None of the alternatives suggested, however, is acceptable to the applicant and is therefore pursuing the variances to the farm residential setback regulations.

BY-LAW VARIANCES AND JUSTIFICATION

(a) Requested Variances:

- To vary the following setback regulations in the A-1 Zone:
 - To increase the maximum front yard setback of a single family dwelling from 50 metres (165 ft.) to 60 metres (197 ft.); and
 - To increase the maximum depth for the farm residential footprint from 60 metres (197 ft.) to 65 metres (213 ft.).

Applicant's Reasons:

- A well is located on the east side of the property and the house cannot be built on top of the well. With the increase of 10 metres (33 ft.) to the depth of the farm residential footprint, the new house can be built behind the well.
- The existing septic field is currently in use and located on the west side of the property. A new house cannot be built behind the existing house without first moving the septic tank and lines.
- The cost to move the well or the septic tank is too high; the applicant estimating the cost to be in excess of \$ 175,000.
- The applicant would like to live in the current house on the lot while the new house is under construction.
- The applicant has stated that the increased setback being requested will not negatively impact the existing portion of the lot being farmed for blueberries (approximately 4.5 acres).
- The land on the east side of the house reportedly floods every time it rains when the tide is high. The applicant has stated there are times when the fronting City ditch overflows and over 8 inches (20 cm) of water sits on the grass at the front of the subject site.
- The new house is proposed in a location where the soils are already compacted from the use of farm vehicles in this area. The applicant has stated that the compacted soils make it easier for a house to be constructed.

Staff Comments:

- In order to site a new house at the southeast corner of the property, as suggested by staff, the applicant can apply for a fill permit to pre-load the site and raise the grades in order to build the house above the 200-year flood level.
- In addition to the typical building permit submission requirements, the applicant would be required to submit a lot grading plan to ensure drainage from the subject lot

does not negatively affect adjacent lots, and a geotechnical report to confirm the land is compacted enough for the house foundation.

- At the October 2, 2014 AFSAC meeting, the committee expressed concern about relaxing the requirements as there is no benefit to agriculture. If approved, the eventual residential footprint would likely increase. Furthermore, the Committee was concerned that once the older house is demolished, that area will not be returned to agriculture.
- The AFSAC recommended that Application No. 7914-0211-00 not be supported as proposed.
- Staff agree with the recommendations of the AFSAC that the proposal does not represent a benefit to agriculture and alternative house siting locations are possible that would comply with the A-1 Zone, such as in front of the well on the south-east portion of the lot, or in the location of the existing house on the south-west portion.
- The Ministry of Agriculture's (MOA) 2011 Discussion Paper entitled "Regulating the Siting and Size of Residential Uses in the ALR" provides reasons for requesting a variance that may have merit and reasons which may be proposed but that have no merit from an agricultural perspective (Appendix III).
 - Reasons for variance which may have merit (*with staff comments in italics*):
 - Cluster farm residential use(s) with farm buildings
(*The farm buildings for the subject site are set back 50 metres (165 ft.) from the front property line, and in close proximity to the farm residential footprint as specified in the A-1 Zone.*)
 - Septic disposal system
(*The septic tank and disposal field are not part of the footprint. The existing septic tank and disposal field are located to the west of the proposed farm residential footprint, however the applicant has reportedly not yet retained a qualified professional to determine the adequacy of the septic disposal system for a new house.*)
 - Floodplain or other hazardous area
(*The entire site is located within the floodplain therefore there is no opportunity to site the house outside of the floodplain area.*)
 - Variance requests with no merit from an agriculture perspective (*with staff comments in italics*):
 - Agricultural capability of soils
(*The owner comments that the proposed location of the house is in an area where the soil is more compacted and therefore it is easier to construct a house at this location. According to the MOA guidelines, soil capability is not sufficient justification for siting the house further back from the front of the property.*)

- Avoid cutting trees
(There are some mature trees near the front of the subject site, but it appears that a house can be sited in such a way to avoid negatively impacting the trees.)
- Avoid impacts on existing neighbouring farms
(Houses placed in the middle or back of agricultural properties require lengthy driveways, consuming even more agricultural land, and make the cropping and the utilization of machinery more difficult and inefficient. The new house is proposed to be adjacent to a neighbouring barn, which could increase the likelihood of farm practice complaints against the neighbouring farm.)
- The applicant's rationale for the increased setback is not consistent with the guidelines provided by the Ministry of Agriculture.
- Staff recommend the applicant reconsider any of the four alternative locations suggested by staff for a new house and not pursue the requested variances.

CONCLUSION

- To retain the existing house during the construction of a new house, the owners are requesting a variance to the setback provisions in the A-1 Zone to increase the maximum house setback from 50 metres (165 ft.) to 60 metres (197 ft.), and to increase the maximum depth for the farm residential footprint from 60 metres (197 ft.) to 65 metres (213 ft.).
- The applicant is not proposing to vary the maximum area of the farm residential footprint of 2,000 sq.m. (0.5 acre).
- The proposed variances to increase the maximum farm residential setback regulations (as per Appendix V), to accommodate a new house, were considered by the AFSAC and not supported.
- Staff have suggested four (4) alternative locations for a new house that would not require any variances to the maximum farm residential setback.
- The Planning & Development Department recommends that Council deny the requested variances to the maximum farm residential setback.
- If, however, Council finds merit in this application, Council could approve Development Variance Permit No. 7914-0211-00, varying the maximum farm residential setback regulations (attached as Appendix V), to proceed to public notification.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

- Appendix I. Lot Owners and Action Summary
- Appendix II. Aerial Photo of Site and Proposed Site Layout
- Appendix III. Excerpt of Draft Minutes of October 2, 2014 Agriculture and Food Security Advisory Committee Meeting
- Appendix IV. Excerpt from the Ministry of Agriculture's 2011 Discussion Paper "Regulating the Siting and Size of Residential Uses in the ALR"
- Appendix V. Development Variance Permit No. 7914-0211-00 (if required)

original signed by Judith Robertson

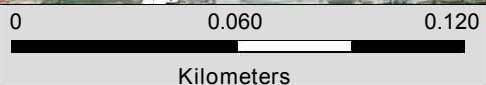
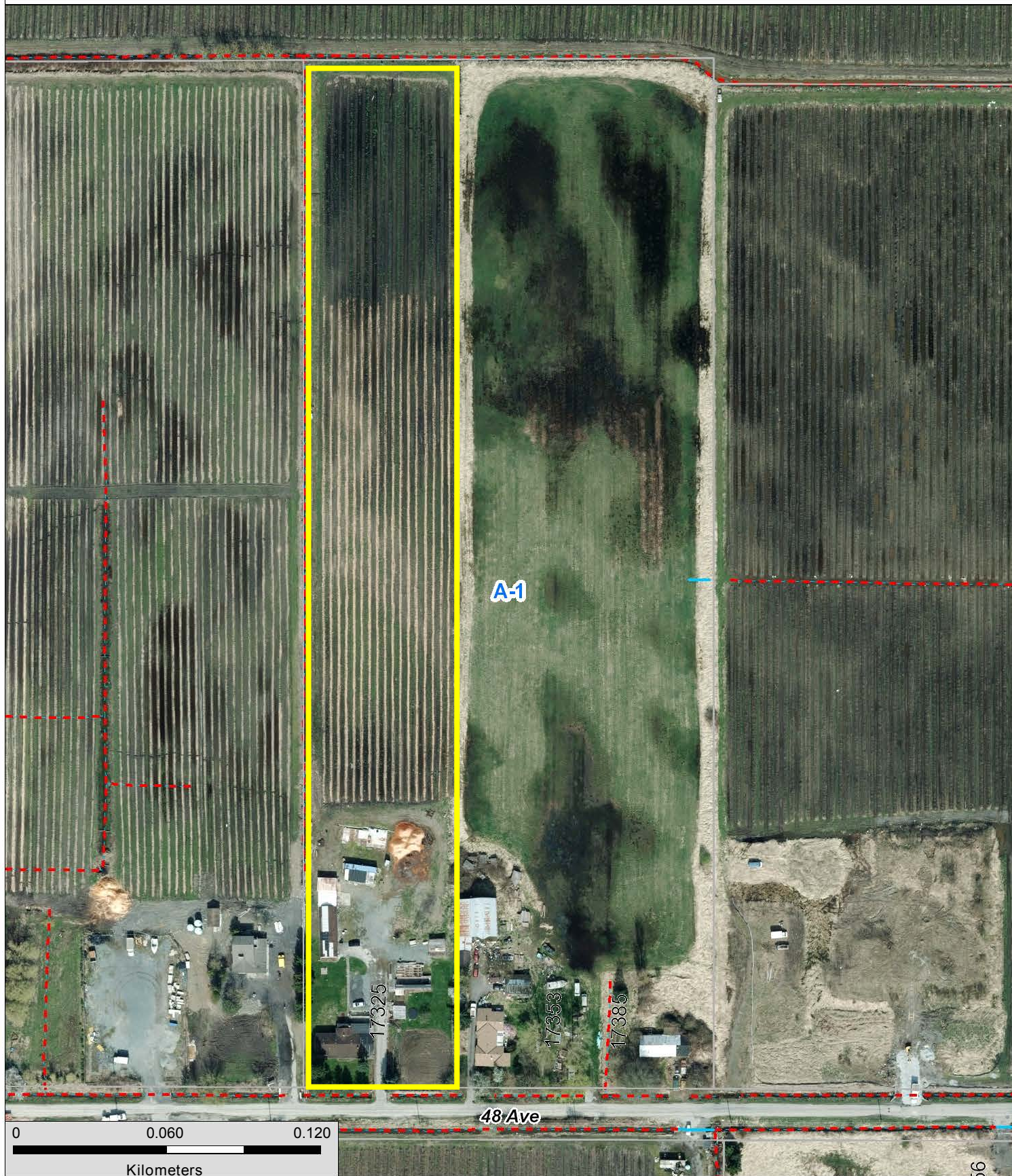
Jean Lamontagne
General Manager
Planning and Development

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Aerial Photo of Site



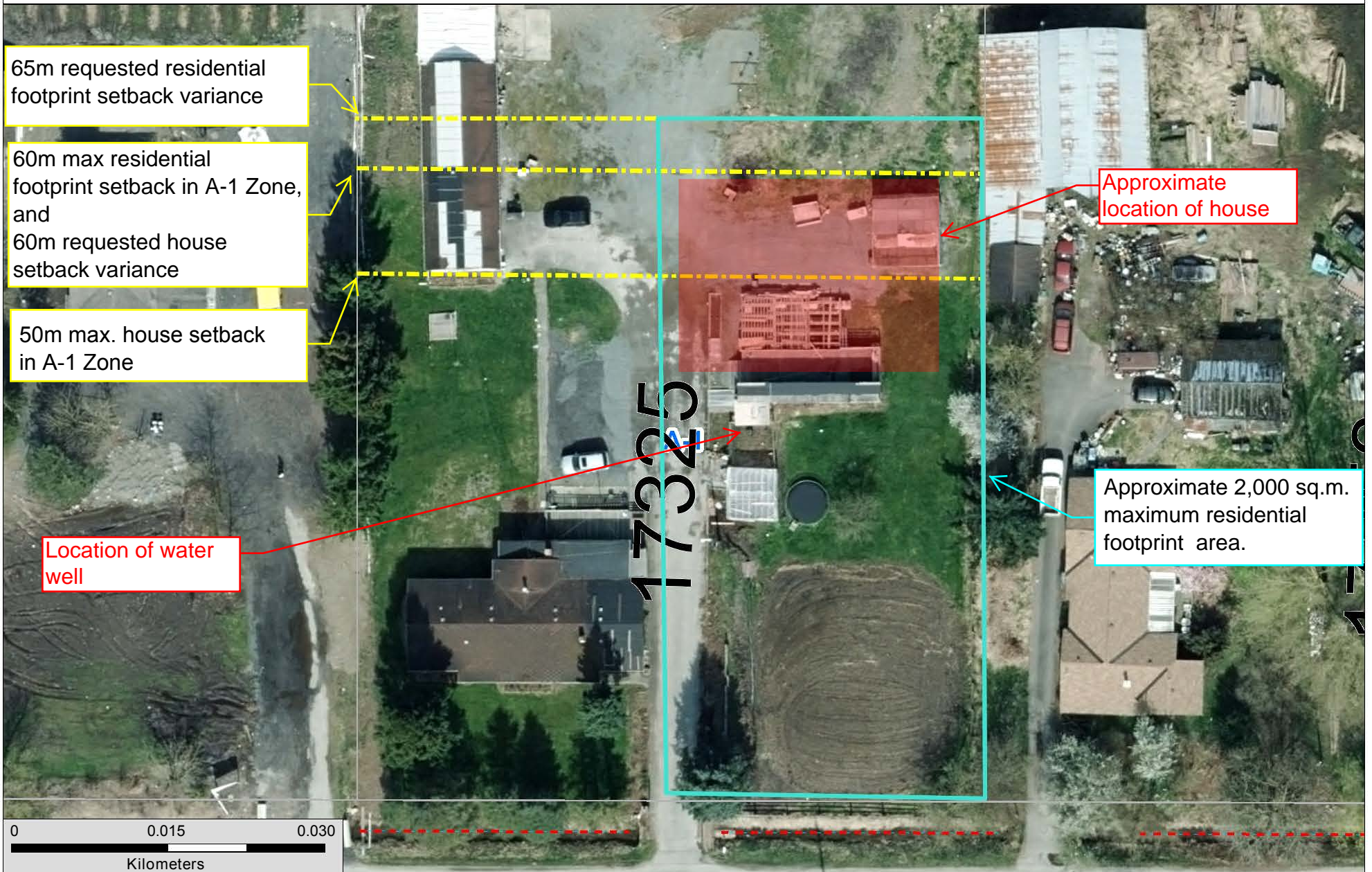
48 Ave

06

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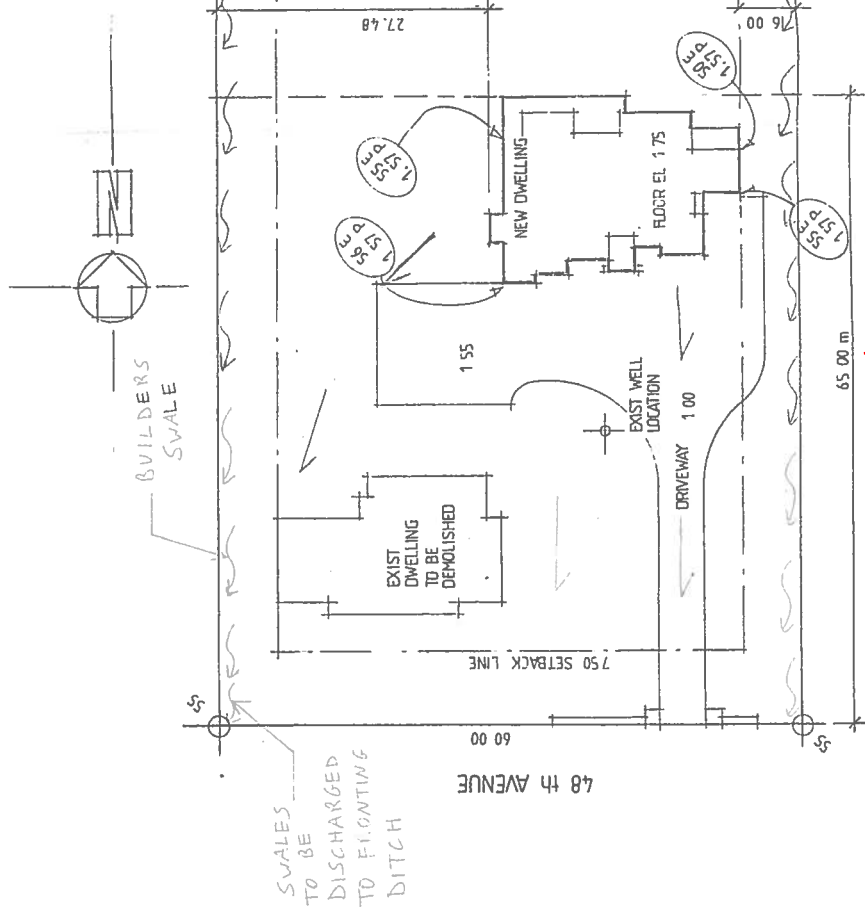
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Proposed site plan prepared by applicant

NO P.DRAIN
REQ'D

RWL TO
SPASH PADS



SITE PLAN 1 : 500 m

Requested maximum setback variance amended from to 60m

2. Proposed Development Variance Permit (DVP)**17325 48 Avenue**

File No.: 7914-0211-00; 6880-75

S. Long, Planner, was in attendance to review the memo from R. Gill, Acting Current Planning Manager - North Division, dated September 22, 2014, regarding the above subject line. The following was noted:

- The Applicant is requesting a DVP to increase the maximum setback for a single family dwelling in the General Agricultural (A-1) Zone from 50 metres to 60 metres, and increase the maximum depth for the farm residential footprint in the General Agricultural (A-1) Zone from 60 metres to 65 metres.
- The site is located in the ALR and within the 200 year floodplain, and is currently a blueberry farm with a single family house located at the southwest portion of the site.
- The Applicant would like to build a house on the southeast portion of the lot. However, due to the location of a water well (used for irrigation and not residential) and the expense to relocate that well (approximately \$175,000), the Applicant would like to locate the house *behind* the well. As the house cannot be built on top of the well, with the addition of a 10 metre setback, the new house can be built behind the well. The current driveway will be kept intact. The Applicant is not proposing to vary the farm residential footprint.
- The Applicant would live in the current house while the new house is under construction.
- The increased setback will not negatively impact the existing area being farmed.

The Committee commented as follows:

- There is concern that if the relaxed setbacks are allowed, there is no guarantee that the old house will be demolished. The City would collect a bond and or letter of credit to guarantee that the house will be removed after the new house is built.
- It is evident that due to the an existing septic field that is currently in use and located on the west side of the property, an new house cannot be built behind the existing house without first moving the septic tank and lines. There are clear locational difficulties with moving the house into any other configuration.
- There is no benefit to agriculture in anyway by relaxing the requirements. It is suggested that it will instead, increase the eventual residential footprint to that area.
- As the site is within the 200 year floodplain, they would have to put in appropriate floodplain measures and increased fill

It was

Moved by M. Bose

Seconded by B. Sandhu

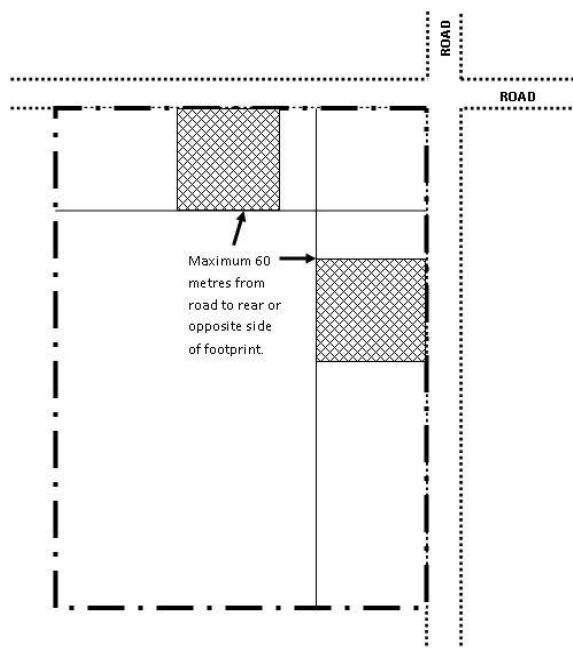
That the Agriculture and Food Security Advisory Committee recommend to the G.M. of Planning and Development that Application No. 7914-0211-00 not be supported as proposed, as any new single family dwelling could be accommodated on the site without imposing any undue or unreasonable burden, in accordance with the A-1 Zone; and that the variance would provide no net benefit to agriculture.

Carried

DRAFT

Appendix A – Setback Variances for Farm Residential Footprint Siting

Some properties may have anomalies which prevent the farm residential footprint from being located according to the standard location criteria above. This section describes accepted variances for local governments to utilize when necessary. It mentions several reasons for requesting a variance which may have merit, depending on the circumstances. It also mentions reasons which may be proposed but which have no merit from an agricultural perspective.



A. Reasons for variance which may have merit

1. Cluster farm residential use(s) with farm buildings

A farmer may want to have his house close to the farm buildings for the efficiency or security of operations – e.g., to tend dairy cows or to watch over valuable equipment. Such a request for a setback variance must be accompanied by a farm management plan that describes the farm personnel's functions in the operation. The farm residential footprint should be no larger than if located close to the road.

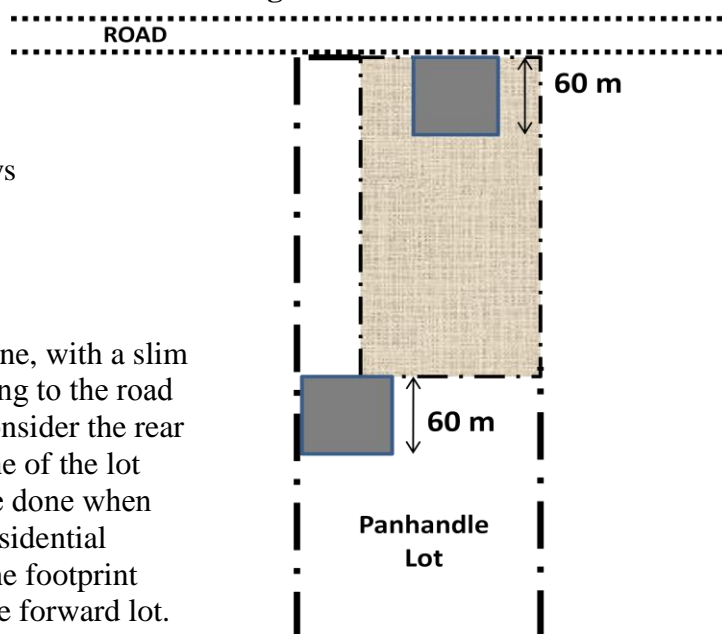
2. Septic disposal system

The septic tank and disposal field are not part of the footprint. If the ground conditions dictate that they cannot be situated behind or beside the footprint, the location of the footprint can be adjusted somewhat, but always with the goal of using a minimum farm land area.

3. 'Panhandle' lots

Occasionally, a lot is created behind another one, with a slim portion of the rear lot (the 'panhandle') reaching to the road to provide access. It is common practice to consider the rear lot line of the forward lot to be the front lot line of the lot behind (the 'panhandle lot'). The same can be done when measuring the maximum setback for a farm residential footprint - the maximum 60 metres depth of the footprint would be measured from the rear lot line of the forward lot.

Figure 10. A Panhandle Lot

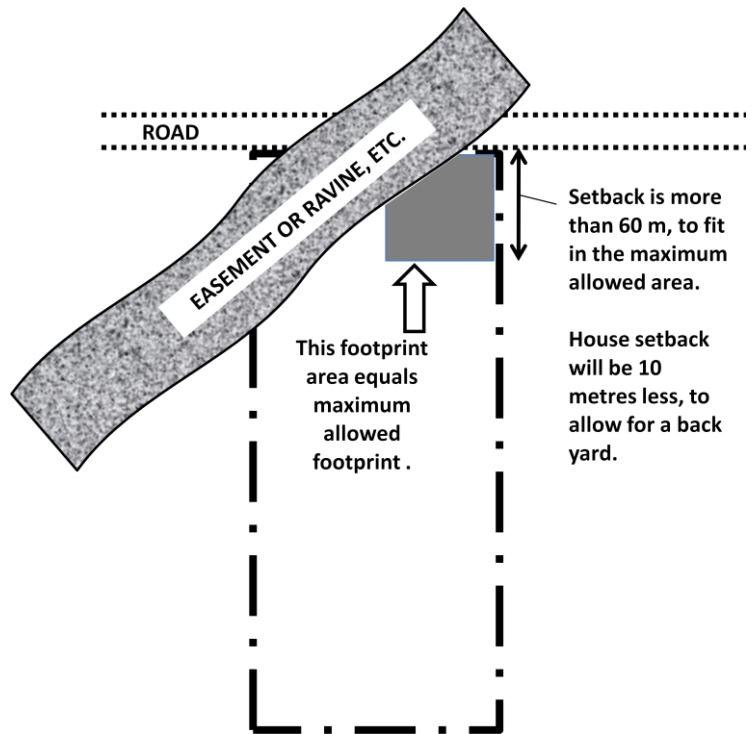


4. Easements, steep slopes, or watercourses

If there is an easement for utilities (hydro lines, gas, cable, telephone, etc.), a steep slope, or a watercourse with riparian setbacks that cuts off part of the front of a lot, the *farm residential footprint* could take an irregular shape. That shape, or polygon, would fit into the space outside of the easement or other feature. The area of that polygon could be equal to the maximum area of the footprint, and because part of it may be narrow, the depth could be longer than the standard 60 metres.

To allow for a back yard for the house, the maximum setback of the rear of the house would be 10 metres less than the depth of the footprint – e.g., if the varied footprint depth is 85 metres, the distance to the back of the house should be no more than 75 metres. The house should still be located as close to the road frontage as practical.

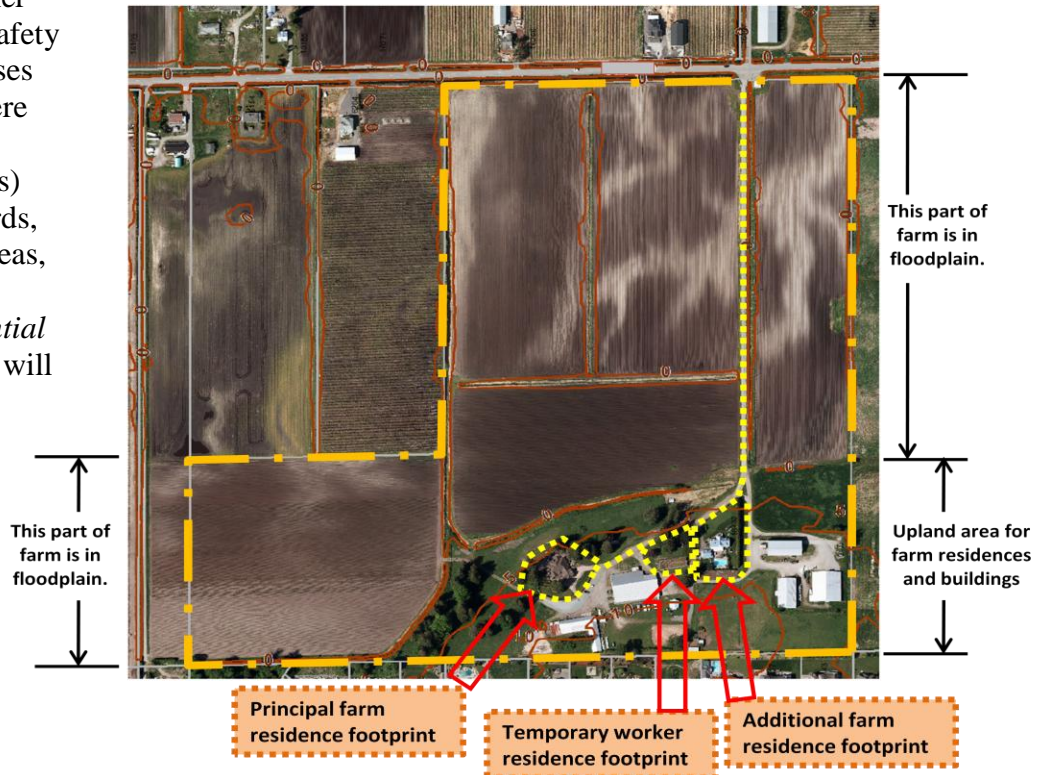
Figure 11. A Lot with an Easement, Ravine, etc.



5. Floodplain or other hazardous area

There may be cases where the front portion of the property is in the floodplain or other hazardous area and, for safety reasons; the residential uses should be placed elsewhere on the lot. A report by appropriate professional(s) should describe the hazards, the recommended safe areas, and how the coverage of farmland by *farm residential footprints* and driveways will be kept to a minimum.

Figure 12. A Farm with Land within a Floodplain



6. Parcels with private roads

Where there is a private road giving access to a property, e.g., a shared road for bare land strata lots, it should be considered the same as a public road. The setback measurements to the rear of the footprint and the house should be taken from the private road's edge. If access is via an easement across neighbouring property, the setback measurements should be taken from the point where the easement intersects with the subject lot.

7. Parcels affected by oil and gas industry

Placement of an oil or gas rig on a farm can create the need for separation between the rig's operational area and the houses for safety, noise, and/or fumes. In such cases, the siting of a farm residential footprint should be adjusted, with the goal of minimizing the area for the footprint and the driveway(s) to it, and maximizing the area available for farming.

B. Variance requests with no merit from an agriculture perspective

1. Agricultural capability of soils

Section 7.1 of the discussion paper considers the siting of residential uses. The conclusion is that siting close to roadways at the front of a lot is considered more important than siting residential uses farther back on properties where there are poorer soils.

It is difficult to foresee a circumstance where the soil quality of the residential footprint was so significant that it justified the negative impact on farming potential of the neighbouring lots of moving the residential footprint farther back into the lot.

2. Avoid cutting trees

If there is a stand of trees which has some significance, it is not necessary to amend the *farm residential footprint* setback depth. The footprint does not need to be a rectangle or square and could take a flexible shape around the key trees. The design of the house and its grounds could incorporate key vegetation. If legislation or regulation protects vegetation, a variance approach similar to item A.4, "Easements, steep slopes, and watercourses", above could apply.

3. Views and aesthetics; rock outcroppings

Some farm properties may have a portion of land in the ALR and a portion which is outside of the ALR. The farmer may wish to relocate the *farm residential footprint* up on a viewpoint, or on a rock outcrop, or for other aesthetic reasons. For such purposes, the footprint should only be allowed to relocate away from the front of the lot onto the parts of a lot outside of the ALR, to avoid impacting farming opportunities on neighbouring lots.

4. Avoid impacts on existing neighbouring farms

Most effects on neighbouring farms are likely to occur if the residential uses are NOT at the front of the lot, by the road. Because neighbouring farming operations can change from farmer to farmer, year to year, it is best not to situate a *farm residential footprint* based on current activities on nearby lots.

CITY OF SURREY

(the "City")

DEVELOPMENT VARIANCE PERMIT

NO.: 7914-0211-00

Issued To: Harjinder S Dhillon

("the Owner")

Address of Owner: 17325 48 Avenue
Surrey BC
V3S 0L5

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: 002-612-445
Parcel "C" (Explanatory Plan 5144) District Lot 364 Group 2 New Westminster District

17325 48 Ave

(the "Land")
3. Surrey Zoning By-law, 1993, No. 12000, as amended is varied as follows:
 - (a) Sub-section F.1.(b) in Part 10 General Agriculture Zone (A-1), is varied by increasing the maximum front yard setback of a single family dwelling, from 50 metres (164 ft.) to 60 metres (197 ft.); and
 - (b) Section J.2. in Part 10 General Agriculture Zone (A-1), is varied by increasing the maximum depth of the farm residential footprint from 60 metres (197 ft.) to 65 metres (213 ft.).
4. The siting of buildings and structures shall be in accordance with the drawings numbered 7914-0211-00 (A) through to and including 7914-0211-00 (B) (the "Drawings") which are attached hereto and form 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 .

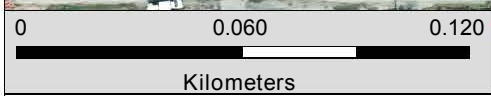
Mayor

City Clerk



A-1

Request to vary the A-1 zone:
 - from 50m to 60m for the max. residential setback
 - from 60m to 65m for the max. residential footprint setback
 in order to site the house approximately in this location

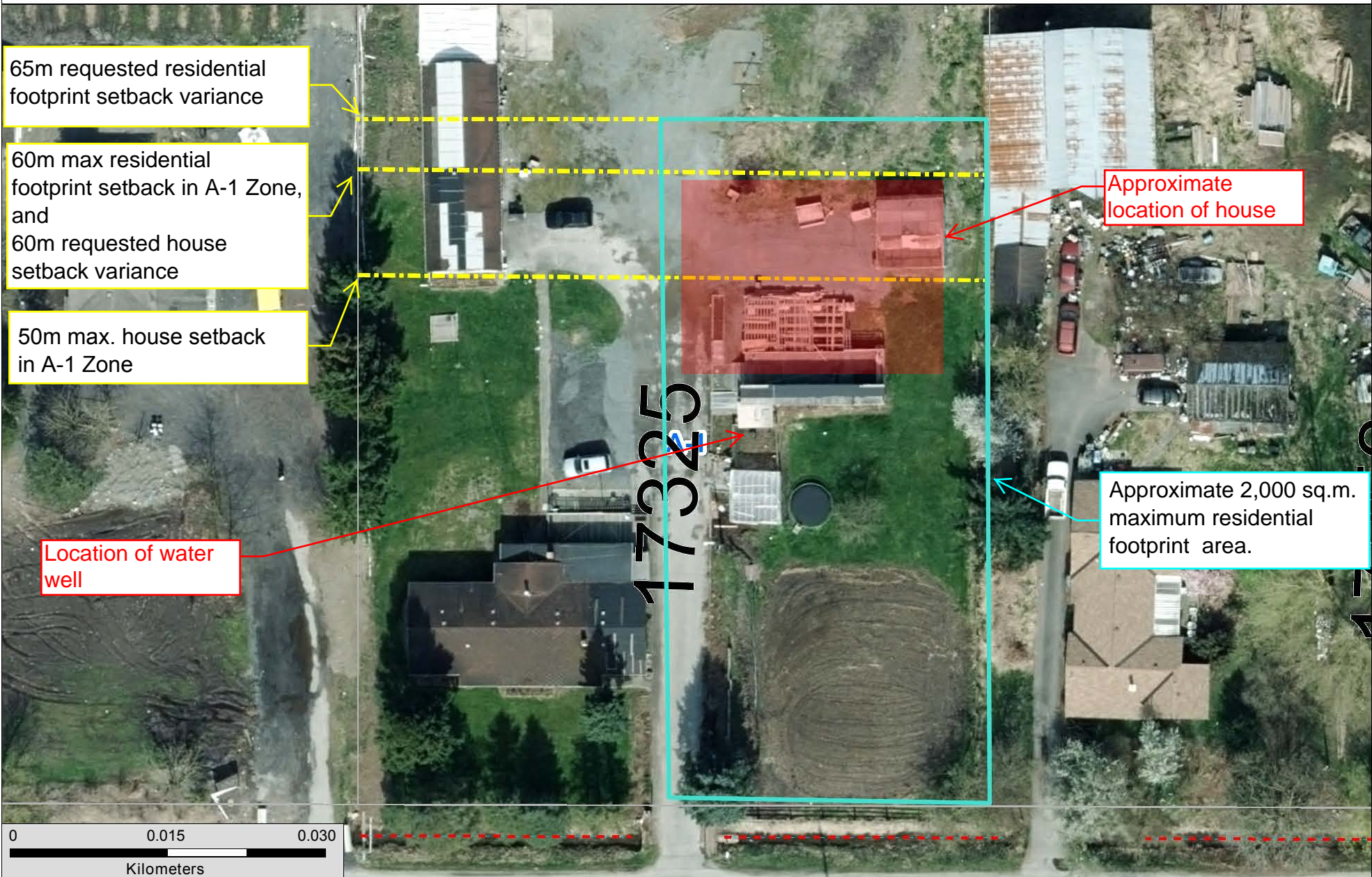


48 Ave

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65m requested residential footprint setback variance

60m max residential footprint setback in A-1 Zone, and 60m requested house setback variance

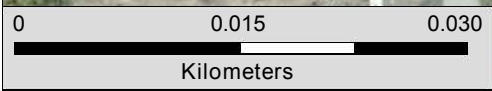
50m max. house setback in A-1 Zone

Location of water well

17325

Approximate location of house

Approximate 2,000 sq.m. maximum residential footprint area.



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Map created on: September-22-14