

ITEM	08
MANAGER'S REPORT #	20
COUNCIL MEETING	96/07/22

TO: CITY MANAGER 1996 July 16

FROM: DIRECTOR PLANNING AND BUILDING

SUBJECT: RESPONSE TO A LETTER OF CONCERN REGARDING
REZONING REFERENCE #46/92
3770 THURSTON AVENUE
METROTOWN AREA 11 PLAN

PURPOSE: To respond to a letter of concern to Council regarding the unsatisfactory condition of landscaping for an apartment development at 3770 Thurston Avenue.

RECOMMENDATION:

1. THAT a copy of this report be sent to Mr. Douglas S. Porter, 3782 Thurston Street, Burnaby, B.C., V5H 1H7.

R E P O R T

At the 1996 July 08 Council meeting, Council received a letter from Mr. Douglas Porter, which expressed landscaping and roadway concerns about an adjacent new apartment development. Staff was requested to submit a report responding to Mr. Porter's letter.

The new development at 3770 Thurston Avenue, subject of Rezoning Reference #46/92, received Final Adoption on 1993 October 04 and the apartment is now completed and occupied. At the time of rezoning, arising from concerns previously expressed by Mr. Porter, the need to ensure that the contractor performed strictly in accordance with the agreements for tree protection was noted. Five trees were to be protected: two Japanese Maples, two spruce and an apple. Of these, the Building Department inspection staff indicate that the maples and a spruce have survived. The dead spruce was replaced, however, with a willow which casts more shade than desired on Mr. Porter's property. Typically in landscape installations there are some variations in species depending on apparent availability, although in this case the substitution would not appear to be appropriate. Staff will endeavour to have the willow relocated to a more appropriate spot and a slender conifer such as Serbian Spruce as suggested planted in its place. It is noted that a damage deposit related to existing mature trees of \$4,728 was posted and appears not to have been released as yet.

The landscape plan was installed satisfactorily, although there is some variation in species. Extra needed drainage was also installed and there is inground irrigation on site. The landscaping at the site is substantially intact. However, several of the new trees and shrubs have died or are in poor condition. All the planting appears to have been planted in similar conditions but have reacted differently perhaps due to the apparent current dampness of the soil.

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The property is considered to be generally in compliance with the zoning bylaw although items specifically agreed upon with the neighbour remain outstanding.

In the meanwhile, the landscape contractor was not paid in full and is reluctant to perform warranty work. The landscape inspection staff indicate that the City is a third party to any dispute regarding landscape warranty work. The only avenue for the City to act upon in this case is to consider the removal of the trees as a violation of the adopted CD drawings, and to require the current property owner to bring the property into full conformity by replacing the trees. If the current property owner proved unwilling to do this, the City would either have to seek a court injunction, ordering the owners to replace the missing trees, or to prosecute the current owners for violating the Zoning Bylaw.

Unless safety is the issue, inspection staff are reluctant to require property owners to perform work that may be the responsibility of others. In this case, to ensure an equitable process, staff would prefer that the issue of warranty work be resolved first. Staff will contact the property owners to clarify the situation and to establish a schedule to resolve the matter including the replacement of plant material. Any permitted use of the damage deposit will also be pursued.

Concerns have also been expressed about the treatment of the ditch in front of Mr. Porter's property with particular regard to its restoration and about the completion of street paving. In response, the Engineering Department advises that they have contacted both the developer and contractor for this site who indicate that the final lift of street asphalt will be done as soon as it can be scheduled in the next two to three weeks. Once this is done, the Engineering Department will repair and restore the ditch and grass as agreed with Mr. Porter.

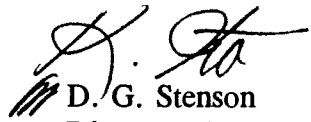
As a result of his experience, Mr. Porter suggested that the City consider collecting landscape bonding for the full value of landscaping work on new development sites. At present, although the City requires landscape bonds for trees to be preserved which are protected by registered covenant, the City does not otherwise require that bonds be provided to ensure that landscaping or, for that matter, a new building on private property is completed as per the approved Preliminary Plan Approval and Building Permit plans. The landscaping is inspected by Building Department staff upon completion and compliance is generally good. In some cases when plants die after planting, they are normally replaced by the landscape contractors. There also needs to be some leeway in the provision of plant material depending on availability and localized site conditions at the time of installation. The introduction of bonding for new landscaping would add another level of complexity to the development approvals process and require further administration and inspection resources. The ramification of the use of bonding as a penalty bond and the possible need to enter private property to ensure compliance would also be of some concern.

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Thus, given that compliance with landscaping specifications is generally good and that the complications on this site are quite unusual, staff will monitor the landscaping on current development sites to see if problems are becoming more common. In the meanwhile, Engineering and Building Department staff will work with this site's developers, owners, and contractors as indicated in this report to ensure Mr. Porter's concerns are addressed.

This is for the information of Council.


FA:lf


D. G. Stenson
Director Planning and Building

cc: Director Engineering
Chief Building Inspector
City Solicitor

