

RE: REQUEST FROM MR. AND MRS. DONALD C. WICKLOW TO SUBDIVIDE
A PROPERTY
LOT"D", BLOCK 19, D.L. 68, PLAN 11093, N.W.D.
3872 SPRUCE STREET
(ITEM 5, REPORT NO. 21, 1980 MARCH 17)

Following is a report from the Approving Officer on a request from Mr. and Mrs. Donald C. Wicklow for approval to subdivide a property on Spruce Street. Attached for convenient reference is a letter from Mr. and Mrs. Wicklow and a related report from staff which were considered by Council a few months ago.

The Approving Officer has given additional consideration to the request and it is felt that the results should be reported on in view of Council's previous interest in the matter.

RECOMMENDATION:

1. THAT the report of the Approving Officer be received for information purposes.

* * * * *

TO: MUNICIPAL MANAGER 1980 MAY 13
FROM: APPROVING OFFICER
SUBJECT: LETTER FROM MR. DONALD C. WICKLOW WHICH APPEARED ON AGENDA FOR
1980 MARCH 10 MEETING OF COUNCIL RE: REQUEST TO SUBDIVIDE
PROPERTY — 3872 SPRUCE STREET, LOT "D", BLK. 19, D.L. 68,
PLAN 11093

RECOMMENDATION

THAT this report be received for the information of Council.

REPORT

Please find attached for the information of Council a self-explanatory letter dated 1980 May 13 which I have sent to Mr. Donald C. Wicklow.

The whole question of residential type and density within Burnaby is currently under study as a part of the land use strategy review. It is possible that arising out of this work, Council may wish to establish new regulations and define new zoning Districts within which existing residential densities can be increased.


A. L. Parr
APPROVING OFFICER

ALP/ds

attachment

cc: Municipal Solicitor

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4949 Canada Way, Burnaby, B.C. V5G 1M2

Planning Department

Telephone (604) 294-7400

1980 May 13

Mr. Donald C. Wicklow
3872 Spruce Street
Burnaby, B.C.

Dear Sir:

Re: Subdivision of D.L. 86, Block 19, Lot "D",
Plan 11093 (Your Letter of 1980 March 29)

As requested in your letter of 1980 March 29, I have considered the matter of subdividing the above property, and must advise you that it is not possible to grant approval to such a subdivision for the following reasons:

1. Lot Size and Density

- a. Your lot is located in an area of the Municipality zoned Residential District (R4). This zone requires that each lot for a single family dwelling shall have an area of not less than 670 m² (7,212.06 square feet) and a width of not less than 18.5 m (60.70 feet). As your lot in its unsubdivided state measures 122 feet deep by 68.8 feet wide, it is not capable of being subdivided into two R4 single family lots.
- b. The R4 Residential District also requires that each lot for a two family dwelling shall have an area of not less than 800 m² (8,611.41 square feet) and a width of not less than 22 m (72.18 feet). As your lot in its unsubdivided state has a width of 68.8 feet, it does not comply with the duplex requirements of this zone, and therefore your lot is of sufficient size to accommodate one dwelling unit only.

2. Legality

It has been suggested that the powers of the Approving Officer are such as to enable him to ignore the above Municipal regulations and use his discretion to approve the subdivision. Because of the interest shown in this subdivision (both from those opposed and those in

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Mr. Donald C. Wicklow
1980 May 13
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favour), I have obtained the advice of our Municipal Solicitor on this question, and have been advised that he concurs with the Reasons for Judgment of His Honour Judge Stewart in the recent case of Sea View Land Estates Limited Versus Don L. South. In this instance, the Judge expressed the opinion that the Approving Officer may not disregard the provisions of a Municipal By-law notwithstanding the use of the words "may refuse" in Section 87 of the Land Title Act. In other words, it is the opinion of the Municipal Solicitor that the Approving Officer may not waive or ignore the provisions of a Municipal By-law.

3. Precedent

Whether one agrees with the above legal opinion or not, it is clear that all applications to subdivide land within the same zoning district must be treated consistently and equally. One is not free to say "yes" to one applicant and "no" to another. Approval of a subdivision of your lot would mean that approval would have to be granted to all applicants located in R4 Residential zones who wish to create two small lots from one single family lot. It is my opinion that such a precedent would be in direct conflict with the regulations which have been established in this Municipality to control the type and density of residential development.

I realize that this answer will be unsatisfactory to you, but I trust that you will realize that this has not been an easy decision to make. In conclusion, I am satisfied that I have no alternative but to reject an application to subdivide the subject property, for the reasons stated above.

Yours truly,


A. L. Parr
APPROVING OFFICER

ALP/ds

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3372 Spruce Street,
BURNABY, B.C. V5G 1Y1.

March 3rd, 1980.

Dear Mr. Mayor & Council:

Once again I am making application for subdivision of our property, (63.8' x 122') into two lots:

- 1 - 33' x 122' (this one would be right next to ten 33' width lots)
- 1 - 35.8' x 122' (our house is situated on this side)

The original application was rejected by the Approving Officer, his reasons being that - this would create substandard width lots

- the overall character of this area is one of large lots. As there is a 35' width lot directly opposite us and 33' lots adjacent to it and right up to Smith Avenue, this would be the same lot arrangement created on our side of the street if this subdivision was approved - therefore completely compatible with this immediate area. A reference to the attached sheet surely indicates that smaller lots are predominant in this area and we would relate more to them rather than to the 73' width lots to the east of us. Surely it makes sense that in an older area such as ours conformity to the existing appearance of same should take precedence over the Zoning By-law of 50' frontage. There is not a single 50' width lot on Spruce Street - this would indeed be an odd-ball lot.

Recently there have been suggestions via the media that, due to the scarcity of land and high cost of same, the trend would be to smaller lots. Our land assessment has increased by \$29,450.00 since 1977, and while I firmly believe in equalization, this increase is one of the reasons why I am most anxious for this subdivision. This land is of no use to us - surely it could be put to better use by having an individual home built on it. (R4 ZONE)

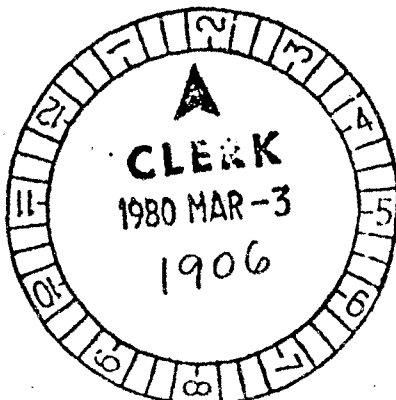
In closing I wish to state that it is now more than five years since I first made this request - a long and drawn out affair. The money obtained from the sale of this land will be very necessary as my pension income during retirement (2 1/2 years hence) will be very minimal. I do hope that this application will meet with approval.

- AGENDA 1980 03 10

- COPY - MANAGER

- APPROVING OFFICER
(FOR REPORT)

attach.



Yours very truly,

D.C. Wicklow
D.C. Wicklow.

(DONALD C. WICKLOW)

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RE: LETTER FROM MR. DONALD C. WICKLOW WHICH APPEARED ON THE AGENDA FOR THE 1980 MARCH 10 MEETING OF COUNCIL (ITEM 6h) REQUEST TO SUBDIVIDE A PROPERTY LOT "D", BLOCK 19, D.L. 68, PLAN 11093, N.W.D. 3872 SPRUCE STREET

Appearing on the agenda for the 1980 March 10 meeting of Council was a request from Mr. Donald C. Wicklow to subdivide the subject property. Following is a report from the Approving Officer on this matter.

RECOMMENDATION:

1. THAT a copy of this report be sent to Mr. Donald C. Wicklow, 3872 Spruce Street, Burnaby, B.C. V5G 1Y1.

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PLANNING DEPARTMENT
MARCH 11, 1980

TO: MUNICIPAL MANAGER
FROM: APPROVING OFFICER
RE: SUBDIVISION REFERENCE #6/75 - 3872 SPRUCE STREET
LETTER FROM D. C. WICKLOW
COUNCIL MEETING 1976 FEBRUARY 09, MANAGER'S REPORT NO. 8, ITEM 4

RECOMMENDATION

1. THAT this report be received for the information of Council.

REPORT

Council, on 1980 March 10, received a letter from Mr. D.C. Wicklow, owner of the subject property wherein he requests permission to subdivide the lot into 2 lots.

As Mr. Wicklow has indicated, the property is 68.8' x 122' and is zoned R4 Residential. Council on 1976 February 09 received the attached report for their information as a result of a similar request made by Mr. Wicklow. The regulations of the Zoning By-law pertaining to lot size requirements have not changed since 1976 nor has the position of the Approving Officer on this matter. The subject property is only slightly larger than the minimum size required by the Zoning By-law and cannot support the creation of two lots. Additionally, the overall character of the area, pertaining to the presence of larger lots, has not changed.


A. L. Parr
APPROVING OFFICER

CW:lm
Attachs.

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		COUNCIL MEETING	Feb. 9/76

Re: LETTER DATED JANUARY 28, 1976 FROM MR. D. C. WICKLOW
 3872 SPRUCE STREET, BURNABY
 SUBDIVISION REFERENCE #6/75

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Appearing on the Agenda for the February 9, 1976 meeting of Council is a request from Mr. D. C. Wicklow for permission to subdivide his property which is located at 3872 Spruce Street. Following is a report from the Approving Officer on this matter.

RECOMMENDATION:

1. THAT a copy of this report be sent to Mr. D. C. Wicklow.

* * * * *

PLANNING DEPARTMENT
 FEBRUARY 4, 1976

TO: MUNICIPAL MANAGER
 FROM: APPROVING OFFICER
 RE: SUBDIVISION REFERENCE #6/75 - 3872 SPRUCE STREET
 LETTER FROM D. C. WICKLOW

The subject property is described as Lot "D", Block 19, D.L. 68, Plan 11093, N.W.D. and is shown on the attached sketch.

BACKGROUND

The Planning Department received an application to subdivide this property into a 33 foot x 122 foot parcel and a 35.8 foot parcel on January 13, 1975. Inasmuch as it is located in the R4 Residential zone, and therefore requires a minimum lot frontage of 60 feet and a parcel size of 7,200 square feet, the application was rejected.

The applicant was advised that Council was considering a report which contained a number of proposals, one of which was an amendment to the R4 zone allowing the conversion of existing single family dwellings into two family dwellings on lots with a minimum area of 7,200 square feet and a minimum width of 60 feet. The Planning Department suggested that the applicant await Council's deliberations on this matter. This proposed amendment is to be put to a public hearing in the near future.

On May 7, 1975 the Planning Department received another application to subdivide the subject property in which the applicants stated their personal reasons for wishing to create the smaller lots. The applicants also pointed out that those lots immediately west of their property were all 33 foot lots.

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The subdivision proposal was reviewed in light of this letter, however, since the Zoning By-law standards are intended to create a consistent lot pattern within a given area, the application was again rejected. Decisions on lot size must be reviewed impartially, regardless of the special circumstances of the owner. To permit subdivision of this parcel in this location (see attached sketch) would establish a precedent for subdivision in this general area, and it is conceivable that remaining parcels in this neighbourhood would similarly be entitled to subdivision.

At the owners' request, the Planning Department again reviewed their subdivision proposal and conducted field surveys in July 1975 to determine whether or not their proposal has merit in light of surrounding conditions. At that time, we re-affirmed our decision to not approve the creation of substandard lots.

EXISTING SITUATION

The situation surrounding the proposed subdivision has been stated in the Background of this report. It is important to note, however, the particular location of the subject lot. While it is adjacent to several 33 foot lots which were created prior to adoption of the Zoning By-law, the overall character of the area is one of larger lots which do conform to the By-law requirements. We must, therefore, preserve the intent of the R4 zone which provides for the use of single and two-family dwellings on larger lots in medium density residential areas.

RECOMMENDATION

THAT Council receive this report for their information.

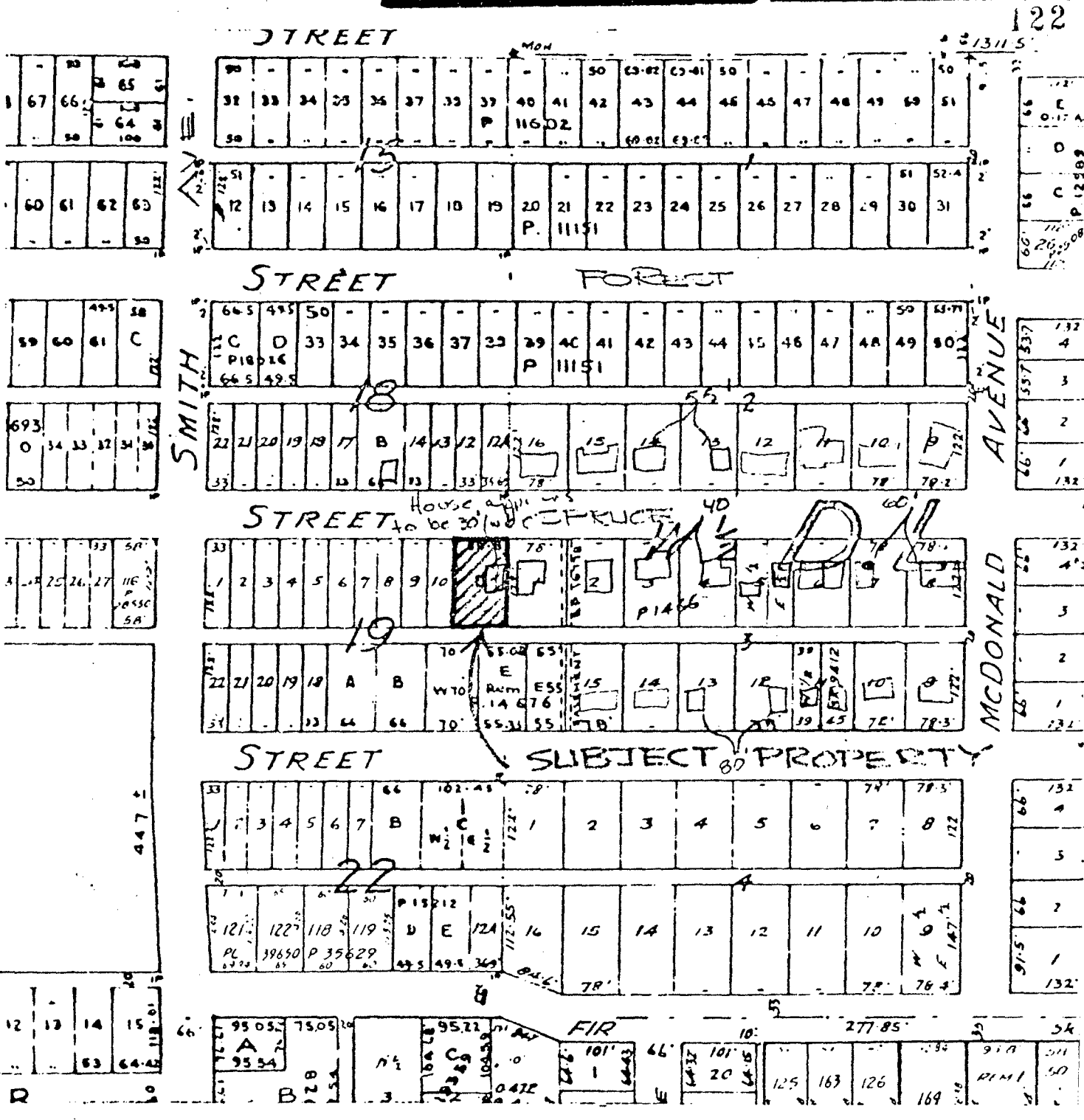

A. L. Parr
APPROVING OFFICER

PB:cw
Att.

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Date
 3/2/76

Scale
 1" = 200'

Drawn By
 FE

Burnaby Planning Department

S.D. Plan # 6/75
 D.C. Wicklow

