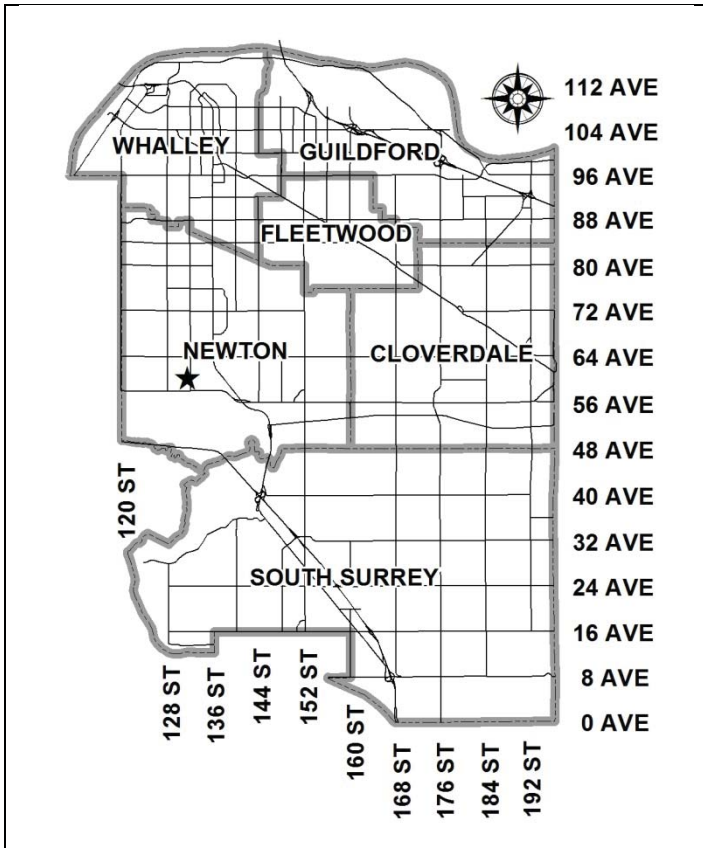


City of Surrey  
**PLANNING & DEVELOPMENT REPORT**

File: 7916-0259-00

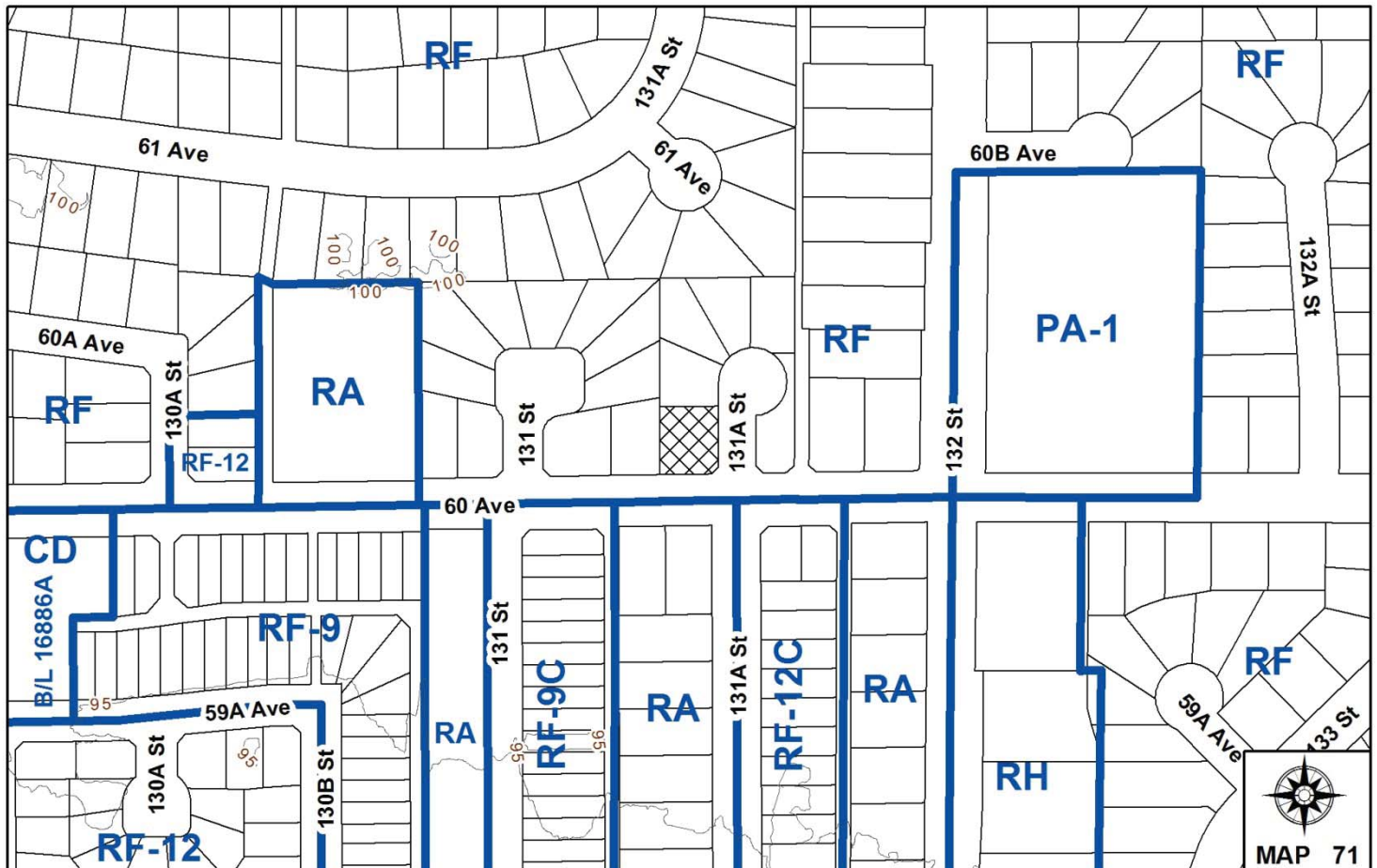
Planning Report Date: September 12, 2016



**PROPOSAL:**

- **Restrictive Covenant amendment**  
 to reduce the total area of tree protection on the property to reflect the removal of two protected trees

**LOCATION:** 13145 - 60 Avenue  
**OWNER:** Dalwinder S Grewal  
 Sukhpreet K Punia  
**ZONING:** RF  
**OCP DESIGNATION:** Urban  
**NCP DESIGNATION:** Proposed Single Family (6 u.p.a.)



### RECOMMENDATION SUMMARY

- The Planning and Development Department recommends that this application be denied.

### DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- None.

### RATIONALE OF RECOMMENDATION

- Two trees on the subject property were removed illegally without a tree cutting permit and in breach of the restrictive covenant for tree protection.
- Prior to their removal the two trees were part of a healthy stand of 8 Douglas Fir trees that were retained when this lot was created as part of Development Application No. 7907-0258-00.
- Requests by the previous owner to remove the two trees were denied by staff and the owner was informed that they would need to apply for a Major Restrictive Covenant Amendment and provide a strong rationale to support the proposed amendment and removal of the trees.
- At the time of the original subdivision, a building envelope analysis was completed and determined that a house of the maximum size permitted under the RF Zone at that time could be constructed, provided that the front, rear, and side yard flanking street setback were relaxed. These setback relaxations were supported by staff and approved by Council.
- Lots 2, 5, and 6 of the same subdivision are also encumbered by restrictive covenants for tree protection and single family dwelling of reasonable sizes that fit the context of the neighbourhood have been constructed on these properties while also respecting the tree protection areas.
- Amending the restrictive covenant to permit the removal of the two trees and their respective tree protection areas allows greater flexibility for the owners when designing the house. At a minimum, the illegal removal of the trees allows the applicant an additional 484 sq. ft. of floor area on two levels as well as additional floor area on the basement level.
- In light of the above circumstances, staff do not support the proposed restrictive covenant amendment.

RECOMMENDATION

The Planning & Development Department recommends that this application be denied.

However, if Council feels there is merit in supporting the proposed restrictive covenant amendment, the Planning and Development Department recommends that the permitted floor area of any future dwelling be limited to that which is currently permitted under the existing restrictive covenant. The appropriate motion is as follows:

1. Council approve the applicant's proposal to amend the restrictive covenant by reducing the total area of tree protection to reflect the removal of Tree #6 and #7 on Lot 1 located at 13145-60 Avenue, subject to the following conditions:
  - (a) Payment of a fine in the amount of \$4,536.00, and planting 2 replacement trees for each tree that was removed, as per the letter from the Manager of Trees and Landscaping dated May 24, 2016 (Appendix VII);
  - (b) Amend the restrictive covenant to reduce the total area of tree protection to reflect the removal of Tree #6 and #7;
  - (c) Amendment of the restrictive covenant shall include a restriction that limits the size of the house constructed on the property to that which was permitted prior to the trees being removed; and
  - (d) Revoke the setback variances granted as part of Development Application 7907-0258-00 for Lot 1.

REFERRALS

Engineering: The Engineering Department has no objection to the project.

SITE CHARACTERISTICS

Existing Land Use: Vacant single family lot

Adjacent Area:

Direction	Existing Use	OCP/NCP Designation	Existing Zone
North:	Single family dwelling	Urban/ Proposed Single Family (6 u.p.a.)	RF
East (Across 131A Street):	Single family dwelling	Urban/ Proposed Single Family (6 u.p.a.)	RF
South (Across 60 Avenue):	Single family dwellings	Urban/ Small Lot with Lane (13 u.p.a.)	RA
West:	Single family dwelling	Urban/ Existing Single Family	RF

## DEVELOPMENT CONSIDERATIONS

### Site Description

- The subject property is 670 square metres (7,216 sq.ft.) in area and zoned RF. The property is designated “Urban” in the Official Community Plan and designated “Proposed Single Family (6 u.p.a.) in the West Newton/Highway 10 NCP. The lot is currently vacant.
- Prior to their removal, Trees #6 and #7 were located on the western portion of the lot, in the rear yard of any future dwelling. The two trees were Douglas Firs and formed part of a stand of 8 Douglas Fir trees that were retained when this lot was created as part of Development Application No. 7907-0258-00.
- The approved July 2009 arborist report described both trees as being in good condition and worthy of retention. In 2009, Tree #6 measured 36 centimetres (1.2 ft.) DBH (diameter at breast height) and 20 metres (66 ft.) in height. Tree #7 measured 76 centimetres (2.5 ft.) DBH and 28 metres (92 ft.) in height. At the time of their removal these trees were 80 (2.6 ft.) and 114 (3.7 ft.) centimetres DBH.

### Proposal

- The applicant proposes to amend the restrictive covenant for Tree Protection that is registered on title in order to eliminate the tree protection areas for the unauthorized removal of two trees in the Fall of 2015.
- The proposal is to accommodate the construction of a single family dwelling on the subject property. The proposed house encroaches into the tree protection areas of the two trees that were removed (Appendix II).

### Background

- The subject property was created in 2011 as part of a six lot subdivision and rezoning under Development Application No. 7907-0258-00 (Lot 1). The restrictive covenant for tree protection was registered on the subject property in 2011 as part of the subdivision.
- Under the original subdivision, a stand of 8 Douglas Fir trees were retained on the subject property. Mike Tynan conducted a building envelope analysis at the time of subdivision and determined that setback variances were required to allow for these 8 trees to be retained and for a house of the maximum size permitted under the RF Zone (Appendix VI). At that time, the maximum floor area permitted under the RF Zone was 330 square metres (3,550 sq.ft.). The RF Zone has since been amended to permit floor area up to 465 square metres (5,000 sq. ft.).
- A DVP was granted to relax the front, rear, and side yard flanking setbacks for the subject property in order to accommodate the construction of a single family dwelling on the property. The front yard setback was reduced from 7.5 metres (25 ft.) to 5.5 metres (18 ft.); the rear yard setback was reduced from 7.5 metres (25 ft.) to 6.0 metres (20 ft.); and the side yard flanking street setback was reduced from 3.6 metres (12 ft.) to 3.0 metres (10 ft.).
- The lot has remained vacant since the subdivision was finalized in 2011.

- In 2014, staff received two requests from the previous owner of the property to remove Trees #6 and #7. These requests were denied and the owner was advised that an application for Major Restrictive Covenant Amendment would have to be made and that a strong rationale would need to be provided to support the proposed amendment and removal of the trees.
- Sometime in the Fall of 2015, the current owner of the property removed the two trees illegally. The City was notified after a complaint was received. The trees that were removed were large Douglas Firs measuring 80 centimetres (2.6 ft.) and 114 (3.7 ft.) centimetres DBH at the time of removal.
- The new owner informed staff that the trees blew down in a windstorm before they took possession in October. No evidence of the damage was ever documented or provided to staff and the owner did not apply for a tree cutting permit.
- The owners have since provided an arborist report (dated December 2015) to support the amendment of the RC. However, this report does not discuss the trees that were removed.
- In February 2015, City staff conducted a site inspection and found no evidence of tree failure and documented efforts made to hide the stumps of the removed trees with soil. On May 24, 2016, the City issued a penalty for the unauthorized removal of the trees in the amount of \$4,536. This penalty has not yet been paid by the owner.
- The owner has provided 5 letters representing 4 neighbouring property owners that corroborate the owner's version of events.

#### RESTRICTIVE COVENANT AMENDMENT EVALUATION

- (a) Amend Restrictive Covenant (Tree Protection) in order to eliminate the tree protection areas for Trees #6 and #7 on Lot 1, which have already been removed, to allow for the construction of a single family dwelling on the subject property.

#### Applicant's Reasons:

- The applicant asserts that the Trees #6 and #7 were damaged in a wind storm in the Fall of 2015 around the time they took possession of the property. The owners subsequently had the trees removed from the site.
- The proposal is to accommodate the construction of a single family dwelling on the subject property. The proposed house encroaches into the tree protection areas of the two trees that were removed, and therefore the restrictive covenant impedes the applicant's ability to construct a dwelling of their choosing.

#### Staff Comments:

- Prior to their removal the two trees were part of a healthy stand of 8 Douglas Fir trees that were retained when this lot was created as part of Development Application No. 7907-0258-00.

- The July 2009 arborist report described both trees as being in good condition and worthy of retention. In 2009, Tree #6 measured 36 centimetres (1.2 ft.) DBH (diameter at breast height) and 20 metres (66 ft.) in height. Tree #7 measured 76 centimetres (2.5 ft.) DBH and 28 metres (92 ft.) in height (Appendix IV). At the time of their removal the stumps of these trees measured 80 centimetres (2.6 ft.) and 114 (3.7 ft.) centimetres respectively (Appendix V).
- Requests by the previous owner to remove the two trees were denied by staff and the owner was informed that they would need to apply for a Major Restrictive Covenant Amendment and provide a strong rationale to support the proposed amendment and removal of the trees.
- The two trees were removed illegally, without a tree cutting permit and in breach of the restrictive covenant for tree protection that is registered on title of the property.
- At the time of the original subdivision, a building envelope analysis was completed and determined that a house of the maximum size permitted under the RF Zone at that time could be constructed, provided that the front, rear, and side yard flanking street setbacks were relaxed. These setback relaxations were supported by staff and approved by Council. (Appendix VI).
- Lots 2, 5, and 6 of the same subdivision are also encumbered by restrictive covenants for tree protection and single family dwelling of reasonable sizes that fit the context of the neighbourhood have been constructed on these properties while also respecting the tree protection areas. Lot 6 in particular, located across 131A Street at 6010 60 Avenue, is smaller than the subject property and was able to accommodate a stand of 6 Douglas Fir and a single family dwelling without amending the restrictive covenant for tree protection.
- Under the restrictive covenant and based on the RF Zone at the time of the subdivision, the maximum floor area permitted was 375 square metres (3,550 sq. ft.). At the time, basement entry homes and secondary suites were not permitted. The preliminary house plans provided by the applicant propose a 375 square metre (4,036 sq. ft) house on two levels, with approximately 2,000 sq. ft. of additional floor area in the basement. The proposed floor area is the maximum permitted under the RF Zone and exceeds the previous maximum floor area by 45 square metres (484 sq. ft.) plus the additional basement floor area.
- Amending the restrictive covenant to permit the removal of the two trees and their respective tree protection areas allows greater flexibility for the owners when designing the house. At a minimum, the illegal removal of the trees allows the applicant an additional 484 sq. ft. of floor area on two levels as well as additional floor area on the basement level.
- Staff do not support the proposed restrictive covenant amendment.

PRE-NOTIFICATION

Pre-notification letters were mailed to the owners of 82 properties within 100 meters of the subject site. To date, staff have received 1 phone call and 3 emails from neighbours. All 4 neighbours expressed their objection to the loss of additional trees at this location, particularly the high quality specimen Douglas Firs that were removed.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

Appendix I.	Lot Owners and Action Summary
Appendix II.	Proposed Site Plan
Appendix III.	Tree Retention Plan (7907-0258-00)
Appendix IV	Tree Inventory (7907-0258-00)
Appendix V	Photos of Trees #6 and #7
Appendix VI	Building Envelope Analysis (7907-0258-00)
Appendix VII	Letter Re: By-law No. 1610 Remediation Requirements

*original signed by Ron Hintsche*

Jean Lamontagne  
General Manager  
Planning and Development

RJG/ar

Information for City Clerk

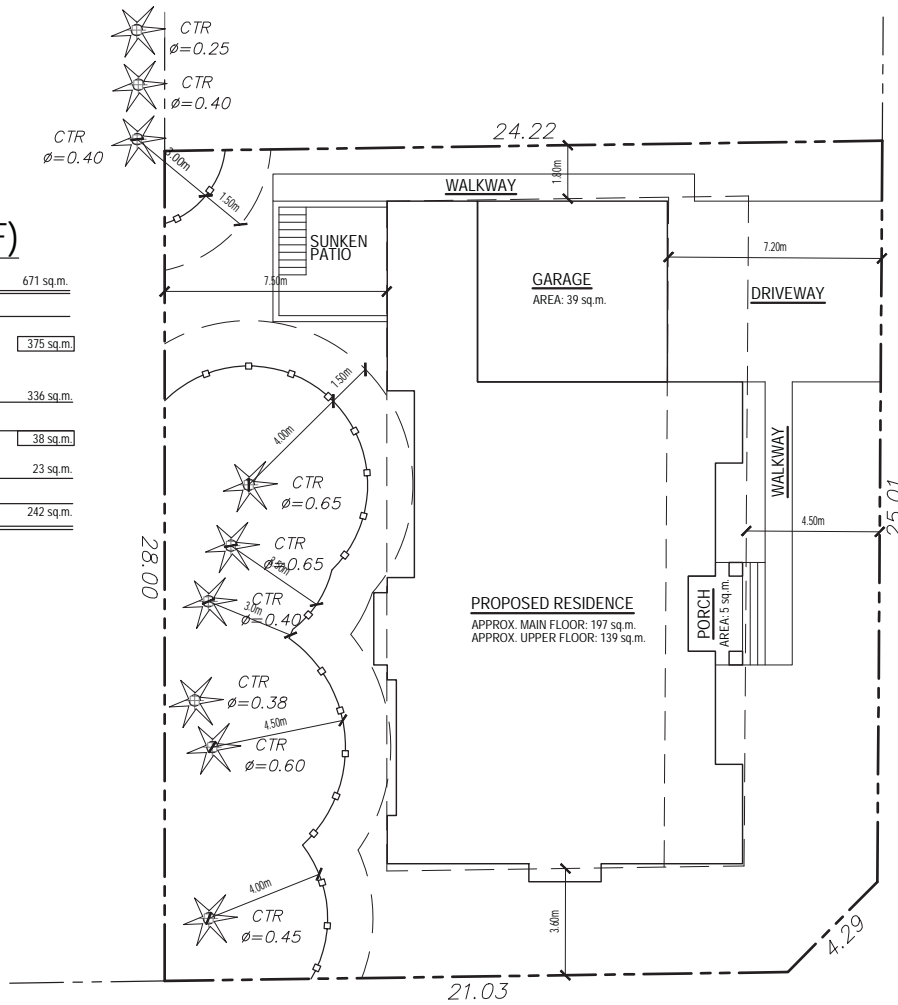
Legal Description and Owners of all lots that form part of the application:

1. (a) Agent:      Name:                      Sukhpreet K Punia  
   Address:                      13145 - 60 Avenue  
  
   Tel:                              778-772-91001
  
2.      Properties involved in the Application
  - (a)      Civic Address:                      13145 - 60 Avenue
  
  - (b)      Civic Address:                      13145 - 60 Avenue  
   Owner:                              Sukhpreet K Punia  
      Dalwinder S Grewal  
   PID:                                      028-620-089  
   Lot 1 Section 8 Township 2 Plan BCP48466
  
3.      Summary of Actions for City Clerk's Office  
  
            No action required.

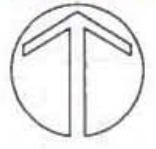
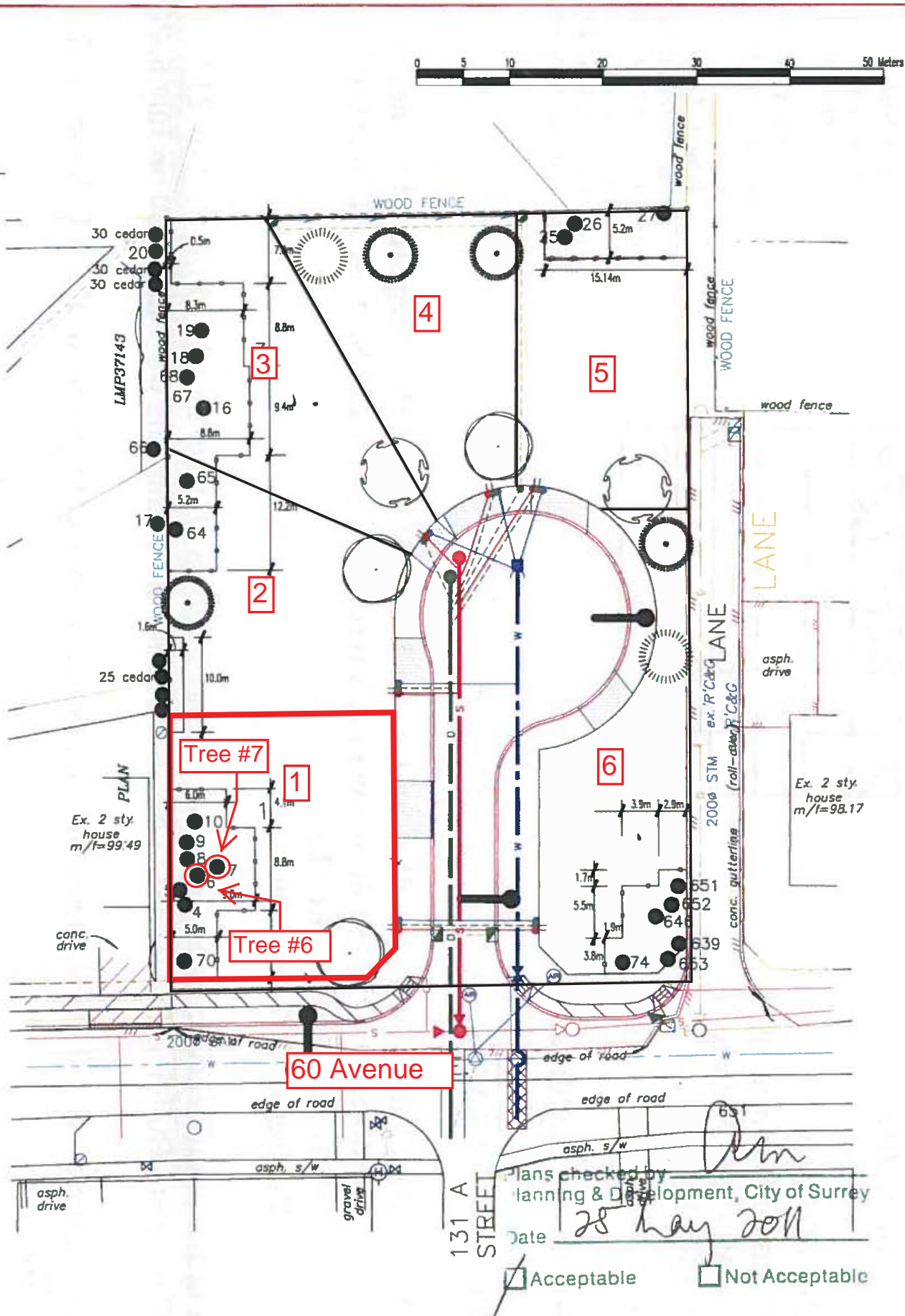


### ZONING ANALYSIS: (RF)

LOT SIZE:	671 sq.m.
FLOOR AREA:	
PERMITTED: 560 sq.m. X. 60	336 sq.ft.
111 sq.m. X. 35	39 sq.ft.
SUBTRACT: 39 sq.m. (GARAGE)	375 sq.m.
ALLOWABLE FLOOR AREA:	336 sq.m.
COVERED OUTDOOR SPACE:	
PERMITTED (10% OF MAXIMUM FAR):	38 sq.m.
SUBTRACT: 15 sq.m. (FRONT PORCH/VERANDA)	
ALLOWABLE OUTDOOR SPACE:	23 sq.m.
LOT COVERAGE:	
PERMITTED (36%):	242 sq.m.



60th AVENUE



LEGEND

- = TREES TO BE RETAINED
- ⊗ = TREES TO BE REMOVED
- = PROTECTION BARRIER

JAN/10	CITY OF SURREY REQUEST	3
JAN/10	CITY OF SURREY REQUEST	2
FEB/09	CITY OF SURREY REQUEST	1

**C. KAVOLINAS & ASSOCIATES INC.**  
 BCSEA CSLA  
 2482 JONGHUL COURT  
 ABBOTSFORD, B.C.  
 V3G 3G8  
 PHONE (804) 857-2378

**MR. MIKE HELLE**  
 COASTLAND ENGINEERING & SURVEYING LTD.  
 18232 - 80th AVENUE  
 SURREY, B.C.  
 V3S 1E3  
 PHONE (804) 332-9708

**PLAN VIEW**  
**TREE LOCATION PLAN**  
**TREE REPLACEMENT PLAN**  
**6 LOT SUBDIVISION**  
 13153 - 60th AVENUE  
 SURREY, B.C.

SCALE	1:250	DATE	JUN/08
DRAWN		CHECKED	
DATE		DATE	
APP'D		DATE	

APP'D: [Signature]  
 DATE: [Signature]  
 L-2

Plans checked by  
 Planning & Development, City of Surrey  
 Date 28 May 2011  
 Acceptable     Not Acceptable



Table 1. Tree Inventory.

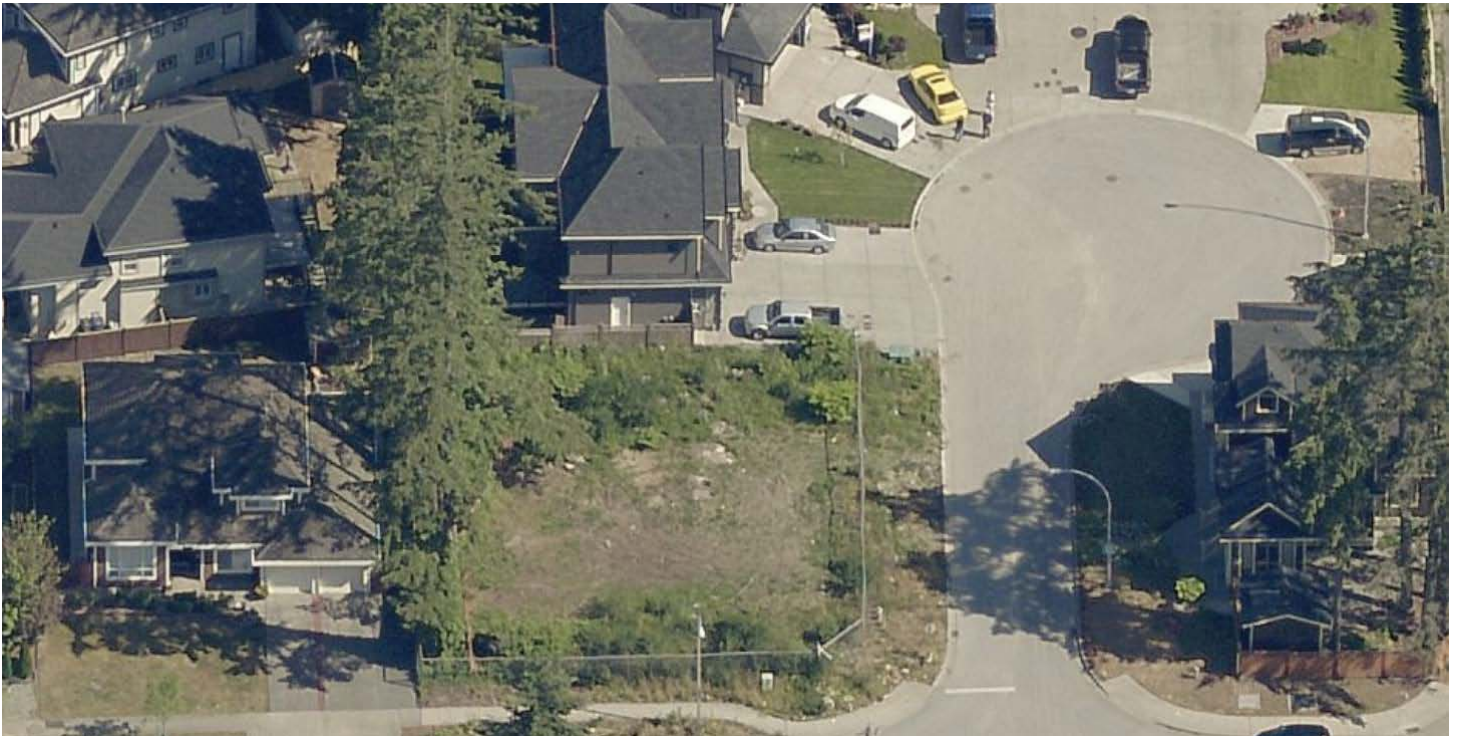
Tag #	Species	DBH	Ht.	LCR*	Root Protection Zone (m)	Tree Risk Assessment	Comments
13153 - 60th Avenue Feb 9 09							
73 - Road	Douglas-Fir	86	30	85	4.8	7	Within road right-of-way. Remove
2 - Lot Lot 1	Douglas-Fir	75	28	90	4.2	7	Good. Affected by services. Remove
3 - Lot 1	Douglas-Fir	68	27	80	3.8	7	Thinning foliage. Remove
71 - Lot 1	Douglas-Fir	85	26	80	4.7	7	Recently broken top, thinning foliage, minor decay, ivy. Remove
70 - Lot 1	Douglas-Fir	51	25	50	2.8	7	Good. Retain
4 - Lot 1	Douglas-Fir	61	27	50	3.4	7	Good. Retain
5 - Lot 1	Douglas-Fir	37	18	40	2.1	6	Good, suppressed tree. Retain
6 - Lot 1	Douglas-Fir	36	20	50	2.0	6	Good, suppressed tree. Retain
7 - Lot 1	Douglas-Fir	76	28	80	4.2	7	Good, very healthy crown. Retain
8 - Lot 1	Douglas-Fir	37	20	50	2.1	6	Good, suppressed tree. Retain
9 - Lot 1	Douglas-Fir	66	25	70	3.7	7	Good, (needs #7). Retain
10 - Lot 1	Douglas-Fir	65	25	80	3.6	7	Good, Ivy. Retain
14 - Lot 2	Cherry	25,31,17,23,14	13	40	5.6	6	Multi-stem. Within building envelope. Remove
64 - Lot 2	Douglas-Fir	78	25	80	4.3	7	Good. Retain
65 - Lot 2	Douglas-Fir	53	22	70	2.9	7	Good. Retain
67 - Lot 3	Douglas-Fir	66	25	50	3.7	8	Epicormic shoots, responding after impact from west - remove.
16 - Lot 3	Douglas-Fir	88	27	80	4.9	7	Good. Retain

Aerial Views of 13145 Before and After Removal of Trees

**Before:**



**After:**



Photos of Stumps of Trees #6 and #7





May 24, 2016

Surrey File: 13145-06000

Sukhpreet K. Punia  
13765 58 Ave  
SURREY BC V3X 3I1

Dear Sir/Madam:

**Re: Notice of By-law No. 16100 Remediation Requirements at 13145 60 Ave**

It was confirmed through a site inspection that 2 trees with a diameter of 30cm (measured at 1.4 meters above ground) or more has been removed at your property 13145 60 Ave. This tree removal is in contravention of Part 3 of the City of Surrey's Tree Preservation By-law, No. 16100, which requires that you obtain a permit prior to the removal of any protected trees.

Based on Parts 5, 8 and 9 of By-law No. 16100, you are required to pay the original permit costs, a penalty fee, and replace the 2 trees at a 2:1 ratio (2 trees replaced for every one removed). You are also requested to provide a refundable security deposit to the City for the tree replacement. Consequently, you must provide to the City, the total amount shown as follows:

(a)	Tree removal fee \$76.00 base fee plus \$30/tree = \$76 + (2 trees x \$30)	\$	136.00
(b)	Tree infraction penalty \$1,000/tree (2 trees x \$1,000)	\$	2,000.00
(c)	Tree replacement bond at \$600/replacement tree (4 trees x \$600)	\$	<u>2,400.00</u>
	<b>TOTAL</b>	<b>\$</b>	<b>4,536.00</b>

The replacement trees are to be a minimum of 3m tall if coniferous, or 8cm calliper if deciduous. When purchasing the trees, please let the nursery staff/landscaper know that the trees must conform to the BCSLA/BCLNA Landscape Standards with regards to tree structure, health and planting. Instructions on how to correctly plant the trees are available upon request.

The purpose of this letter is to notify you that unless the necessary arrangements for the above remedial measures are concluded by: June 24, 2016, a note regarding this letter will be placed on the City's tax roll for this property and the costs shall be added to the form part of the taxes payable on the lot as taxes in arrears. The note will be removed when the City confirms the remedial measures are concluded.

Please call the Trees and Landscape Section at 591-4675 for further information.

Yours truly,

Steve Whitton  
Manager, Trees and Landscapes  
Phone: 604-591-4505  
Email: [spwhitton@surrey.ca](mailto:spwhitton@surrey.ca)