

THE CORPORATION OF THE DISTRICT OF BURNABY

PLANNING DEPARTMENT

FEBRUARY 1, 1971

MR. H. W. BALFOUR  
MUNICIPAL MANAGER

DEAR SIR:

RE: SUBDIVISION CONTROL BYLAW

The Municipal Council has established a meeting date of February 9, 1971, to discuss the above bylaw; and has requested a report on the basic differences between the proposed bylaw and the old subdivision bylaw passed in 1955.

I believe the general reason for the new bylaw can best be expressed by quoting from the Municipal Solicitor's comments to myself, during his consideration of earlier drafts:

Quote: "the bylaw, in my opinion, contains many clauses which are ultra vires. I realize that the bylaws of adjacent municipalities contain similar clauses but these bylaws and Burnaby's are based upon a model bylaw produced by the Lower Mainland Regional Planning Board in December, 1954. At that time Municipalities had much greater power to regulate the subdivision of land than they now possess. Section 62 of the old Municipal Act provided that Council could by bylaw prescribe the regulations to be met as a condition precedent to the granting of subdivision approval by the Approving Officer. Council may now regulate the subdivision of land only to the extent provided in Section 711 of the Municipal Act." Unquote.

In addition to the need to adopt a bylaw, based upon the enabling legislation contained in the Municipal Act, there is also a need to recognize the servicing standards for subdivision adopted by Council resolution in 1964, and the Zoning District Classifications adopted by Council in 1965.

Reflecting the above comments the new Subdivision Bylaw is required in order to:

1. Only include in the bylaw, those matters permitted to be included by Section 711 of the Municipal Act.
2. Ensure that the bylaw cannot be challenged as being ultra vires.
3. Formalize current servicing standards which at present are Council policy by resolution.
4. Eliminate duplication between the Burnaby Zoning Bylaw, the Municipal Act and the Land Registry Act.
5. Remove unnecessary administrative procedures from the bylaw.
6. Remove items that deal with matters of opinion and subdivision design.

The following comments on specific items contained within the old subdivision bylaw are intended as an amplification of the above general reasons for the new bylaw.

MANAGER'S REPORT

MEM No. 5

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RE: SUBDIVISION CONTROL BYLAW

Section No. Bylaw No. 3609 (Old Subdivision bylaw)	Comments	Applicable Section in new bylaw
2 and 3	<p>These sections are not necessary. Section 88 of the Land Registry Act requires that no subdivision plan shall be received on deposit in any Land Registry Office unless it has first been approved by the Approving Officer.</p> <p>Section 94 of the Land Registry Act provides that "where the lands being subdivided are within a Municipality the Approving Officer may refuse to approve of the subdivision where it does not conform to the bylaws of the Municipality regulating the subdivision of land."</p>	
4. (Definitions)	With the exception of the need to define categories of road all required definitions are contained within the Land Registry Act (Section 5, old bylaw).	3 and 4
6 to 10 inclusive (Preliminary Application)	There is no statutory authority for the enactment in the bylaw of a preliminary approval system. The preliminary approval procedure, which benefits the applicant will be handled administratively.	
11 to 29 inclusive Final Application (etc.)	These items are all covered by relevant sections of the Municipal and Land Registry Acts. It is not necessary nor desirable to duplicate them.	
30 and 31	These sections are not necessary as no subdivision can properly be approved if the result violates any of the provisions of other Municipal bylaws.	
32	This section which defined zoning districts and the area and shape of parcels is now superceded by the Burnaby Zoning bylaw.	5

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MEM No. 5

FEBRUARY 1, 1971

RE: SUBDIVISION CONTROL BYLAW

Section No. Bylaw No. 3609 (Old Subdivision bylaw)	Comments	Applicable Section in new bylaw
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33 to 40 inclusive

These sections, are invalid or unnecessary as they either purport to give to the Approving Office a discretion which he does not possess, or duplicate powers which are contained in the Land Registry Act or attempt to control specific design situations, which can generally be controlled by Section 711(c) of the Municipal Act.

41 to 43 inclusive  
(Services required)

These Sections have been amended to reflect the standard of subdivision servicing now permitted by the Municipal Act and required by the Municipal Council.

7, 8, 9

Note. Section 7v. of the proposed bylaw should read only.

"Sewage collection system which must be connected to the established sewage disposal system of the Municipality."

"Sewer charges are contained in Bylaw No. 4229 being Burnaby Sewerage System Frontage Tax Bylaw 1961 enacted under Section 532 of the Municipal Act.

Respectfully submitted,

*A. L. Parr*  
A. L. Parr,  
DIRECTOR OF PLANNING

ALP/mp

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ITEM No. 5