

City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7907-0095-00

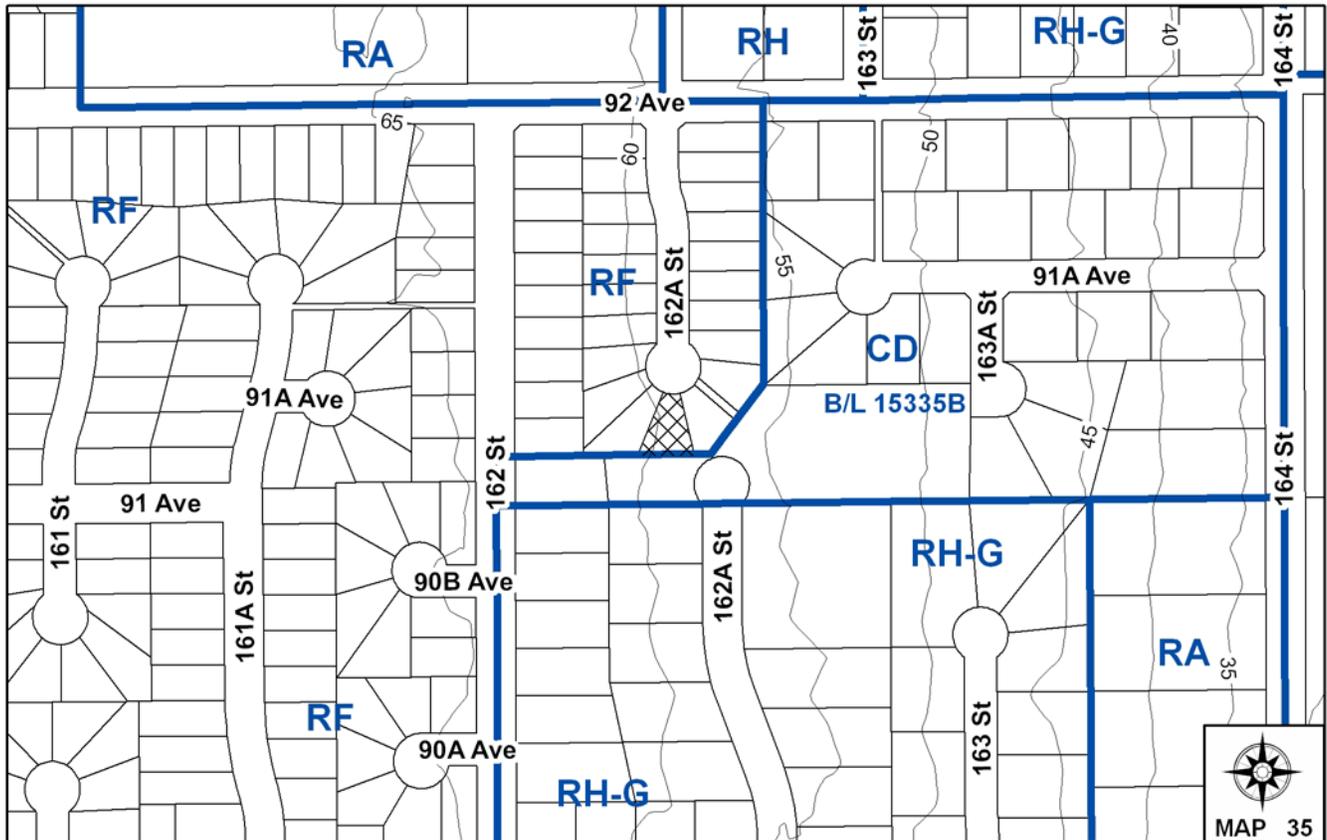
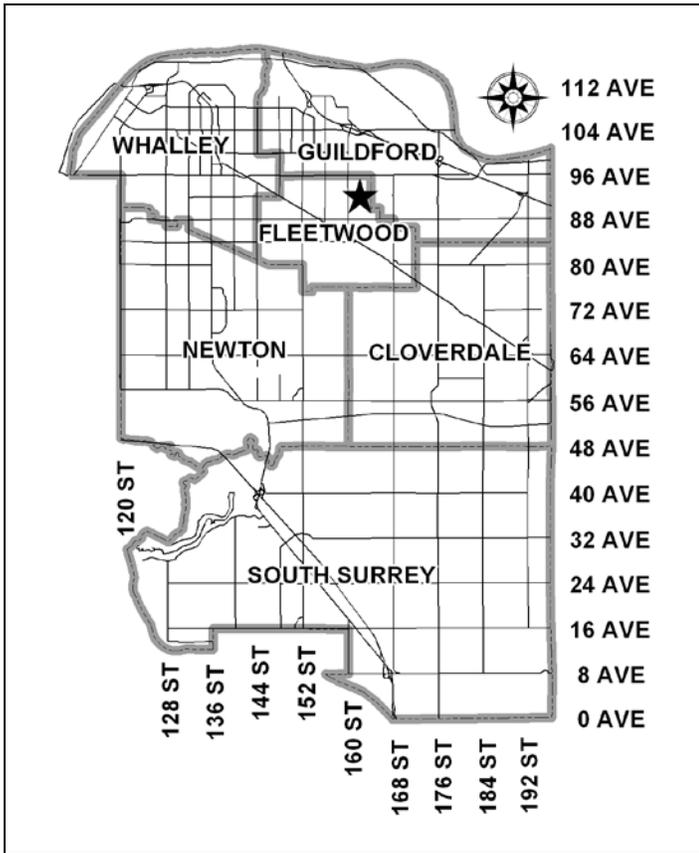
Planning Report Date: March 10, 2008

PROPOSAL:

- **Development Variance Permit**

in order to permit the rear yard setback to be reduced from 7.5 m to 4.7 m to allow an existing sundeck.

LOCATION: 9106 - 162A Street
OWNERS: Amar and Kewal Boughan
ZONING: RF
OCP DESIGNATION: Urban



RECOMMENDATION SUMMARY

- Approval for Development Variance Permit to proceed to Public Notification.

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- Sundeck encroaches into the rear yard setback.
- Sundeck constructed without a building permit.

RATIONALE OF RECOMMENDATION

- Proceed to public notification to gauge neighbours' support for existing sundeck.

RECOMMENDATION

The Planning & Development Department recommends that:

1. Council approve Development Variance Permit No. 7907-0095-00, (Appendix IV) varying the following, to proceed to Public Notification:
 - (a) to reduce the minimum rear yard setback of the RF Zone from 7.5 metres (25 ft.) to 4.7 metres (15 ft.) for an existing deck.

REFERRALS

Engineering: The Engineering Department has no objection to the project as outlined in Appendix III.

SITE CHARACTERISTICS

Existing Land Use: Existing single family home.

Adjacent Area:

Direction	Existing Use	OCP Designation	Existing Zone
North:	Single family homes located along 162A Street.	Urban	RF
East:	Single family home and further to the east, a park.	Urban and Suburban	RF and CD (By-law No. 15335B)
South:	Half-acre gross density residential lots.	Suburban	CD (By-law No. 15335B) and RH-G
West:	Single family residential homes.	Urban	RF

DEVELOPMENT CONSIDERATIONSBackground

- The subject site is located in Fleetwood at 9106 – 162A Street. The property is zoned Single Family Residential (RF) Zone and is designated Urban in the Official Community Plan.
- The subject site was created as part of Application No. 7903-0072-00, which received Final Adoption on October 18, 2004. This project created 29 suburban residential lots and 31 urban residential lots, one of which was the subject lot located at 9106 – 162A Street.

- The single family dwelling constructed at 9106 – 162A Street received provisional occupancy on June 5, 2006. On June 8, 2006, a Stop Work Order was posted on the dwelling because a sundeck and doors accessing the deck were added at the rear of the dwelling without a valid building permit. Following the posting of the Stop Work Order, the owners failed to follow-up with the City within the specified time period. As a consequence the City pursued legal action and the applicant was charged under the *Offence Act* with:
 - Carrying out work after a Stop Work Order was posted;
 - Building a sundeck and installing exterior doors without a building permit being issued; and
 - Occupying a dwelling without final occupancy approval being issued.
- As part of the legal proceedings the owners were advised by the City of Surrey Legal Department that unless they legalize the unauthorized changes to the building, the City will ask the Court to order that the unauthorized changes be removed.
- On March 27, 2007, the owners of 9106 – 162A Street went to the Board of Variance to request a variance to the rear yard setback from 7.5 metres (25 ft.) to 5 metres (17 ft.) to permit the existing sundeck. (Refer to Appendix III for photos of the existing sundeck.) The Board of Variance denied the request. (Refer to Appendix IV for Board of Variance Meeting Minutes.)

Current Application

- On April 4, 2007, the applicant submitted an application for a Development Variance Permit (DVP). The DVP is to relax the rear yard setback from 7.5 metres (25 ft.) to 4.7 metres (15 ft.) to permit the existing sundeck. (Note that a recent legal survey confirmed the location of the sundeck and the house in relation to the rear and side lot lines.)
- The existing sundeck is located at the rear of the single family dwelling and projects 2.8 metres (9 ft.) out from the building face. The building face is 7.5 metres (25 ft.) from the rear property line. In the Surrey Zoning By-law a sundeck may encroach on each storey into the required setbacks up to 0.6 metre (2 ft.) for not more than 2.4 metres (8 ft.) in length along the exterior wall. The existing sundeck encroaches 2.8 metres (9 ft.) into the rear yard and extends 9.2 metres (30 ft.) along the rear building face.
- With the exception of the rear yard setback, the addition of the sundeck to the existing dwelling complies with all the other zoning requirements of the RF Zone, as the following table demonstrates:

	<i>Permitted</i>	<i>Existing</i>
Front Setback	7.5 m. (25 ft.)	9.43 m. (31 ft.)
Rear Setback	7.5 m. (25 ft.)	4.7 m. (15 ft.)
Side Yard Setback (East)	1.8 m. (6 ft.)	1.85 m. (6 ft.)
Side Yard Setback (West)	1.8 m. (6 ft.)	1.8 m. (6 ft.)
Lot Coverage	40% (236 sq. m. / 2,544 sq. ft.)	36% (211 sq. m. / 2,268 sq. ft.)
Floor Area Ratio	0.48 (284 sq. m. / 3,052 sq. ft.)	0.48 (283 sq. m. / 3,046 sq. ft.)

BY-LAW VARIANCE AND JUSTIFICATION

(a) Requested Variance:

- To relax the rear yard setback of the RF Zone from 7.5 metres (25 ft.) to 4.7 metres (15 ft.) to an existing sundeck.

Applicant's Reasons:

- The omission of a sundeck and associated doors in the building plans was an oversight when the building was designed.
- One of the owners is disabled and has difficulty walking. She spends time outside on the deck or uses the deck as a means to access the backyard. This is less onerous than accessing the backyard from the main floor through a door at the side of the house or through a door at the rear of the house in the basement.
- The applicant retained Mike Tynan, as a design consultant, to review the sundeck and the impact on the adjacent properties. In his findings, Mike Tynan outlined how the existing sundeck minimally impacts the three properties directly abutting the subject site. (Refer to Appendix V for the letter and attachments submitted by Mike Tynan.)
 - The property directly to the west (9113 – 162A Street) is not impacted by the existing sundeck, as the elevation of the subject property is significantly lower at the property line than the property to the west. A below grade retaining wall along the subject site's west property line situates the home on the subject site lower than the home on the adjacent property to the west.
 - Similarly, the sundeck has a very minimal impact on the property to the east. With the angled orientation of the lots on the 162A Street cul-de-sac and the location of the sundeck on the west side of the house, the deck is only minimally visible from the adjacent property to the east.
 - The lot to the south of the subject site, 9099 – 162A Street, is oriented east- west, with the northern side yard abutting the rear of the subject site. As side yards are typically not used frequently, as opposed to rear yards, the impact is considered relatively minimal.
- To minimize any impact the sundeck may have on the neighbouring properties, the applicants have installed a cedar fence along the sides and rear of the property.
- The neighbours to the west (9113 – 162A Street) and to the east (9112 – 162A Street) of the subject site have both submitted letters of support for the existing unlawful sundeck.

Staff Comments:

Advantages of Supporting the Proposed Variance

- The sundeck enhances the living conditions of the current owners of the dwelling, where one of the residents has limited mobility and can now spend time on the sundeck in the rear yard. Without the sundeck the rear yard could only be directly accessed through the basement at the rear of the house.
- The applicant is making an effort, albeit after the fact, to minimize any negative visual impact the existing sundeck may have on the neighbouring homes.
- The applicant has obtained support from two of the three property owners whose homes directly abut the rear and side yards of the subject property.

Disadvantages of Supporting the Proposed Variance

- If the DVP is approved then it may send a message that encourages individuals to illegally construct structures that contravene the Zoning By-law with the assumption that these structures will be approved at a later date.
- During the Board of Variance review the property owners of 9099 – 162A Street, the lot directly to the south of the subject site, expressed strong concern about the visual impact of the existing sundeck on their home. While the applicants have indicated that these owners are more receptive to the sundeck than they previously were, Planning and Development staff do not have anything to substantiate this. Until a DVP is approved by Council to proceed to public notification, it is difficult for staff to determine neighbourhood support for the proposed DVP. Applications strictly for a DVP do not require a development proposal sign or pre-notification letters, Therefore surrounding neighbours are not aware of an application unless they are notified directly by the applicant or contact City staff.

CONCLUSION

- Staff recommend Council approve the DVP application to proceed to the public notification stage to assess neighbourhood support for the proposed rear yard setback variance.
- If the proposed DVP is approved by Council the applicant will be required to legalize the sundeck. This process would entail applying for a Building Permit, demonstrating the modifications to the dwelling meet the B.C. Building Code and all associated regulations and passing a final building inspection.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

- Appendix I. Lot Owners and Action Summary and Project Data Sheets
- Appendix II. Engineering Summary
- Appendix III. Survey Certificate of Existing Sundeck, Building Elevations and Photos of Existing Sundeck
- Appendix IV. Board of Variance Minutes, March 27, 2007
- Appendix V. Letter from Design Consultant
- Appendix VI. Development Variance Permit No. 7907-0095-00

Jean Lamontagne
General Manager
Planning and Development

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Information for City Clerk

Legal Description and Owners of all lots that form part of the application:

1. (a) Agent: Name: Kewal Boughan
 Address: 9106 - 162A Street
 Surrey, BC
 V4N 5S4
 Tel: 604-720-3273

2. Properties involved in the Application
 - (a) Civic Address: 9106 - 162A Street

 - (b) Civic Address: 9106 - 162A Street
 Owner: Kewal and Amar Boughan
 PID: 026-141-825
 Lot 23 Section 36 Township 2 New Westminster District Plan BCP15075

3. Summary of Actions for City Clerk's Office
 - (a) Proceed with Public Notification for Development Variance Permit No. 7907-0095-00.

DEVELOPMENT DATA SHEET

Existing Zoning: RF

Required Development Data	Minimum Required / Maximum Allowed	Proposed
LOT AREA (in square metres)		
Gross Total		
Road Widening area		
Undevelopable area		
Net Total	560 sq.m.	590 sq.m.
LOT COVERAGE (in % of net lot area)		
Buildings & Structures		
Paved & Hard Surfaced Areas		
Total Site Coverage	40%	36%
SETBACKS (in metres)		
Front	7.5 m	9.43 m
Rear	7.5 m	4.7 m*
Side #1 (East)	1.8 m	1.85 m
Side #2 (West)	1.8 m	1.8 m
BUILDING HEIGHT (in metres/storeys)		
Principal		
Accessory		
NUMBER OF RESIDENTIAL UNITS		
Bachelor		
One Bed		
Two Bedroom		
Three Bedroom +		
Total	1 SF Home	1 SF Home
FLOOR AREA: Residential		283 sq.m.
FLOOR AREA: Commercial	n/a	
Retail		
Office		
Total		
FLOOR AREA: Industrial	n/a	
FLOOR AREA: Institutional	n/a	
TOTAL BUILDING FLOOR AREA	284 sq.m.	283 sq.m.

* *Variance requested*

Development Data Sheet cont'd

Required Development Data	Minimum Required / Maximum Allowed	Proposed
DENSITY	n/a	
# of units/ha /# units/acre (gross)		
# of units/ha /# units/acre (net)		
FAR (gross)		
FAR (net)	0.48	0.48
AMENITY SPACE (area in square metres)	n/a	
Indoor		
Outdoor		
PARKING (number of stalls)	2	2
Commercial		
Industrial		
Residential Bachelor + 1 Bedroom		
2-Bed		
3-Bed		
Residential Visitors		
Institutional		
Total Number of Parking Spaces	2	3
Number of disabled stalls		
Number of small cars		
Tandem Parking Spaces: Number / % of Total Number of Units		
Size of Tandem Parking Spaces width/length		

Heritage Site	NO	Tree Survey/Assessment Provided	NO
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