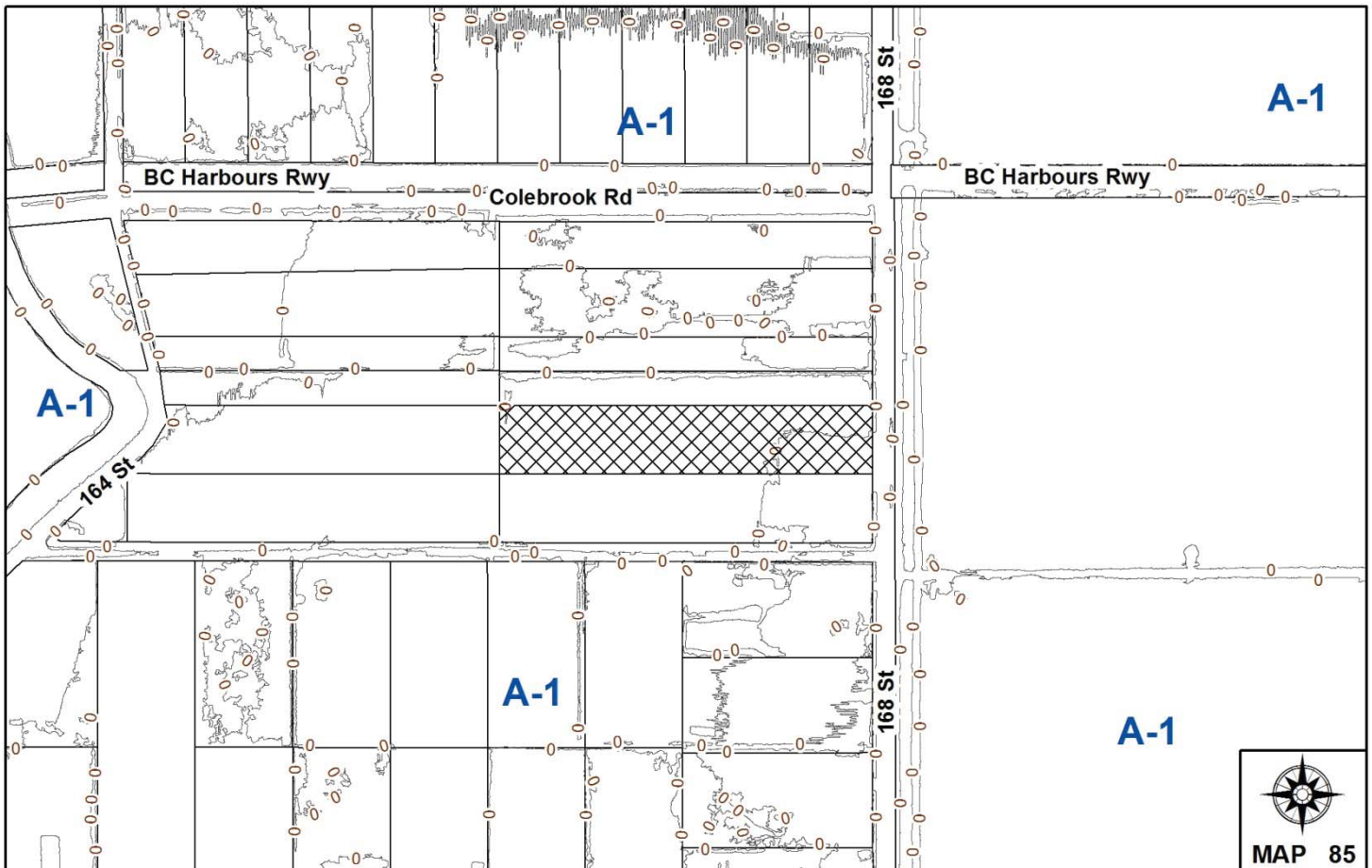


**PROPOSAL:**

- **Development Variance Permit**

to vary the minimum south side yard setback requirement of the A-1 Zone in order to retain an existing accessory structure (loading platform) constructed without a permit.

**LOCATION:** 5253 - 168 Street  
**OWNER:** Buta Singh Uppal  
**ZONING:** A-1  
**OCP DESIGNATION:** Agricultural



### RECOMMENDATION SUMMARY

- The Planning & Development Department recommends that this application be denied.

### DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- The applicant is seeking to vary the minimum south side yard setback of the A-1 Zone, from 15 metres (50 ft.) to 1.8 metres (6 ft.), to permit the retention of an existing accessory structure (loading platform) constructed without permits.

### RATIONALE OF RECOMMENDATION

- The applicant has demonstrated an unwillingness to comply with City permit processes on numerous occasions, leading to the issuance of four (4) stop work orders on of the subject property.
- The applicant has not been forthcoming with the intended farm use on the property nor a rationale for the ultimate use, scale, and siting of the farm buildings and structures on the subject property.
- Depending on the applicant's actual intended use of the land, buildings and structures, additional approvals from both the City and the Provincial Agricultural Land Commission (ALC) may be required. Approval of the subject Development Variance Permit (DVP) to permit a structure scaled to a future use that may not be permitted on the subject property would therefore be premature.
- The project was reviewed at the May 4, 2017 meeting of the Agriculture and Food Security Advisory Committee (AFSAC) wherein the Committee recommended to the General Manager of Planning and Development that the application be denied. The Committee concurred with City staff that the proposed farm business plan was unclear and that the ultimate use of the subject property was still uncertain at this time. The Committee noted if the intended farm operation is the production of vegetables, that the extent of the existing and proposed farm buildings and structures on the subject property are incongruous with the farm operation. The Committee also noted that if the ultimate intention of the farm accessory buildings was to be for the processing of poultry products the proposed building setback relaxation from 15 metres (50 ft.) to 1.8 metres (6 ft.) may negatively affect adjacent properties with regards to noise, odours and waste water contamination.

**RECOMMENDATION**

The Planning & Development Department recommends that this application be denied.

If, however, Council sees merit in the application, Council may approve Development Variance Permit No. 7917-0090-00 to reduce the minimum side yard setback in the A-1 Zone for an accessory structure (loading platform) from 15 metres (50 ft.) to 1.8 metres (6 ft.), to proceed to Public Notification (Appendix VI).

**REFERRALS**

Engineering: The Engineering Department has no objection.

Agriculture and Food Security Advisory Committee (AFSAC): The project was reviewed at the May 4, 2017 AFSAC meeting wherein the Committee recommended to the General Manager of Planning and Development that the application be denied (Appendix III).

**SITE CHARACTERISTICS**

Existing Land Use: An existing house (south-eastern portion of the subject site) and an adjacent farm building (storage barn), outdoor CO<sub>2</sub> tank and small electrical kiosk building to the west of the house, which are to remain. A 521-square metre (5,610-sq.ft.) loading platform, constructed without City permits is the subject of the DVP.

Adjacent Area:

Direction	Existing Use	OCP Designation	Existing Zone
North:	Inactive farmland within the ALR under Application No. 7916-0646-00 for a reduced south side yard setback to permit a new farm building (pre-Council)	Agricultural	A-1
East (Across 168 Street):	City-owned park (Mound Farm Park) within the ALR	Agricultural	A-1
South:	Active farmland (spinach) within the ALR	Agricultural	A-1
West:	Active farmland (blueberries) within the ALR	Agricultural	A-1

## DEVELOPMENT CONSIDERATIONS

### Background

- The 2.85-hectare (7.04-acre) subject lot is located at 5253 – 168 Street in Cloverdale. The lot is designated Agricultural in the Official Community Plan (OCP) and is zoned "General Agriculture Zone (A-1)".
- The subject lot is located within the Agricultural Land Reserve (ALR) and within the 200-year flood plain of both the Serpentine and Nicomekl Rivers.
- The "General Agricultural Zone (A-1)" permits farm accessory buildings for agricultural and horticultural uses, as well as the primary processing of horticultural farm products provided that 50% of the products being processed shall be produced by the same farm operation, on either one property or on several non-contiguous properties owned by the same property owner.
- On land within the Agricultural Land Reserve (ALR) the A-1 Zone allows for intensive agricultural uses, including the confinement of poultry, however, the processing of poultry products is not permitted unless the 50% on-site production threshold is met.
- ALC Policy #1 "Activities Designated as Farm Use: Farm Product Processing in the ALR" further states that following activities are designated as farm use for the purposes of the *Agricultural Land Commission Act*:
  - Storing, packing, preparing or processing farm products, if at least 50% of the farm product being stored, packed, prepared or processed is:
    - Produced on the farm; and
    - Produced by an association as defined in the *Cooperative Association Act* to which the owner of the farm belongs.
- The subject property is not classified as farmland under the *Assessment Act* and does not currently produce any farm products; however, BC Assessment records indicate that it was classified as farmland from 2002 to 2016.
- In September 2015, a 580-square metre (6,250-sq.ft.) farm building (storage barn) was proposed for the subject property and approved under Building Permit No. 15-042875-00, which was issued in February 2016. In May 2016 the building permit for the storage barn was revised under Building Permit No. 15-042875-01 to include the addition of walk-in coolers and freezers as well as floor drains.
- Some time prior to June 2016, the property owner commenced construction of the revised farm accessory building without a valid permit. Following an inspection by City staff in June 2016, in conjunction with a demolition permit for an existing farm building (storage shed) on the subject property, a stop work order was issued by the Building Division to immediately halt all construction work on the property, which the property owner complied with.

- In late June 2016 the property owner applied for another building permit to construct a 54.5-square metre (585-sq.ft.) concrete pad on which to house an industrial CO<sub>2</sub> tank and an accessory building containing an electrical kiosk reportedly for on-site farm facilities. Both proposed accessory buildings were to be located in a contiguous area adjacent to the proposed storage barn. The rationale given for the construction of the CO<sub>2</sub> tank was that it was necessary for the quick freezing of poultry products to be stored in the on-site freezer and cooler to be located in the proposed storage barn.
- Subsequently, in August 2016 the property owner applied for an additional building permit to construct a 521-square metre (5,610-sq.ft.) loading platform, with four (4) loading bays oriented to the west, which was to be attached to the proposed storage barn and extending to within 1.8 metres (6 ft.) of the south lot line of the subject property.
- In September 2016, while processing the building permit applications, staff questioned the intended use of the proposed buildings. The applicant advised that they intended to use the storage barn to house live chickens and to store poultry products obtained through various suppliers. No processing or retail facilities were proposed for the subject property as these uses were to continue at off-site facilities in Burnaby operated by the same company (2 Sisters Poultry & Meat Ltd.).
- Following an inspection by Building staff in February 2017 it was determined that the loading platform had been constructed on the subject property without a valid building permit. Building staff also noted that the loading platform contained additional structural elements, specifically embedded anchor bolts, indicating an intention to enclose the loading platform in the future. Two (2) stop work orders were placed on the subject property for both the loading platform and for additional plumbing works, the installation of an internal irrigation system and relocation of previously approved water heaters.
- Subsequently, the property owner applied for a revision to Building Permit No. 15-0042875-01 to include the revised plumbing works. A condition was placed on the building permit for the storage barn, indicating that issuance of the revised permit can only occur simultaneously with the building permit for the farm accessory structure (loading platform).
- Aside from the building permits for the initial farm building (storage barn), issued in February 2016 and now superseded, and those issued for the CO<sub>2</sub> tank platform and the electrical kiosk accessory building none of the permits submitted have been issued due to unauthorized fill (see On-Site Fill section) and as the storage barn and loading platform are linked both structurally and functionally the need for a Development Variance Permit for a reduced south side yard setback.

#### On-site Fill and Hazard Land Development Permit

- Agricultural Land Commission (ALC) Policy #14 "Placement of Fill or Removal of Soil: Construction of Farm Buildings" outlines that the placement of fill necessary for the construction of farm buildings in the ALR should not exceed 2% of the area of the parcel in which it is placed and be of an acceptable volume so as not to be detrimental to the agricultural suitability of the land or the environment.

- The maximum fill permitted for farm accessory buildings on the subject property is approximately 570 square metres (6,130 sq.ft.), the equivalent of 2% of the 28,473-square metre (7.04-acre) lot area.
- In August 2015 the property owner applied for a soil permit for the placement of pre-load fill to accommodate the construction of the storage barn, however, it was determined by Engineering staff at the time that the property had already been subject to the application of pre-load fill with an approximate area of approximately 4,800 square metres (51,600 sq.ft.), in excess of both the 2,000 square metres (0.5 acres) permitted for a residential farm homeplate and the 2% permitted for farm buildings.
- Engineering staff supported the issuance of Building Permit No. 15-042875-00, to permit the construction of a storage barn, on the condition that the proposed construction occur on that portion of the subject property already subject to the application of pre-load soils, that no additional soils be deposited and that the excess fill be remediated prior to the final building inspections for the storage barn. Approximately \$7,500 in bonding for pre-existing soils was collected by the City to ensure compliance.
- Upon inspection of the property in June 2016 Engineering staff determined that the property owner had excavated a portion of the existing pre-load soils from under the proposed location of the farm accessory building and placed the excavated soils on existing, productive farmland.
- A further condition was placed on Building Permit No. 15-042875-01, for the revised poultry barn and processing facility, that a registered professional agrologist review and confirm if the deposited soils are native and suitable for application of arable lands.
- Engineering staff conducted an inspection, in February 2017, of on-site soil conditions in relation to the unauthorized construction of the loading platform on the subject property. It was determined that additional fill, approximately 0.8-metre (2 ft.) above native grade, had been deposited for the construction of the loading platform (Site Plan of Soil Deposition, Appendix V). In addition, the property owner has deposited an additional 3,626 square metres (39,000 sq.ft.) of fill, consisting primarily of gravel aggregate approximately 0.15-metre (0.5 ft.) in depth, to construct a farm road to the north of the storage barn and a truck turning yard to the west of the loading platform (Site Photos, May 4 2017, Appendix V).
- The applicant submitted an Agrologist Report, prepared by Madrone Environmental and dated April 14, 2017, which indicated that the soils removed from below the farm accessory building and deposited on adjacent arable land contained only 3-5% native organics, far below the 50% threshold for soils suitable for agricultural production. As such these soils are required to be removed from the subject property.
- The applicant has agreed to provide Engineering staff with a remediation plan for the removal of excess soils from the subject property with the goal of returning portions of the subject property adjacent to the farm buildings to native grade and soil composition. Additional bonding at a rate of \$10 per cubic metre will be collected upon submission of a survey, prepared and stamped by a professional engineer, confirming the exact area and volume of additional soils deposited on the subject property. A stop work order has been issued for the subject property by Engineering staff to ensure that none of the subject building permits receive final acceptance prior to the remediation of on-site soil issues.



- The proposed development activity is exempt from the requirements of the Hazard Lands Development Permit for Flood Prone Hazards as the proposal only includes farm buildings and the production of agricultural products, in accordance with normal farming practices, as defined in the *Right to Farm Act*, as amended, within the Agricultural Land Reserve (ALR).

#### Current Proposal

- In accordance with the Surrey Zoning By-law No. 12000, since the existing accessory structure (loading platform) is greater than 0.6 metre (2 ft.) in height, as measured from existing grade to the platform surface, the structure must comply with the setback requirements of the A-1 Zone.
- The applicant is requesting to reduce the minimum south side yard setback of the A-1 Zone, from 15 metres (50 ft.) to 1.8 metres (6 ft.), to retain an existing accessory structure (loading platform) that was constructed without a building permit (see By-law Variance section).

#### BY-LAW VARIANCE AND JUSTIFICATION

(a) Requested Variance:

- To vary the minimum side yard (south) setback of the A-1 Zone, from 15 metres (50 ft.) to 1.8 metres (6 ft.), for an accessory structure (loading platform).

Applicant's Reasons:

- The applicant has met with staff on a number of occasions and indicated that they wish to comply with all applicable City processes in order to finalize the construction of the farm accessory buildings and structures and commence farm operations.
- The applicant originally indicated to staff that they intended to use the farm buildings and structures for poultry processing. The applicant indicated that no live poultry was to be kept on-site and that the facilities were to be used entirely for the processing, packing, storage and transportation of pre-deceased poultry provided from farms in adjacent areas, which were neither owned nor operated by the subject property owner.
- The applicant has recently indicated that they instead plan to use the farm accessory buildings and structures (processing barn with walk-in freezer and cooler, CO<sub>2</sub> tank, detached electrical kiosk and loading platform) in order to process, store and transport vegetables (spinach, fenugreek, onion, tomato, mustard leaves and a small amount of corn) grown on site.
- The applicant has indicated that they intend to construct a poultry barn on the subject property for the housing of approximately 2,000 chickens in the future, subject to ALC approval for additional fill and all relevant permissions and permits from the City. The applicant contends that increased scale of the future farm operation necessitates the size of the loading platform.

## Staff Comments:

- Based on the initial farm operation proposal submitted by the applicant, involving the processing only of poultry obtained from off-site farms, staff indicated that as a minimum of 50% of the farm product being stored, packed, prepared or processed did not originate from either the subject property, non-contiguous farms owned and operated by the property owner as part of a larger farm operation or from farms belonging to an association as defined in the *Cooperative Association Act*, the intended uses would be considered a non-farm use in accordance with the *ALC Act*.
- The applicant has subsequently revised their proposed farm operation to the processing, packaging storage, and transportation of vegetables (spinach, fenugreek, onion, tomato, mustard leaves and a small amount of corn) and that they may be interested in purchasing additional agricultural properties for vegetable production.
- The applicant has indicated that they wish to undertake the keeping of live poultry and processing of poultry products on the subject property in the future. Although a permitted use under the A-1 Zone, the future construction of a poultry barn for the confinement of poultry would be subject to Provincial Agricultural Land Commission (ALC) approval for fill in excess of 2% of the lot area of the property, and have to meet the zoning and building requirements for an accessory farm building.
- The project was reviewed at the May 4, 2017 meeting of the Agriculture and Food Security Advisory Committee (AFSAC) wherein the Committee recommended to the General Manager of Planning and Development that the application be denied (see draft AFSAC meeting minutes attached as Appendix III).
- The Committee concurred with City staff that the proposed farm business plan was unclear and that the ultimate use of the subject property was still uncertain at this time. The Committee noted if the intended farm operation is the production of vegetables, that the extent of the existing and proposed farm buildings and structures on the subject property are incongruous with the farm operation. The Committee also noted that if the ultimate intention of the farm accessory buildings was to be for the processing of poultry products the proposed building setback relaxation from 15 metres (50 ft.) to 1.8 metres (6 ft.) may negatively affect adjacent properties with regards to noise, odours and waste water contamination.
- The BC Ministry of Agriculture's "Guide for Bylaw Development in Farming Areas" (2015) recommends a minimum interior side yard setback of 4.5 metres (15 ft.) for structures and facilities which are a low risk for being potential sources of on-site pollution. If the ultimate intention of the farming accessory buildings was to be for the processing of poultry products the Ministry guidelines recommend a minimum interior side yard setback of 7.5 metres (25 ft.). Regardless of the intended use, the proposed side yard reduction to 1.8 metres (6 ft.) would not be keeping with the intent of the Ministry guidelines.



- Planning staff have determined that the applicant is able to achieve a 271-square metre (2,917-square foot) loading platform, between the south wall of the proposed storage barn and the 15-metre (50 ft.) south side yard setback, without requiring a DVP. This would require the applicant to demolish the portion of the loading platform encroaching within the south side yard setback and reconfigure the loading bays.

### CONCLUSION

- Based on the unwillingness of the applicant to comply with City permitting processes, to be forthcoming with information regarding the ultimate use and scale of the farm accessory buildings and structures on the subject property and the opinion of the AFSAC Committee that the proposal lacks agricultural merit the Planning and Development Department recommends that Council deny the proposed Development Variance Permit application.
- If, however, Council sees merit in the application, Council may approve Development Variance Permit No. 7917-0090-00 to reduce the minimum side yard setback in the A-1 Zone for an accessory structure (loading platform) from 15 metres (50 ft.) to 1.8 metres (6 ft.), to proceed to Public Notification (Appendix VI).

### INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

Appendix I.	Lot Owner and Action Summary
Appendix II.	Site Plan and Aerial Photo
Appendix III.	Draft Minutes of May 4, 2017 Agriculture and Food Security Advisory Committee (AFSAC) Meeting
Appendix IV.	Site Plan of Soil Deposition (COSMOS, Drainage Engineering Department)
Appendix V.	Site Photos (taken by City staff, looking northeast and east from the west of the storage barn on the subject property, May 4, 2017)
Appendix VI.	Development Variance Permit No. 7917-0090-00 (if Council sees merit)

### INFORMATION AVAILABLE ON FILE

- Watercourse Assessment Prepared by Madrone Environmental Dated March 20, 2017.
- Agrologist Report Prepared by Madrone Environmental Dated April 14, 2017.

*original signed by Judith Robertson*

Jean Lamontagne  
General Manager  
Planning and Development



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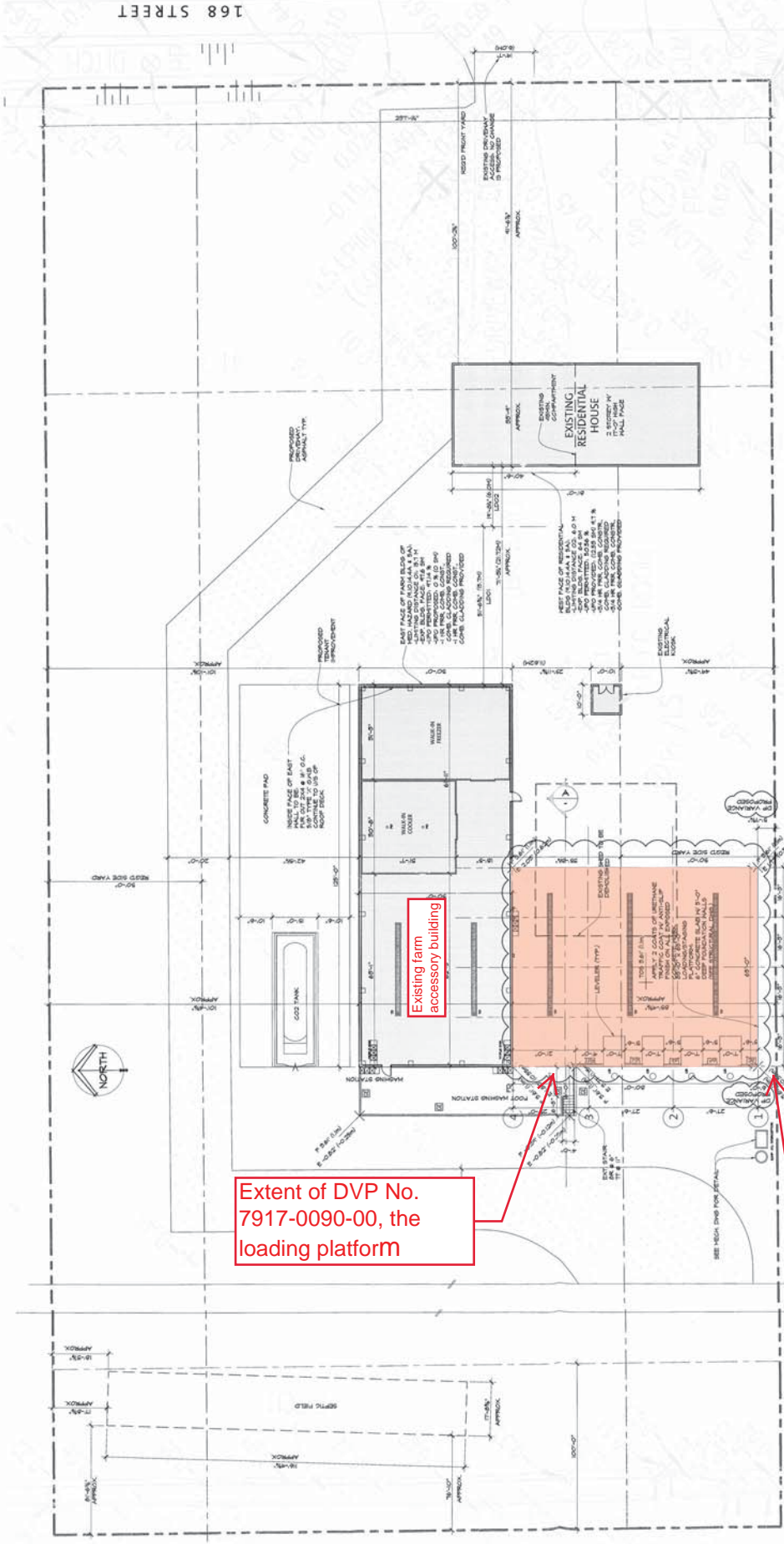
**Joseph Park Architecture**  
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WWW.JPARCHITECT.COM  
3000 WEST BROADWAY  
VANCOUVER BC CANADA V6K 2B2

DATE: 2024.04.18  
REVISION: 01  
PROJECT: 24-0001-0001  
SHEET: 01 OF 01  
DRAWN BY: [Name]  
CHECKED BY: [Name]  
APPROVED BY: [Signature]

TH-Poultry Farm Processing  
5253 168 ST, Surrey, BC



**A1**  
Update Apr. 18



Existing farm  
accessory building

Extent of DVP No.  
7917-0090-00, the  
loading platform

To reduce the minimum south  
side yard setback of the A-1  
Zone from 15 metres (50 ft.) to  
1.8 metres (6 ft.)

### CODE ANALYSIS:

**EXISTING BASE BUILDING:**  
NATIONAL FIRE BLDG CODE OF CANADA 198  
NATIONAL FIRE BLDG CODE OF CANADA 198  
NATIONAL FIRE BLDG CODE OF CANADA 198

**PROPOSED MAJOR OCCUPANCY: FARM BUILDING**  
FARM BUILDING PER DIV A 1(1)(1) & (2)  
NATIONAL FIRE BLDG CODE OF CANADA 198  
NATIONAL FIRE BLDG CODE OF CANADA 198  
NATIONAL FIRE BLDG CODE OF CANADA 198

**BUILDING CLASSIFICATION:**  
FARM BUILDING PER DIV A 1(1)(1) & (2)  
NATIONAL FIRE BLDG CODE OF CANADA 198  
NATIONAL FIRE BLDG CODE OF CANADA 198  
NATIONAL FIRE BLDG CODE OF CANADA 198

**PROJECT DATA:**  
LEGAL DESCRIPTION: LOT 2, SECTION 28, TOWNSHIP 2, PLAN 172  
MCD PART NE/4  
PID: 001-64-464  
Civic ADDRESS: 5253 168 ST, SURREY, BC  
ZONING: A1

**LEGEND:**  
1-10' BARN (INSIDE)  
1-10' BARN (OUTSIDE)  
1-10' BARN (INSIDE)  
1-10' BARN (OUTSIDE)  
1-10' BARN (INSIDE)  
1-10' BARN (OUTSIDE)  
1-10' BARN (INSIDE)  
1-10' BARN (OUTSIDE)  
1-10' BARN (INSIDE)  
1-10' BARN (OUTSIDE)

**NOTE:** ALL DIMENSIONS & FEATURES SHOWN ARE FOR INFORMATION ONLY. ALL REQUIREMENTS AND OTHER FEATURES PRIOR TO CONSTRUCTION SHALL BE VERIFIED BY THE CONTRACTOR.

SITE PLAN

DATE: [Blank]  
DRAWN BY: [Blank]  
CHECKED BY: [Blank]  
APPROVED BY: [Blank]





DVP 7917-0090-00

Scale: 1:2,000

The data provided is compiled from various sources and is NOT warranted as to its accuracy or sufficiency by the City of Surrey. This information is provided for information and convenience purposes only. Lot sizes, legal descriptions and encumbrances must be confirmed at the Land Title Office. Use and distribution of this map is subject to all copyright and disclaimer notices at [cosmos.surrey.ca](http://cosmos.surrey.ca)



Map created on: 2017-05-23



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# *Agriculture and Food Security Advisory Committee - Minutes*

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2E - Community Room B  
City Hall  
13450 - 104 Avenue  
Surrey, B.C.  
THURSDAY, MAY 4 2017  
Time: 9:00 a.m.

2. **Development Variance Permit No. 7917-0090-00**

5253 - 168 Street  
Christopher Lumsden, Planning Technician  
File No. 6880-75

Staff summarized the report dated April 25, 2017, regarding a Development Variance Permit (DVP) that has been received to vary the minimum south side yard setback requirement of the A-1 Zone, to permit the construction of a farm structure (loading platform) on a lot located in the Agriculture Land Reserve (ALR).

In response to questions from the Committee, staff provided the following information:

- It is the current owner of the property who is seeking the DVP.
- The DVP pertains to an open loading platform. An enclosed platform would not be supported by staff.
- The existing structure is approximately 6,000 square feet.
- Should Council deny the DVP, the applicant would be required to remove the loading dock. It is anticipated that the applicant would submit a revised proposal.
- There are outstanding inspections remaining for the building, and the existing fill would have to be remediated prior to final approval for the building.

Discussion ensued, and the Committee noted the following comments:

- The required 50 metre setback is designed to reduce impact on neighbouring properties. All projects in the Agricultural Land Reserve (ALR) should remain respectful of neighbouring properties.
- The applicant appears to amend plans frequently, and not all amendments seem to be consistent with the proposed vision for the farming operation.
- Concerns were expressed for the percentage of the lot that has been covered in structures. The size of the buildings is incongruent with the size of the land or the farm's operation.
- Concerns were expressed regarding the waste water the structure could emit, and the potential impacts the waste water could have on neighbouring properties.
- The business plan has been poorly presented and it appears that the business needs do not exist to support the application.

It was

Moved by M. Bose  
Seconded by G. Hahn

That the Agriculture and Food Security Advisory Committee recommend to the General Manager of Planning and Development to deny Development Variance Permit No. 7917-0106-00 for 5253 – 168 Street.

Carried

DRAFT





Soil Deposition Site Plan (COSMOS Aerial, 2016)







Fill deposited on existing arable land

Additional fill for farm road and access





Additional fill for farm road and truck turning

521-square metre (5,610-sq.ft.) loading platform







521-square metre  
(5,610-sq.ft.) loading  
platform

Additional fill for farm road  
and truck turning



CITY OF SURREY

(the "City")

DEVELOPMENT VARIANCE PERMIT

NO.: 7917-0090-00

Issued To: BUTA SINGH UPPAL  
(the "Owner")

Address of Owner: 5253 – 168 Street  
Surrey, BC V3Z 1E2

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: 007-434-456  
Lot 2 North East Quarter Section 1 Township 2 New Westminster District Plan 1752

5253 - 168 Street

(the "Land")

3. Surrey Zoning By-law, 1993, No. 12000, as amended is varied as follows:
  - (a) In Section F of Part 10 General Agriculture Zone (A-1), the minimum side (south) yard setback is reduced from 15 metres (50 ft.) to 1.8 metres (6 ft.) for an existing accessory structure (loading platform).
4. This development variance permit applies to only 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. This development variance permit does not apply to additions to, or replacement of, any of the existing buildings shown on attached 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.
  
9. 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 – Linda Hepner

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City Clerk – Jane Sullivan



