

TO: CITY MANAGER **DATE:** 2008 JULY 03

FROM: DIRECTOR PLANNING & BUILDING

SUBJECT: 16 NORTH GILMORE AVENUE, BURNABY, BC
SOUTH HALF LOT 1, BLOCK 16, DL 187, GROUP 1,
NEW WESTMINSTER DISTRICT, PLAN 1282 ("THE PROPERTY")

PURPOSE: To recommend that Council declare the fire damaged dwelling on the property to be in hazardous condition and so dilapidated and unclean as to be a nuisance, and require that the property owners complete the remedial action requirements set out in this report.

RECOMMENDATIONS:

1. **THAT** Council declare the building on the property to be in an unsafe condition.
2. **THAT** Council declare the building on the property to be a nuisance as being so dilapidated and unclean as to be offensive to the community.
3. **THAT** Council require the registered property owners to complete the following remedial action requirements:
 - a) demolish the building on the property and remove all demolition waste, building materials and refuse, or
 - b) bring the building on the property up to a standard specified by zoning, building, plumbing, and electrical bylaws
 - c) obtain all permits and approvals required to complete a) or b) above.
4. **THAT** notice of these remedial action requirements and a copy of this report be given to the registered property owners and each holder of a registered charge in relation to the property.
5. **THAT** Council require the property owners to complete the remedial action requirements not later than 60 days after the notice referred to in Recommendation 4 is given to them.
6. **THAT** Council direct that if the property owners should fail to take the remedial actions referred to in Recommendation 3, the City be authorized to demolish the building on the property and remove all demolition waste, building materials, and refuse and recover the costs incurred from the property owners.

To: City Manager
From: Director Planning & Building
Re: 16 North Gilmore Avenue
2008 July 03.....Page 2

REPORT

1.0 BACKGROUND

The single-family residential dwelling and property have been the subject of many unsightly premises complaints over the last number of years and more recently complaints with respect to building and fire protection infractions.

On 2007 October 31, a fire occurred in refuse stored on the front porch of the dwelling. The Fire Department responded to the fire and ordered that the electrical service be disconnected and that the dwelling not be occupied in its current state.

The property owners were notified that a Fire Survey and Safety Inspection must be conducted by the Building and Fire Departments before repairs could be identified and the dwelling reoccupied, however the property owners have refused entry and have not taken any action to correct this dangerous and unsightly situation.

2.0 REPORT

Since January 2000, City records show the dwelling and property has been the subject of twenty two unsightly premises files generated by public complaints, one legal action for the removal of incomplete deck construction, and more recently files relating to building and fire protection infractions.

Complaints from neighbours via letters, e-mails and telephone calls stating their concerns about the dangerous and unsightly state of the dwelling and property, are ongoing.

The Fire Department reports that during their response to a 2007 October 31 fire in the dwelling, large amounts of stored papers and refuse hampered their ability to deal with the fire. The attached photos (*see attached photos taken November 2007*) show the debris removed and piled in the front yard at the time of the fire.

The Fire Department ordered the disconnection of hydro service to the dwelling because of damage caused by the fire and the continuing fire hazard posed by the remaining stored refuse. The property owners were ordered not to reoccupy the dwelling until the required fire survey and safety inspection were completed and necessary repairs approved.

Although the fire related debris piled outside of the building was subsequently removed by the owners, recent photographs (*see attached photos taken in April/May 2008*) and discussions with property owner, Anita Loy, indicate that a large volume of stored material still remains in the dwelling.

On 2008 April 08, the Fire Department did a follow-up inspection of the property and reported the dwelling appeared to be in the same state as determined at the time of the fire and that *"the premises are in a state of disrepair that a fire starting in them might spread rapidly to endanger life or other property."*

Reports from neighbors state that the property owners are frequently in and around the dwelling and that one of the property owners sleeps in the basement from time to time.

To: City Manager
From: Director Planning & Building
Re: 16 North Gilmore Avenue
2008 July 03..... Page 3

Although the dwelling is boarded, the risk of unauthorized entry remains. Gilmore Avenue Elementary School is located one-half block away from the property and many students walk by daily on their way to and from school.

The risk of a fire fuelled by the large volume of stored paper and other refuse in the already fire damaged building is an ongoing concern for the Fire Department with respect to the safety of anyone who might be in the dwelling, the safety of attending Firefighters who would be at risk entering the dwelling, and the neighbors and neighboring properties close by.

Building Department staff has contacted the property owners many times; however, entry for a fire survey and safety inspection has not been provided. No attempt has been made to remediate the dilapidated and dangerous condition of the dwelling and property. *(See attached photo taken June 2008).*

Section 73 and 74 of the Community Charter provide the statutory authority for Council to declare a structure to be a hazard and the property and the structures thereon to be a nuisance, and to impose remedial action requirements. The Charter also provides for notice of Council's decision to the owners and an opportunity for reconsideration. Council also has the authority, if it so chooses, to fulfill the remedial action requirements at the owners' expense.

4.0 CONCLUSION

Although staff have made many attempts to assist the property owners to deal with this dangerous and unsightly situation they have taken no action to clean up the property or protect the community.

Staff are of the opinion that the fire damaged building is in an unsafe condition and constitutes a fire hazard, that the building is so dilapidated and unclean as to be offensive to the community and a nuisance, and request that Council concur with these conclusions and adopt the recommendations contained in this report.



B. Luksun, Director
Planning & Building

LP:su/ap

Attachments

P:\Bylaw\BLD-16 N. Gilmore.doc

Copied to: Deputy City Manager
City Solicitor
City Clerk
Chief Building Inspector
Fire Chief



November 2007



November 2007



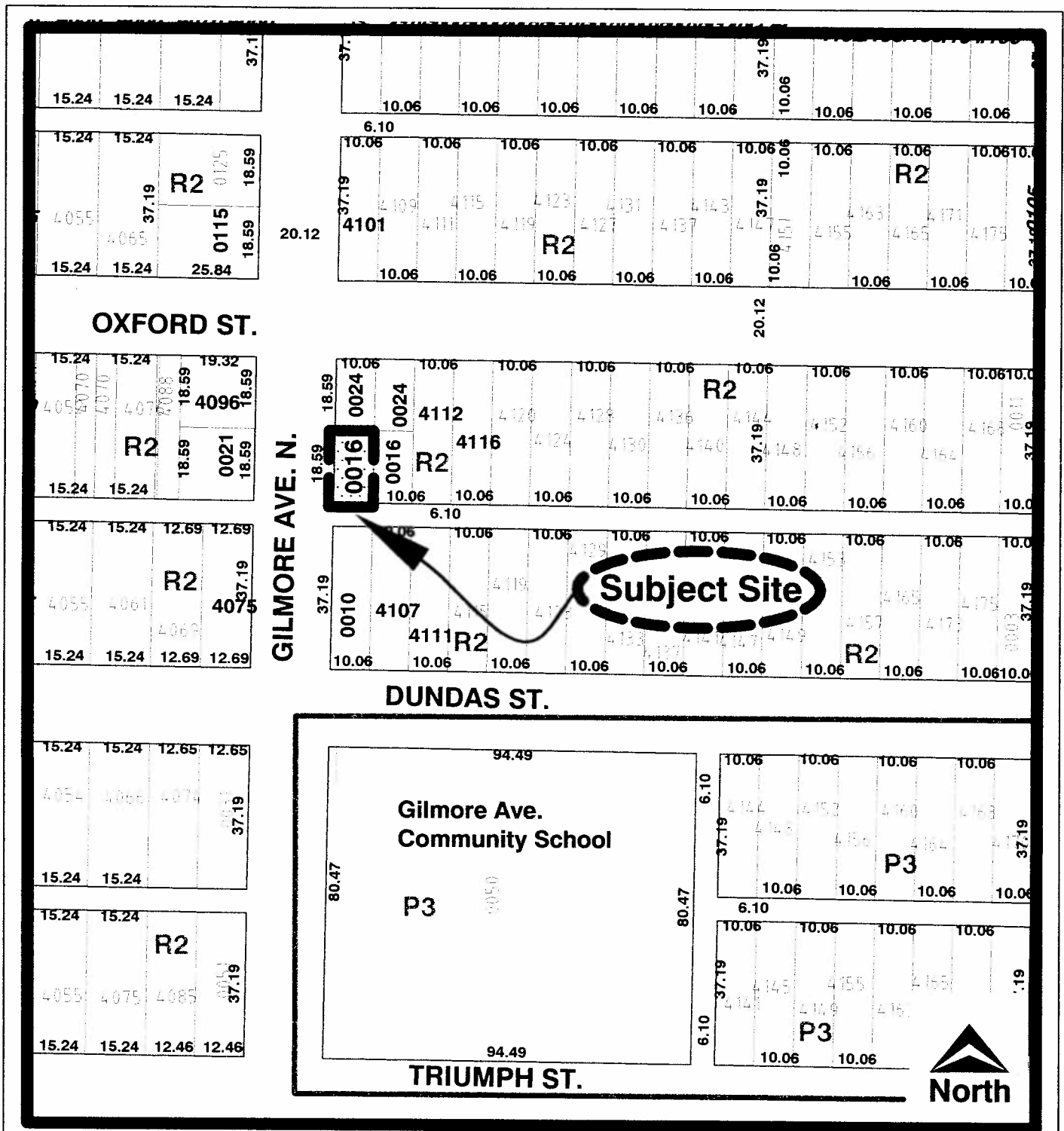
Rear Door April 2008



Front Door Open May 2008



June 2008



Planning and Building Department

Scale: 1 = 1500

Drawn By: J.P.C.

Date: June 2008

Council Report

16 N. Gilmore Ave.

South Half Lot 1 Block 16 D.L.187 Group 1 N.W.D.

Sketch # 1

APPENDIX “A”

Statutory Authority:

Division 12 of the Community Charter authorizes local governments to impose remedial action requirements.

S. 72 authorizes local government to impose remedial action requirements. Remedial action requirements include requirements to remove, demolish, alter or otherwise deal with the matter or thing in accordance with the directions of Council or a person authorized by Council.

S. 73 authorizes remedial action requirements in relation to the matters or things referred to in that Section if Council considers the matter or thing is in or creates an unsafe condition.

S. 74 authorizes Council to declare certain matters or things to be a nuisance and to impose remedial action requirements in relation to the declared nuisance.

S. 77 requires notice of the remedial action requirement be given to the owners and registered charge holders.

S. 78 allows the owners or registered charge holders to request Council to reconsider the remedial action requirements.

S. 17 authorizes Council to direct the City to fulfill the remedial action requirements at the expense of the person and to recover the costs incurred from that person as a debt.

S. 258 provides for the debt to be collected in the same manner and with the same remedies as property taxes, and if it is due and payable by December 31 and unpaid on that date, is deemed to be taxes in arrear.

Division 12 — Remedial Action Requirements

Council may impose remedial action requirements

- 72** (1) A council may impose remedial action requirements in relation to
- (a) matters or things referred to in section 73 [*hazardous conditions*],
 - (b) matters or things referred to in section 74 [*declared nuisances*], or
 - (c) circumstances referred to in section 75 [*harm to drainage or dike*].
- (2) In the case of matters or things referred to in section 73 or 74, a remedial action requirement
- (a) may be imposed on one or more of
 - (i) the owner or lessee of the matter or thing, and
 - (ii) the owner or occupier of the land on which it is located, and
 - (b) may require the person to
 - (i) remove or demolish the matter or thing,
 - (ii) fill it in, cover it over or alter it,
 - (iii) bring it up to a standard specified by bylaw, or
 - (iv) otherwise deal with it in accordance with the directions of council or a person authorized by council.
- (3) In the case of circumstances referred to in section 75, a remedial action requirement
- (a) may be imposed on the person referred to in that section, and
 - (b) may require the person to undertake restoration work in accordance with the directions of council or a person authorized by council.

Hazardous conditions

- 73** (1) Subject to subsection (2), a council may impose a remedial action requirement in relation to any of the following:
- (a) a building or other structure, an erection of any kind, or a similar matter or thing;

- (b) a natural or artificial opening in the ground, or a similar matter or thing;
- (c) a tree;
- (d) wires, cables, or similar matters or things, that are on, in, over, under or along a highway;
- (e) matters or things that are attached to a structure, erection or other matter or thing referred to in paragraph (a) that is on, in, over, under or along a highway.

(2) A council may only impose the remedial action requirement if

- (a) the council considers that the matter or thing is in or creates an unsafe condition, or
- (b) the matter or thing contravenes the Provincial building regulations or a bylaw under section 8 (3) (1) [*spheres of authority — buildings and other structures*] or Division 8 [*Building Regulation*] of this Part.

Declared nuisances

74 (1) A council may declare that any of the following is a nuisance and may impose a remedial action requirement in relation to the declared nuisance:

- (a) a building or other structure, an erection of any kind, or a similar matter or thing;
- (b) a natural or artificial opening in the ground, or a similar matter or thing;
- (c) a drain, ditch, watercourse, pond, surface water, or a similar matter or thing;
- (d) a matter or thing that is in or about any matter or thing referred to in paragraphs (a) to (c).

(2) Subsection (1) also applies in relation to a thing that council considers is so dilapidated or unclean as to be offensive to the community.

Harm to drainage or dike

75 A council may impose a remedial action requirement if a person has

- (a) obstructed, filled up or damaged a ditch, drain, creek or watercourse that was constructed or improved under this Act or the *Local Government Act*, or

(b) damaged or destroyed a dike or other drainage or reclamation work connected with it.

Time limit for compliance

76 (1) The resolution imposing a remedial action requirement must specify the time by which the required action must be completed.

(2) Subject to section 79 [*shorter time limits in urgent circumstances*], the time specified under subsection (1) must not be earlier than 30 days after notice under section 77 (1) [*notice to affected persons*] is sent to the person subject to the remedial action requirement.

(3) The council may extend the time for completing the required action even though the time limit previously established has expired.

Notice to affected persons

77 (1) Notice of a remedial action requirement must be given by personal service or by registered mail to

(a) the person subject to the requirement, and

(b) the owner of the land where the required action is to be carried out.

(2) In addition, notice of the remedial action requirement must be mailed to

(a) each holder of a registered charge in relation to the property whose name is included on the assessment roll, at the address set out in that assessment roll and to any later address known to the corporate officer, and

(b) any other person who is an occupier of that land.

(3) A notice under this section must advise

(a) that the person subject to the requirement, or the owner of the land where the required action is to be carried out, may request a reconsideration by council in accordance with section 78 [*person affected may request reconsideration*], and

(b) that, if the action required by the remedial action requirement is not completed by the date specified for compliance, the municipality may take action in accordance with section 17 [*municipal action at defaulter's expense*] at the expense of the person subject to the requirement.

Person affected may request reconsideration by council

78 (1) A person who is required to be given notice under section 77 (1) [*notice to affected persons*] may request that the council reconsider the remedial action requirement.

(2) Subject to section 79 [*shorter time limits in urgent circumstances*], a request under subsection (1) must be made by written notice provided within 14 days of the date on which the notice under section 77 (1) was sent or a longer period permitted by council.

(3) If the council receives a notice that complies with subsection (2), it must provide the person with an opportunity to make representations to the council.

(4) After providing the opportunity referred to in subsection (3), the council may confirm, amend or cancel the remedial action requirement.

(5) Notice of a decision under subsection (4) must be provided in accordance with section 77 (1) and (2) [*notice to affected persons*].

Shorter time limits in urgent circumstances

79 If the council considers that there is a significant risk to health or safety if action is not taken earlier, the resolution imposing the remedial action requirement may

(a) set a time limit under section 76 [*time limit for compliance*] that is shorter than the minimum otherwise applicable under subsection (2) of that section, and

(b) set a time limit for giving notice under section 78 [*persons affected may request reconsideration*] that is shorter than the limit otherwise applicable under subsection (2) of that section.

Recovery of municipal costs through sale of property

80 (1) This section applies to remedial action requirements in relation to the following:

(a) matters or things referred to in section 73 (1) (a) [*unsafe and non-complying structures*];

(b) matters or things referred to in section 74 (1) (a) [*nuisances in relation to structures*];

(c) matters or things referred to in section 74 (1) (d) *[nuisances in relation to things in or near structures]* that are in or about a matter or thing referred to in section 74 (1) (a).

(2) Subject to this section, if a remedial action requirement has not been satisfied by the date specified for compliance, the municipality may sell the matter or thing in relation to which the requirement was imposed or any part or material of it.

(3) The earliest date on which the municipality may sell property referred to in subsection (2) is the later of

(a) the date specified for compliance, and

(b) 60 days after the notice under section 77 (1) *[notice to affected persons]* is given.

(4) If a municipality sells property under this section, it

(a) may retain from the proceeds

(i) the costs incurred by the municipality in carrying out the sale, and

(ii) if applicable, the costs incurred by the municipality in exercising its power under section 17 *[municipal actions at defaulter's expense]* that have not yet been paid by the person subject to the requirement, and

(b) must pay the remainder of the proceeds to the owner or other person lawfully entitled.

(5) For certainty, the authority under this section is in addition to that provided by section 17 *[municipal action at defaulter's expense]*.

Municipal action at defaulter's expense

17 (1) The authority of a council under this or another Act to require that something be done includes the authority to direct that, if a person subject to the requirement fails to take the required action, the municipality may

(a) fulfill the requirement at the expense of the person, and

(b) recover the costs incurred from that person as a debt.

(2) Division 14 [*Recovery of Special Fees*] of Part 7 [*Municipal Revenue*] applies to an amount recoverable under subsection (1) that is incurred for work done or services provided in relation to land or improvements.

Division 14 — Recovery of Special Fees

Special fees may be collected as property taxes

258 (1) This section applies to the following:

- (a) fees imposed, under this Act or the *Local Government Act*, for work done or services provided to land or improvements;
- (b) fees imposed under section 196 (1) (a) [*fire and security alarms systems*];
- (c) amounts that a municipality is entitled to recover for work done or services provided to land or improvements under any other provision of this Act or the *Local Government Act* that authorizes the municipality to recover amounts in the event of default by a person.

(2) An amount referred to in subsection (1)

- (a) may be collected in the same manner and with the same remedies as property taxes, and
- (b) if it is due and payable by December 31 and unpaid on that date, is deemed to be taxes in arrear.

(3) If an amount referred to in subsection (2) (b) is a fee referred to in section 194 (2) (a) [*municipal fees for services outside the municipality*],

- (a) the collector must promptly, after December 31, forward a statement showing the amount of the fee
 - (i) to the Surveyor of Taxes in the case of real property that is not in a municipality, or
 - (ii) to the applicable municipal collector in other cases, and
- (b) the Surveyor of Taxes or collector must add the amount of the fee to the taxes payable on the property.

(4) If an amount is added under subsection (3) (b),

(a) the amount is deemed to be a municipal tax or Provincial tax, as applicable, and must be dealt with in the same manner as taxes against the property would be under this Act, the *Local Government Act* or the *Taxation (Rural Area) Act*, and

(b) when it is collected, the collecting municipality or Minister of Finance must pay the amount to the municipality to which it is owed.

(5) If an amount is added under subsection (3) (b) and is not paid at the time the property is sold by tax sale,

(a) if the upset price is obtained at the time of the tax sale, the minister or municipality referred to in subsection (4) must pay out of the proceeds of the sale the amount due under this section to the municipality to which it is owed, or

(b) if the upset price is not obtained and subsequently the property is sold, the proceeds of sale must be applied according to the respective interests in the upset price.