



CITY OF RICHMOND

REPORT TO COMMITTEE

TO: Planning Committee
FROM: Joe Erceg
Manager, Development Applications
RE: **Finn Slough**

To Planning - August 22, 2000
DATE: August 10, 2000
FILE: 2025-20 - 005

STAFF RECOMMENDATION

That the staff report dated August 10, 2000 responding to the referral request from the June 6, 2000 Planning Committee meeting regarding Finn Slough be received and that the Finn Slough Residents & Fishermen's Association be advised that the City will not take any further action on their request dated May 23, 2000 until the tenure issues at Finn Slough are resolved.

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Joe Erceg
Manager, Development Applications

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CONCURRENCE OF GENERAL MANAGER

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STAFF REPORT

ORIGIN

On June 6, 2000, the Finn Slough Residents & Fishermen's Association (FSR&FA) appeared as a delegation at the Planning Committee.

The Planning Committee referred the matter of Finn Slough to staff to review certain issues. These issues are **numbered in bold letters** under the next section and are the focus of this report.

FINDINGS OF FACT

1. The legal status of the existing residents.

The existing residences along Finn Slough (also referred to as Tiffins Slough) are located on the water lots, private property and Dyke Road lot.

Ownership in the area is as follows:

Whitworth Island (also referred to as Gilmour Island) - Lot A, Plan 2056, Sec 14, Blk 3, R6W, NWD	Smith Prestige Properties Ltd
13200 No. 4 Road - Lot H, Plan 5315, Sec 14, Blk 3, R6W, NWD	Gilmore Estates Ltd.
10631 Dyke Road - Lot E, Plan 8315, Sec 14, Blk 3, R6W, NWD	Gilmore Estates Ltd.
13511 No. 4 Road - Parcel D, Reference Plan 6971, Sec 15, Blk 3, R6W, NWD	Cheryl Wozny (Owner) Smith Prestige Properties Ltd (Leaseholder)
Dyke Road, No. 4 Road, Lot E, Plan 52490F, Sec 15, Blk 3, R6W, NWD	City of Richmond
Finn Slough (also referred to as Tiffins Slough) -	B.C. Assets & Land Corp. (Owner of water lots and submerged lands) Fraser River Port Authority (Manager of water lots and submerged lands)

Residents in the area have formed the FSR&FA (which is a registered society in B.C.).

For the past 5 years these residents have tried to acquire tenure to the property (or water lot) occupied by their residences and to maintain their existing community.

In order to do so, the following steps are required:

- Obtain riparian consent of the upland owner;
- Application to the Fraser River Port Authority (FRPA) for tenure and construction (municipal requirements and review by agencies);
- Issue of tenure and construction; and
- Implementation of the capital works upgrade plan.

The intent was that there would be one collective application from the FSR&FA and that the Society would sublease to the tenants.

Included in a Riparian Consent Agreement would be items such as the term of the agreement, cancellation conditions, fees and other conditions (i.e. occupancy rates, tenure requirements, operating conditions, etc.).

It was proposed that a 24 month riparian consent would be obtained from Smith Prestige Properties Ltd. (Mr. Smith) as the principal land owner (and possibly Gilmore Estates Ltd. and Cheryl Wozny). When and if this was obtained, the FRPA would enter into an interim two year tenure with the FSR&FA.

Unfortunately, at a meeting held on March 24, 2000, Mr. Smith came to the conclusion that he would not grant riparian consent as, in his view, the Finn Slough residents had failed to keep a number of preliminary commitments made to him.

This effectively terminated a long and painful process and meant that the FRPA (and presumably some of the other property owners) could commence steps to evict the residents and remove the existing buildings.

Without the required riparian consent, the FRPA requested the residents to produce their evidence or claims of prescriptive rights by June 23, 2000. The Port Authority is currently reviewing any evidence or claims and will respond accordingly. However, if there are structures for which no claim has been made, the FRPA will develop a plan to remove these works (i.e. Consent Order evicting those residents occupying Crown land).

The Province's position has been that there is an activity that is going on that is inconsistent with the head lease and the FRPA is under obligation to resolve the situation. As long as the Authority is dealing with the problem, the Province will be satisfied that the FRPA's obligations are being met.

Thus far, the City of Richmond has not objected to the current tenure process and has indicated that it will not be undertaking any direct action as a result of the failure of the discussions.

2. The possible historical value of the buildings.

The City of Richmond Official Community Plan (OCP) has an objective to "promote the conservation of heritage resources" and a policy to "recognize the importance of heritage areas, e.g. Steveston, and incorporate special conservation policies for these heritage areas".

Finn Slough is identified as one the City's heritage areas. A brief description of the area is included the City's Heritage Inventory from 1989.

At its meeting on July 25, 2000, the Heritage Commission passed as a resolution "that a statement for the record be prepared for staff in light of the historical value that should be considered for this "unorganized pattern"; the Commission is aware of the referral to staff by Planning Committee to review the possible historical value of the Finn Slough buildings and the Commission believes that the unique historic settlement pattern still existing in the area is of significant heritage value and every effort should be made to protect the character of the settlement".

It should be noted that methods of heritage conservation (i.e. Heritage Revitalization Agreement, Heritage Conservation Area) generally rely on co-operation with the owner. The alternative would be Heritage Designation which would likely lead to compensation and would make it difficult for any alterations to be made to the buildings.

3. The ecological value of the area, including uplands, the island and the slough.

The OCP designates Finn Slough, Whitworth (Gilmour) Island and the upland areas on both sides of Dyke Road as an Environmentally Sensitive Area (ESA). A brief description is provided of Finn Slough in the original ESA background studies from 1984.

As such, any development (except for renovations to interiors; exterior renovations which do not impact upon, or extend into, the designated ESA; maintenance activities on existing structures which can be reasonably shown to not result in damage to trees, shrubs, or fish habitat; new construction on sites with designated ESAs which will not result in damage to the sensitive features within the ESA, e.g. trees, shrubs, wetlands, marshes or fish habitat) would be subject to a Development Permit (DP) and the ESA Guidelines.

The OCP also designates the subject area as Agriculture, since it is within the Agricultural Land Reserve (ALR).

The Fraser River Estuary Management Program (FREMP) Area Designations Agreement (1991) identifies the Finn Slough estuary (including the land and water outside the crest of the dyke on the wetted side) as having a primary area designation of Conservation Area. This is defined as "areas of habitat where the primary use is the maintenance and enhancement of continued biological productivity. Conservation areas may be used for activities which do not impair the continued biological productivity of the area".

Finn Slough has a secondary area designation of Recreation/Park, defined as "areas designated for public open space and recreation".

FREMP has also assigned a "red coded" habitat classification designation to Finn Slough indicating high productivity and diversity of the habitat in the area. FREMP's usual approach is that projects that adversely impact highly productive (red coded) habitat generally will not be permitted. FREMP's current inventory shows estuarian marsh, riparian trees and intertidal mudflats.

Several years ago FREMP's Environmental Review Committee (ERC) was asked to comment on the development potential of the water side of the dyke. Their response was "something along the line of a preference for a natural environment but an acceptance of the current use as long as it did not lead to further development and impact the natural resources".

4. The existing ownership and value ('real' and 'water lot').

The ownership in the area has already been noted under Section 1.

According to the B.C. Assessment Authority (BCAA), Whitworth (Gilmour) Island has a land value of \$264,000 with \$500 worth of improvements.

The land owned by Gilmore Estates Ltd. has a total BCAA land value of \$485,000 and improvements worth \$116,700 on 13200 No. 4 Road and 10631 Dyke Road.

The property owned by Cheryl Wozny at 13511 No. 4 Road has a total BCAA land value of \$203,000 with \$654,000 of improvements.

It should be noted that in the case of both the Gilmore Estates Ltd. and Cheryl Wozny properties, the aforesaid values are for the total site and not just the upland south of the Dyke Road right-of-way or lot.

With respect to the water lots, the FRPA has indicated that under a standard two year Provincial Use/Occupy Permit, the area would be appraised, rent would be generated, the area would be put on the tax rolls, and the FSR&FA would start to be treated as tenants.

It should be noted that Mr. Smith has been seeking the consent of the Province to replace the major portions of Whitworth (Gilmour) Island that are submerged with new property to be created by filling portions of the river south and east of the existing island.

Mr. Smith has proposed to provide to the City a substantial portion of Whitworth (Gilmour) Island as a park for public recreation, a waterfront trail and protection of the natural habitat as compensation for allowing a small residential enclave on the filled portion of the island outside the ALR.

In exchange for Mr. Smith granting his riparian consent, the FSR&FA were to support his development proposal and the FRPA would be able to resolve its tenure issue with the Finn Slough residents.

City staff have indicated their support for this proposed development concept which would stay off the ALR, enhance public recreation, preserve to a great extent the Finn Slough heritage area, and protect and enhance the natural environment.

The Richmond Population Health Department has indicated that greenspace options should complement and enhance the City trail and natural area systems to provide both passive and active recreational opportunities for the public.

5. The need for road, dyke and services on the uplands.

It has been assumed that most site services will be required to comply only to the plumbing code. However, for those services to be installed on City lands and road allowances, the following comments are offered.

The City has no official record of the water connections currently in use to the site, so this information will be required. Water connections would have to conform to the Provincial plumbing code requirements. Backflow protection is required for all existing and proposed connections to the City's watermains so as to protect the community water supply system. The existing residences situated on both sides of the slough do have metered water service from No. 4 Road and Dyke Road. Metering of specific connections to the City's water service is required.

The Inspector of Dykes approval is required for any systems breaching the dyke structure (and will have to address the structural impact of any piles located on or near the dyke). Any proposed sewage treatment plant should not be located on the dyke or other City lands.

If the proposal by Mr. Smith to locate a small residential enclave on a filled portion of Whitworth (Gilmour) Island outside of the protective dyke system proceeds, it would be necessary to floodproof the properties and the municipal infrastructure to appropriate levels. Furthermore, although this filled area would be outside the ALR, the consent of the Land Reserve Commission would be required for the road access which would go through the Reserve.

Any upgrading of services on the City's lands or road allowances (i.e. watermains on No. 4 Road and Dyke Road) are to be undertaken in accordance with the City's standard servicing agreement.

Upgrading of Dyke Road is not part of the Development Cost Charge (DCC) Program, so any road improvements required would be financed by the proponents. The Transportation Department would have to do a functional design to determine the requirements for these road improvements.

The current parking situation is considered to be legal non-conforming. The City has not received complaints regarding the parking of vehicles on Dyke Road near Finn Slough in the last couple of years (although it has been a problem in the past). However, staff have advised the FSR&FA and FRPA that it does amend its regulations from time to time in response to hazards or complaints, but only after consultation with the affected parties.

6. The identification of health, building and fire safety issues, should the City become involved.

In 1996, Chernoff Thompson Architects prepared a Master Plan identifying the basic health, fire and life safety upgrades of the existing premises on Finn Slough.

At that time, the City's position was (and has been updated to be) as follows.

Prior to the issuance of a building permit, the owner of a building would be asked to prove ownership and legal, non-conforming status. Permits for upgrading of internal systems (i.e. plumbing, electrical), as well as the structural integrity of buildings, could then be issued if the design conforms to the prescribed building codes. The approval of the Board of Variance would be required for external renovations and minor additions to floor area and any other matters within their jurisdiction.

Other systems must also be checked for compliance, such as water supply, sewerage, electrical and propane heating/storage, by various authorities.

The Building Approvals Department has recommended that a notice be registered on title that construction was undertaken without the benefit of any permits nor inspections (since the existing residences are considered legal, non-conforming uses which were built prior to 1956 when the first zoning bylaw came into effect in Richmond). Siting of buildings and structures to property lines and to each other must also meet code requirements regarding protection of exposing building faces. Furthermore, any buildings/structures on the City road would normally be removed.

A fire access route would be required within 45 m of every dwelling unit. This access route shall have a clear width of not less than 7.3 m and have a turnaround facility for any dead-end portion exceeding 90 m in length. The fire access road shall be designed to support the expected loads imposed by fire fighting equipment and be surfaced with concrete, asphalt or other material designed to permit accessibility under all climatic conditions. An unobstructed path is required from the vehicle to the buildings and shall be maintained so as to be ready for use at all times by fire fighters and their equipment. It may be necessary to provide two access routes from Whitworth (Gilmour) Island to Lulu Island.

A fire hydrant, capable of producing 1,500 gallons per minute flow, is required within 90 m of every dwelling unit. The wooden walkways may require treatment with a fire retardant to reduce potential fire spread.

Also, each dwelling shall display an approved street number by the City of Richmond in a conspicuous place on the front of the principal building so that the number is visible from the street.

The FRPA has indicated that the Fire Department would be requested to provide their approval before tenure is granted to the FSR&FA. The Authority has noted that the Fire Department should look at placing equipment on the island for emergency purposes and that the bridge should be strong enough to hold 5-6 fully equipped firemen to cross the bridge at the same time. Furthermore, the FRPA's hierarchy of concern is human safety, health, environment and municipal needs.

It should be noted that if the tenure of the FSR&FA was resolved, the residents would have the opportunity to invest funds in bringing their premises up to a reasonable level of health, life and fire safety. The FRPA had indicated in 1996 that they would prefer this to happen over a maximum of 4 years.

As an aside, apparently Mr. Smith has liability insurance on Whitworth (Gilmour) Island but it excludes the Finn Slough structures. There was talk about Mr. Smith obtaining liability insurance for the residents if the FSR&FA would fund it. Until a proper tenure or lease is obtained, the residents are unable to obtain their own liability insurance. The FRPA would eventually require each occupier to obtain liability insurance before granting tenure.

7. That the Engineering and Fire-Rescue Departments provide a brief overview of the services which are available and the impact which could result if the existing buildings become legitimate.

Sanitary sewers are unavailable. This is not in a sewer area and if it was in the sewer area the nearest tie-in point would be about 1.5 miles away. Local gravity collectors, a pump station and force main to the tie-in point would be the probable design. If the FSR&FA rely on their own systems it would probably be cheaper. Ministry of Environment would be the approval authority assuming a large volume of sewage.

The Health Department has recommended that the provision of a sanitary sewer connection as a preferred option for sewage disposal. On-site sewage treatment and disposal options would have to conform to the requirements of the Provincial Health Act - Sewage Disposal Regulations or alternatively, of the Provincial Waste Management Act and Regulations under jurisdiction of the Ministry of Environment, Lands and Parks.

Drainage would not be a big item. It would be fair to assume that they would discharge to a ditch system. The existing drainage systems are only used by the agricultural residents and therefore would have to be assessed as to the capability for development usage.

There is a 4 inch watermain on No. 4 Road that does not go to the dyke. There is only a 2 inch water service currently feeding to Finn Slough. Extensions of the City system may be required, at the cost of the developer, if the area is subdivided.

The Chernoff Thompson Architects Master Plan indicated it is not unusual to have a dry standpipe that runs through the slough and that it is not uncommon to operate on that kind of system.

ANALYSIS

At the June 6, 2000 Planning Committee meeting, the FSR&FA requested four items from the City by way of a letter dated May 23, 2000.

- 1. Can the City grant us upland owners permission for the section of the south dyke at the south foot of No. 4 Road? It would be that portion of the dyke that was formerly described as a road allowance and would probably be about 66 feet. We would be requesting this permission so that we can apply to the Fraser Port for a lease for that section, no matter how small.*

The City has owner's jurisdiction at the south end of No. 4 Road. As a result, it would have the right to grant use of the water lot lease which is currently occupied by the bridge which accesses a number of the residences on Whitworth (Gilmour) Island. However, tenure for the bridge and post construction approval is subject to the Navigable Waters Protection Act.

Although the City could grant upland owners consent so that the FSR&FA could apply for a lease for this section of Finn Slough, staff question whether the City should get involved at this time until the legal status of the existing residents is resolved.

2. *Would the City of Richmond be willing to ask the Provincial and Federal Departments of Heritage to become involved in trying to preserve this area as part of the Gulf of Georgia-Britannia-London Farms heritage complex?*

Staff have no objection to the FSR&FA asking the Provincial and Federal Governments to consider this as a heritage area. However, for the City to officially designate it a heritage area now may preclude some of the possible upgrades or development contemplated in the area.

3. *We are trying to buy the titles to Gilmour Island. Would the City of Richmond be willing to give us a letter of interest in the idea of partnering a purchase in order to create a park with the larger natural and undeveloped area of Finn Slough?*

Staff feel it would be premature for the City to consider partnering in a purchase of Whitworth (Gilmour) Island with the FSR&FA until the status of Mr. Smith's proposed development is determined (i.e. in which the City could be given a substantial portion of the island as a park for public recreation, a waterfront trail and protection of the natural habitat).

4. *Would the City of Richmond approve in principle the idea of a small museum and wetlands interpretive center at Finn Slough, built and run by the Finn Slough Heritage and Wetland Society?*

Staff question whether a small museum and wetlands interpretive center would be permitted under the existing Agricultural District (AG1) zoning and ALR legislation/regulations and do not believe it can be considered until the status of the FSR&FA has been resolved.

FINANCIAL IMPACT

The FSR&FA paid \$1378.06 to the City on January 24, 2000 as a donation in lieu of 1999 taxes and have indicated they are prepared to make a voluntary contribution to the City each year in lieu of taxes until their tenure situation is resolved. Should the City grant upland owners consent to the FSR&FA at the end of No. 4 Road, a fee of \$500 would normally be collected. The cost of partnering in the purchase of Whitworth (Gilmour) Island in order to create a park and small museum and wetlands interpretive center is unknown at this time (although the land is valued at \$264,000 by the BCAA).

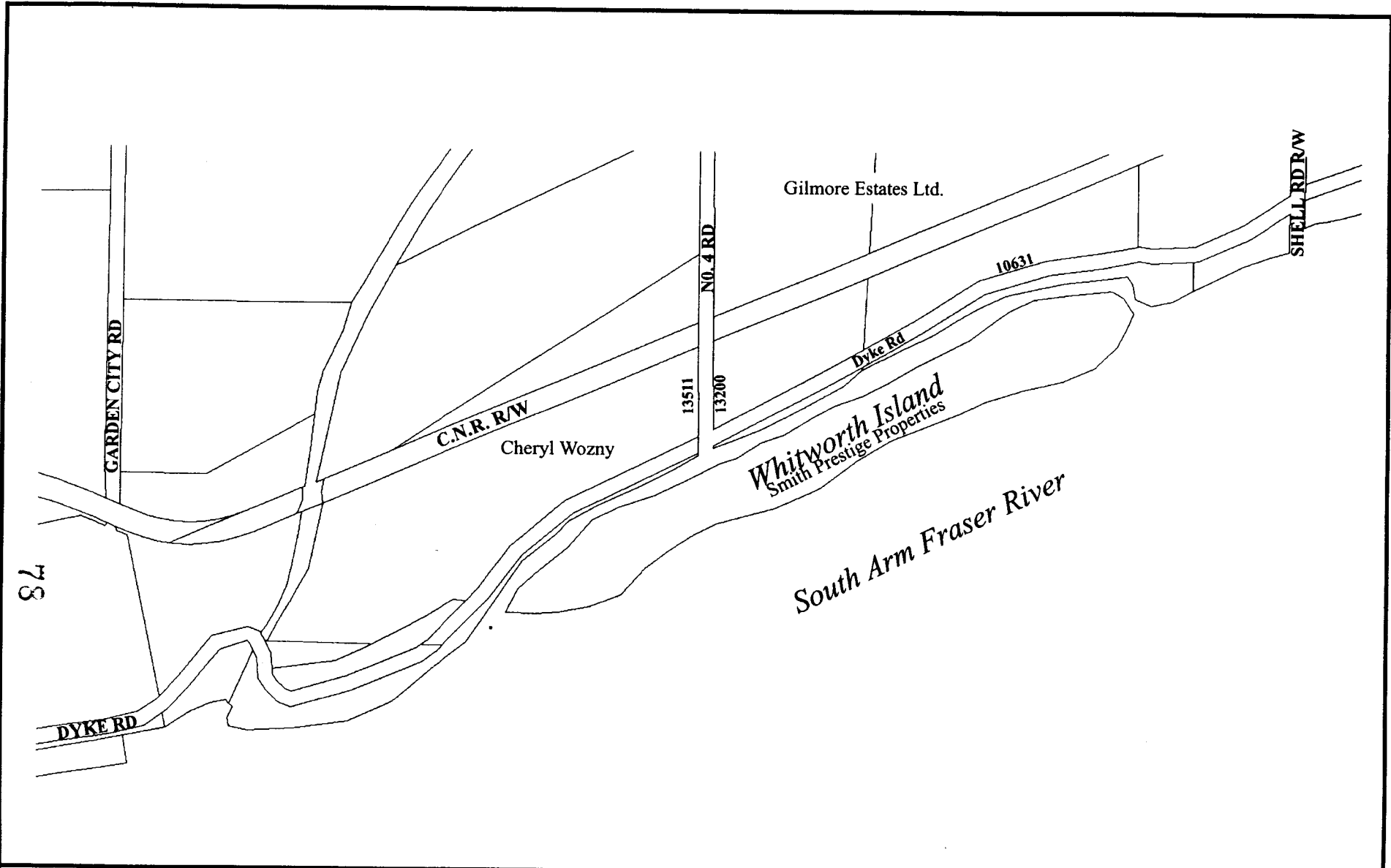
CONCLUSION

The FSR&FA has approached the City to help resolve the situation at Finn Slough. The Planning Committee referred this request to staff for further information at the June 6, 2000 meeting. This report endeavours to provide the information requested by the Committee. Staff do not recommend that the City take any further action on the FSR&FA's request dated May 23, 2000 until the tenure issues at Finn Slough are resolved.



Holger Burke, MCIP
Development Coordinator

HB:hb



Finn Slough

Original Date: 08/14/00

Revision Date:

Note: Dimensions are in METRES