

TO: CITY MANAGER 1999 APRIL 12

FROM: DIRECTOR PLANNING AND BUILDING OUR FILE: 11.701

SUBJECT: BURNABY TREE PROTECTION BYLAW-1996

PURPOSE: To outline the application of the Burnaby Tree Bylaw in relation to concerns raised under correspondence by Patricia Brandlmayr

RECOMMENDATION:

1. **THAT** a copy of this report be forwarded to Patricia Brandlmayr at 4150 Irmin Street, Burnaby, B.C., V5J 1X5.

REPORT

1.0 BACKGROUND

Appearing under the correspondence section of Council's 1999 April 19 agenda is a letter from Patricia Brandlmayr concerning the pruning of trees at 4150 Irmin Street, and the application of the Burnaby Tree Bylaw - 1996 to trees bordering and within the boundaries of private property. The letter suggests that Council should review the current Bylaw with the objective of strengthening provisions to further protect trees on private property. This report outlines the balance of issues addressed by City in the enactment of the Burnaby Tree Bylaw, particularly in relation to the regulation of trees on private property.

2.0 TREE PRUNING AT 4150 IRMIN STREET

The subject trees are located in the rear yard of the correspondent at 4150 Irmin Street. The trees overhang the property line into the rear yard of 4149 Rumble Street. The Building Permit for the new dwelling at 4149 Rumble was issued prior to the enactment of the Tree Bylaw. The pruning of trees overhanging property lines is a civil matter between the property owners, and is not covered by the Tree Bylaw.

Although the City has no direct regulatory role in this case, staff had previously met with the respective owners on several occasions to facilitate discussion of perceived neighbourhood and safety concerns related to the subject trees. Staff suggested that a certified arborist be retained to assess the trees, and that pruning recommendations arising from the assessment be undertaken by qualified personnel. The letter indicates that this suggestion was followed by the property

owner at 4150 Irmin Street in 1996 October. The letter also indicates, however, that the trees were pruned again this March apparently without consultation and on the sole direction of the adjoining property owner.

3.0 TREE PROTECTION BYLAW - 1996

The Tree Bylaw was enacted by Council on 1996 November 12 in response to increasing community concerns about the unnecessary removal of trees on single and two family lots during the construction of a new dwelling or demolition of an existing dwelling. A recent amendment to the Tree Bylaw extended its application to the Cemetery District (P4) of the Burnaby Zoning Bylaw 1965. Tree protection measures are also undertaken as a prerequisite condition for CD rezoning of larger consolidated sites for multiple family residential, commercial, industrial, and other land uses.

For single and two family lots, the Bylaw protects trees from three months before a Building or Demolition Permit application is made, until one year after the permit is completed. All trees on the lot are protected, but only trees over 8 inches in diameter and further than 5 feet from an existing or proposed dwelling require a permit for removal. A permit must be obtained to remove such trees. Before a Demolition or Building permit is issued, staff review a surveyor's plan showing the location of protected trees, and visit the site to approve protection fencing, or assess trees for tree removal permits. The Bylaw strives to strike a balance between retention of existing trees and site needs for new development.

Outside of the specified time frame for new development on single and two family lots, the Bylaw does not regulate the care or removal of trees on private property. In this aspect, the Bylaw is reflective of divergent public views and opinions regarding the regulation of trees on private property. Through the consultation process undertaken for the establishment of the Bylaw, it was revealed that a majority of respondents supported a bylaw or regulations to protect trees. At the same time, it was also a commonly held view that the rights of homeowners to tend to their property, including the right to remove trees, should not require the approval of Council. As such, the Bylaw sought to strike a careful balance between the competing interests of preventing the unnecessary removal of trees at the time of development, and the interests of private property owners for the reasonable use and enjoyment of their property.

A review of the Tree Bylaw, received by Council on 1998 April 20, revealed a continuing tension between the desire of neighbourhoods to retain existing trees, and some reluctance among property developers/owners to properly protect trees or to plant replacement trees as required under the Bylaw at the time of development. Overall, the report found that the Bylaw has been successful in fulfilling its intent of striking a balance between community desires for tree retention, mitigating development processing impacts, and the individual rights of owners to manage and maintain the landscaping on their property.

4.0 PUBLIC INFORMATION BROCHURE


It is recognized that the retention of trees and mature landscaping is generally a desirable community and neighbourhood objective. The urban forest provides many environmental benefits such as oxygen production, habitat enhancement and preservation, provision of shade and cooling to counteract the urban heat island effect, and aesthetic diversity/character for neighbourhoods. The City has made significant efforts towards the preservation of Burnaby's mixed urban forest of native and ornamental trees. The Tree Bylaw represents a significant step to protect trees on private property. The City's public tree management policy provides for and encourages the maintenance, conservation and improvement of the urban forest on public lands.

With respect to trees on private property, however, outside of the existing Bylaw provisions outlined above, the City seeks to encourage tree protection through cooperation between neighbours in a way that respects each others' reasonable wishes, while attempting to balance neighbourhood and private interests in the management of private trees.

To this end, the Planning and Building Department is in the process of preparing an information brochure to be available to residents to facilitate ongoing discussions between neighbours on tree retention, pruning, removal and maintenance issues. The brochure will be based on the International Society of Arboriculture guidelines. The brochure will explain appropriate methods of pruning trees to provide for the health of trees, views and other considerations, while continuing to respect the wishes of individuals to manage their landscaped areas as desired.

5.0 CONCLUSION

The present Bylaw strives to strike a careful balance between the interests of preventing the unnecessary removal of trees during development of our single and two family neighbourhoods, while continuing to respect the wishes and rights of individuals to care for and manage their landscaped areas. At the same time, it is recognized that the City maintains a genuine and continuing interest in the preservation and health of our urban forest. To further increase community understanding of the importance of tree retention, and appropriate pruning, maintenance, and tree removal practices, staff are in the process of preparing a public information brochure. It is hoped that the brochure will be of assistance to neighbours in reaching mutually acceptable agreements on issues around the ongoing management of private landscaping.


D.G. Stenson, Director
PLANNING AND BUILDING


LP/tn

cc: Chief Building Inspector
Director Parks, Recreation and Cultural Services

