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| ITEM | 1 |
| MANAGER'S REPORT NO. | 62 |
| COUNCIL MEETING | 1980 10 06 |

RE: LETTERS FROM THE UNION OF BRITISH COLUMBIA MUNICIPALITIES AND
THE LOWER MAINLAND MUNICIPAL ASSOCIATION
THE PLANNING ACT - A DISCUSSION PAPER

Following is a report from the Director of Planning on The Planning Act - A Discussion Paper.

This report together with any additional comments that Council may wish to make on the subject will be hand delivered to Mr. C.J.S. McKelvey's office on October 07. He has advised by telephone that it is not necessary to make a submission to him before that time.

RECOMMENDATION:

1. THAT all municipal comments on The Planning Act - A Discussion Paper be hand delivered to the UBCM office on 1980 October 07.

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TO: MUNICIPAL MANAGER
FROM: DIRECTOR OF PLANNING
RE: THE PLANNING ACT
A DISCUSSION PAPER

PLANNING DEPARTMENT
1980 OCTOBER 01

RECOMMENDATION:

THAT this report be received for information.

REPORT

As requested, I have reviewed the above document from the local government viewpoint, and provided my comments on the attached table.

This Act gathers together existing land-use legislation contained in a number of Acts, and adds a Provincial component to the legislation. It also uses this opportunity to clarify a number of matters and to some extent increase the powers of local government.

The issues I have identified in the table are based upon my own value judgement, but with the exception of the issues of local autonomy, mandatory official plan preparation and the Provincial Appeal Board, there appears to be no reason why this proposed Act should not be generally supported.

I trust that the attached material will be of assistance to Council members in their coming discussions with the Minister under the auspices of the UBCM.


A. L. Parr,
DIRECTOR OF PLANNING

ALP:ad
Att.
cc: Municipal Solicitor
Municipal Clerk

PART 1 PURPOSES AND INTERPRETATION

| DIVISION | DESCRIPTION OF DIVISION | COMMENTS | ISSUES RAISED |
|------------------------------|--|---|---|
| 1. INTERPRETATION | Defines significant words and phrases used in the Act. | Definitions are straightforward with a normal intent. | |
| 2. APPLICATION OF OTHER ACTS | Lists other Acts which the Planning Act is subject to. | No comment. | |
| 3. PURPOSES | States the purpose of Provincial and local government land use planning. | Although the Act is called a Planning Act, it primarily addresses the use of land by incorporating most of part 21 of the Municipal Act (Community Planning). | The purpose of local Government planning is rather narrowly defined and development oriented with no reference to social, economic and environmental factors. |

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PART 2 STRUCTURE

| DIVISION | BRIEF DESCRIPTION OF DIVISION | COMMENTS | ISSUES RAISED |
|---|--|--|--|
| 1. PROVINCIAL LAND USE PLANNING AUTHORITIES | <p>The responsibilities of:</p> <ul style="list-style-type: none"> - the Lieutenant Governor in Council - the Environmental and Land Use Committee - the Inter-ministry Planning Committee - and the Regional Coordinating Committee <p>are described.</p> | <p>All these committees have an impact on local government in that they are involved in reviewing proposed Municipal official plans in order to ensure that the land use policies and programmes of local government are consistent with policies and programmes of all ministries and crown corporations, or to determine the effect of local government policies on provincial regional plans and on established provincial land use objectives and policies</p> | <p>Increasing involvement of the Provincial Government in local government land use planning.</p> <p>Is increased coordination and a clearer understanding of provincial policies worth a loss in local autonomy?</p> |
| 2. MINISTERIAL RESPONSIBILITIES | <p>The Minister is empowered to:</p> <p>Advise the Lieutenant Governor in Council on establishment of Urban Regions and delegation to Urban Regional Committees of responsibility for preparing Provincial Regional plans.</p> <ul style="list-style-type: none"> - approve official plans with respect to the Provincial interest. | <p>The extent to which the Minister will involve himself in local government decision making is not clear from the wording of this Division.</p> <p>Will the G.V.R.D. be established as an Urban Region and be given the responsibility for preparing the Provincial Regional plan?</p> | <p>Clarification is required as to the extent the Minister intends to use his powers under this Act to involve the province on a day to day basis in municipal planning, or whether he will literally concern himself only with the broad provincial interest.</p> |

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| 2. MINISTERIAL RESPONSIBILITIES CONT. | <ul style="list-style-type: none"> - ensure that there are clear efficient and equitable local government procedures for the consideration and determination of land development proposals. - establish by regulation subdivision servicing standards and the form of land use by-laws. - have an official plan or Development permit by-law altered if he is of the opinion that such a plan or by-law is contrary to the public interest of the province. <p>The term Community Planning area now only applies to areas of the Province outside a municipal boundary.</p> | <p>What will the Minister consider as Provincial interest, or the public interest of the Province when considering municipal official plans?</p> <p>Will the Ministers regulations for subdivision and land use by-laws apply within municipal boundaries?</p> <p>Can a Municipality continue to use the term community plan or is every document an official plan?</p> | |
| 3. LOCAL GOVERNMENT AUTHORITIES | <p>It becomes a mandatory requirement for a municipality to prepare and adopt official plans.</p> <p>The exercise of land use powers based upon the official plan remains permissive.</p> | <p>Historically, B.C. Municipalities have preferred the flexibility inherent in a Community plan which is used as a guide to development rather than a hard and fast by-law which requires time consuming procedures to amend. On the other hand, the certainty of an official plan is not present when a plan is a guide only.</p> | <p>Flexibility of the guide plan versus certainty of the official plan.</p> <p>Provincial coordination versus local decision making.</p> |

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| 3. LOCAL GOVERN- MENT AUTHORITIES CONT. | | There is also the fact of far more provincial involvement in the mandatory official plan required under this Act. In effect municipal land use policies and objectives become subject to provincial approval. | |
| 4. LAND USE APPEAL BOARD | <p>An Appeal Board is created with wide powers to advise the Minister and hear appeals on virtually everything in the Act.</p> <p>However the grounds for appeal are limited, and although the Appeal Board can refer a matter back for reconsideration it cannot substitute its decision for that of the local Government or officer.</p> <p>There is no appeal once a plan, by-law or regulation is approved or rejected by the Minister or Lieutenant Governor in Council.</p> | <p>Until now, there has been no appeal, other than through the Courts against the land use decisions of a Municipal Council. Now, anyone who feels that the Council acted incorrectly or based their decision on irrelevant information can appeal the decision and halt building, business, subdivision by-laws and development action.</p> <p>Although the idea of an Appeal Board has merit, its introduction is based upon the premise that Council may not act responsibly in the public interest. It could be cause of unnecessary cost and delay due to the presentation of irresponsible appeals.</p> | The extent to which the value of the Appeal Board in correcting land use decisions is balanced against the potential for additional cost and delay in land use activity, and the likelihood of the Board being an outlet for irresponsible appeals. |

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| 1. PROVINCIAL POLICY STATEMENTS | <p>Statements containing objectives and policies for the land use responsibilities of ministries and crown corporations will be prepared as the basis for provincial regional plans.</p> <p>They will be reviewed by the Environment and Land Use Committee to ensure that provincial land use objectives and policies are consistent.</p> | No comment. | |
| 2. PROVINCIAL REGIONAL PLANS | <p>This division describes who shall prepare Provincial Regional plans, and that it shall be in consultation with local government who will use the plan as a framework for their own programmes, and not undertake anything contrary to the provincial interest as expressed in a Provincial Regional plan.</p> | <p>On the assumption that the G.V.R.D. will be designated as an Urban Region, this Division will not be applicable to this area, except to the extent it relates to Division 3 - Urban Regional plans</p> | |
| 3. URBAN REGIONAL PLANS | <p>An Urban Region can be designated, committees appointed and authorization given to prepare an Urban Regional Plan. Local government will have elected and staff representation on Committees, and the Urban Regional Plan which shall apply to all land in the Region, is to provide an integrated framework for official plans and land use bylaws of local government.</p> | <p>This Division appears to be a replacement for the planning function of Regional Districts, with new names applied to the Regional Plan, and the Technical Planning Committee, and with a stronger role for the Provincial government who will in fact be delegating to the Urban Region, a Provincial responsibility.</p> | <p>New relationships created between the Provincial government, the GVRD, and the local municipalities.</p> <p>- better or worse than existing Regional Planning legislation?</p> |

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| 3. URBAN REGIONAL PLANS CONT. | <p>The plan requires the approval of the Lieutenant Governor in Council, but does not authorize or commit a local government to proceed with a project. At the same time a local government cannot undertake any work or enact any provision contrary to the Urban Regional plan.</p> <p>Conformance of local government official plans with the Urban Regional Plan is required within 12 months.</p> | <p>Existing Legislation does not require conformance with the Regional Plan within 12 months.</p> | |
| 4. OFFICIAL PLANS | <p>Council shall adopt an official plan applying to all the land within the municipality:</p> <ul style="list-style-type: none"> - by by-law. - after a public hearing - after review by Regional Coordinating Committee - after Ministers approval as to Provincial interest | <p>Mandatory requirement to prepare official plan</p> | <p>Should the Municipality be required to prepare official plans with all that is entailed or should it remain a permissive piece of legislation as at present?</p> |

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| 4. OFFICIAL PLANS CONT. | <p>An official plan:</p> <ul style="list-style-type: none"> - does not commit the Council - does not abrogate an owners privileges - prevents anything contrary from being carried out by the local government. - is to be respected by provincial ministries and Crown Corporations. <p>The official plan is to be a long range document, complying with the Regional plan and coordinated with the capital expenditure programme of local government.</p> <p>It is to be a statement of objectives and policies, dealing with the general form and character of future land use patterns, as expressed in the location, amount and type of major land uses.</p> <p>Designated areas may be planned in detail, and areas can be designated as development permit areas.</p> | <p>These conditions apply to current official community plan legislation and reflect reason for non-use of existing legislation, namely the official plan is an inflexible document which ties down no one but the Council. The requirement that the Province respect the plan is a welcome addition. The content of an official plan is essentially the same as official community plans under the Municipal Act.</p> <p>This work is carried out in Burnaby now, but the results are expressed as unofficial guide plans.</p> | Loss of flexibility versus increase in certainty. |

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| 1. APPROVING OFFICER | <p>The Approving Officer is to be appointed by the Lieutenant Governor in Council on the recommendation of the Municipal Council and is to be administratively responsible for approval procedures provided for by the Act ie: subdivision, zoning, development permits.</p> <p>He is to prepare manuals including criteria for approvals and procedures related to land use.</p> | <p>This reflects the current situation in Burnaby where land use matters fall under the administrative jurisdiction of the Chief Planning Officer, who also administers subdivision approval process</p> | |
| 2. SUBDIVISION APPROVAL | <p>There is essentially no change in the legislation governing subdivision approvals with the exception of Section 104 which provides for the issuance of a conditional approval of a subdivision plan.</p> | <p>A procedure of granting conditional approval, under the name tentative approval is followed in Burnaby at present.</p> | |
| 3. CANCELLATION OF PLANS | <p>This division, to be administered by the Approving Officer, provides municipality with an additional power previously held by Registrar of titles, to cancel plans and to require compensation for cancelled highways or parks.</p> | <p>Burnaby has been submitting resolutions to U.B.C.M and pursuing the right to obtain compensation for cancelled highways for some years. This division meets this request.</p> | |
| 4. COVENANTS | <p>Legislation from Land Titles Act.</p> | <p>No comment.</p> | |
| 5. LOCAL SERVICE AREAS | <p>Not applicable to Municipalities.</p> | | |

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| 1. BY-LAW ENACTMENT | <p>No land use by-law is to be contrary to an official plan and a single by-law is required governing Zoning, Subdivision, and Development Permits.</p> <p>The by-law must be adopted within 6 months of a Public Hearing and notices must be sent to owners and occupiers within 200 m. unless it is a by-law involving 10 or more parcels and 10 or more persons.</p> <p>All land use by-laws are required to be deposited with the Inspector of Municipalities.</p> | <p>The objective of having all land use legislation in our by-law, presumably to assist in coordination, may prove unwieldly and has the effect of requiring a public hearing for matters previously handled without a hearing eg. subdivision regulations.</p> <p>The current Burnaby procedure has no time limit for by-law passage, but requires a review of the status of the application after 12 months.</p> | <ul style="list-style-type: none"> - additional items to be referred to Public Hearing. - adoption within 6 months is too short a period leading to unnecessary additional Public Hearings. - a single by-law may prove cumbersome or unwieldy, but presumably it can be organized in separate parts. |
| 2. ZONING | <p>With a few exceptions the existing provisions of the Municipal Act are carried into the new Act. These include:</p> <ul style="list-style-type: none"> - allowance for vertical zoning. - allowance for density variation in areas designated in the official plan. - regulation of building setbacks from highways, streams, rivers and lakes. - landscape screening. | <p>Vertical zoning and density variation are currently handled in Burnaby by the use of our guide plans and C.D. Zoning.</p> <p>The regulation of building setbacks and provisions for landscape screening have been pursued by Burnaby through the U.B.C.M. for several years. The new proposals meet our request.</p> | |

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| 3. SUBDIVISION | There is no change in the present subdivision provisions of the Municipal Act, except that the official plan must contain the criteria for the provision of park land in order to obtain land for parks or cash in lieu of land upon the approval of subdivision. | No comment | |
| 4. SPECIAL PERMITS | Essentially a repeat of the Development Permit provisions of the Municipal Act. | No comment | |
| 5. NON-CONFORMING PROVISIONS | Similar to provisions of Municipal Act. | No comment | |
| 6. BUILDING SOIL REMOVAL AND OTHER PERMITS | Similar to provisions of Municipal Act. | No comment | |
| 7. BOARD OF VARIANCE | The Board of Variance is to be established in a land use by-law and this division clearly defines the responsibilities of the Board. | This Division clarifies that the Board is to deal with minor variances; may not approve additions to a building or structure; and may not increase the density of land use on the parcel under appeal | |

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| 8. DEVELOPMENT APPROVAL PROCESS | This Division contains a completely new provision requiring the approval process to be spelled out in the land use by-law, including steps, times, fees, officials involved etc. the process requires the approval of the Inspector of Municipalities and no land use by-law shall take effect until that approval has been given. | Most Municipalities spell out their procedures in a variety of ways. This will standardize the form to the advantage of Applicants wishing to develop in the Municipality. | Why is approval of the Inspector of Municipalities required; creating possibility of conflict and delay. |
| 9. WITHHOLDING OF PERMITS AND LICENCES | Similar to present provisions of Municipal Act, except that a provision is included that if the Council wishes to withhold a permit, a land use by-law must have been authorized by the Council at least 7 days prior to the application. | No comments. | |
| 10. FEES | The land use by-law may set fees for processing development applications | No comment. | |
| 11. NO COMPENSATION | A standard provision that property is not injuriously affected by reason of the adoption of a land use by-law. | No comment. | |

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| 12. ADVISORY PLANNING COMMISSION | Commission established by by-law to advise Council on official plan matters. | This is consistent with the current proposal to have the Burnaby Commission report on land use policy matters. | |
| 13. REPLOTTING | Existing provisions of the Municipal Act. | No comment. | |
| 14. ENFORCEMENT | Provides authority to enforce land use by-laws and obtain redress. | No comment. | |
| 15. REGULATIONS | Lieutenant Governor in Council may make regulations. | No comment. | |
| 16. AMENDMENT TO LAND USE CONTRACTS | | Not applicable in Burnaby as we have no land use contracts. | |
| 17. TRANSITION AND REPEAL | Existing by-laws remain in effect as land use by-laws until a land use by-law under part 5 is adopted. A Public Hearing is not needed for the first land use by-law under part 5 if it simply consolidates the existing zoning by-law with other land use by-laws. | No comment. | |

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