

Re: Rezoning Reference #5/75
4224 and 4228 Albert Street
From: Residential District Five (R5)
To: Parking District (P8)
(Department of Planning Rezoning Report, Item #3, March 17, 1975)

ITEM 18
MANAGER'S REPORT NO. 35
COUNCIL MEETING May 12/75

Following is a report on the inquiries that were raised by Council when Rezoning Reference #5/75 was considered on April 21, 1975. Related to this matter is a letter dated April 25, 1975 from Mr. S.K. Islaub, General Manager of Eagle Ford Sales Limited, which the Municipal Clerk distributed to individual members of Council on April 28, 1975.

RECOMMENDATIONS:

1. THAT Rezoning Reference #5/75 be advanced for further consideration and specifically for First and Second Readings, with Final Adoption to be conditional upon completion of the 6 prerequisite conditions set out in the initial rezoning report dated March 17, 1975; and
2. THAT, in addition, the applicant be asked to acknowledge in writing his understanding that the land use which is to be permitted under the proposed zoning is considered interim in nature, and that the zoning is subject to review and amendment by the Council at any time in accordance with the development objectives of the Community Plan.

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MAY 9, 1975

TO: MUNICIPAL MANAGER
FROM: DIRECTOR OF PLANNING
SUBJECT: REZONING REFERENCE #5/75
4224 AND 4228 ALBERT STREET
FROM: RESIDENTIAL DISTRICT FIVE (R5)
TO: PARKING DISTRICT (P8)

1.0 BACKGROUND

On April 21, 1975, Council tabled the subject rezoning request pending a Planning Department report regarding the question of ensuring that the Community Plan objectives for the area are not frustrated by the subject development. Council also requested information regarding legal means by which a time limit could be placed upon the proposed zoning thus limiting the duration of a parking function on the subject site.

The Planning Department has been working with the applicant and the Municipal Solicitor towards a suitable arrangement to which the following comments will refer.

2.0 GENERAL COMMENTS

The Municipality does not have the legal authority to limit the duration of a zoning district. As a result, there is no means by which the proposed Parking District (P8) zoning can be termed "interim zoning". The Municipality does, however, have the legal authority, under the Municipal Act, to rezone the subject site as deemed necessary. In this case, the Municipality may rezone the property to further the objectives of the Community Plan at an appropriate time, but the owner may still operate a parking facility which would then become a non-conforming use.

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Further, the Municipality may decide at an appropriate time to purchase the subject site as part of a land assembly as set out in the Municipal Act. This would then give Council the authority to terminate the use of the site for a parking facility as well as to rezone as required.

Another means by which the Municipality could control the use of the site would involve the use of legal agreements and/or covenants becoming part of the Zoning Bylaw. The Municipality has used these agreements in the past but such agreements may become invalid if they conflict with the regulations of the Zoning Bylaw. For that reason, this approach cannot be recommended in the present case.

The Municipality may also institute a Comprehensive Development (CD) Zoning of the subject site as opposed to a P8 designation as is proposed. This could effectively limit the intensity to which the property could be developed as a parking facility, i.e. restrict parking facilities to surface parking only. However, such a CD zoning designation would by definition reflect the parking use only and would not in any way anticipate the eventual, truly "comprehensive" core uses that are envisioned.

Finally, the Municipality may allow the subject rezoning to proceed as proposed, assuming that as economic pressures come to bear, the owners of the property would redevelop the subject site to reflect its optimum development potential as indicated in the Community Plan for the area.

By letter dated April 25, Mr. S. K. Islaub, General Manager of Eagle Ford Sales Limited, has indicated his understanding and acceptance of the prerequisite conditions proposed in the Planning Department's report. The "three year permit and three year renewal" to which reference is made cannot be applied for the reason mentioned above. However, the letter does confirm the prospective owner's knowledge of the objectives for the area and his acceptance of the notion of the subject development proposal being interim in nature.

As it is within the power of the Corporation to amend the zoning in future in conjunction with the Community Plan, and as the current proposal by its nature reflects an absolutely minimal capital investment in new improvements (i.e., surfacing, screening and landscaping only), it is submitted that the proposed use may be considered as interim.

The Planning Department would therefore reiterate its earlier recommendation that the property be rezoned subject to the conditions stated, but would suggest that in addition, written acknowledgement be received from the applicant, for the record, that it is understood that the P8 zoning is subject to review and amendment by the Council at any time as may be advisable in the light of ultimate comprehensive development objectives for the area.


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3.0 RECOMMENDATIONS

It is recommended that:

- 1) Rezoning Reference #5/75 be advanced for further consideration and specifically for First and Second Readings, with Final Adoption to be conditional upon completion of the 6 prerequisite conditions set out in the initial rezoning report dated March 17, 1975, and
- 2) In addition, the applicant be asked to acknowledge in writing his understanding that the land use which is to be permitted under the proposed zoning is considered interim in nature, and that the zoning is subject to review and amendment by the Council at any time in accordance with the development objectives of the Community Plan.

Respectfully submitted,


A. L. Parr,
DIRECTOR OF PLANNING.

PDS:DGS:bp