

ITEM	14
MANAGER'S REPORT NO.	51
COUNCIL MEETING	1981 10 26

RE: REZONING REFERENCE #158/81
68 PARCELS ON MALVERN AVENUE, 7421, 7375 STANLEY STREET AND
7370, 7378 MORLEY STREET

MUNICIPAL MANAGER'S RECOMMENDATION:

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

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TO: MUNICIPAL MANAGER 1981 OCTOBER 21

FROM: DIRECTOR OF PLANNING

SUBJECT: REZONING REFERENCE #158/81
68 PARCELS ON MALVERN AVENUE, 7421, 7375 STANLEY STREET
AND 7370, 7378 MORLEY STREET

FROM: R5 RESIDENTIAL DISTRICT
TO: R3 RESIDENTIAL DISTRICT

RECOMMENDATION :

1. THAT a copy of this report be sent to Mr. Bob Roxborough of the
Browndale Care Society, 4065 E. 1st Avenue, Burnaby, B.C.

REPORT

Mr. Bob Roxborough of the Browndale Care Society which operates a group home
at 7378 Morley Street appeared as a delegation at the 1981 October 06 Public
Hearing and expressed his concern regarding the implications the proposed
rezoning would have on the group home facility.

1.0 GENERAL DISCUSSION:

- 1.1 As referenced in the rezoning report received by Council on 1981
September 21, the Browndale Group Home located at 7378 Morley Street
would become legally non-conforming should the rezoning to R3 proceed
and would therefore be subject to the provisions of Section 722 of
the Municipal Act (attached).
- 1.2 Mr. Roxborough was specifically concerned about the fact that since
the tenants of the group home vacate the facility for approximately
two months in the summer for holidays and group outings etc.,
that the facility would lose its non-conforming status
pursuant to Section 722 (2) of the Municipal Act.
- 1.3 As specifically outlined in Section 722 (2) of the Municipal
Act, a non-conforming use that is discontinued for a period
of 30 days requires that any future use of the premises must
conform to the zoning bylaw. In the opinion of the Municipal
Solicitor the current practice of vacating the group home for
summer holidays etc. as referenced above would not result in a
loss of the group home's non-conforming status assuming that
the facility is not used for any other purpose during the two
month period and that the various licenses required to operate
the facility during that time do not lapse.


A. L. Parr,
DIRECTOR OF PLANNING

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Attachment

c.c. Municipal Solicitor

1979

MUNICIPAL

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municipality made all reasonable efforts to mail or otherwise deliver the notice to the occupiers.

(5) At the hearing all persons who believe their interest in property affected by the proposed bylaw shall be afforded an opportunity to be heard on matters contained in it.

(6) The hearing may be adjourned from time to time.

(7) The council may without further notice, in the zoning bylaw as adopted, give the effect it believes proper to representations made at the hearing, except that any change subsequent to the hearing shall not alter the substance of the bylaw.

RS1960-255-703; 1961-43-42; 1968-33-167; 1973-59-16; 1973-133-59; 1974-56-23;
1976-36-21; 1977-57-16; 1979-22-36.

Amendment or repeal of bylaw

721. (1) A zoning bylaw shall not be adopted, amended or repealed except after a hearing under section 720.

(2) A member of the council who was not present at the public hearing may vote on the adoption, amendment or repeal of a zoning bylaw, provided that an oral or written report of the public hearing has been given to him.

RS1960-255-704; 1961-43-43; 1972-36-30; 1972(2nd Sess.)9-2; 1976-36-22;
1978-30-9.

Buildings under construction

722. (1) A building or structure lawfully under construction at the time of the coming into force of a zoning bylaw shall, for the purpose of that bylaw, be deemed to be a building or structure existing at that time.

(2) A lawful use of premises existing at the time of the adoption of a zoning bylaw, although the use does not conform to the bylaw, may be continued; but if the nonconforming use is discontinued for a period of 30 days, any future use of the premises shall conform, subject to this section, to the zoning bylaw.

(3) A lawful use of a building or structure existing at the time of the adoption of the zoning bylaw, although the use does not conform to the zoning bylaw, may be extended throughout the building or structure, but no structural alterations except those required by statute or bylaw or those allowed by the board of variance shall be made in or to it.

(4) Where a building or structure the use of which does not conform to an applicable zoning bylaw is damaged or destroyed to the extent of 75% or more of its value above its foundations, as determined by the building inspector, whose decision shall be subject to review by the board of variance, it shall not be repaired or reconstructed, except for a conforming use in accordance with the zoning bylaw.

(5) A change of tenants or occupants of the building or structure shall not be deemed to affect the use of the building or structure within the meaning of this section.

RS1960-255-705; 1968-33-168.

No compensation for zoning bylaw

723. Property shall be deemed not to be taken or injuriously affected by reason of the adoption of a zoning bylaw or its amendment or repeal. This subsection does not apply to land zoned exclusively for public use.

RS1960-255-706; 1962-41-29; 1965-28-20.