

Item	0:
Manager's Report No.	3:
Council Meeting	24/11/03

2003 NOVEMBER 20

TO: CITY MANAGER

FROM: DIRECTOR PARKS, RECREATION AND CULTURAL SERVICES

SUBJECT: GVRD OUTSTANDING STATUTORY RIGHT OF WAY PROGRAM - REQUEST FOR RIGHT OF WAYS OVER VARIOUS CITY PARK LANDS

PURPOSE: To request approval in principle for the granting of four outstanding Statutory Right of Ways over portions of various park lands in favour of the Greater Vancouver Regional District for regional drainage and access purposes.

RECOMMENDATION:

1. THAT approval in principle be given for the granting of four outstanding Statutory Right-of-Ways over portions of various park lands in favour of the Greater Vancouver Regional District for regional drainage and access purposes under terms to be negotiated by the City Solicitor as outlined in the attached report.

REPORT

At its meeting of 2003 November 19, the Parks, Recreation and Culture Commission received the above noted report and adopted the two recommendations contained therein.



Kate Friars
DIRECTOR PARKS, RECREATION
AND CULTURAL SERVICES

tc

Attachment

P:\DATA\COUNCIL\PK-GVRD OUTSTANDING STATUTORY RIGHT OF WAY PROGRAM

- cc: City Solicitor
Director Engineering
Director Planning & Building

**SUBJECT: GVRD OUTSTANDING STATUTORY RIGHT OF WAY PROGRAM -
REQUEST FOR RIGHT OF WAYS OVER VARIOUS CITY PARK LANDS**

RECOMMENDATIONS:

1. THAT the granting of four outstanding Statutory Right-of-Ways over portions of various park lands in favour of the Greater Vancouver Regional District be approved in principle for regional drainage and access purposes under terms to be negotiated by the City Solicitor as outlined in this report.
2. THAT Council be requested to concur.

REPORT

INTRODUCTION

The Greater Vancouver Regional District (GVRD) advises that it has completed an inventory of the property interests for the drainage facilities that are under the responsibility of the Greater Vancouver Sewage and Drainage District (GVS & DD). A preliminary list was presented to the City Solicitor with a request to pursue the granting and execution of statutory right of way agreements for the various City properties where there is no statutory right of way or deficient statutory right of way for these open drainage corridors. A number of the requested statutory right of ways are on properties located within the Burnaby Parks System, including lands at Burnaby Lake Park, Still Creek Trail System and Conservation Lands, and Warner Loat Park (see Attachment #1). A summary of the specifics of each request is presented below by park site.

Burnaby Lake Park

The GVS & DD is responsible for operating and maintaining the Still Creek / Brunette Drainage System, and as part of that responsibility maintains a sediment catch and gravel access road on the north east corner of Lot 5 (see Attachment #2) within Burnaby Lake Park. The GVRD has determined that it does not have a statutory right of way interest on Lot 5, for maintaining this section of Still Creek. Historically in 1927, the Still Creek statutory right of way was registered on the adjacent property to the North (Lot 4) and a statutory right of way plan was filed against Lot 5, however, the statutory right of way for Lot 5 was either not registered or was subsequently dropped from the title with a tax sale from the 1930's.

Parks staff have reviewed this request and agree that it is in the City's best interest to grant this statutory right of way to ensure continuity and the continued maintenance of this drainage corridor by the GVS & DD. However, it is recommended that the requested statutory right of way area be minimized further to follow the original statutory right of way alignment for the creek and include as additional statutory right of way area, only that portion of the property encumbered by the existing gravel access road.

Eagle Creek Ravine Park

The GVRD is responsible for operating and maintaining Eagle Creek. During heavy rain or storm events, Operations staff are required to clean out debris to prevent plugging at the four culverts that Eagle Creek passes through under the Lougheed Highway. In the past the GVRD staff parked on the side of the highway and accessed the culverts by a stairway. The new configuration of the Lougheed Highway, post the Millennium Line Skytrain development, has resulted in a much narrower road shoulder which will be unsafe for staff to operate from. The GVRD would like to construct an unpaved access road from the Lougheed Highway down to Eagle Creek in order to be able to drive down the proposed access road to shine vehicle lights on the culverts (the work often occurs at night), and safely clear away any debris build-up. The GVRD is therefore now requesting a statutory right of way through City-owned park property at Eagle Creek Ravine Park along the north side of the Lougheed Highway (Attachment # 3) in order to provide for this access.

Parks staff have reviewed the request and agree that it is in the best interest of both the GVS & DD and the City to grant the requested statutory right of way, however, a portion of the proposed statutory right of way area is proposed to be dedicated for road in the near future. Improvements are to be made to the road shoulder, pedestrian facilities and road embankment by the City. City Engineering staff will be proceeding with design work for this project in the winter of 2003. The design and construction of the proposed GVRD access is to be coordinated with the City Engineering Department, and the proposed statutory right of way area finalized once the road dedication has taken place.

Approval in principle at this time will allow GVRD staff to work with City staff to coordinate the design of the proposed gravel access road with the proposed Lougheed Highway improvements and seek any other necessary approvals in a timely manner.

Still Creek Trail and Conservation Lands

The GVS & DD is responsible for operating and maintaining the Still Creek / Brunette Drainage system. The GVRD has determined that its statutory right of way interest in the City owned Lot Q, located west of Willingdon Avenue, is deficient. A statutory right of way in favour of the GVRD is registered for all of Lot Q, except for the portion of an old road allowance that was consolidated with the adjacent property to form Lot Q (see Attachment #4).

During its evolution to the present configuration, two statutory right of way's have been registered for drainage purposes over Lot Q. The GVRD proposes that the simplest way of including the old road allowance area is with an extension of the most recent statutory right of way (1968) to include all of Lot Q. The older statutory right of way could then be cancelled, resulting in Lot Q having one clear statutory right of way charge instead of the current two historical charges.

Parks staff have reviewed the request and agree that it is in the best interest of both the GVS & DD and the City to grant the requested statutory right of way for the old road allowance area. However, a review of the proposed 1968 agreement extension proposal in the context of the current City Statutory Right of Way Policy by the City Solicitor will be required.

Warner Loat Park

After necessary work to stabilize the course of Eagle Creek through the northwestern corner of Warner Loat Park, the City requested formalization of a statutory right of way over the City properties at Warner Loat Park for GVS & DD to effectively operate and maintain this drainage system, which is under GVS & DD responsibility. During the review of the request GVRD noted that the GVS & DD does not have a statutory right of way for the creek as it runs through the Southeastern corner of Warner Loat Park and has therefore requested that the proposed statutory right of way area be extended to include these additional city properties. The proposed 0.462 hectare statutory right of way area includes the creek and minimal area at top of bank (see Attachment # 5). No physical change to the existing park or park activities will result from the granting of this statutory right of way.

TERMS & COMPENSATION

The City has established standard terms for statutory right-of-ways to be granted by the City. Each request will be reviewed in detail and negotiated in line with the standard City terms. As the granting of these right of ways is being proposed by the GVRD to rectify the current situation of existing regional utilities not contained within statutory right of ways, monetary compensation for the right of ways is not being sought.

The lands at Burnaby Lake, Warner Loat and Eagle Creek Ravine Parks have been included in past park land dedication bylaws. As the requested statutory rights of way are to access and maintain existing GVRD drainage facilities it is considered that there is no impediment to the granting of the requested statutory right of ways.

With respect to the requested statutory right of way at Eagle Creek Ravine Park, final approval would also be subject to the GVRD obtaining any other necessary approvals required for the siting of the proposed access road within the vicinity of Eagle Creek.

CONCLUSION

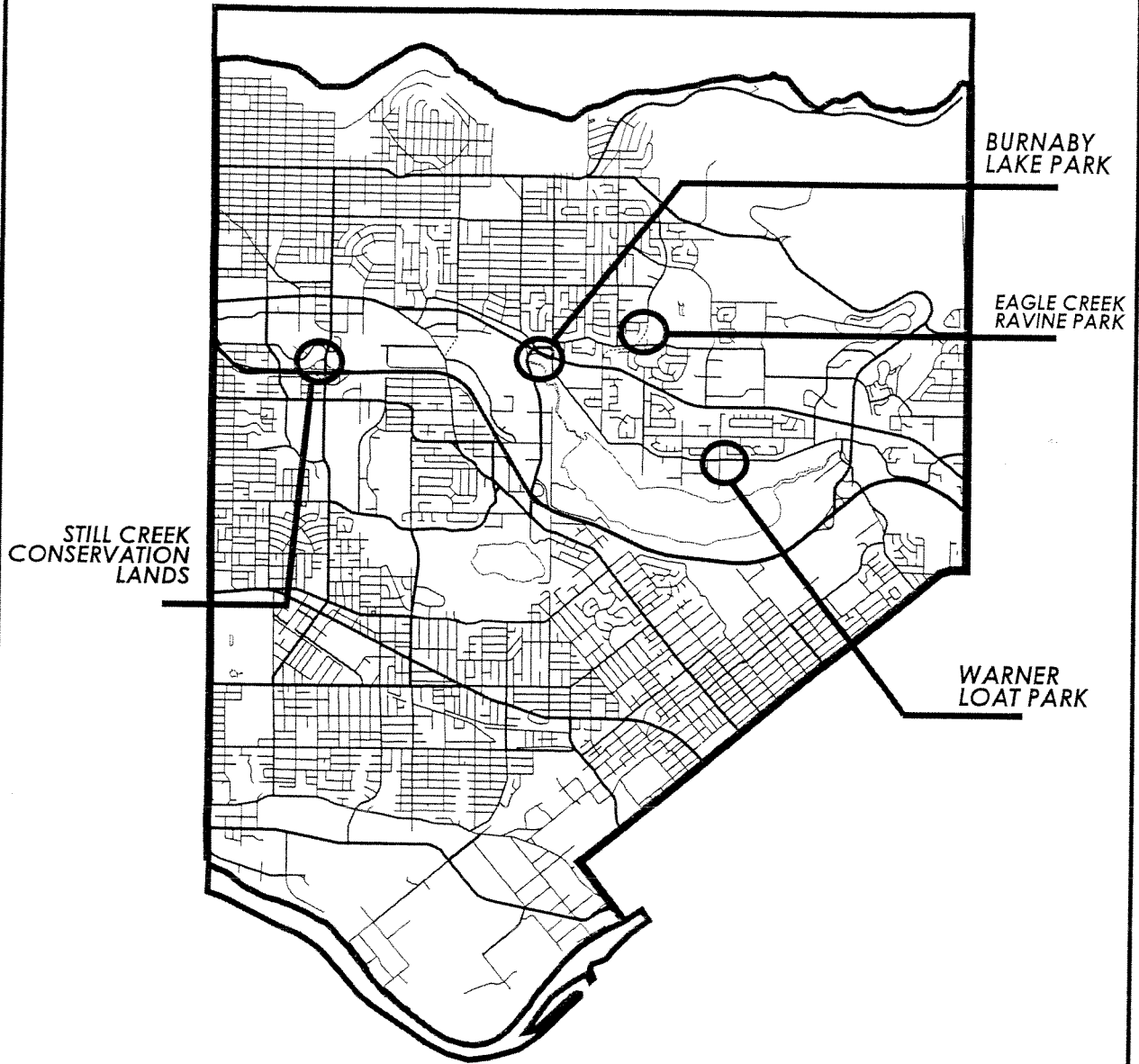
Arising from its Drainage Outstanding Right-of-way Program, the Greater Vancouver Regional District has approached the City to request the granting of four outstanding statutory right of ways for drainage and maintenance access purposes over city lands within various Burnaby parks. Staff have determined that there is no impediment to the granting of the right of ways in favour of the GVRD. It is therefore recommended that Council be requested to approve in principle, the granting of certain outstanding statutory right of ways over portions of various park lands in favour of the Greater Vancouver Regional District for regional drainage and maintenance access purposes under terms and conditions to be negotiated by the City Solicitor as outlined in this report.

ATS:tc

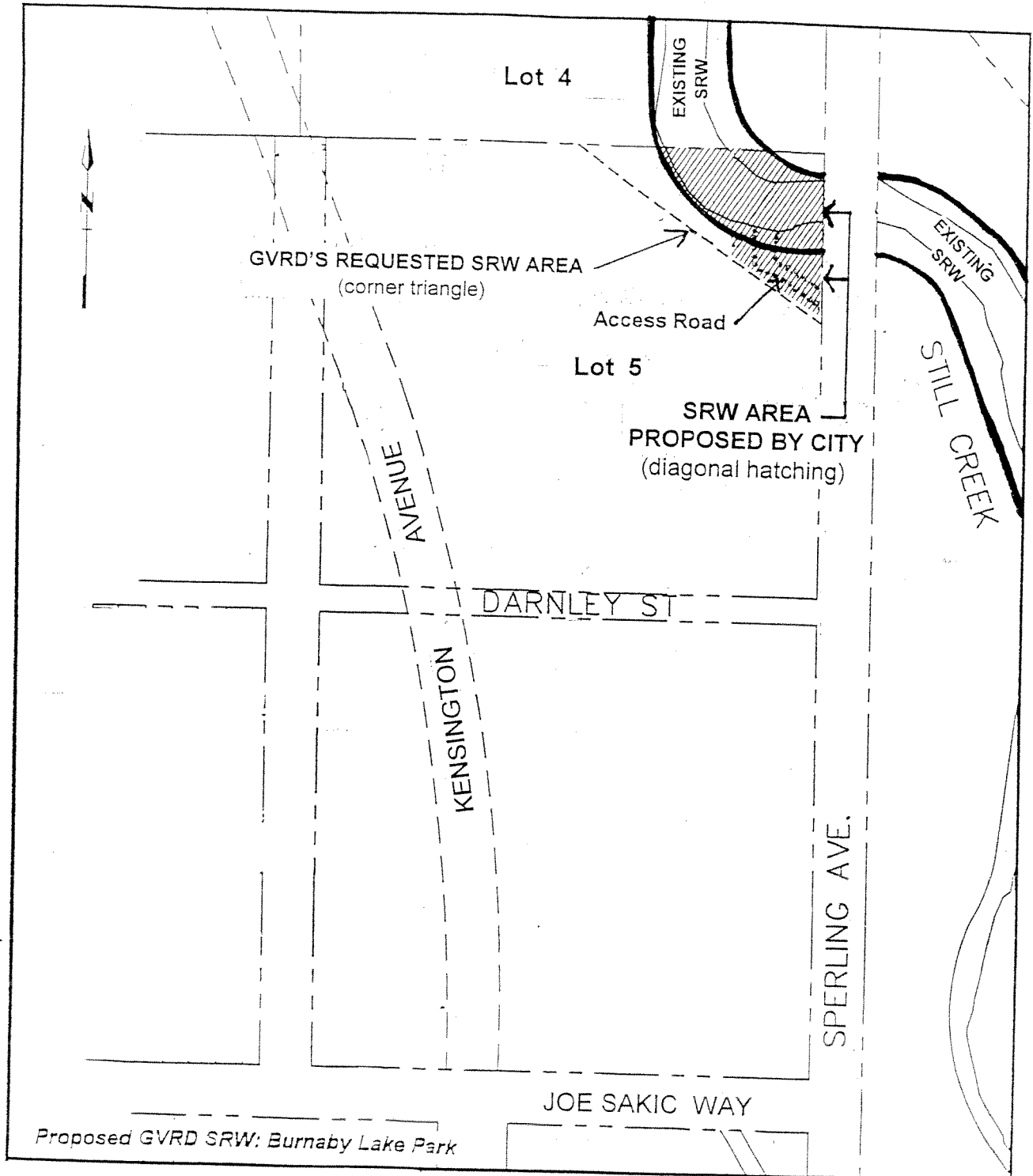
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Attachments (5)

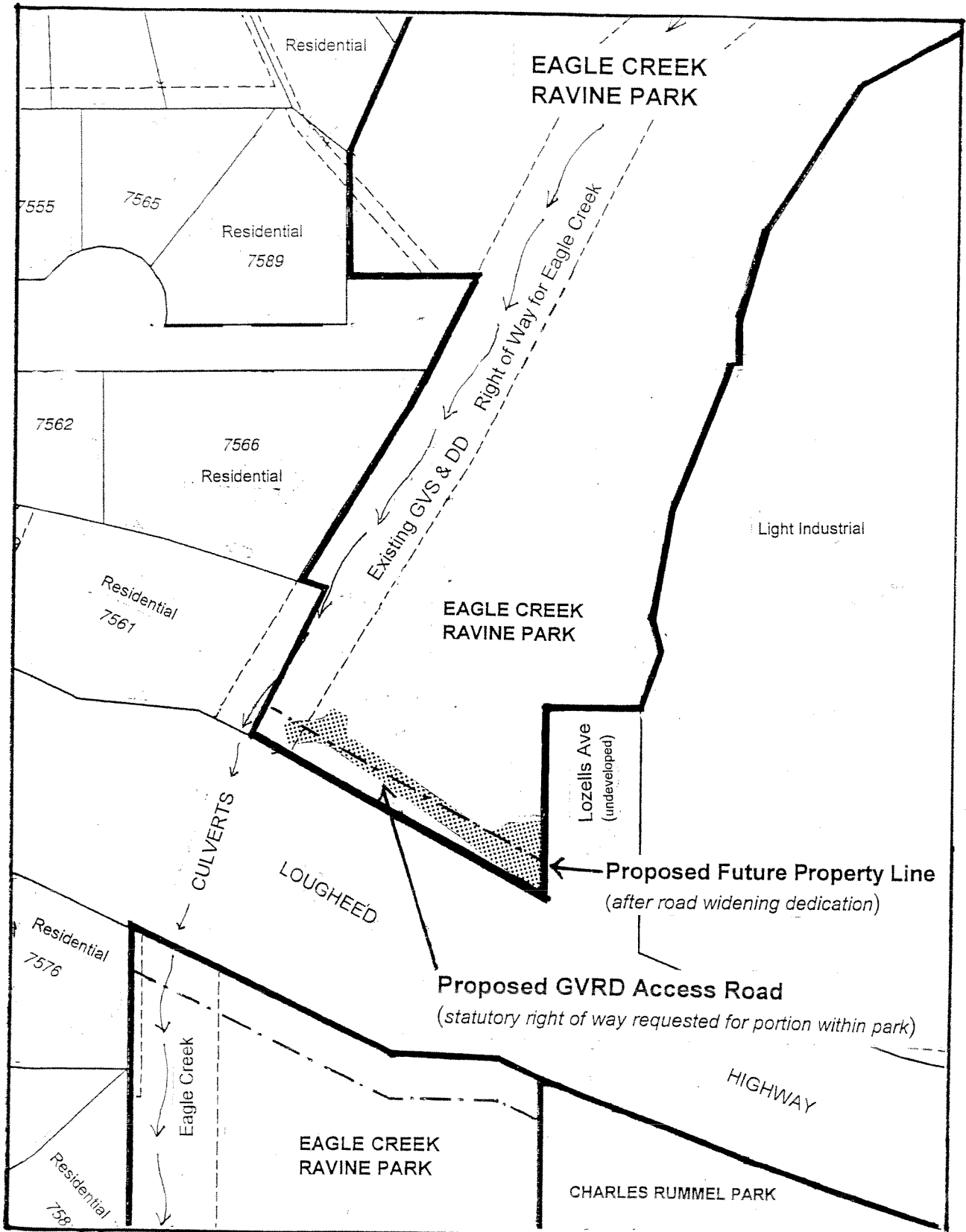
cc: City Solicitor
Director Engineering
Director Planning & Building



Proposed locations of GVRD Statutory Rights of Way

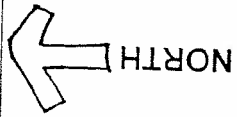


Attachment # 2



Proposed GVRD SRW: Eagle Creek Ravine Park

Attachment # 3



STILL CREEK DRIVE

McDONALD'S OFFICE
& TRAINING FACILITY

WILLINGDON AVENUE



1928 & 1968 SRW AREAS
(included in Lot Q)

Lot Q

FORMER ROAD AREA (included in Lot Q)
TO BE COVERED BY PROPOSED SRW

ON RAMP TO TRANS CANADA HIGHWAY

STILL CREEK DRIVE

-  SRW acquired in 1928 and 1968
-  SRW unacquired (old road allowance)

Proposed GVRD SRW: Still Creek Conservation Lands

