



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, FEBRUARY 20, 2018**

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**SUBJECT**     Development Variance Permit for Lot A, Block 453, Malahat District,  
Plan EPP72720 – 1499 Trail Way

**ISSUE**

An application has been made for a development variance permit in order to allow the siting of a greenhouse within the front yard setback specified for agricultural buildings in the Greenbelt 3 zone.

**BACKGROUND**

The 2.43 ha property is located at 1499 Trail Way in the Malahat (Appendix 1). The property is zoned Greenbelt 3 (GB3) under the Malahat Land Use Bylaw, 1981, Bylaw No. 980. The property has frontage on Trail Way to the north, and is adjacent to another GB3 zoned parcel to the south and east, and to the Great Trail to the west.

The applicant is requesting a variance in order to allow the siting of a 253 m<sup>2</sup> (2,723 ft<sup>2</sup>) greenhouse within 10.4 m of the front parcel line (Appendices 2 and 3). The Malahat Land Use Bylaw, 1981, Bylaw No. 980, Section 3.4.04(4), specifies that agricultural buildings in the GB3 zone shall be sited a minimum of 30 m from the front parcel line.

The property is partially designated as a Steep Slopes Development Permit Area (DPA) and a Watercourses, Wetlands and Riparian Area DPA by the Malahat Official Community Plan, Bylaw No. 3721. The survey provided indicates that the greenhouse is not located within either DPA.

The property is affected by a restrictive covenant, registered on the title of the property in order to protect the riparian area. The survey indicates that the greenhouse is located outside the covenant area.

**ALTERNATIVES**

That the Land Use Committee recommends to the Capital Regional District Board:

1. That Development Variance Permit VA000144 to reduce the front yard setback for agricultural buildings from 30 m to 10.4 m, as specified by Malahat Land Use Bylaw, 1981, Bylaw No. 980, Section 3.4.04(4), for the purpose of allowing the siting of a greenhouse on Lot A, Block 453, Malahat District, Plan EPP72720, be approved.
2. That Development Variance Permit VA000144 be denied.
3. That the application be referred back to staff for additional information.

**LEGISLATIVE IMPLICATIONS**

The Malahat Land Use Bylaw, 1981, Bylaw No. 980, Section 3.4.04(4) specifies that the front yard setback requirement for agricultural buildings is 30 m. A development variance permit is required in order to allow the greenhouse to be located 10.4 m from the front parcel line.

**PUBLIC CONSULTATION IMPLICATIONS**

Pursuant to Section 499 of the *Local Government Act*, if a local government proposes to pass a resolution to issue a development variance permit, it must give notice to each resident/tenant within a distance specified by bylaw. Capital Regional District Bylaw No. 3110, Fees and Procedures Bylaw, states that the Board at any time may refer an application to an agency or

organization for their comment. In addition, it states that a notice of intent must be mailed to adjacent property owners within a distance of not more than 500 m. Any responses received from the public will be presented at February 20, 2018, Land Use Committee meeting.

### **LAND USE IMPLICATIONS**

The applicant has submitted a development variance permit application to allow the siting of a 253 m<sup>2</sup> greenhouse within 10.4 m of the front parcel line. Construction of the greenhouse was started without the necessary building permit, and a Stop Work Order was posted by the Building Inspector. Before a building permit can be issued, the unlawful siting of the building must be addressed.

The owners have chosen the present location of the greenhouse due to the building's size and to site constraints imposed by a steep bedrock slope to the south. The greenhouse is required for the growing of plants used by the owners in their commercial landscaping business. Staff note that *agriculture* and *silviculture* are permitted uses in the GB3 zone.

Many of the lots within the Goldstream Heights subdivision are currently undeveloped, including those parcels immediately adjacent to the subject property. A neighbouring property owner, located approximately 900 m to the north, has submitted a letter in support of the requested variance (Appendix 4). The Great Trail is located on an adjoining right-of-way to the west of the subject property; however, it is buffered by a riparian covenant area. Therefore, should the variance be approved, there is no anticipated impact of the greenhouse on the Trail. The greenhouse is located outside any development permit area, and outside the riparian covenant area.

Development Variance Permit VA000144 is included as Appendix 5 for consideration. Staff recommend approval of the development variance permit subject to public notification.

### **CONCLUSION**

The applicant has requested a development variance permit for the purpose of allowing the siting of a greenhouse within the front yard setback specified for agricultural buildings. The setback is requested due to the size of the building and site constraints imposed by a steep, bedrock slope to the south of the building and a riparian area protected by covenant to the west of the building. The proposed variance is to reduce setback requirement from 30 m to 10.4 m. Staff recommend approval of the development variance permit subject to public notification.

### **RECOMMENDATION**

That the Land Use Committee recommends to the Capital Regional District Board:

That Development Variance Permit VA000144 to reduce the front yard setback for agricultural buildings from 30 m to 10.4 m, as specified by Malahat Land Use Bylaw, 1981, Bylaw No. 980, Section 3.4.04(4), for the purpose of allowing the siting of a greenhouse on Lot A, Block 453, Malahat District, Plan EPP72720, be approved.

Submitted by:	Iain Lawrence, MCIP, RPP, Manager, Local Area Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Bob Lapham, MCIP, RPP, Chief Administrative Officer

Appendix 1: Subject Property Map

Appendix 2: Site Plan

Appendix 3: Site Photo

Appendix 4: Letter of Support

Appendix 5: Development Variance Permit VA000144