



Item
Meeting.....2010 January 18

COUNCIL REPORT

TO: CITY MANAGER **DATE:** 2010 January 12

FROM: DIRECTOR PLANNING AND BUILDING **FILE:** PC 41000 05
Reference: SIT #09-75
X-ref: Chevron Buffer Zone

SUBJECT: **SITING APPROVAL APPLICATION #09-75**
4212 MCGILL STREET
Proposed Construction of New Single-Family Dwelling
Chevron Buffer Zone

PURPOSE: To inform Council of a request to construct a new single-family dwelling within the Chevron Buffer Zone.

RECOMMENDATIONS:

1. **THAT** Chevron Canada Ltd. be requested to pursue acquisition of the subject property for inclusion within the Chevron Buffer Zone.
2. **THAT** staff be authorized to pursue discussions with Chevron Canada Ltd. on the established terms, expectations and commitments of the Chevron Buffer Zone with a view of securing Chevron's commitment to the timely completion of the adopted program.
3. **THAT** a copy of this report be sent to Chevron Canada Limited #1500-1050 West Pender Street, Vancouver, BC, V6E 3T4, and to Mr. P.D. Gray, Manager Business Analysis & Facilities Planning, Chevron Canada Ltd., 355 North Willingdon Avenue, Burnaby, BC, V5C 1X4.
4. **THAT** a copy of this report be sent to the applicant, Geraldina Trasolini, 4212 McGill Street, Burnaby, B.C. V5C 1M9.

REPORT

1.0 PROPERTY CONTEXT

- 1.1 A Siting Approval application (SIT #09-75) has been received to construct a new single-family dwelling at 4212 McGill Street in accordance with the existing R5 Residential District zoning (see *attached* Sketch #1). The subject property measures 10.06 m (33 ft.) by 37.19m (122 ft.) and has an area of 374.13m² (4,027 sq.ft.). The property

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accommodates a small, single-family dwelling in fair condition that was constructed in 1928. The property meets the bylaw requirements for single-family dwelling construction under the prevailing R5 zoning.

The property is located within the Chevron Buffer Zone, which is an area designated to form an open space/buffer zone separating the Chevron tank farm area from the adjacent single-family residential area (see attached Sketch #2). Chevron Canada Ltd. has a long standing agreement with the City that the Company will pursue acquisition of the private lands necessary to complete the designated Chevron Buffer Zone Area. The agreement was established in 1975. Upon successful acquisition of designated properties, Chevron has transferred these lands to the City for park and public use purposes. To date, Chevron has acquired and transferred 35 properties. There are currently 15 privately-owned residential lots remaining to be acquired by Chevron to complete the Buffer Zone land acquisition program, including the subject property. The last purchase and transfer of a property to the City by Chevron occurred in 2006.

2.0 CHEVRON BUFFER ZONE AGREEMENT

- 2.1 As noted, in 1975 the City of Burnaby and Chevron Canada Ltd. reached an agreement on the implementation of the refinery's expansion Master Plan based upon specific conditions for the approval of permits. The agreement included Chevron undertaking to create an open space/buffer zone separating the Chevron tank farm area from the adjacent residential area. It was established that this Buffer Zone was required as an important environmental and safety measure for the protection of the community through the creation of a passive park area. The implementation of the Buffer Zone is a recognized, long standing partnership between the City and Chevron Canada. As part of the agreement, the City committed to undertake a number of specific land exchanges, road closures, and contribution of City lands to the Buffer Zone to form the final site area for the Buffer Zone and for the refinery.
- 2.2 Burnaby lands contribute a total of approximately **52,575m²** of property to the designated Buffer Zone, including parklands and potential roads/lanes closures. To date, Chevron has contributed 14,982 m² of property to the buffer zone through both land exchanges and land donations. Chevron's future acquisition of a further 6,170.38 m², which comprises the 15 remaining privately-owned residential lots, will increase its total and final contribution of lands to the Buffer Zone to approximately **21,153m²**. In total, upon completion, the Buffer Zone will encompass about **73,728m²**. It is noted that the adopted 1999 Chevron Buffer Zone landscape plan also reflected the portions of the Chevron site which accommodate the Trans-Canada Trail, as indicated on Sketch #2.
- 2.3 The City is committed to the long-standing public policy for the creation of the Buffer Zone, and in 1999, Council approved a 'Master Plan' for the area's development. This

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plan established the current boundaries of the Chevron Buffer Zone and the area of the refinery, and provided a comprehensive future plan for the area's road and lane network as well as park and landscape design. The final phase of the creation of the Buffer Zone and refinery site area relies on the eventual acquisition by Chevron of the 15 remaining privately-owned residential lots (see attached Sketch #2). Following acquisition of these properties and their legal transfer to the City of Burnaby, the plan will be implemented through the closure of municipal roads, consolidation of lots, and associated landscape improvements.

2.4 Through past reports to Council, the City and Chevron have a common understanding that the agreement is subject to a number of conditions and expectations. These include:

- Chevron committed to pursuing the program of acquisition over the long term.
- Acquisition of private properties is on a market basis with Chevron and the private property owner reaching mutual agreement for the sale / purchase of properties.
- Acquisition of property is subject to Chevron's budget availability.
- Property owners would retain existing rights under prevailing zoning, and would be able to pursue renovations, major additions, and new development of lands within the Buffer Zone.
- Upon acquisition, the lands would be transferred by Chevron to the City for incorporation in the Buffer Zone for public use.

2.5 Since 2006, the date of the last purchase and transfer of a property to the City by Chevron, City staff have become increasingly concerned that Chevron does not appear to be actively pursuing opportunities for acquisition in the Buffer Zone. In November 2008, Chevron did not pursue acquisition of the subject property at 4212 McGill when it was initially listed for sale. The subject property was subsequently sold to the current property owner in April 2009. In August 2009, a further property at 4170 McGill Street was listed for sale. This property was subsequently sold on the open market in October 2009. At the time of its listing, the City advised Chevron of the availability of this property. Chevron, however, responded in writing that it was unable to acquire additional property within the Buffer Zone "... due to a lack of 2009/2010 budget funds". The Company further stated that it was "...unable to provide a definitive timeline regarding when funding for Buffer Zone property acquisition may be restored".

2.6 Staff have expressed concerns to Chevron Canada regarding the potential impact of Chevron's recent lack of initiative to actively pursue property acquisitions. While noting that acquisitions in the Buffer Zone were recognized as being subject to the availability of budget funds on the part of Chevron, Chevron's current position on acquisitions will effectively delay the completion of the Buffer Zone. If the subject application to construct a new dwelling within the Buffer Zone proceeds, it would likely delay inclusion

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of this property for open space purposes upwards of 50 years. Any further or continuing initiatives to construct new dwellings on the 15 remaining properties to be acquired by Chevron will be a significant detriment to a long-standing and overall successful community planning and land acquisition program.

2.7 As part of ongoing dialogue between City staff last year, Chevron requested information on the terms of the agreement and copies of past documentation. Chevron indicated that this material would assist in providing a more complete understanding of the Buffer Zone program, particularly as staff changes at Chevron may have resulted in some discontinuity of information on the program. Staff completed a historical review of City documents related to the Buffer Zone and provided a set to Chevron. Following receipt, Chevron requested that City and Chevron staff meet to review the terms of the program. Staff will be arranging this follow-up session with Chevron early in 2010. The intent of these discussions is to re-establish a common understanding of the established terms, expectations, and commitments of the Chevron Buffer Zone Program.

2.8 This report seeks Council authorization for staff to pursue discussions with Chevron Canada Ltd. on the established terms, expectations and commitments of the Chevron Buffer Zone with a view of securing Chevron's commitment to the timely completion of the adopted program.

3.0 SUBJECT PROPERTY – SITING APPROVAL

3.1 It is noted that the established Council policy is to process Building Permits for renovation, demolition, and construction for properties within the Chevron Buffer Zone under the prevailing R5 District zoning. The current owner of this property is seeking the release of a building permit to allow for development of a new single-family dwelling at 4212 McGill Street, in compliance with the prevailing R5 Residential District zoning and requirements of the Chief Building Inspector.

3.2 Given, however, the implications of this new development within the Buffer Zone, this report recommends that Council request Chevron to pursue acquisition of the property in order to provide for its inclusion within the Chevron Buffer Zone. Acquisition of this property prior to its redevelopment is important if the Buffer Zone program is to be completed in a timely and progressive manner. As noted, development of this property for renewed residential use would frustrate the near and medium term opportunity to complete the agreed to Buffer Zone as envisioned by Council, Chevron, and the community. Should Chevron advise that it is not in a position to pursue acquisition for this specific property, or if new negotiations with the property owner are unsuccessful, staff would propose to process the requested building permit for the current property owner.

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4.0 CONCLUSION

4.1 The City has received an application for the development of a new single-family dwelling within the designated Chevron Buffer Zone. Construction of a new dwelling on the subject property would hamper long standing plans to complete the Chevron Buffer Zone program. Chevron has, however, indicated it is unable to acquire additional properties within the Buffer Zone area at this time due to budget availability.

The report recommends that Council request Chevron to pursue acquisition of the subject property in order provide for its inclusion within the Chevron Buffer Zone. Further, Council authorization is sought for staff to pursue discussions with Chevron Canada Ltd. on the established terms, expectations and commitments of the Chevron Buffer Zone with a view of securing Chevron's commitment to the timely completion of the adopted program.

Should Chevron advise that it is not willing to pursue negotiations for the subject property, or new negotiations with the property owner are unsuccessful, this Department would release the building permit for a new single-family dwelling on the subject property, in line with the prevailing R5 District and the requirements of the Chief Building Inspector.

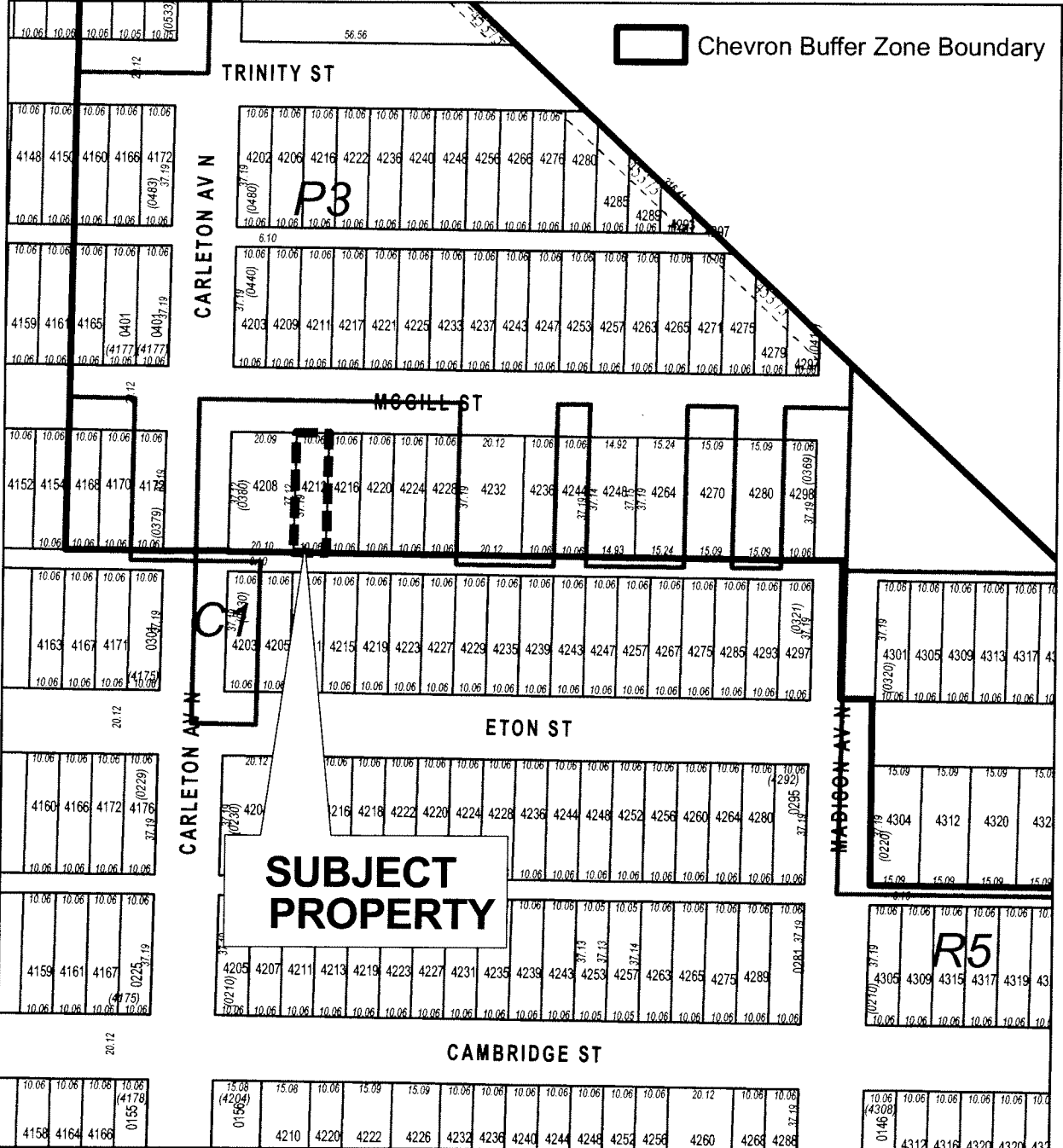
It is also recommended that a copy of this report be sent to Chevron Canada Ltd., to the company representative at the Burnaby refinery and to the applicant



B. Luksun
DIRECTOR PLANNING AND BUILDING

KH:JW/LP:gk

Attachments

cc: Chief Building Inspector
Director Parks, Recreation and Cultural Services
Director Finance
Director Engineering
City Solicitor



 **City of Burnaby**

DATE:
JAN 07 2010

SCALE:
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DRAWN BY:
DJ


PLANNING & BUILDING DEPARTMENT

SITING APPROVAL # 09 -- 75

4212 McGill ST

Proposed new single-family dwelling

Sketch #1



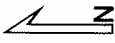
Chevron Buffer Zone

(Plan Adopted June 28, 1999)

- Existing Property Ownership
- City of Burnaby
- Private Ownership
- Subject Property
- Chevron Buffer Zone Area
- Chevron Land Dedicated for Public Use
- Trans Canada Trail

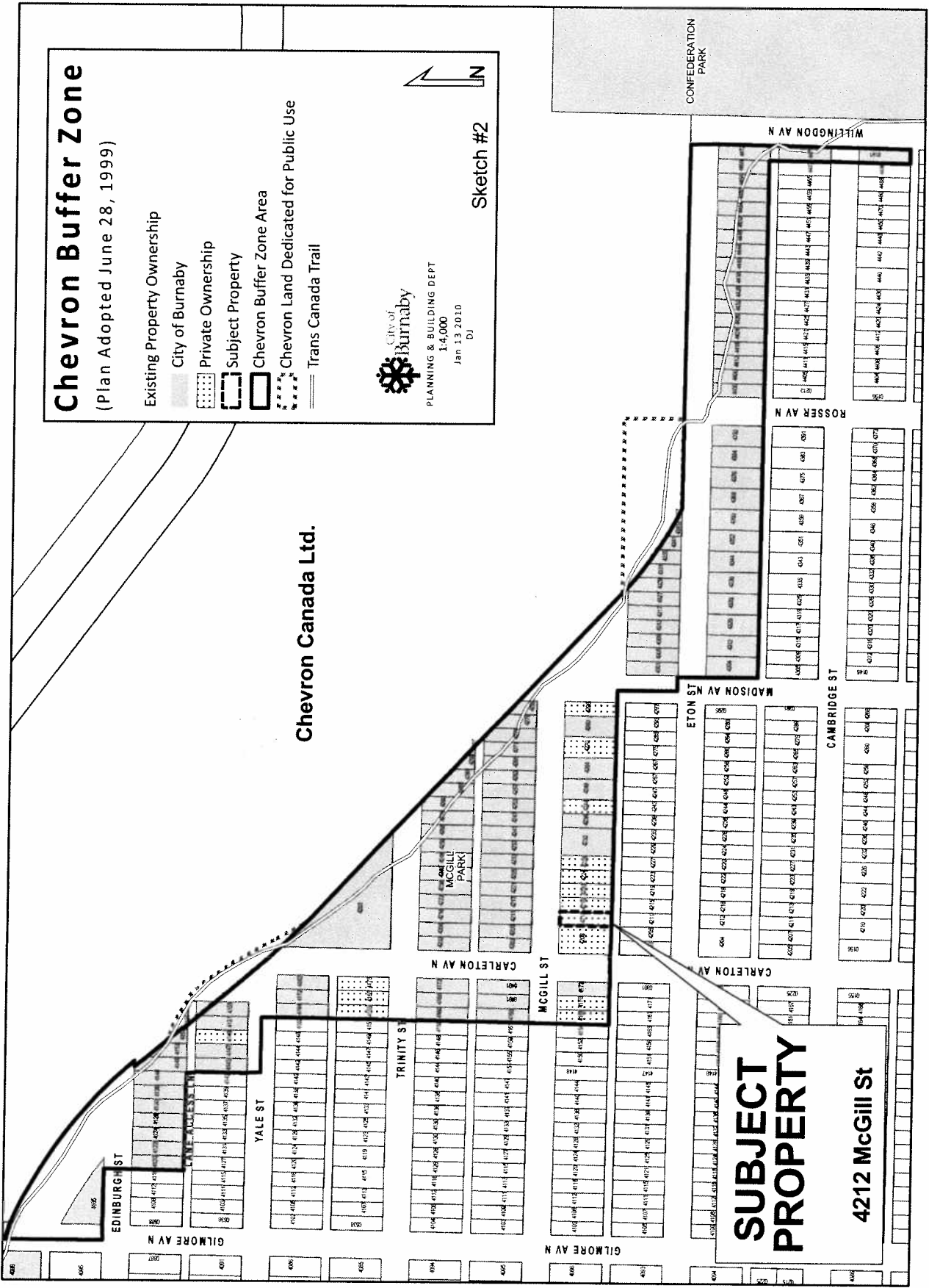


PLANNING & BUILDING DEPT
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Sketch #2

Chevron Canada Ltd.



**SUBJECT
PROPERTY**
4212 McGill St