

TO: CITY MANAGER

1996 NOVEMBER 04

FROM: DIRECTOR PLANNING & BUILDING

OUR FILE: 11.701

SUBJECT: BURNABY TREE BYLAW 1996

PURPOSE: To respond to questions and concerns raised by a previous delegation concerning the Burnaby Tree Bylaw 1996.

RECOMMENDATION:

1. **THAT** a copy of this report be forwarded to: Lenore Jackson, 4061 Fir Street, Burnaby, B.C., V5G 2A9; Anne Williams, 2589 Eton Street, Vancouver, B.C., V5K 1J8; and Mary Ann George, 5415 Barker Avenue, Burnaby, B.C., V5H 2N8.

REPORT

1.0 BACKGROUND

At its meeting of 1996 October 28, Council received a delegation from Lenore Jackson, Anne Williams and Mary Ann George concerning the Burnaby Tree Bylaw 1996 which has received Three Readings. The delegation commended Council for taking action on a Tree Bylaw for Burnaby but requested that the bylaw be strengthened and questions be answered with respect to the potential applicability of the Tree Bylaw on a recent subdivision at 4085 Fir Street and a possible "loophole" in section 4(g) of the bylaw. Council requested a report on these items.

This report provides the requested response.

2.0 SUBDIVISION #81/93 - 4085/93/97 FIR STREET

A subdivision application was received and processed for the properties at 4085/93/97 Fir Street in 1993 for a two phase subdivision. In the first phase, three existing lots on Fir Street were subdivided into five lots (see **attached Figure 1**). At the time of the first phase subdivision, a number of trees on lots 3,4 and 5 were identified to be retained and protected by a Section 215 Covenant as a condition of subdivision approval. A bond was taken from the applicant to ensure tree protection on lot 5 since a driveway was being permitted through a covenant area. A bond was also taken to guarantee replacement of a tree on lot 3 which had been identified to be retained but which was damaged by the demolition contractor. The conditions of the subdivision for lot 5 were met and the bonding for lot 5 has been released. To date, a replacement tree has not been planted on lot 3 and therefore the bonding has not been released.

The second phase involved the subdivision of lot 1 into two 36 foot lots in accordance with the prevailing zoning. The cedar trees at the Fir Street frontage of the lot were inspected by the Landscape Inspector and were found to be not only in very close proximity to overhead hydro lines, but as well to have been severely pruned and not worthy of protection under a Section 215 Covenant. In addition, removal of some of the trees was essential to allow for driveway access to the site.

In the case of the Fir Street example, if a Section 215 Covenant was not applied through the subdivision process, then the applicant would be governed by the Tree Bylaw. As such, a tree survey plan and a tree cutting permit for the removal of trees outside of the building footprint of the existing or planned buildings would be required. Such an application would be reviewed by the arborist to ensure that no trees were unnecessarily being removed and that those remaining were being properly protected. The thrust of the bylaw is not to prevent development of a site, but rather to ensure that as many trees as possible can be preserved and protected during the construction and initial live in period. The tree bylaw enables the Director Planning and Building to require a replacement(s) for those trees for which a tree cutting permit was issued.

3.0 REMOVAL OF TREES PRIOR TO TIME OF APPLICATION

Section 4 (g) of the Tree Bylaw stipulates that a tree cutting permit is required in those instances where a tree removal is proposed up to three months prior to an application for a demolition permit or for a building permit for a new dwelling. This provision was made to prevent individuals from removing trees immediately prior to an application for a demolition or building permit. The delegation at the 1996 October 28 Council Meeting suggested that this provides a "loophole" whereby a prospective developer might coerce an owner to cut down a tree (s) more than three months prior to a demolition permit being applied for.

At the time of the submission of the tree bylaw to Council, it was indicated that staff will be closely monitoring the implementation of the bylaw. The three month provision was an attempt to deal with a possible bypassing of the intent of the bylaw. If field practice indicates that a pattern of circumvention related to this or any other provision of the bylaw is becoming evident, then a recommendation to deal with this can be submitted at that time.

The present bylaw is attempting to strike a carefully balanced approach to ensure that trees are not being unnecessarily removed during the development and redevelopment of our single and two-family neighbourhoods. Such a balance is predicated on compliance with both the letter and spirit of the bylaw.

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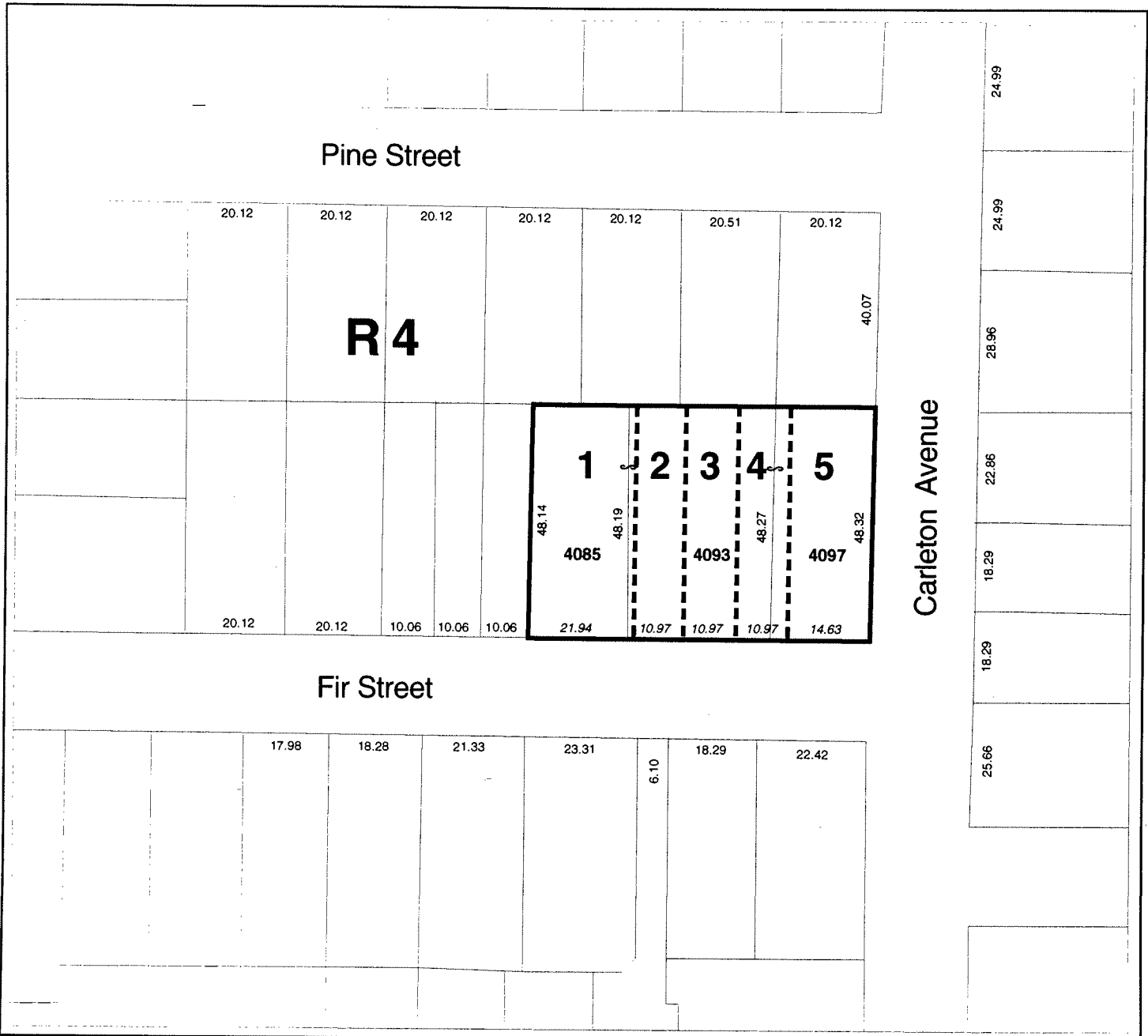


D.G. Stenson, Director
PLANNING & BUILDING

JSB/db

Attachment

cc: Director Engineering
City Solicitor
Chief Building Inspector



Date: _____

Scale: _____

Drawn by: _____



Phase I Subdivision
4085 / 93 / 97 Fir Street
 Subdivision Reference #81 / 93

