

ITEM 29
MANAGER'S REPORT NO. 32
COUNCIL MEETING 1978 04 24

Re: LETTER RECEIVED FROM THE NORLAND AVENUE PROPERTY OWNERS ASSOCIATION
WHICH APPEARED ON THE AGENDA FOR THE 1978 APRIL 17 MEETING OF COUNCIL
(ITEM 4 i)
NORLAND AVENUE WIDENING

Appearing on last week's agenda was a letter from Mr. J. D. Forbes, Chairman for the Committee for the Norland Avenue Property Owners Association, regarding the effects that the widening of Norland Avenue will have on abutting properties. Following is a report from the Director of Planning on this matter.

A copy of Item 1, In-Camera Report No. 38 dated 1977 May 24 which provides additional background information on this matter is attached to Council's reports.

As Council is aware, staff has expressed a willingness to meet with the Committee when a meeting is desired to discuss concerns or to provide information. Although we have not received such a request with respect to the matter that is presently before Council, we nevertheless have attempted to contact Mr. Forbes to determine if he or the Committee want to meet again. We were unable to reach Mr. Forbes by telephone because, we are told, that he is out of town and will not return until April 24. We will try again at that time.

RECOMMENDATION:

THAT a copy of this report be sent to Mr. J. D. Forbes.

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PLANNING DEPARTMENT
1978 APRIL 19

TO: MUNICIPAL MANAGER
FROM: DIRECTOR OF PLANNING
SUBJECT: LETTER RECEIVED FROM THE COMMITTEE FOR THE
NORLAND AVENUE PROPERTY OWNERS ASSOCIATION

Appearing on the 1978 April 17 Agenda was a letter from Mr. J.D. Forbes, Chairman for the Committee for the Norland Avenue Property Owners Association, concerning the impact of property acquisitions on future rezoning potential and concerning the desire for liaison with the municipality concerning construction operations.

Attached for Council's information is a copy of the Planning Director's letter dated 1978 January 10 to the Committee in response to their earlier request for clarification on certain matters, including, Point #2, the reduction of property size to less than one acre by property acquisition.

The position expressed on that point in our letter is that determinations of value of land being purchased at this time cannot presume Council's future disposition to a future rezoning request. A property owner wishing to have his property rezoned for another use at a future time would be expected to satisfy the requirements of the Bylaw for the category being proposed.

Section 6.11 of the Zoning Bylaw makes provision for exemption from the lot area and width requirements of certain districts where a given lot was described on the official records on file in the Land Registry Office on or before 1965 June 07. However, this provision does not include reference to the M6 district. The M6 District was created by amendment to the Bylaw in 1971, and incorporated a minimum lot area requirement of one acre (upon conversion of the Zoning Bylaw to metric measure, the minimum area is 0.4 hectares).

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The standard set out in the Bylaw is a minimum area, and the opportunity exists on many of the properties on Norland Avenue for satisfaction of this minimum requirement by consolidation or by an adjustment on internal property lines to enable the owner to qualify, on the basis of area, for M6 zoning. It is noted that several of the presently vacant one acre properties fronting on Norland Avenue that might be contemplated for truck terminal development are presently vacant and are flanked on at least one side by properties under the same ownership. As a result, in these cases consolidation or an amenable interior property line adjustment could quite readily be made by the present owner if he wishes to maintain a potential for future rezoning consideration.

The suggestion that landscaping requirements be adjusted downward to allow an M6 property to be used as if it were a one acre parcel is not supportable, as there is the need to maintain appropriate standards for new truck terminal development. Further, the suggestion that the municipality obtain the land required for widening purposes by easement only, without appropriate acquisition, is not a possibility, as the municipality cannot construct public streets on easements, but rather requires dedicated right-of-way or publicly-owned land for the construction of such public works.


The Planning Department feels that the present minimum area standards for truck terminals are appropriate and should be retained.

With reference to the matter of liaison with the municipality, municipal staff representing the Land Agent's office, the Engineering Department, the Legal Department, and the Planning Department, met with the Committee for the Norland Avenue Property Owners Association on 1977 November 07 at the Burnaby Municipal Hall and discussed a number of subjects presented by the Property Owners Association. At that time, the Committee's representatives expressed an interest in further liaison with staff concerning operational difficulties which they felt might arise, and the staff indicated they would welcome such contact with a Liaison Committee representing the property owners. To date, no such committee has approached the staff, but we would welcome contact by representatives of the property owners in the area should they experience problems or desire further information or discussion. In this regard, contact should be made with Mr. Craig Sinclair, Operations and Construction Engineer, at 294-7460.

This is for the information of Council.

RECOMMENDATION:

It is recommended THAT a copy of this report be sent to Mr. Forbes representing the Committee for the Norland Avenue Property Owners Association.


A. L. Parr,
DIRECTOR OF PLANNING.

DGS:cm
Attach.

- c.c. Municipal Treasurer
- Land Agent
- Municipal Engineer

1978 January 10

Committee for the Norland Avenue
Property Owners Association,
c/o Wholesale Delivery Service 1972 Ltd.,
2830 Norland Avenue,
Burnaby, B.C. V5B 3A7

Dear Sirs:

Re: Enquiries Submitted in Connection with
Text Amendment to Burnaby Zoning By-law
Maintaining Conformity of Existing Buildings
Upon Street Widening

The following is in response to your request for clarification
on certain points as outlined in your letter of 1977 December 13.

1. Destruction of Building by Fire

The amendment to Section 6.12 of the Zoning By-law is intended to respect the conformity of properly-sited buildings existing at the time of road widening being taken, and has the effect of maintaining the conformity of such buildings, rather than allowing a building to be made non-conforming by property acquisition as suggested in your question.

The amendment thereby preserves the setback conformity of previously-existing conforming buildings, while requiring that any additions or extensions to such existing buildings must observe the normal yard requirements for the district in which the lot is located.

As such, it follows that if such a building were to be damaged or partially destroyed, it could be repaired at its existing location.

If it were totally destroyed, it could be reconstructed on its original foundation provided the reconstruction was a replacement of the original building in its original form (subject to the provisions of Section 705(4) of the Municipal Act in the case of a building used for a non-conforming use).

If the building were totally destroyed, but the owner chose to replace it by constructing a form of building different from the original, such new construction could not be considered as replacement of the original building, and the normal requirements of the zoning district would apply to the new development as for any addition or extension.

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In all of the foregoing, of course, reconstruction would be subject to the normal provisions of the Building Regulations of British Columbia respecting repairs to damaged buildings.

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2. Reduction of Property Size to Less Than One Acre
by Property Acquisition

A property of less than 1 acre in area cannot experience rezoning to the M6 District category, as 1 acre is the stated minimum lot size for this district and there is no provision for exception under Section 6.11 in the By-law. In the case of an undersize lot, an applicant could consider acquisition of additional adjacent land and consolidation in order to make up the 1 acre minimum to allow him to qualify. Where municipal land which is not required for any other purpose lies adjacent to a parcel in this situation, the Municipality could consider sale of a portion of its land to allow this to occur, but it would be necessary to look at specific instances in order to determine its applicability.

The inference of the question appears to be that a property not currently zoned M6 would be reduced in value as a result of loss of M6 potential if its area were reduced to less than 1 acre by property acquisition. We must point out that this proposition is a hypothetical one, and that the favorable disposition of Council to a future rezoning request to M6 cannot be presumed in determining present value.


3. Property Developed to Maximum Building Size (60% of Land)
which Loses its Parking Spaces and is made Non-Conforming


The text amendment to Section 6.12 does not relate to the subject of parking non-conformity; however this matter was discussed in the Planning Department's report to Council received at the 1977 May 24 meeting. For convenient reference, a copy of the report received by Council on 1977 May 24 is attached (refer to item (d)).

The Municipality would not require an owner to regain parking in connection with any existing development where parking was reduced by a road widening acquisition. However, any future expansion of the development or a change to a more intensive use (in terms of parking generation) would require the provision of additional spaces to meet the increase in requirement occasioned by that expansion or change of use. Further, if the owner of the property for his own reasons wished to increase his on-site parking and thus maintain conformity, he could utilize a portion of the remaining 40% of the land area, subject to the provisions of the off-street parking section of the Zoning By-law.

We trust that the foregoing comments will be of assistance in clarifying your queries regarding the text amendment.

Yours truly,


A. L. Parr,
DIRECTOR OF PLANNING


JGH:oa
Attchmt.
c.c. Municipal Manager
Municipal Solicitor
Land Agent
Municipal Engineer
Chief Building Inspector

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