

City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7908-0059-00

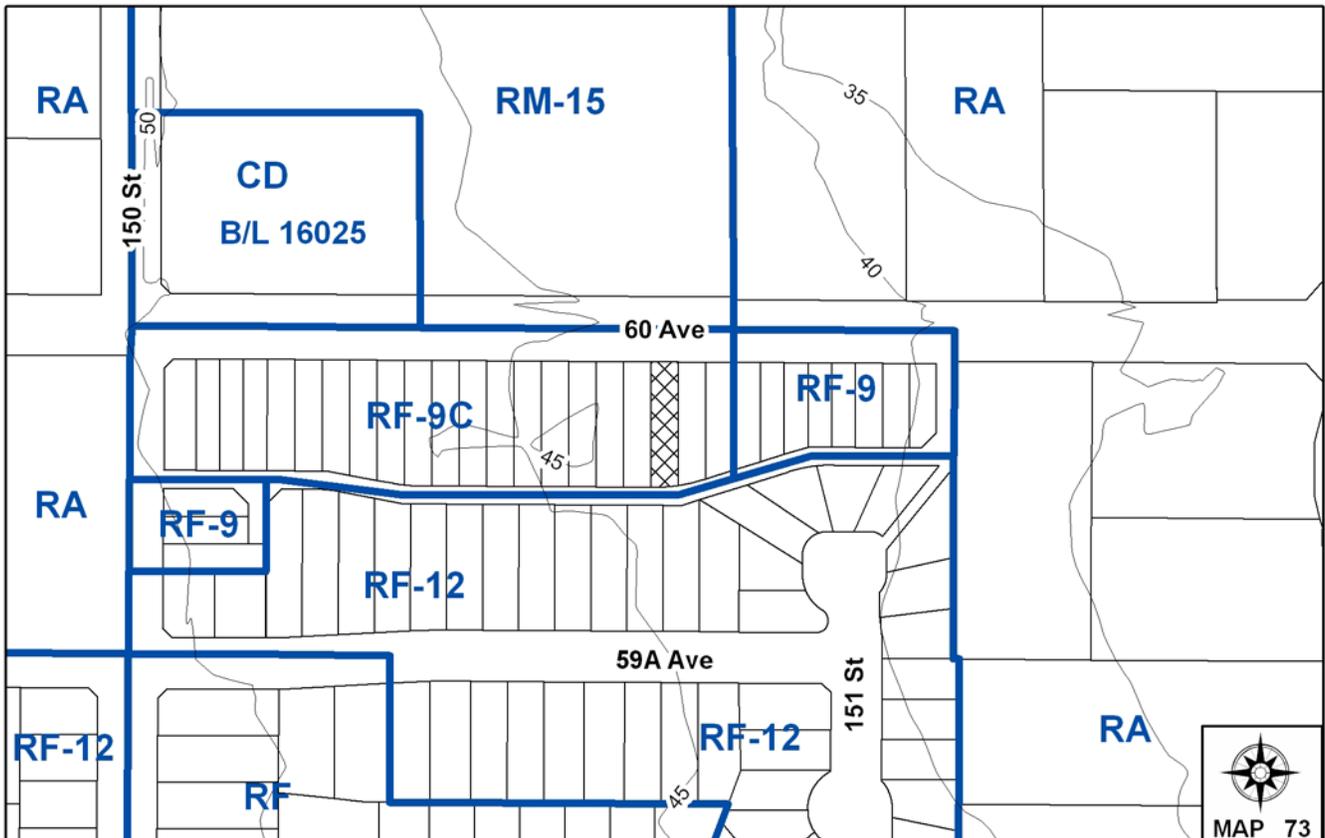
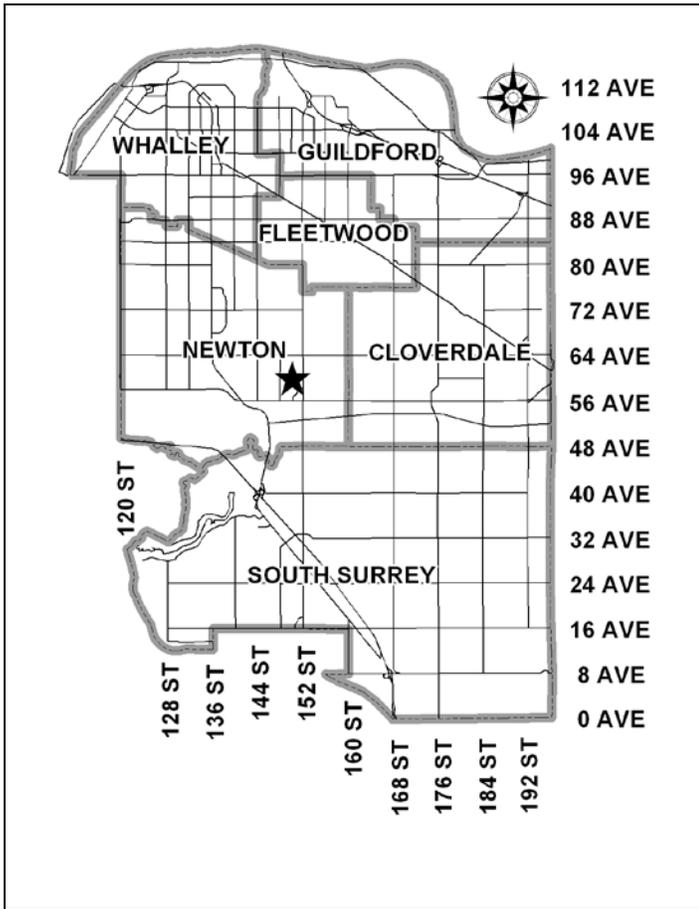
Planning Report Date: May 12, 2008

PROPOSAL:

- **Restrictive Covenant Amendment**

to eliminate an existing tree protection restrictive covenant area and allow relocation of a building envelope on a single family small lot.

LOCATION: 15090 - 60 Avenue
OWNER: Parmjit S. Johal
ZONING: RF-9C
OCP DESIGNATION: Urban
NCP DESIGNATION: Single Family Residential Small Lots



RECOMMENDATION SUMMARY

- Deny the applicant's request for a Restrictive Covenant amendment to adjust an existing tree protection covenant area to allow the relocation of a building envelope.

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- The subject lot was approved as part of development application No. 7906-0157-00. To address public concerns, tree preservation was undertaken on numerous of the approved lots.
- The current Restrictive Covenant BB577502, registered on title in 2007 established 2 restrictive covenant areas on the lot (Appendix II) to protect two retained trees. The tree on the front of the lot (a 34 cm/13.4 in diameter Cherry) has now been reassessed. The arborist assessment concludes that the tree will not survive due to improper grading and site preparation that have failed to protect this tree.
- The applicant is therefore seeking an amendment to the tree protection covenant area after this tree is removed, in order to adjust the building envelope (Appendix III) and move the house closer to the street (60 Avenue) to align with the homes on the abutting lots.

RATIONALE OF RECOMMENDATION

- Under the Surrey Tree Protection By-law, 2006, No. 16100, if a protected tree is damaged by an owner, the General Manager may require the owner to plant the replacement tree at the exact location of the damaged tree.
- The deterioration of this tree was caused by improper lot grading and site preparation, and these actions should not be rewarded by allowing this amendment.
- Staff believe that if this amendment is allowed, it will create precedent, for more tree removal. The consultant of the project (No. 7906-0157-00) and staff worked hard to preserve more trees in this area, and allowing this amendment is contrary to the efforts made to retain those trees. By requiring the replacement tree to be planted at the same location as the existing tree will discourage others from removing more trees.
- Although the restrictive covenant on this property restricts the placement of the house on the lot, there are similar situations in this subdivision, where the homes are to be located further into the lot, to save trees along the street (60 Avenue).

RECOMMENDATION

The Planning & Development Department recommends that Council deny the applicant's request for a Restrictive Covenant amendment, to allow relocation of a building envelope.

REFERRALS

Building Division: At the time of subdivision, the developer was responsible for ensuring that there were no conflicts between grades and the trees proposed to be retained. If the tree now has to be removed as a result of their oversight, the tree will have to be replaced with another tree in the same location, once the cherry tree is removed and the area is regraded. The existing restrictive covenant will then apply to the replacement tree.

SITE CHARACTERISTICS

Existing Land Use: Vacant single family lot zoned RF-9C.

Adjacent Area:

Direction	Existing Use	OCP/NCP Designation	Existing Zone
North (Across 60 Avenue):	Townhouses (Nature's Walk Development).	Urban/Townhouses 15 upa max.	RM-15
East and West:	Vacant single family lots.	Urban/Single Family Residential Small Lots	RF-9C
South:	Vacant single family lots.	Urban/Single Family Residential Flex	RF-12

DEVELOPMENT CONSIDERATIONSBackground

- The subject lot located on the south side of 60 Avenue, between 150 Street and 152 Street, was created under subdivision No. 7906-0157-00. It is zoned RF-9C, designated Urban in the OCP, and Single Family Residential Small Lots in the South Newton NCP.
- During the rezoning process of the subject lot from RA to RF-9C under project No 7906-0157-00, that development and two others (Project No. 7905-0378-00 and 7906-0180-00) located in the 14900 and 15000 blocks of 59A Avenue and 59 Avenue and 5800 and 5900 blocks of 150 Street, were referred to staff to review the design with a view to increase preservation of trees.

- The approach required Development Variance Permits to relax setbacks and garages, and Restrictive Covenants to restrict building envelopes and protect trees.

Subject Lot - 15090 - 69 Avenue

- Two trees were retained on the subject site. A 34 cm (13.4 in) diameter Cherry on the front and a 60 cm (24 inch) diameter Cedar at the back, within 66.9 square metres (720 sq.ft.) and 33.7 square metres (363 sq.ft.) of protection zones respectively. A Restrictive Covenant to protect these trees was developed for this lot, and was registered on the lot title.
- The Cherry has been reassessed (Appendix IV) and found to be growing in depression, caused by improper lot grading. The arborist assessment concludes that the tree will not survive because snow and water will accumulate in the depression, drowning the roots. Because the tree will not survive, the new report now recommends that it be removed and replaced with a new tree. Once the tree is removed, the applicant would like to plant the replacement tree at a different location and is seeking an amendment to the RC as discussed below.

JUSTIFICATION FOR RESTRICTIVE COVENANT AMENDMENT

(a) Requested Amendment:

- To adjust the tree protection area in the front of the lot, to allow the building envelope to be adjusted.

Applicant's Justification:

- The two covenant areas have resulted in a building envelope that only achieves an attached garage at the rear of the lot, leaving no practical back yard for this lot. Once the Cherry tree is removed, there is no scientific reason why the replacement tree has to be planted at the exact same location, as the Cherry tree was. The replacement tree, like the rest that will be planted in this subdivision does not require a covenant area around it. By planting the replacement tree closer to the street (60 Avenue) allows the house to be moved closer to the street as well. That frees some room at the rear of the lot for a rear yard for children to play. This arrangement greatly improves the value of the subject property.

Staff Comments:

- While the subject covenant restricts the placement of the house on this lot, a detailed building envelope was developed for this lot at the subdivision stage so the new owner was aware of this restriction.
- There are homeowners in this subdivision with a similar arrangement as this lot, where the homes are to be located further into the lot, to save trees along the street (60 Avenue).

- Tree preservation was a significant issue for this project and this proposal will erode the actions undertaken to protect trees on these sites.
- Under the Tree Protection By-law, the General Manager may require the owner to plant the replacement tree at the same location as the damaged tree.
- Staff believe that if this amendment is allowed, it will create precedent for others to try to justify more tree removal within this subdivision. Given that the consultant of the project (that created this subdivision) and staff worked hard to preserve more trees in this area, allowing this amendment is contrary to the efforts made to retain those trees. Requiring that the property owner plant the replacement tree at the same location as the existing tree will meet the spirit of the original agreements for tree protection and discourage others from seeking similar requests to remove more trees.
- On this basis, staff recommend that Council deny the applicant's request to amend the Restrictive Covenant.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

Appendix I.	Lot Owners, Action Summary and Project Data Sheets and Survey Plan
Appendix II.	Existing Covenant Area Plan and Location of Cherry Tree
Appendix III.	Existing Building Envelope
Appendix IV.	Proposed Building Envelope and Location of Replacement Trees
Appendix V.	The New Tree Assessment

Jean Lamontagne
General Manager
Planning and Development

AGA/kms

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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: Garry Sandhu
 Address: 11620 - 88A Avenue
 Delta, BC
 V5C 2E2
 Tel: 604-583-0810

2. Properties involved in the Application

(a) Civic Address: 15090 - 60 Avenue

(b) Civic Address: 15090 - 60 Avenue
 Owner: Parmjit Singh Johal
 PID: 027-232-468
 Lot 10 Section 10 Township 2 New Westminster District Plan BCP32588

3. Summary of Actions for City Clerk's Office