

ITEM	4
MANAGER'S REPORT #	31
COUNCIL MEETING	95/06/26

TO: CITY MANAGER 1995 JUNE 16

FROM: DIRECTOR PLANNING AND BUILDING

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

PURPOSE: To seek Council authority to hold a Public Meeting to consider the proposed amendment to the covenant.

RECOMMENDATION:

1. THAT the requested amendment of the covenant be considered at a Public Meeting to be held on 1995 July 25 and that consideration of the amendment be tabled until the subsequent regularly scheduled Council 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 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 covenants on properties zoned R"a" Residential District.

The covenants registered on R"a" Residential District zoned properties in accordance with Section 215 of the Land Title Act limit the development of the properties to the Plan 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 covenant for the property is prepared after staff have examined the plans in detail and determined that the proposed single-family

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dwelling would be compatible with the surrounding neighbourhood, through 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 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 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 covenant as the covenant relates the approved plans specifically to the subject property. The applicant wishes to retain 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 is required 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 covenant and construct the dwelling under R1"a" District zoning.
- 1.4 On 1995 March 20, Council received a further report on the request advising that the submitted development plans show a large dwelling that appears to be two-storey on a cellar. The permitted elevation of the lower floor would need to be verified by Building staff to ensure it is not a storey. The report also noted that the applicant had requested two variances to the Burnaby Zoning Bylaw in addition to the additional gross floor area permitted under R1a zoning. The first was a relaxation of Section 101.7(b), which permits a maximum 18.3m (60 ft.) building depth. The proposed building had a depth of 26.5m (87 ft.). The second variance was relaxation of Section 101.6(1)(a), which permits the dwelling to have a maximum 9m (29.5 ft.) building height. The proposed height was

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10.9m (36 ft.), although it was acknowledged that the area which would exceed the maximum height is relatively small.

The report concluded that 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, 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.

- 1.5 On 1995 May 4 the Board of Variance allowed the relaxation of the 2 pertinent sections of the Bylaw to permit the new dwelling to have a building length of 26.5m (87 ft.) and a building height of 10.2m (33.6 ft.), where a maximum building height of 7.4m (24.3 ft.) is permitted for flat roofs.

2.0 GENERAL DISCUSSION:

- 2.1 The applicant has submitted a suitable plan of development for the construction of a 993.5m² (10,695 sq.ft.) single-family dwelling on the proposed lot. This would result in a Floor Area Ratio of 0.35.
- 2.2 The previous report noted that 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 on the site and that there is a good screening along the northerly and easterly property lines. The applicant has revised the plan of development to provide a 16 foot side yard setback along the property line abutting 7464 Whelan Court. The plan of development also includes a landscape plan showing significant planting, primarily along the property lines and including replacement planting for the existing trees located within the building/construction envelope.
- 2.3 The subdivision application (Subdivision Reference #100/94) will be circulated to other City departments and outside agencies if Council authorizes consideration of the amendment at a Public Meeting. The subdivision requirements will be required to be satisfied prior to the deposit of an amended covenant.

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2.4 If Council were to adopt the recommendation in this report, a Public Meeting could be held on the amendment to the covenant immediately after the 1995 July 25 Public Hearing. In accordance with the policy adopted by Council on 1992 June 29, public notification will be pursued in a manner identical to that required for a Public Hearing. The Public Meeting is not a legal requirement like the Public Hearing required for rezonings, but all public input would be considered by Council before a decision is made on amending the covenant.

Consideration of the amendment to the covenant would appear on the agenda of the subsequent regularly scheduled Council meeting as a Tabled item. Council could then by motion approve or reject the amendment to the covenant.

If Council approves the amendment to the covenant, the City Solicitor would then be requested to prepare a covenant based on the plan of development for the proposed lot and a new covenant for the existing dwelling. Once the owner has executed all the pertinent documents and paid all the necessary document preparation and registration fees, the new covenant could be registered at the Land Title Office. Once the covenant is registered, the Building Division would be in a position to issue a building permit reflecting the new dwelling and the new restrictive covenant for the proposed lot.

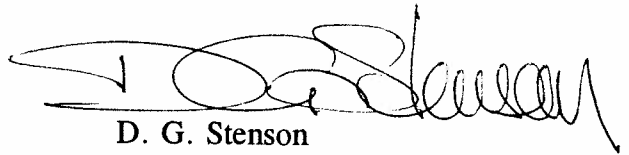
3.0 DEVELOPMENT STATISTICS:

- | | | |
|-----|---|---|
| 3.1 | Site Area:
(approximate) | 2,772.6m ² (29,846 sq.ft.) |
| | Lot Coverage Permitted: | 40% |
| | Lot Coverage Shown: | 16% |
| 3.2 | Building Height Shown: | 10.2m (33.6 ft.) |
| 3.3 | Maximum Floor Area Ratio and
Development Density permitted
under R1a Designation: | 1,663.6m ² (17,907.5 sq.ft.) |
| | Floor Area Ratio and
Development Density shown: | 0.36
993.5m ² (10,695 sq.ft.) |

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3.4 Above Grade Floor Area permitted: 1,109m² (11,937.9 sq.ft.)
Above Grade Floor Area shown: 614.9m² (6,619 sq.ft.)

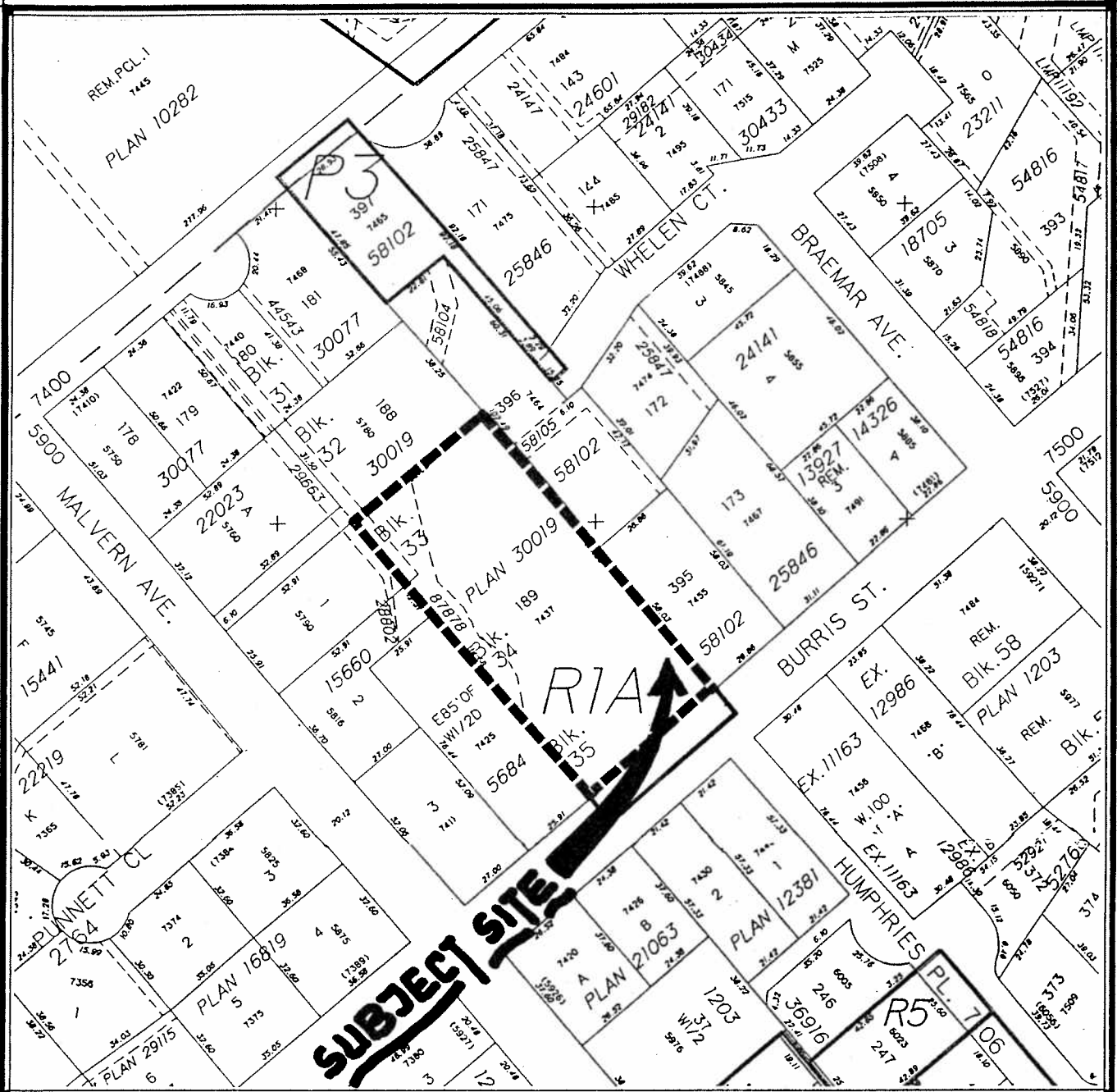


D. G. Stenson
Director Planning and Building

BW:gk
Attach
cc: City Clerk
City Solicitor
Chief Building Inspector (Attn. D. Stanbrook)

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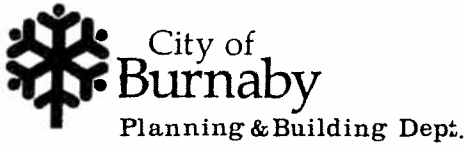
~~ITEM 1
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Date:
 MARCH 1995

Scale:
 1:2000

Drawn By:
 J.P.C.



AMENDED RESTRICTIVE COVENANT #1/95
 SKETCH # 1

