

TO: CITY MANAGER 1997 JUNE 19

FROM: APPROVING OFFICER

SUBJECT: 4641 GRAFTON STREET - SUBDIVISION REFERENCE #40/97

PURPOSE: To respond to inquiries regarding a proposed residential subdivision presented by a delegation to Council at its meeting of 1997 May 26.

RECOMMENDATION:

1. THAT a copy of this report be sent to Apac Services Inc., 8338 Hollis Place, Burnaby, B.C., V5J 4Z8, and Mr. Tomo Bulic, 5970 Nelson Street, Burnaby, B.C., V5H 3H9.

R E P O R T

1.0 BACKGROUND

At its meeting of 1997 May 26 Council heard a delegation from Mr. Victor Stusiak of Apac Services Inc., representing Mr. Tomo Bulic the registered owner of a property currently under application for subdivision. In his presentation, Mr. Stusiak raised several issues to which Council directed staff to respond. At the same meeting, this Department submitted a report which commented on some of these issues. That report was tabled.

2.0 GENERAL COMMENT

Burnaby adopted its Subdivision Control Bylaw in 1971 to regulate and to require the provision of works and services in respect of the subdivision of land, and since that date the application of the established standards has been used both to ensure consistency and equitable treatment and also to ensure that to the extent possible the costs of creating and servicing new lots is borne by the subdivider, rather than by the community as a whole (i.e. by other rate payers). This arrangement, it is submitted, has served Burnaby well, as it has achieved construction of the capital works required to service new subdivisions at the time of subdivision, such that the general taxpayer is not required to subsidize the extension of roads, water, sewer, storm drainage and similar hard services to serve the new lots created, either directly or through subsequent means such as local improvements. This has resulted in new subdivisions that in general are built to contemporary standards without unnecessary public expenditures.

It should be noted that in the case of simple two-lot "infill" residential subdivisions on streets that are presently developed only to a strip pavement interim standard, it has been Burnaby's practice to accept a continuation of the existing standard across the frontage of newly-subdivided lots, to avoid local irregularities and inconsistencies in the residential street. This principle is respected and being applied in the case of the street standard for Booth Avenue in this present subdivision.

The following sections comment more specifically on the points raised by the delegation.

3.0 LANE DEDICATION AND CONSTRUCTION

In the presentation by the delegation, a question was raised on the validity of the requirement to dedicate and construct the lane abutting the northern edge of this property as part of the approval of the subdivision.

Section 75(1)(d) of the Land Title Act ("Requirements as to subdivision") clearly provides the authority for the Approving Officer to require lane dedication as a condition to the approval of a subdivision and reads..."suitable lanes shall be provided in continuation of existing lanes and in every case where lanes are considered necessary by the approving officer".

At every opportunity in this area, the Approving Officer has continued to require dedication of lane to continue the long established pattern in the area and to provide for secondary access to new lots being created (see *attached* area map). It has been the continuous and long-standing policy that when full lane dedication of 6.10 m is achieved, the Approving Officer requires the construction of the lane (i.e. the portion abutting the property being subdivided) as a condition of the subdivision.

In the presentation from Apac Services, it was suggested that if construction of the lane is required, the property owner is responsible for the costs to centre line only. Under Section 938(6) of the Municipal Act R.S.B.C. 1996, Chapter 3223 (Section 989(4) of the previous consolidation), if a Council has enacted a Works and Services Bylaw, then the provision for works and services required as a condition of either a subdivision or a building permit would be limited to "that portion of a highway immediately adjacent the site being subdivided or developed, up to the centre line of the highway".

Under Section 938(1) [previously 989(1)] however, a local government may by bylaw "regulate and require the provision of works and services in respect of the subdivision of land" and for that purpose may "require that within a subdivision, highways, sidewalks, boulevards, boulevard crossings, transit bays, street lighting or underground wiring be provided, and be located and constructed in accordance with the standards established by the bylaw...". This provision does not limit the construction to the centre line of a "highway" (the definition of which includes 'lane'). The conditions and requirements for lane construction to the standard and engineering requirements of the Director Engineering are provided for in the Burnaby Subdivision Control Bylaw 1971.

4.0 DEDICATION AND CONSTRUCTION OF BOOTH AVENUE

With regard to the development potential of the proposed new lots, during the initial review of an application to subdivide this property in 1977 (prior to Mr. Bulic's ownership), the registered owner at that time wished to create two 2-family lots. The Engineering Department reviewed the requirement for a 33' dedication for Booth Avenue to complete the previously established width of 66' and concluded that sufficient right-of-way width for ultimate future road construction to final City standard could be achieved in this instance with the dedication of just 30' for the Booth Avenue road allowance. This minor relaxation allowed the proposed subdivision to achieve two 2-family lots rather than 1 single family and 1 two-family that would have been possible if the full 33' dedication had been required.

In processing Mr. Bulic's application to subdivide this property in 1990, the Approving Officer continued to recognize a 30' dedication for Booth Avenue rather than a 33' dedication. The construction of Booth Avenue will be to 'interim' standard which simply recognizes and continues the existing interim standard to the north. Construction of the block front to final City standard (i.e. with curbs, gutters, and a full 28' pavement width) could be accomplished in the future under the Local Improvement Program if it is petitioned by the area residents.

As the current owner has stated that he has plans to build only 2 single-family dwellings, the Approving Officer would be prepared to review the dedication requirement for the Booth Avenue road allowance in connection with the current subdivision application if so requested. If the standard 66' road allowance is obtained (33' foot dedication), the lots created would be reduced to 1 single-family and 1 two-family, and this would have the effect of reducing the required Parkland Acquisition Levy by \$933.00.

5.0 PARKLAND ACQUISITION LEVY - DEVELOPMENT COST CHARGES

The delegation has requested that the requirement for submission of the Parkland Acquisition Levy be deleted. Further statements were made to the effect that the section of the Municipal Act that authorizes Development Cost Charges stipulates that this charge is not applicable to a subdivision that would contain fewer than four units, and reference was made to Section 992 (now 941) that is not pertinent to this subdivision.

The application of a Development Cost Charge for Parkland Acquisition purposes was established in Burnaby by Bylaw 7328 in 1979. Consistent with the provisions of the Municipal Act it applies, on a per dwelling unit basis, to all residential subdivisions throughout the City. In his presentation the delegation stated that the Act states that the charge is not applicable where the "subdivision or building permit would contain less than four self-contained building units".

Staff have explained to him previously that this is not the case: while it is true that the Act specifically exempts an applicant for a *building permit* from a development cost charge in such circumstances, no such exemption is made to the applicability of the DCC in the case of *subdivision*, irrespective of the number of lots involved. Similarly the delegation's reference to Section 992 is not relevant to this subdivision, as no requirement has been proposed at any time for dedication of land for park purposes nor for any payment in lieu of dedication, pursuant to that Section. Mr. Stusiak has previously been advised of this fact.

Pursuant to the Bylaw, a Development Cost Charge (DCC) is payable at the time of subdivision approval for all the lots being created in the subdivision. In the case of single- and two-family development, the charge prescribed in the Bylaw is \$933.00 per unit where vacant lots are created for new residential development. The present subdivision application would create 2 two-family lots as presently contemplated; if, as mentioned in Section 4.0 of this report, the applicant were to opt to create only 1 single-family and 1 two-family size lot by opting for the 33 foot road dedication, this would have the result of reducing the number of units in the subdivision from four to three, for DCC calculation purposes (although the owner should recognize that this would also have the effect of substantially reducing the market value of one of the resulting lots).

6.0 STORM SEWER SERVICING REQUIREMENTS

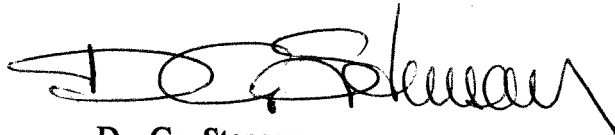
The Engineering Department reports that it is and has been their practice to ensure City storm drainage provision is available to each lot that is created. This may be achieved by discharge to a piped storm sewer or existing abutting ditch. Proposed Lot 1 requires a storm sewer connection and this would be supplied by way of a piped service because no existing ditch is available. The short piece of storm sewer required to be constructed provides the service to Lot 1. Whether or not the lane is constructed does not change the requirement to provide storm sewer service to Lot 1.

7.0 SUMMARY AND CONCLUSIONS

The present application for subdivision is being processed in accordance with the established Bylaws and procedures used in Burnaby for many years that are applicable to residential infill subdivisions. The conditions applied by the Approving Officer in 1990 (copy of letter of tentative approval *attached*) are generally still considered to be applicable as there have been no changes to the pertinent bylaws governing subdivision since that time. It is submitted that the conditions applied are neither unfair nor excessive, and it is important that in the interest of fairness and equity vis-a-vis other applicants for subdivision in similar circumstances, the provisions of Burnaby's bylaws and procedures be applied uniformly and fairly.

In light of the fact that a new application has been submitted, it is necessary to circulate the application to all interested departments and external agencies to obtain an update of specific servicing requirements and costs, etc. Once this process is complete, the Approving Officer will write to the applicant to provide the up-to-date conditions of tentative approval. Staff will be pleased to meet and work out with the applicant any details and adjustments to the proposed subdivision that can be considered to satisfy the pertinent requirements of the Acts and City bylaws that regulate subdivision and Development Cost Charges.

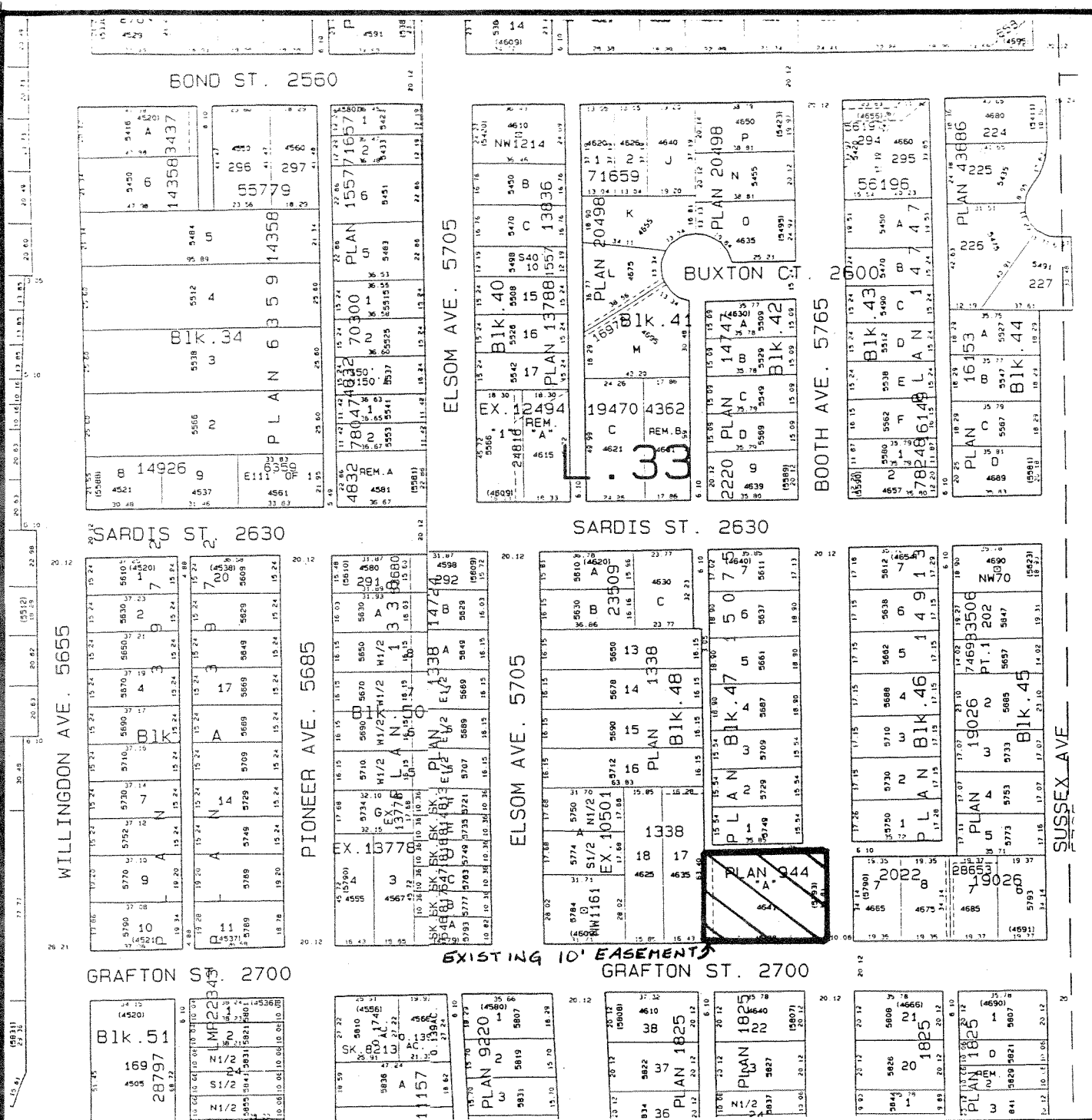
This is for the information of Council.



D. G. Stenson
Approving Officer

DGS:SAM:lf
Attachments
(a:\sd4097.rpt)

cc: Director Engineering



Date:
1997 JUNE

Scale:
N.T.S.

Drawn By:
SAM



4641 GRAFTON ST. - S.D.#40/97

1980 August 16

Mr. Tomo Bulic
5970 Nelson Avenue
Burnaby, B. C.
V5H 3H2

Dear Sir:

Re: SUBDIVISION REFERENCE #62/90
4641 Grafton Street

In reply to your application for approval to subdivide the subject property, we would advise that Tentative Approval of the subdivision is hereby granted, according to the attached layout and subject to the following:

Conditions governing the subdivision:

1. The zoning is R5 Residential District. Any development on the proposed lots must meet all requirements of the zoning Bylaw for this zone.
2. Existing buildings and structures that will not comply with proposed lot lines must be removed. Any accessory buildings or structures that will appear on a lot not having an existing principal building thereon must be removed. A permit must be obtained from the Building Department and this work completed prior to Final Approval of Subdivision.
3. A description of the preliminary servicing requirements and estimates of the cost of installation are provided in the Director Engineering's report attached. Design drawings as required must be prepared by a qualified Professional Engineer for submission to Burnaby's Engineering Department. The Design Division of the Engineering Department will upon request, provide the developer or his appointed Design Engineer with details of the standards and specifications for the services to be installed.
4. A further cost estimate will be prepared, based on the submitted design drawings. A deposit in this amount must be submitted either by an irrevocable Bank Letter of Credit or by certified cheque. Attached is a list of the requirements for Letters of Credit which should be presented to your bank to ensure that all items are included in the Letter of Credit.

. . . /2

6. The developer must enter into a Servicing Agreement with the Corporation. If it is your intention to proceed with subdivision, please complete the attached form and return it to Planning. At that time, an up-to-date Title Search must be submitted to Planning. This may be obtained from the Land Title Office.

A certified copy of the developer's insurance policies must be submitted to Planning. The policies are to contain the requirements listed on the attached sheet.

6. A 4% inspection fee, based on the Director Engineering's estimated cost of installing the services, must be submitted to the Engineering Department.
7. The payments listed on the attached Director Engineering's report dated 1990 August 09 in the total amount of \$1,320.00 must be made directly to the Engineering Department by cheque or cash.
8. The amount of \$5,732.00 for the Neighbourhood Parkland Acquisition Levy must be deposited with Planning by a separate certified cheque.
9. The registration set of subdivision plans including one original, two film copies, together with 12 paper prints, must be executed by the owner(s), who are or will be shown on the Title at time of registration, and Mortgagee(s) and submitted to Planning.

Please note that the survey plans must be signed with either india ink or a black felt pen. Rubber stamped plans and plans signed with a ballpoint pen are not acceptable to the Land Title Office.

10. A report received from B.C. Hydro has indicated that electrical service is available from the existing B.C. Hydro system. However, wiring to the point of connection to the existing service may be required to be underground as installation of new poles will not be permitted. The cost of this service is not included in our estimates but will be provided by B.C. Hydro upon application by the developer. An application must be made to B.C. Hydro for this service.
11. When the subdivision plan is tendered for Final Approval, it shall be accompanied by a final examination fee of \$40.00. This amount may be paid by cheque or cash.
12. Any outstanding taxes must be paid.

1990 August 16

This conditional approval is valid for three months and must not be construed as Final Approval for land registration purposes. Any requests for extension of Tentative Approval must be accompanied by a fee of \$25.00 (per extension).


If you have any questions with regard to the above, please phone Mrs. Duncalf of this Department at 294-7919.

Yours truly,


A. L. Parr,
APPROVING OFFICER

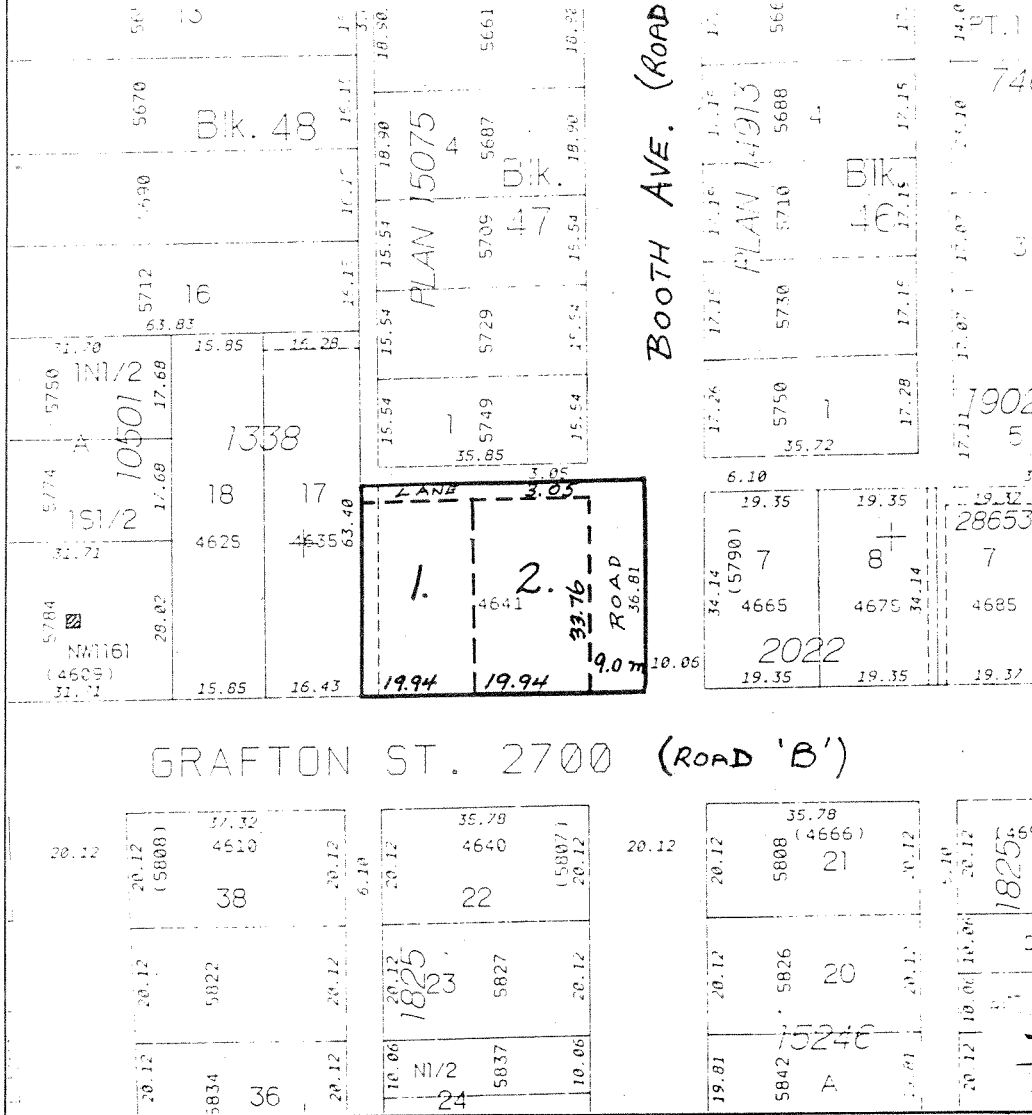

AD:hr
Atts.

cc: Director Engineering
Area Assessor
Director Recreation & Cultural Services
B.C. Hydro & Power Authority
B.C. Telephone Company



D.L. 33
 BLK. 47
 PARCEL "A" (528375E)
 PLAN 944

SUBDIVISION REF. # 62/90
 ZONE: R5



Date: 1
 1990 MAY
 Scale:
 N.T.S.
 Drawn By:
 AD



NOTES: -EXISTING BUILDINGS + POOL TO BE REMOVED.
 -EXISTING R.O.W. TO BE RETAINED.

