

TO: CITY MANAGER

2001 SEPTEMBER 4

FROM: DIRECTOR PLANNING AND BUILDING

**SUBJECT: SUBDIVISION REFERENCE #99-20
7938 ROSEWOOD STREET
RESPONSE TO POINTS RAISED IN CORRESPONDENCE**

PURPOSE: To respond to the points raised by the correspondence received by Council at the 2001 August 27 Council meeting.

RECOMMENDATION:

1. **THAT** a copy of this report be forwarded to Mr. P. Mills, 7949 Rosewood Street, Burnaby, B.C. V5E 2H4 and Mrs. A. Grespan, 7949 Rosewood Street, Burnaby, B.C. V5E 2H4

R E P O R T

1.0 BACKGROUND INFORMATION:

- 1.1 In 1989 May, a process for establishing the potential for small lot single-family development in the R4 and R5 zoning districts was concluded. The public participation component to this process revealed that Burnaby residents were generally supportive of providing opportunities to permit small lot development under certain circumstances, while at the same time preserving established large lot single-family neighbourhoods. The regulations governing small lot single-family development in the R4 and R5 zoning districts are a result of Council's adoption of the recommendations contained in the 1989 May 01 report. The implementation of the small lot development policy under R4 or R5 zoning is carried out in an administrative manner and does not involve or require an individual rezoning or similar process.
- 1.2 On 1999 May 18 the applicant for the subject subdivision made an application to subdivide his property into three single-family lots under the small lot development provisions in the R5 Residential Zoning District (see attached Sketch #1). Given the property meets all requirements established in the R5 District, tentative approval to the subdivision was granted on 1999 September 07 and has since been renewed every three months in accordance with subdivision requirements. On 2001 August 27, Council received numerous letters of protest which raised a number of points with respect to the subject subdivision. Council subsequently directed staff to respond to the points raised in the correspondence. This report is in response to that request.

2.0 GENERAL DISCUSSION:

- 2.1 The correspondence raised a number of points, including questioning the number of lots constituting the south block front on Rosewood Street. The correspondence also included a proposal to change the Zoning Bylaw which would limit small lot redevelopment to the size of the smallest lot on the block.
- 2.2 A common theme in the correspondence protesting the approval of the subject subdivision application involves interpretation of *Section 105.2 (2)* of the Zoning Bylaw, which permits small lot single-family development in instances where 30% or more of the existing lots in the block front have a width of 13.72m (45.0 ft.) or less. The minimum lot area for such lots is 334.40 m² (3,600 sq. ft.), and the minimum lot width is 9.14m (30.0 ft.). The subject subdivision application meets and exceeds these minimum requirements.

Questions and future scenarios were raised in the correspondence which, if validated, would effectively reduce the number of small lots in the south block front on Rosewood Street to below the required 30%, and thus bring the subject subdivision into non-compliance with the aforementioned regulations. Notwithstanding, there are 21 lots constituting the south block front for Rosewood Street. Of the 21 lots, 7 (33%) have a width of 13.72m (45 ft.) or less.

One point raised is that 7976 Rosewood Street, which is comprised of two legal lots (see attached Sketch #1), ought to be considered as one lot because a single house straddles both properties, and because BC Assessment and the City issue and collect taxes for one address. It is important to note that the Zoning Bylaw defines a lot as:

"...an area of land designated as a separate and distinct parcel on a legally recorded subdivision plan or description filed in the Land Registry Office, and having a principal frontage upon a public street or place".

Because 7976 Rosewood Street is registered as two separate and distinct land parcels, each with its own legal description, and legally recorded as such on a subdivision plan deposited at the Land Titles Office, they must be considered as two separate lots according to the Zoning Bylaw. The fact that one house straddles both properties, or that taxes are collected for one civic address does not deem the properties to be one and the same. For this reason, both lots count toward the 30% provision required for small lot single-family development under R5 Residential District zoning.

Another point raised in the correspondence is that 7996 Rosewood Street (7035 Fourth Street) should be considered as a part of the south block front for Rosewood Street, thus bringing the number of properties constituting the south block front up to 22 from 21 (see attached Sketch #1). According to the Zoning Bylaw, and by virtue of the fact that the house

on the property fronts onto Fourth Street, 7996 Rosewood Street would be considered a part of the west block front for Fourth Street, and not the south block front for Rosewood Street. For this reason, the south block front for Rosewood Street remains at 21 lots. However, it is further noted that even if 7996 Rosewood Street were considered a part of the south block front for Rosewood Street, this would bring the number of lots up to 22, resulting in 31.8% of lots in the block front having frontages of 45 ft. or less. Therefore, the subject subdivision application would remain in conformity with the 30% rule under R5 zoning.

For the various reasons mentioned above, the provisions of the Zoning Bylaw are satisfied by the subject subdivision. As the subdivision proposal meets and exceeds R5 zoning requirements, the applicant is entitled to the proposed subdivision, provided established prerequisites and all other conditions and regulations of subdivision are satisfied.

- 2.3 A suggestion was put forth by one of the petitioners that the Zoning Bylaw be amended in a way that would require all small lot subdivisions for single-family dwellings in the City to be limited to the smallest existing lot size on any given block.

This represents a thoughtful response and one which would have received consideration along with others within the overall policy review process. The definition of the criteria for small lot development is less about a 'right' or 'wrong' formula, and more about establishing a community consensus with respect to the right balance between purely homogeneous neighbourhoods and allowing ample development opportunities as part of the City's growth management strategy. The 30% rule and the 30 ft. minimum lot width under the R5 zoning district represents that balance as defined by the previously discussed public consultation process.

The proposal to amend the Zoning Bylaw as advanced could be applied, as could many other alternatives. It would, however, negatively alter the balance between large lot preservation and small lot development opportunities achieved through the public review process. At this point, staff would not recommend such a policy change be undertaken in relative isolation. Such consideration could be given at the time of the City's next Official Community Plan review, which will be undertaken immediately following completion of the Livable Region Strategic Plan update to be initiated shortly. Notwithstanding the above, given that the applicant has made the application under the terms of the prevailing zoning, any current or future review of the Zoning Bylaw would not have a bearing on the approval for the subject subdivision application.

- 2.4 It is noted that staff have made every effort to respond to the correspondence received by the Planning Department regarding the subject subdivision application. Most of the information contained in this report has already been conveyed to the individual petitioners, either by telephone or in writing.

3.0 CONCLUSION:

This report responds to the points raised by various correspondence regarding the subject subdivision application which were received at the 2001 August 27 Council meeting. In general, it was noted that the subject subdivision application meets the requirements of the R5 Residential District, specifically the regulations governing small lot single-family development under *Section 105.2 (2)* of the Zoning Bylaw, despite petitioners' claims to the contrary. By virtue of the applicant satisfying prevailing zoning requirements, and subject to all subdivision requirements being fulfilled, the Approving Officer has no discretion in terms of not approving the subdivision application. It was also noted that a proposed amendment to the Zoning Bylaw, which would restrict small lot single-family development to the smallest lot size on a given block, is considered inappropriate due to its relative isolation from a broader policy review, and in view of the City's desire to achieve a balance between neighbourhood preservation and small lot housing opportunities. It is finally noted that a review of the Zoning Bylaw at this time would not in any event effect the status of the current subdivision application.

This is for the information of Council.

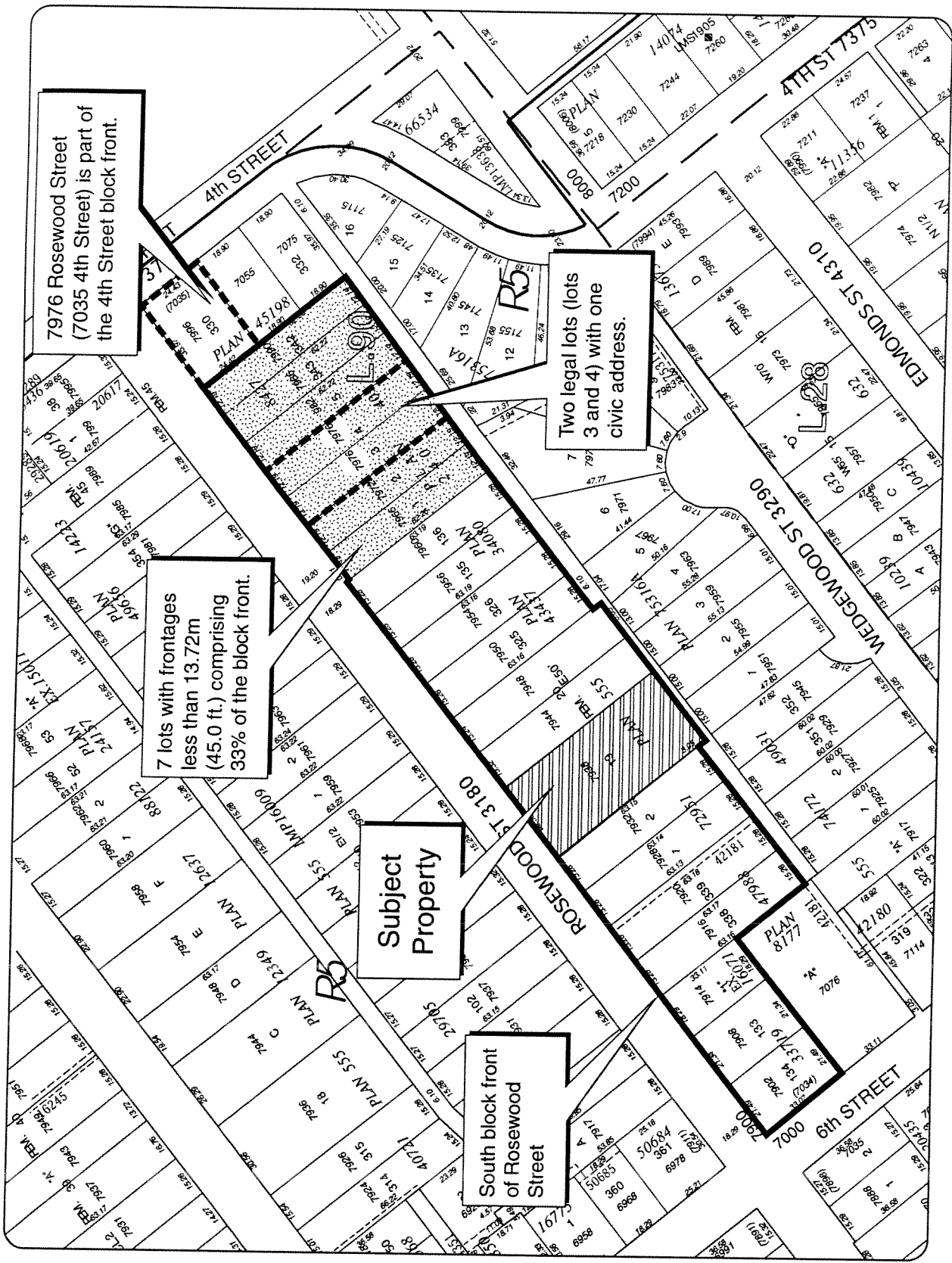
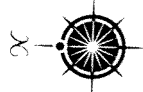


J. S. Belhouse
Director Planning and Building

EK:JSB:gk
Attach

cc: Director Engineering
City Clerk
Chief Building Inspector

P:\Ed's Work\PI response to Rosewood petition.wpd



7900 Block of Rosewood Street

Sketch 1

