

TO: CITY MANAGER 1995 MARCH 15

FROM: DIRECTOR PLANNING AND BUILDING

SUBJECT: REQUEST TO AMEND A RESTRICTIVE COVENANT
RESTRICTING THE DEVELOPMENT OF THE SITE
7437 BURRIS STREET (SEE ATTACHED SKETCH #1)
AMENDED RESTRICTIVE COVENANT #1/95

PURPOSE: To seek Council authority to work with the applicant towards a suitable plan of development for presentation to a Public Meeting.

RECOMMENDATION:

1. THAT staff be authorized to work with the applicant towards the preparation of a suitable plan of development for presentation to a Public Meeting.

R E P O R T

1.0 BACKGROUND INFORMATION:

- 1.1 On 1991 June 3 Council received a report from this department regarding the replacement of a Section 215 restrictive covenant registered against the subject property at the Land Title Office. The covenant is related to a condition of the rezoning of the property to the R1a zoning district, and limits the development of the property to the plans for a single-family dwelling which were presented at the 1991 May 28 Public Meeting. The covenant was subsequently prepared by the City Solicitor, executed by both parties and registered in the Land Title Office.
- 1.2 On 1992 June 29 Council received a report recommending a procedure to be utilized for Council to consider future requests to amend restrictive covenants on properties zoned R "a" Residential District.

The restrictive covenants registered on R"a" Residential District zoned properties in accordance with Section 215 of the Land Title Act limits the development of the property to that which is presented to a Public Hearing in connection with an application to rezone to the pertinent R"a" zoning category, and consequently approved as the suitable plan of development as a prerequisite condition in the rezoning process. The restrictive covenant for the property is prepared after staff have examined the plans in detail and determined that the proposed single-family dwelling would be compatible with the surrounding neighbourhood, through

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utilizing the Council-adopted R"a" District design guidelines and a site specific analysis, a Public Hearing has been held in order for the adjacent residents to be given an opportunity to provide public input on the proposed rezoning and Council has given the rezoning amendment bylaw Second Reading.

In light of the reliance placed on the covenants to ensure that the development conforms to that presented to Council and the public, the report recommended that any requests to alter this type of restrictive covenant be processed in a manner similar to rezoning applications. The report outlined a specific process for Council consideration of such requests, including submission to a Public Meeting in place of a Public Hearing and processing in concert with the regularly scheduled rezoning series.

Council approved the recommended procedure at that time.

- 1.3 On 1994 December 28 this department received an application to subdivide the site (Subdivision Reference #100/94) into two lots (see *attached* Sketch #2), while retaining the current R1a District zoning. The applicant was advised that the proposed subdivision meets the R1a District minimum lot area and width requirements and the proposed lot which would include the existing dwelling would conform in terms of the permitted density of development, but that subdividing the subject site would require an amendment to the registered restrictive covenant as the covenant relates the approved plans specifically to the subject property. The applicant wishes to retain the R1a District zoning on the proposed additional lot, therefore a complete set of development plans, showing a single-family dwelling with the additional gross floor area, would need to be presented to Council and the public. The applicant has presented development plans for a single-family dwelling on the proposed lot in order to seek Council permission to amend the restrictive covenant and construct the dwelling under R1"a" District zoning. The subdivision application will be circulated to other City departments and outside agencies if Council authorizes staff to work with the applicant on a suitable plan of development for presentation to a Public Meeting.

2.0 NEIGHBOURHOOD CHARACTERISTICS:

- 2.1 The subject is currently occupied by the large single-family dwelling located near Burris Street, which was approved by Council through Rezoning Reference #83/89 and the process noted in Section 1.1. The site slopes significantly down toward the northwest and features a number of mature trees and shrubbery along the property lines and a creek in an open and improved condition along the west property line. To the east, a one storey bungalow is located at 7455 Burris Street and a larger two-storey dwelling is at 7464 Whelan Court, while a larger two-

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storey dwelling is located to the northwest at 5780 Malvern Avenue. The rear of single-family dwelling residences at 7425 Burris Street and two lots on Malvern Avenue are located to the west. The existing single-family dwelling on the site would abut the proposed dwelling to the south.

3.0 GENERAL DISCUSSION:

3.1 Under the previous R1 District zoning, the permitted density of development for the proposed lot could not exceed 590 m² (6,350.9 sq.ft.) of gross floor area. Under the R1"a" District zoning and a Section 215 restrictive covenant for the proposed lot, an additional single-family dwelling may be permitted up to a maximum 0.60 Floor Area Ratio or 1,603.4 m² (17,259 sq.ft.) gross floor area.

3.2 The proposed lot is relatively unique in terms of the slope of the land, some good screening along property lines and its isolation due to the panhandle geometry. While there are significant trees along the north and east property lines of the proposed lot, it is noted that there were around a dozen mature conifers removed from the panhandle prior to the submission of the current subdivision application. The dwellings to the west along Malvern Avenue and at 7425 Burris Street are well removed from the proposed dwelling due to the siting of the existing residences and the siting of the proposed dwelling, which must be set back a minimum 50 feet from the top of the creek bank.

The dwelling to the north at 5788 Malvern Avenue is virtually completely screened by mature conifers.

The dwelling at 7455 Burris Street is considered sufficiently well removed from the proposed dwelling to be not significantly impacted.

The dwelling located at 7464 Whelan Court is considered the most likely to be impacted by the subdivision and construction of a dwelling under R1a zoning.

3.3 The submitted development plans show a large dwelling which appears to be two-storey on a cellar, however, the permitted elevation of the lower floor will need to be verified by Building staff to ensure it is not a storey. The development plans indicate a dwelling with a gross floor area of 933.9 m² (10,053 sq.ft.). The applicant has requested two variances to the Burnaby Zoning Bylaw in addition to the additional gross floor area permitted under R1a zoning. The first is a relaxation of Section 101.7(b), which permits a maximum 18.3 m (60 ft.) building depth. The proposed building has a depth of 26.5 m (87 ft.). The second variance is relaxation of Section 101.6(1)(a), which permits the dwelling to have a maximum 9 m (29.5 ft.) building height. The proposed height is 10.9m

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(36 ft.), although it is acknowledged that the area which would exceed the maximum height is relatively small.

- 3.4 On 1989 January 03 Council approved the utilization of urban design guidelines for assessing single-family dwelling development in the R"a" Residential district. These guidelines have been used to assess the development plans submitted for the single-family dwelling on the proposed R1"a" District zoned lot.
- a) The first guideline limits the scale of the dwelling to a two-storey appearance. The submitted development plans do show a two-storey appearance facing Burris Street despite the request for a variance to permit a dwelling height of 10.9 m (36 ft.). The reason for this is the steep grade of the site and the requirement to measure height from the lower rear elevation to the highest point. The element which extends beyond the maximum permitted height is only at the southeasterly corner of the dwelling. This corner is, however, the closest point of the dwelling to the nearby dwelling at 7464 Whelan Court and contributes to the apparent massing on that side.
 - b) The dwelling does not comply with the guideline requiring a minimum rear yard setback of 35% of the depth of the lot or a maximum 60 ft. dwelling depth. This is not considered detrimental, however, due to the good screening along the northerly and easterly property lines.
 - c) The dwelling has a very generous side yard setback on the westerly side due to the subdivision requirement to set back 50 ft. from the top of the bank of the creek, however, the dwelling does not respect the guideline encouraging a doubled side yard setback from the pertinent R"a" zone (R1) on the easterly side. This is still considered important, at least for the portion where the dwelling at 7464 Whelan Court overlaps the proposed dwelling, due to the close proximity of the neighbouring dwelling, the lack of screening at this particular point and the highest point of the new dwelling being at this corner.
 - d) The dwelling appears to satisfy the other three guidelines including good modelling and faceting of the building, no large or excessive windows or active deck areas in close proximity to neighbouring dwellings and the preservation of as much existing landscaping and mature trees as possible. The development plan includes a substantial supplemental planting plan.

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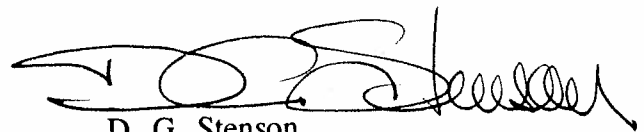
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5.0 CONCLUSION

5.1 In light of the relative isolation of the proposed dwelling due to the panhandle shape of the lot, the setback from the creek and the good screening along the northerly and easterly property lines, this department would conclude that a suitable plan of development could be finalized showing a single-family dwelling with a gross floor area beyond that currently permitted which is compatible with the neighbouring dwellings.

The plan of development should show a minimum sideyard setback of 16 feet for the portion of the side abutting the dwelling at 7464 Whelan Court and the height of the dwelling should be reduced by at least 2 - 3 feet to reduce the massing at this corner.

If Council authorizes staff to work with the applicant on the above development plan and a suitable plan is submitted, the applicant would apply to the Board of Variance for any requested variances prior to staff submitting a further report to Council recommending the plan be forwarded to a Public Meeting.

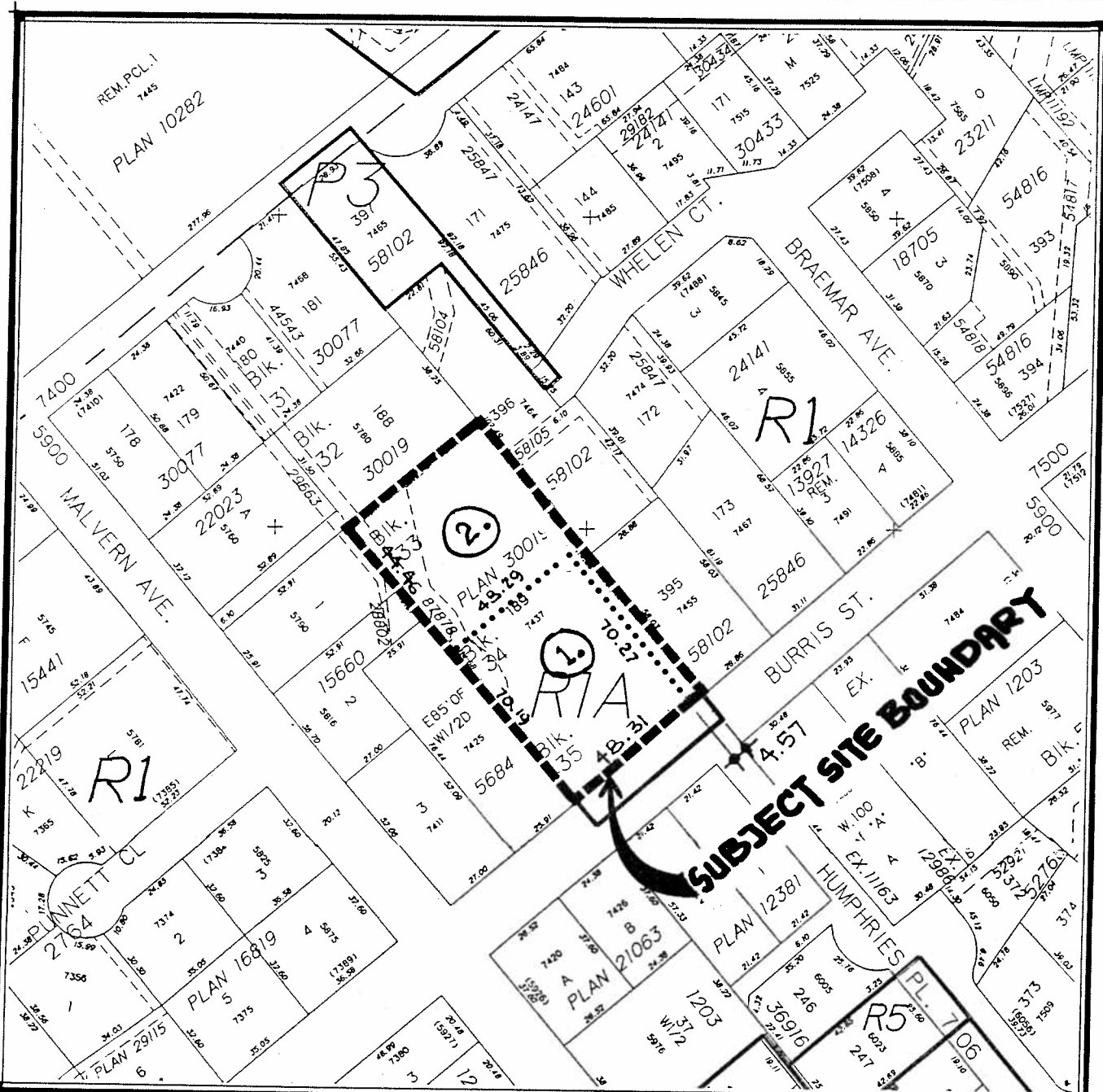


D. G. Stenson
DIRECTOR
PLANNING AND BUILDING

BW:gk
Attach

cc: Chief Building Inspector

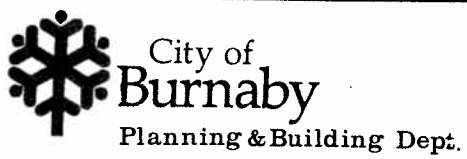
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Date:
 MARCH 1995

Scale:
 1:2000

Drawn By:
 J.F.C.



AMENDED RESTRICTIVE COVENANT #1/95
"PROPOSED SUBDIVISION"
 SKETCH #2

