

ITEM 21
MANAGER'S REPORT NO. 6
COUNCIL MEETING 92/01/27

TO: ACTING MUNICIPAL MANAGER 1992 January 23

FROM: DIRECTOR PLANNING AND BUILDING
Our Files: 08.640
"Still Creek Avenue"
RZ 41/91

SUBJECT: REZONING #41/91 - 5005 STILL CREEK AVENUE
CONCERNS REGARDING THE REQUIREMENT FOR
A RESTRICTIVE COVENANT

PURPOSE: To respond to concerns expressed by the owner of 5005 Still
Creek Avenue with regard to a restrictive covenant applied to
the property as a condition of rezoning.

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RECOMMENDATION:

1. THAT Council direct that the requirement noted in Item 3.4 of the Rezoning report of 1991 November 18 that the owner enter into a restrictive covenant be removed.
2. THAT a copy of this report be forwarded to Mr. K. Pedersen, Standard Building Supplies Ltd., 4925 Still Creek Avenue, Burnaby, B.C.

R E P O R T

1.0 BACKGROUND

At its meeting of 1991 December 16, Council received a presentation from Mr. V. Stusiak regarding Rezoning #41/91 at 5005 Still Creek Avenue. On behalf of the applicant for the rezoning, Standard Building Supplies Ltd. of 4925 Still Creek Avenue, the delegation requested that Council direct staff to delete a requirement of the rezoning that the applicant enter into a restrictive covenant prohibiting construction of any buildings within a 6.1m strip along the west property line of the site. At that time, Council referred the brief and the delegation's concerns to staff for a report.

This report responds to the request of Council.

2.0 WESTMINSTER/DELTA CONNECTOR - MUNICIPAL ROLE

In its position paper submitted to the Minister of Transportation and Highways and the G.V.R.D. in 1989 October, Council urged the Province to immediately start planning and construction of necessary improvements to Highway 1.

In conjunction with the development of a concept plan for the upgrading of Highway 1, the Ministry of Transportation and Highways has proposed the development of an overpass of the freeway to connect Westminster Avenue on the south side with Delta Avenue on the north side. From the Ministry's perspective, the provision of additional overpasses of Highway 1 supports the efficient operation of the freeway by redirecting north/south local traffic away from the major interchanges, in this case Willingdon Avenue. This objective also accords with the provisions of the Conceptual Transportation Plan which support the development of arterial connections between north and south Burnaby.

Responsibility for developing the new connector would be a joint one between the Ministry and the Municipality. The Province and the Municipality would share responsibility for the property acquisition, design, construction and maintenance of the connector. The overpass of Highway 1 would be the responsibility of the Province in conjunction with the Highway 1 upgrading while the section from the north end of the overpass to Lougheed Highway would be a municipal road.

3.0 ALIGNMENT OPTIONS

As the development of a connector between Westminster Avenue and Delta Avenue was not discussed until recently, this facility is not included in the Burnaby Conceptual Transportation Plan adopted by Council. An alignment for the connector was therefore not specifically defined prior to submission of the subject rezoning application. One of the options under consideration would involve an extension of Delta Avenue south over the Burlington Northern Rail line to Still Creek Avenue as shown in Figure 1 attached. As the Delta Avenue right-of-way currently terminates at the rail line, additional right-of-way would need to be required from the properties at 4925 Still Creek Avenue also owned by the rezoning applicant, and 5005 Still Creek Avenue.

4.0 REVIEW OF THE REZONING APPLICATION

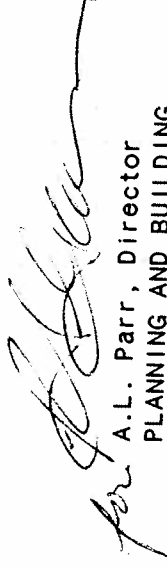
In the absence of an approved plan for the road and in view of the limited alignment alternatives, it was desirable to sustain all possible options until a plan for the road was first approved by Council possibly in conjunction with the renewal of the Burnaby Transportation Plan and second agreed to by the Ministry of Transportation and Highways. Rather than delay the processing of the rezoning until an alignment was determined, it was decided to require the applicant agree to a restrictive covenant which would maintain the potential for future acquisition of right-of-way from this parcel subject to this rezoning application until a precise alignment was determined.

The approach of maintaining the requirement for a restrictive covenant until resolution of the road alignment was viewed as imposing the least restriction on the applicant while ensuring the minimum potential cost exposure for the Municipality for future requisition of the right-of-way.

5.0 CURRENT STATUS

The rezoning application is subject to approval by the Ministry of Transportation and Highways. In this regard the Ministry has indicated that the possible future alignment of Westminster Avenue to Delta Avenue will not impact the applicant's site at 5005 Still Creek Avenue and that it has no objections to the proposed rezoning. It also notes however, future rezoning applications to the west and northwest of the site will be subject to right-of-way constraints.

In effect, the Ministry's review of the alignment for the Westminster/Delta Connector would indicate that the option for extending Delta south through the applicant's property is not the Ministry's preferred alignment and that another alignment would be more appropriate. As an agreement between the Ministry and the Municipality on an alignment for the road is required to proceed to develop a plan and reserve right-of-way, it is understood that these efforts will assess other options. On this basis, the Municipality could remove the requirement with regard to Rezoning #41/91 that the applicant agree to the restrictive covenant prohibiting the construction of structures within 6.1m of the west property line.



For A.L. Parr, Director
PLANNING AND BUILDING

RG/mm
Attach:

cc: Director Engineering
Manager, Transportation Planning

