

TO: CITY MANAGER

FROM: DIRECTOR PLANNING AND BUILDING

SUBJECT: SUBDIVISION REFERENCE #99-20
7938 ROSEWOOD STREET
RESPONSE TO DELEGATION POINTS

2001 SEPTEMBER 17

PURPOSE: To respond to the points raised by the delegation which appeared at the 2001 September 10 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 to Mr. O. Moysiuk, 7931 Rosewood Street, Burnaby, B.C. V5E 2H4

R E P O R T

1.0 BACKGROUND INFORMATION:

1.1 On 1999 May 18 the applicant for the subject subdivision of 7938 Rosewood Street 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. On 2001 September 10, Council received the requested report which was tabled at that time. At the same meeting, Council received a delegation (Mr. P. Mills and Mr. O. Moysiuk) who raised a number of points including historical information about the 7900 block of Rosewood Street. Council then directed staff to respond to the points raised by the delegation. This report is in response to that request.

2.0 GENERAL DISCUSSION:

2.1 As the delegation again raised the issue of bylaw interpretation as it relates to the subject subdivision's approval, a summary rationale is provided as follows:

- *Section 105.2 (2)* of the Zoning Bylaw permits small lot single-family development in R5 Single-Family Residential Districts provided that 30% or more of the existing lots in the block front have a width of 13.72m (45 ft.) or less.
- The block front in which the subject property is located has 21 properties, 7 (33%) of which have widths of less than 45 ft. Therefore, the 30% criteria is achieved.
- The lots located at 7976 Rosewood Street constitute two legal lots according to the definition of "lot" in the Zoning Bylaw. The issue of whether B.C. Assessment issues one assessment for both properties does not bear upon the City's treatment of the properties as two separate and distinct lots. While one assessment is levied, B.C. Assessment acknowledges Lots 3 and 4 as separate legal lots and identifies them as such on the assessment notice. For this reason, both lots must count toward the 30% required for small lot development on the subject site, despite there being one dwelling which is situated on portions of both lots. It is noted that there is no legal impediment to an initiative to demolish the existing dwelling, and to construct a new dwelling on each of the two lots.
- 7035 Rosewood Street (7035 Fourth Street) is part of the Fourth Street block front and thus does not impact the calculation for small lot eligibility for the subject subdivision. The house on the property is oriented to Fourth Street and thus should constitute a part of that block front. Furthermore, it is noted that inclusion of this property in the south Rosewood Street block front (bringing the number of lots to 22 from 21) would have no effect on the approvability of the subject subdivision, as the percentage of lots with frontages less than 45 ft. would be nominally reduced to 31.8% from 33%.
- Any proposed amendments to the applicable sections of the Zoning Bylaw which restricts small lot development to the size of the smallest lot on a given block would not affect the current subdivision application. This is due to the application having been in stream prior to the adoption of such a proposed Text Amendment, and thus subject to a grandfather provision for a period of one year under *Section 943* of the *Local Government Act*.
- As the subject subdivision proposal meets zoning and subdivision requirements, the Approving Officer does not have the discretionary authority to refuse approval of the subdivision to create three small lots for single-family development on the subject property. It is noted that, under the *Land Title Act*, subdivision approval is within the exclusive purview of the Approving Officer.

2.2 The delegation also raised some historical points suggesting that the 7900 block of Rosewood Street ought to be considered as two separate blocks, divided roughly north/south

at the middle of the block.

Historical research shows the properties in the 7900 block of Rosewood Street to comprise one of Burnaby's earliest deposited subdivision plans - Plan #555, which was created in 1891. An examination of the historical record for the 7900 block Rosewood Street, from 1891 to the present, has not uncovered any evidence to suggest that Fifth Street ever bisected (in actuality or on a plan) the 7900 block Rosewood Street, thus creating two separate blocks between Sixth and Fourth Avenues. It is noted that while prior to 1951, Rosewood Street was named Campbell Street, the basic road pattern remained the same.

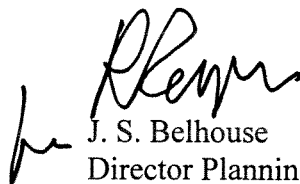
With respect to lot addresses, in 1922, the 7900 block Rosewood Street had lot address numbers ranging from 399 to 595 between Fourth and Sixth Streets. In 1960-61, the old numbers were changed to conform to a Greater Vancouver system, hence the existing 7900 block Rosewood Street. The previous lot numbering system does not affect the legal block definition between Fourth and Sixth Streets.

It is concluded that the 7900 block Rosewood Street has been a single block between Fourth and Sixth Streets since 1891.

3.0 CONCLUSION:

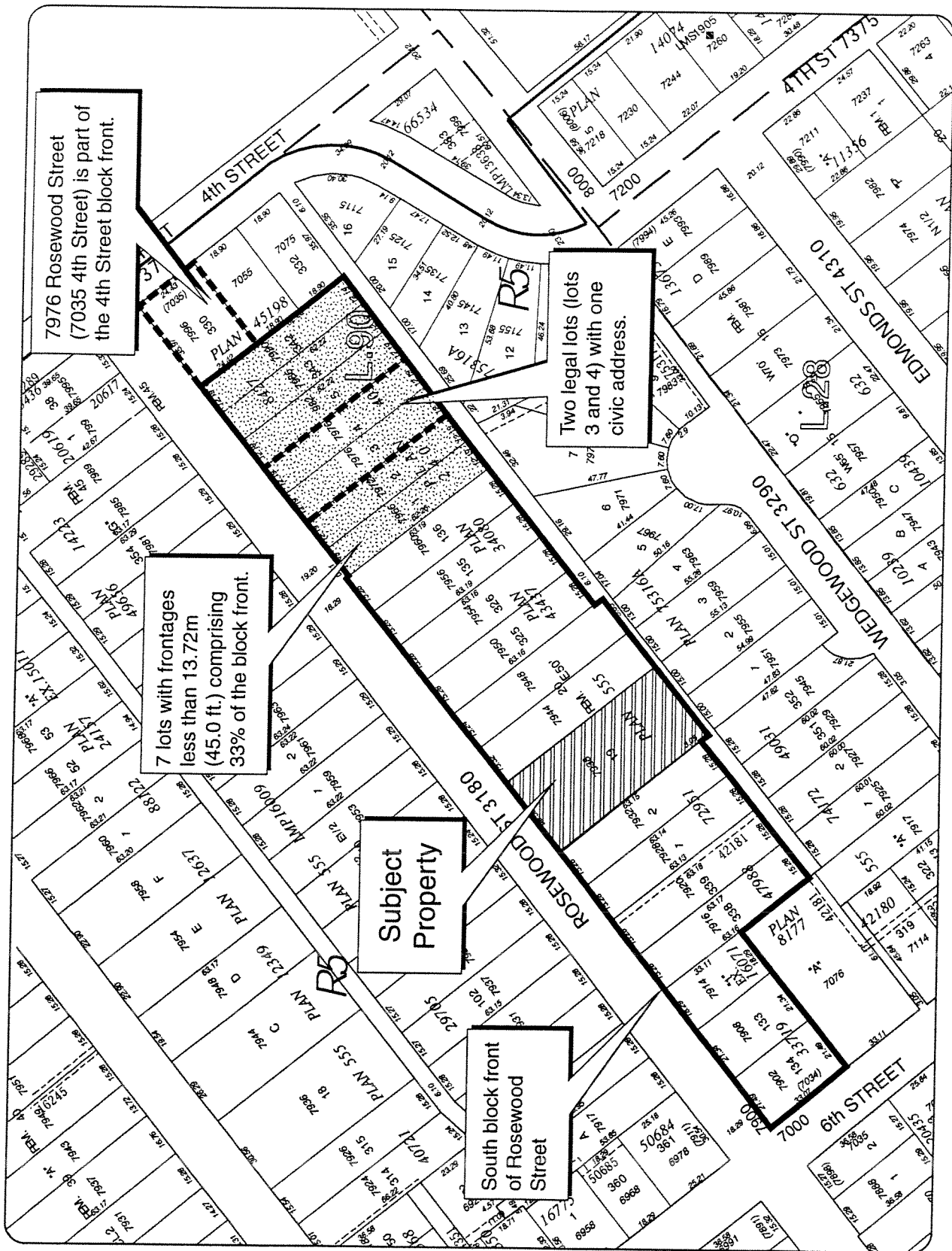
This report responds to the points raised by the delegation which appeared before Council at the 2001 September 10 meeting. It was noted that the subject subdivision application meets the requirements of the R5 Residential District and, as such, subject to all subdivision requirements being fulfilled, the Approving Officer has no discretion in terms of withholding approval. The historical record reveals that the 7900 block of Rosewood Street has consisted of a single block since at least 1891, and that Fifth Street never extended north beyond Tenth Avenue (the New Westminster border) into east Burnaby. Therefore, the 7900 block Rosewood Street is considered to be a single block, both historically and at present.

This is for the information of Council.


J. S. Belhouse
Director Planning and Building

EK:gk
Attach

cc: Director Engineering



7900 Block of Rosewood Street

Sketch 1

