

ITEM 11
MANAGER'S REPORT NO. 38
COUNCIL MEETING 1981 08 24

RE: MR. GLENN S. HARA'S APPEARANCE BEFORE COUNCIL AS A DELEGATION

ON 1981 AUGUST 10 (ITEM 2e)

REZONING REFERENCES #55/81 AND #56/81

4259 VICTORY STREET AND 5163 PATTERSON AVENUE

PROPOSED REZONING TO THE R9 RESIDENTIAL DISTRICT

(ITEM 8, REPORT NO.37, 1981 AUGUST 10)

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendation of the Director of Planning be adopted.

* * * * *

TO: MUNICIPAL MANAGER 1981 AUGUST 19

FROM: DIRECTOR OF PLANNING

SUBJECT: REZONING REFERENCES #55/81 AND #56/81
4259 VICTORY STREET AND 5163 PATTERSON AVENUE
PROPOSED REZONING TO THE R9 RESIDENTIAL DISTRICT

RECOMMENDATION:

1. THAT a copy of this report be sent to Mr. Glenn F. Hara, Thomas H. Hara & Company, Suite 303, 190 Alexander Street, Vancouver, B.C., V6A 1B5.

REPORT

Appearing on the 1981 August 10 Council Agenda was a delegation from Mr. Glenn F. Hara, solicitor representing the applicants of the above referenced rezoning requests.

1.0 BACKGROUND INFORMATION

- 1.1 On 1981 July 27, Council received the rezoning reports regarding the above referenced applications and at that time adopted the recommendations of the Planning Department to not favourably consider the rezoning requests.
- 1.2 A further report from the Planning Department on these rezoning applications was considered by Council on 1981 August 10 in response to Mr. Hara's delegation at that Council meeting. Arising out of Council's discussion of Mr. Hara's delegation, the Planning Department was requested to prepare a further report to clarify several items raised at that time.

2.0 GENERAL DISCUSSION:

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2.1 From Mr. Hara's submission, it appears as though his client, when purchasing the property, expected that R9 zoning would be virtually automatic, as the properties had sufficient area and width to meet the technical requirements for two family dwellings under prevailing zoning.

In reply, it would be useful to briefly outline the zoning procedure that Council expects staff to pursue, and the factors that are considered by Council when addressing a specific rezoning application.

The R9 District regulations (attached for reference) establish the District category and set forth the regulations for the zone, including specific technical requirements. As such, where a rezoning request to the R9 District is made to the Municipality, it is a fundamental requirement that the site in question be capable of satisfying the technical requirements, in order to proceed with Council consideration. In the cases referred to by Mr. Hara, the sites met the minimum technical requirements, and therefore were eligible for consideration as potential R9 rezoning sites.

An application to rezone land which meets the basic technical requirements is evaluated by staff who advance a report to the Council together with recommendations. The application is then considered by Council on its merit, as is the Planning Department recommendation, and a Council decision is made as to whether or not an amending bylaw should be prepared and advanced further. The bylaw then receives thorough Council consideration through a process of Bylaw Readings and public notification.

Indeed, the Municipal Act requires that a Council shall not adopt or amend a Zoning Bylaw except after a Public Hearing has been held, at which all persons who believe their interest in property affected by the proposed bylaw are afforded an opportunity to be heard.

With reference to the intent of the Zoning Bylaw including the R9 Zoning District, Section 2 of the Burnaby Zoning Bylaw (attached) sets out the purpose. Sub Sections (4), (5) and (6) are worthy of particular note in connection with the subject rezoning applications.

For the reasons outlined, a change in zoning can never be automatic and there is no basis for presumption that a given application for rezoning will be approved until an application has been fully considered by the Council and a decision has been made on the application's merit, following the normal process.

2.2 The major item raised by Mr. Hara was that he was of the opinion that the three categories that were outlined in the R9 Introductory Report (attached), received by Council on 1981 June 01, were not in accordance with the R9 District regulations as outlined in the Burnaby Zoning Bylaw.

The R9 Introductory Report was prepared to accompany the first series of R9 rezoning reports and provided an appropriate method of categorizing the applications for evaluation purposes. It reflects the intent of the Zoning Bylaw and was prepared to enable the individual rezoning reports to be written in a concise and systematic manner as well as to facilitate Council's understanding of individual reports relative to the principal types of R9 applications. As mentioned in 2.1, only when the property is rezoned to an R9 category, following an evaluation process, do the R9 regulations as contained in the Bylaw come into force.

Notwithstanding the existing zoning, in order to arrive at a decision as to whether R9 zoning is suitable or not, the Planning Department undertakes a review of the immediate area of the site in question to determine the existing neighbourhood characteristics and development patterns. In situations where R4 or R5 zoning prevails and where there are a limited number or no two family dwellings in existence, the creation of two small lots via R9 rezoning is considered to be inconsistent and incompatible with the neighbourhood character. It is important to preserve the character of these single family neighbourhoods by ensuring that inappropriate development is avoided; hence a negative recommendation would be indicated.

- 2.3 Mr. Hara in his delegation has also stated that the construction of two-family dwellings under the prevailing R5 zoning on the sites in question would destroy the character of the neighbourhood.

Two-family buildings scaled appropriately to the development in the neighbourhood do not in the opinion of the Planning Department destroy the character of an area, and they are permitted on sites of a suitable size in the R4 and R5 Districts, subject to the regulations.

It is agreed that there may be areas of a prevailing, single family nature where although two-family development is permitted under existing zoning the desire to retain and preserve the neighbourhood's character would preclude the introduction of two-family dwellings.

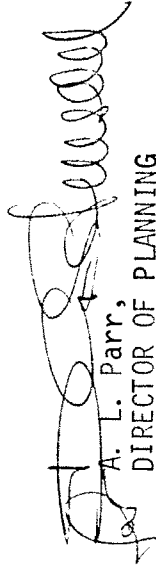
A review of Burnaby's neighbourhoods which is currently in progress will identify such areas. The results of this study form a part of the Municipal Growth Management Strategy, and will be submitted to Council in the context of that work.

3.0 CONCLUSION:

- 3.1 Upon review of Mr. Hara's delegation and the items raised therein, the Planning Department advises that the evaluations conducted on the subject rezoning applications are consistent with the R9 Zoning District, and the purpose and intent of the Burnaby Zoning Bylaw.
- 3.2 The foregoing is provided for the information of Council; it would be appropriate that a copy of this report be directed to Mr. Glenn F. Hara.

APL
PDS/DGS/g1

c.c Municipal Solicitor
Municipal Clerk


A. L. Parr,
DIRECTOR OF PLANNING

ATTACHMENT

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- 109.6 Side Yards:** (1) A side yard shall be provided on each side of the building of not less than 1.2 m (3.94 feet) in width, except that where the width of the lot is reduced below 12.2 m (40 feet), the required side yard on each side of the building may be reduced to a minimum of 10 per cent of the lot width, provided that the minimum side yard on any one side shall be not less than 900 mm (2.95 feet).
- (2) In the case of a corner lot the side yard adjoining the flanking street shall be not less than 2.4 m (7.87 feet) in width, except that where the width of the lot is reduced below 12.2 m (40 feet), the required side yard adjoining the flanking street may be reduced to a minimum width of 1.8 m (5.91 feet) provided that for every unit of length reduction in required side yard width the required front yard shall be increased by such unit of length.
- 109.7 Rear Yard:** A rear yard shall be provided of not less than 7.5 m (24.61 feet) in depth.
- 109.8 Off-Street Parking:** Off-street parking shall be provided and maintained in accordance with Schedule VIII of this by-law.

This District provides for the inclusion of compact single family dwellings in the mature and developing residential areas of the municipality.

109.1 Uses Permitted:

(1) Single family dwellings

(2) Home occupations

(3) Accessory buildings and uses

109.2 Height of Buildings:

(1) The height of a building shall not exceed 9.8 m (32.12 feet) nor 2 1/2 storeys.

109.3 Lot Area and Width:

(1) Each lot for a single family dwelling shall have an area of not less than 372 m² (4,000 square feet) and a width of not less than 12.2 m (40 feet).

(2) Notwithstanding anything in this section contained, existing lots of record may be subdivided in accordance with the following provisions:

(a) In cases where existing lots of less than 372 m² (4,000 square feet) in area, and less than 12.2 m (40 feet) in width, give evidence in a block front of a historic small lot settlement pattern, any existing lot of record in that block front may be subdivided into two lots, each with a width compatible with the prevailing lot width in the block front.

(b) An existing lot of record located in an existing R4 or R5 Residential District which meets the required standards to experience two family dwelling development, may be subdivided into two single family residential lots in accordance with the following table:

Existing Lot Area	Minimum Lot Width
335 m ² (3,600 sq. ft.)	11 m (36.09 ft.)
9.25 m (30.35 ft.)	

109.4 Lot Coverage:

The maximum coverage shall be 35 per cent of the lot area.

109.5 Front Yard:

A front yard shall be provided of not less than 6.0 m (19.69 feet) in depth.

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ATTACHMENT

BURNABY ZONING BYLAW 1965 - EXCERPT.

SECTION 2 PURPOSE

The Burnaby Zoning Bylaw regulates within the Corporation of the District of Burnaby, the development and use of land and the location and use of buildings and structures erected thereon, having due regard to:

- (1) The promotion of health, safety, convenience, and welfare of the public.
- (2) The prevention of the overcrowding of land, and preservation of the amenities peculiar to any zone.
- (3) The securing of adequate light, air and access.
- (4) The value of the land and the nature of its present and prospective use and occupancy.
- (5) The character of each zone, the character of the buildings already erected and the peculiar suitability of the zone for particular uses.
- (6) The conservation of property values.

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RE: REZONING APPLICATIONS

Following for the consideration of Council are reports submitted by the Director of Planning covering various rezoning applications.

RECOMMENDATION:

1. THAT the recommendation of the Director of Planning be adopted.

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TO: MUNICIPAL MANAGER 1981 MAY 20

FROM: DIRECTOR OF PLANNING

SUBJECT: R9 RESIDENTIAL DISTRICT REZONING APPLICATIONS/INTRODUCTORY REPORT

RECOMMENDATION:

1. THAT Council establish Tuesday, 1981 June 30 as the Public Hearing date for those R9 rezoning applications recommended for forwarding in the following individual reports.

REPORT

1. On 1980 December 01, Council gave Final Adoption to Amendment Bylaw No. 49 (1980) Bylaw No. 7580 which amended the regulations of the Burnaby Zoning Bylaw 1965 by introducing the R9 Residential District. The intent of this new zoning category is to permit the creation of small lots for the development of single family dwellings.
2. Since finalization of the R9 Zoning Bylaw Amendment, the Planning Department has received over 100 individual rezoning requests for R9 designations. In view of the volume of applications and the delay resulting from the recent work stoppage, it has been necessary to work out a suitable method of expediting the processing of these applications.
3. In consultation with the Municipal Clerks Department, it is proposed that a series of special Public Hearings be held at the earliest opportunity to cover approximately 20 R9 rezoning applications at each hearing. A limitation on the number of applications to be considered at each Public Hearing is necessary in view of the volume of work associated with the preparation of bylaw amendments, mailing of Public Hearing notices, and the anticipated length of Public Hearings.
4. In order to simplify and expedite the evaluation of these rezoning applications, the Planning Department considers that each request should be considered within the context of the following three categories;
 - A. THE CREATION OF A NEW SMALL LOT SUBDIVISION IN UNDEVELOPED AREAS.Under these circumstances, it is necessary to take into consideration the residential development policy for the remaining undeveloped areas of the Municipality and most importantly, the impact that the resultant residential density would have on related services such as schools, traffic, public transit, parks etc.

- B. SUBDIVISION OF AN EXISTING LOT COMPATIBLE WITH THE PREDOMINANT AND HISTORIC LOT PATTERN IN AN EXISTING RESIDENTIAL AREA.

The most important consideration associated with applications that fall into this category is that of maintaining the existing residential character within the immediate area. As such, the creation of two smaller lots should essentially result from an "infill" situation where the majority of the existing lots within the block are of similar size and shape.

- C. SUBDIVISION OF AN EXISTING LOT WHICH CAN LEGALLY EXPERIENCE TWO FAMILY DWELLING (DUPLEX) DEVELOPMENT INTO TWO SINGLE FAMILY DWELLING LOTS.

Applications that fall into this category involve lots zoned R4 or R5 Residential District which are of sufficient size to legally experience duplex development. Rezoning to R9 and the creation of two smaller lots will not affect the overall density. It is important that the single family character of those R4 and R5 zoned areas which have not experienced duplex development be maintained. As such, the existence of R4 and R5 zoning has therefore not been taken to warrant automatic approval. It should be noted that the following minimum lot area and width requirements must be satisfied where existing R4 and R5 zoned lots are involved:

	Minimum Lot Area	Minimum Lot Width
R4	400 m ² (4,305.7 sq. ft.)	11 m (36.09 ft)
R5	335 m ² (3,600 sq. ft.)	9.25 m (30.35 ft)

5. Attached please find reports on the first series of R9 rezoning applications.

Item #1 RZ #61/80	Application for the rezoning of:	Page No.	Recommend. Page No.
	Lot 19, Blk. 55, D.L. 98, Pl. 1287	307	308
	From: R5 Residential District To: R9 Residential District		
	Address: 7037 Dunblane Avenue		
Item #2 RZ #62/80	Application for the rezoning of:	312	313
	Lot "A", Blk. 72, D.L. 132, Pl. 2420		
	From: R4 Residential District To: R9 Residential District		
	Address: 6521/23 Kitchener Street		
Item #3 RZ #63/80	Application for the rezoning of:	318	319
	Lot 17, Blk. 21 & 22, D.L. 34, Pl. 1355.		
	From: R5 Residential District To: R9 Residential District		
	Address: 4776/78 Inman Avenue		

* Text Amendment as directed by Council at its meeting of 1981 June 01:

"... 'infill' situation where there is evidence of existing lots within the block of a similar size and shape."

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Item #4
RZ #64/80

Application for the rezoning of:
Lot 2, Blk. 79, D.L. 127 & 218, Pl. 4953

From: R4 Residential District
To: R9 Residential District

Address: 240 South Howard

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Item #5
RZ #65/80

Application for the rezoning of:

Lot 42, Blk. 33, D.L. 95, Pl. 1915

From: R5 Residential District
To: R9 Residential District

Address: 7240 17th Avenue

Item #6
RZ #66/80

Application for the rezoning of:

Lot "E", Blk. 49, D.L. 189, Pl. 38683

From: R5 Residential District
To: R9 Residential District

Address: 198 N. Ellesmere Avenue

Item #7
RZ #67/80

Application for the rezoning of:

Lot 1, Blk. 2, D.L. 121 & 187, Pl. 1354

From: R5 Residential District
To: R9 Residential District

Address: 4204 Pandora Street

Item #8
RZ #68/80

Application for the rezoning of:

Lot 46, D.L. 95, Plan 1915

From: R5 Residential District
To: R9 Residential District

Address: 7280 17th Avenue

Item #9
RZ #69/80

Application for the rezoning of:

Lot 4, Blk. 19, D.L. 116, Pl. 2223

From: R5 Residential District
To: R9 Residential District

Address: 3958 Parker Street

Item #10
RZ #70/80

Application for the rezoning of:

Lot 45, Blk. 32, D.L. 95, Pl. 1915

From: R5 Residential District
To: R9 Residential District

Address: 7270 - 17th Avenue

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Item #11 Application for the rezoning of:
RZ #71/80 Lot 5, Blk. 5, D.L. 91, P1. 2332

From: R5 Residential District
To: R9 Residential District

Address: 6710 Hersham Avenue

359 360

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Item #12 Application for the rezoning of:
RZ #72/80 Lot 238, D.L. 92, P1. 29342

From: R5 Residential District
To: R9 Residential District

Address: 6650 Brantford Avenue

364 365

Item #13 Application for the rezoning of:
RZ #73/80 Lot 9, Blk. 79, D.L. 127, P1. 4953

From: R4 Residential District
To: R9 Residential District

Address: 201 S. Ellesmere Avenue

369 370

Item #14 Application for the rezoning of:
RZ #74/80 Lot 4, Blk. 1, D.L. 38, P1. 16460

From: R4 Residential District
To: R9 Residential District

Address: 4380 Carlton Avenue

374 375

Item #15 Application for the rezoning of:
RZ #75/80 Lot 15, Blk. 55, D.L. 98, P1. 1287

From: R5 Residential District
To: R9 Residential District

Address: 6957 Dunblane Avenue

379 380

Item #16 Application for the rezoning of:
RZ #76/80 Lot 5 of 7 & 8, Blk. 2, D.L. 158, P1. 2094

From: R5 Residential District
To: R9 Residential District

Address: 5188 Clinton Street

384 385

Item #17 Application for the rezoning of:
RZ #77/80 Lot 4, Blk. 5, D.L. 59, P1. 12321

From: A2 Small Holdings District
To: R9 Residential District

Address: 2907 Phillips Avenue

389 390

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Item #18
RZ #78/80

Application for the rezoning of:
Lot A, Blk. 62, D.L. 188, P1. 15000

From: R5 Residential District
To: R9 Residential District

Address: 97 S. Canberra Avenue

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Item #19
RZ #79/80

Application for the rezoning of:

Lot 15, Blk. 8, D.L. 93, P1. 1525

From: R5 Residential District
To: R9 Residential District

Address: 6549 Gilley Avenue

401 402

Item #20
RZ #80/80

Application for the rezoning of:

Lot 12, Blk. 23, D.L. 29, P1. 3035

From: R5 Residential District
To: R9 Residential District

Address: 7517 Mary Avenue

407 408

/91


A. L. Parr,
DIRECTOR OF PLANNING