

ITEM 14
MANAGER'S REPORT NO. 25
COUNCIL MEETING April 1, 1974

Re: Zoning Bylaw Amendment
Public Hearing Notification

Following is a report from the Director of Planning regarding notification of public hearings.

RECOMMENDATIONS:

THAT the Bylaw Text Amendment amending Section 7.8(7) of the Burnaby Zoning Bylaw be brought forward for Final Adoption; and

THAT Council require the continuation of the policy and practice of sending written notification of Public Hearings to the owners of record of affected and abutting property as shown on the current Municipal Assessment Rolls.

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PLANNING DEPARTMENT
MARCH 28, 1974

SUBJECT: ZONING BYLAW AMENDMENT
PUBLIC HEARING NOTIFICATION

Background

Council will recall that it received, on January 28, 1974, the attached report on the subject of notification to occupiers of property affected by rezoning applications. A concern was expressed that under the current provisions of the Municipal Act, Section 703 (2A), it is now mandatory to notify only the occupiers of real property within the area to be rezoned or within a specified distance of the area to be rezoned. Further, it was suggested that notifications be mailed from the Clerk's Office a minimum of three weeks before the Public Hearing date.

On February 19, 1974, a text amendment to bring the wording of the Burnaby Zoning Bylaw into parallel with the Provincial Act was presented to a Public Hearing, and the following week the Bylaw text amendment received three readings in Council. Prior to returning the matter for Final Adoption, however, this report on the subject of Council's concern is presented for consideration.

Discussion:

The effect of the change in the legislation is to remove a requirement that the de facto owner of real property be advised as an absolute condition of the rezoning process. It is a matter of concern that a rezoning bylaw adopted by Council following a Public Hearing may be invalidated if it can be shown that the de facto owner was not duly notified. Such a situation could easily arise in a case where a recent transfer of title has occurred and the Assessment Rolls, the source of information used in mailing notification, have not yet been changed because of delays at the Land Registry Office. To obtain absolute certainty, a costly and time-consuming search of title records for all properties subject to notification would be required. Moreover, the owner of record of an affected or abutting property frequently resides out of the province or country, and it is difficult to be assured that notification has in fact been completed. For these

reasons, the Solicitor has reaffirmed his position that the amendment to the Zoning Bylaw should be passed.

It is firmly agreed, however, that owners are vitally concerned in view of their capital investment position and have an obvious interest in zoning changes. This interest is respected by the recommendation that Council continue to require, as a matter of policy, the mailing of notification to owners by the Clerk, a practice that has been in existence in this Municipality for many years.

Council's endorsement of the continuation of this practice will assure that all reasonable efforts are made to notify by mail, the owners of affected and abutting properties as indicated on Municipal Assessment Rolls, but that the validity of Council's subsequent actions in zoning will not be jeopardized.


For Council's further information, the Planning Department has made it a matter of practice to provide Council with requests for Public Hearings at least four weeks before the proposed Public Hearing date. The Deputy Municipal Clerk advises that his office procedure is to mail notices during the week in which Council authorizes advancing a proposal to a Hearing, and consequently at least three weeks' clear notice is provided. On possible extraordinary occasions, if it is necessary to bring forward requests for Public Hearings less than four weeks in advance of the intended date, the Department will bring this aspect to Council's attention in its report, and the Clerk will be asked to make every effort to mail notification as immediately as possible.

Recommendation:

In order to protect the Municipality's position in processing rezoning bylaws, and at the same time to provide for proper notification of owners of record where normally possible, it is recommended that:

1. The Bylaw Text Amendment amending Section 7.8(7) of the Burnaby Zoning Bylaw be brought forward for Final Adoption, and
2. The Council simultaneously require the continuation of the policy and practice of sending written notification of Public Hearings to the owners of record of affected and abutting property as shown on the current Municipal Assessment Rolls.

Respectfully submitted,


A. L. Parr,
DIRECTOR OF PLANNING.

AP

DGS:cm
Attach.

c.c. Municipal Clerk

ITEM 14
MANAGER'S REPORT NO. 25
COUNCIL MEETING April 1, 1974
ITEM 21
MANAGER'S REPORT NO. 7
COUNCIL MEETING Jan. 28/74

Re: Rezoning Notification for Public Hearings
Proposed Zoning By-Law Text Amendment

Following is a report from the Director of Planning regarding notification of public hearings.

RECOMMENDATIONS:

THAT Council approve in principle and forward to a public hearing, to be held February 19, 1974, the following amendment to the text of the Burnaby Zoning By-Law #4742 by deleting the words "owners and" from Clause (7), Section 7.8, to read as follows:

"Notice of the public hearing shall be mailed to the occupiers of all real property within the area that is subject to the rezoning or land use contract and to the occupiers of all real property which abuts the area that is subject to the rezoning or land use contract"; and

THAT Council endorse the continuation of the current practice of sending written notification of a public hearing also the owners of such affected and abutting property.

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PLANNING DEPARTMENT

January 24, 1974.

SUBJECT: REZONING NOTIFICATION FOR PUBLIC HEARINGS
PROPOSED ZONING BYLAW TEXT AMENDMENT.

BACKGROUND:

The Municipal Act, Section 703 (2A), sets out the obligations of a Municipality with respect to provision of mailed notification of a Public Hearing to persons deemed to be affected by a proposed rezoning. During 1973, Section 703 was amended to make mandatory the mailing of notices of a hearing on a rezoning of land or land use contract to the owners and occupiers of property within the vicinity of the affected lot or area.

Consistent with this requirement, the Council on July 23, 1973 amended Section 7.8 (7) of the Burnaby Zoning Bylaw 1965 to read as follows:

"Notice of the Public Hearing shall be mailed to the owners and occupiers of all real property within the area that is subject to the rezoning or land use contract and to the owners and occupiers of all real property which abuts the area that is subject to the rezoning or land use contract."

RECENT AMENDMENT:

When Bill 96 was adopted by the Provincial Legislature on October 29, 1973, however, Section 703 (2A) was further amended to require that Council notify by mail the occupiers of all real property (the words "owners and" being thereby deleted from this subsection).

ITEM 14
MANAGER'S REPORT NO. 25
COUNCIL MEETING April 1, 1974

-2-

ITEM 21
MANAGER'S REPORT NO. 7
COUNCIL MEETING Jan. 28/74

For many years, the only requirement of the Municipal Act in connection with public notification of public hearings had been the publication of legal notice in the local press.

In this Municipality, however, the Council has recognized the obvious legitimate interest of affected and abutting owners, and has as a matter of policy made a practice of notifying these owners by mail.

At this time, it seems rather extraordinary that the Legislation require that only the occupiers of property be notified, while removing the requirement that the owners be given notice.

In view of the recent amendment to the Provincial legislation, and the fact that difficulty is occasionally experienced in locating and notifying the de facto owner of a particular property, the text of the Zoning Bylaw should be amended to reflect the present wording of the Act and to relieve the Municipality of legal obligation to locate and notify the actual owner. However, in recognition of the obvious interests of property owners, it is recommended that Council at the same time agree to continue as a matter of policy the long-standing practice of furnishing such notification by mail to affected and abutting owners where practicable.

RECOMMENDATIONS:

It is recommended that:

1) The Council approve in principle and forward to a Public Hearing, to be held February 19, 1974, the following amendment to the text of the Burnaby Zoning Bylaw #4742 by deleting the words "owners and" from Clause (7), Section 7.8, to read as follows:

"Notice of the public hearing shall be mailed to the occupiers of all real property within the area that is subject to the rezoning or land use contract and to the occupiers of all real property which abuts the area that is subject to the rezoning or land use contract.", and

2) The Council endorse the continuation of the current practice of sending written notification of a public hearing also to the owners of such affected and abutting property.

Respectfully submitted,

AWP
DGS:dp

A. L. Parr
A. L. Parr,
DIRECTOR OF PLANNING.

cc. Municipal Clerk
Municipal Solicitor