

**SUPPLEMENTARY**

TO: CITY MANAGER

1995 NOVEMBER 30

FROM: DIRECTOR PLANNING & BUILDING

OUR FILE: 02.120.3.1

SUBJECT: **CANCELLATION OF LANDFILL PERMIT ISSUED UNDER SOIL  
CONSERVATION ACT, 8678 AND 8708 ROYAL OAK AVENUE**

PURPOSE: To provide Council with information in support of a recommendation to cancel a landfill permit issued under the Soil Conservation Act.

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**RECOMMENDATION:**

1. **THAT** Council, as the Local Authority under terms of the Soil Conservation Act, cancel the Permit issued on 1995 July 28 for the placement of landfill on properties addressed at 8678 and 8708 Royal Oak Avenue.

**REPORT**

**1.0 BACKGROUND**

The subject properties are located within the Provincial Agricultural Land Reserve (ALR) as shown on Figure 1 *attached*. They are designated for agricultural use in the Big Bend Development Plan (Figure 2 *attached*). Under the terms of the Soil Conservation Act, the removal of soil or the placement of fill materials is prohibited without a permit being issued by the Enforcement Officer (Director Planning and Building) of the Local Authority (City of Burnaby). The approval of the Provincial Agricultural Land Commission (ALC), in writing, is also required.

Council will recall that the question of the placement of landfill on the subject properties has been the subject of several reports. The owners of the properties have engaged a contractor to remove and stockpile the native peat soils and place structural fill in order to provide for the development of greenhouses. The stockpiled peat soils are to be re-used for the preparation of soil mixtures inside of the greenhouses.

Council received a report in this regard on 1994 July 25 and authorized the issuance of a conditional landfill permit. It was still necessary for the applicant to obtain the approval of the Provincial Agricultural Land Commission. The Commission refused the application, but did advise the applicants that it was prepared to reconsider the application if they provided certain additional information.

On several occasions staff subsequently was made aware of the fact that landfill was being placed on-site under the auspices of the owner's contractor, Mr. Victor Hurtubise without a permit. We were advised that one occasion involved 60 to 70 trucks hauling per day for a three week period. Council received reports in this regard including a delegation from Mr. Hurtubise on 1995 February 06. As a result of the consideration of these reports, Council, on 1995 February 20, rescinded its conditional approval for the placement of landfill materials on the subject properties.

## **2.0 RE-ISSUANCE OF PERMIT**

Additional information was provided to the Land Commission and the City which established conditions for a phased landfill program under specific guidelines to be administered by a registered Professional Geotechnical Engineer. The landfill program was reduced in size from 4.7 acres to a first phase of 1.03 acres. If this first phase was successfully filled and approved, the Provincial Agricultural Land Commission has granted its conditional approval for the second phase to proceed. On this basis, Council authorized the issuance of a permit on 1995 July 24.

## **3.0 SUSPENSION OF PERMIT**

Over time, staff began to experience difficulty with the Contractor and the Supervising Engineer meeting the terms of the landfill permit. On 1995 October 18, staff from this department, the Environmental Health Services Division and the Engineering Department met on-site with both of the foregoing persons and reiterated the conditions for conducting the landfill operation. Specific instruction was given verbally and confirmed in writing on 1995 October 30 that it was the Supervising Engineer's responsibility to review all documentation regarding the origin of fill materials including geotechnical and environmental reports. To ensure that this stipulation is adhered to, both parties were advised that the Supervising Engineer must issue written approval of the fill source prior to delivery of fill materials to the site.

The contractor was also advised that a system to manage sediment and sediment laden waters from the site, including a wheel wash to prevent excess dirt and debris from entering the roadways was to be in place by 1995 November 18. It was specifically noted that contact was to be made with Environmental Health staff prior to construction of the system to ensure that it is adequate.

Contrary to the foregoing, the Contractor installed a wheel wash facility without obtaining any approvals. On 1994 November 14, the Environmental Health Division advised this department that the wheel wash facility was not functioning adequately. It was further noted that the silt fences were not keeping the sediment laden waste out of the ditches. On 1995 November 15, we were contacted by a staff member from the Department of Fisheries and Oceans who advised that water was running around the filter fences and he was very concerned over the fact that the ditches are tributary to the recently enhanced Hollis Creek channel which is a fish bearing stream.

In response to this situation the Director Planning and Building, in his capacity as the Enforcement Officer under the Soil Conservation Act, issued an order to stop all filling activities at the subject properties.

#### **4.0 FURTHER UNAUTHORIZED LANDFILL**

Staff maintained contact with the Contractor and the Supervising Engineer. On Friday, 1995 November 17, staff met with the Contractor on-site and reconfirmed the fact that all of the necessary approvals for the landfill operation were not in place and the order to stop filling still applied. The Contractor advised that he understood this fact and stated that no filling would take place. Contrary to this advice, we have been advised that on the very next day (Saturday), a steady stream of trucks brought fill to the site, one every couple of minutes from morning to late afternoon. In fact, when City staff visited the site in the presence of officials from the Provincial Agricultural Land Reserve and the Federal Department of Fisheries and Oceans, trucks were again observed entering the site at a steady rate in the presence of Mr. Hurtubise.

Having been made aware of this situation, staff contacted Mr. Wen Wu of Nu-Tech Engineering & Testing (1983) to determine if, as the Supervising Engineer, he had given his written approval of the fill source prior to delivery to the site as stipulated in our 1995 October 30 letter. Mr. Wu said he had not, and due to these and other circumstances, he would be resigning as the Supervising Engineer. On 1995 November 21 we received a copy of Mr. Wu's facsimile transmission to Mr. Hurtubise confirming his resignation.

Notwithstanding the clear direction given to the Contractor, it is our understanding that he has, on his own volition, undertaken the construction of a settlement pond and diverted drainage to this pond. An independent water source has apparently been established. Consequently, the owners have been advised in a 1995 November 30 letter that it will be necessary for a geotechnical firm to be hired to review this situation and, if necessary, amend the sediment control plan to reflect any changes which may have been made in the field and seek the necessary approvals. It should further be noted that, at the 1995 November 21 site meeting, the Department of Fisheries and Oceans also advised that the revised sediment control plans are to be provided to and approved by his office.

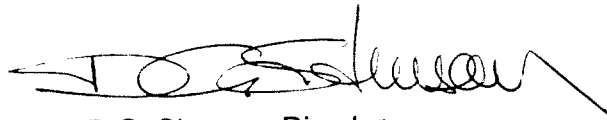
As part of our review, staff has had an analysis taken of water samples upstream and downstream from the site. It has been determined that the total suspended solids exceed the allowable limit.

#### **5.0 CANCELLATION OF PERMIT**

It is abundantly clear from the foregoing that the contractor has violated the terms of the landfill permit. Not only have the ditches and roadways been fouled, staff has no knowledge of the content of the fill materials. While work to correct the situation has apparently been done in the field, it has not been certified or inspected. In view of the situation outlined herein, it is recommended to Council that it cancel the permit.

In this regard, it should be emphasized that we do not object to the development of greenhouses as proposed. Our concern relates directly to the actions of the Contractor and his non-compliance with the terms and conditions of the permit. The owners have been advised of this fact and the City and the Land Commission staff are prepared to continue to work with them and use our best efforts to bring this matter to a satisfactory conclusion. Upon satisfactory performance, a report would be submitted to Council leading to the reinstatement of the permit.

Staff will continue to monitor the situation and will keep Council informed in this regard.

A handwritten signature in black ink, appearing to read "D.G. Stenson", with a long horizontal line extending to the right.

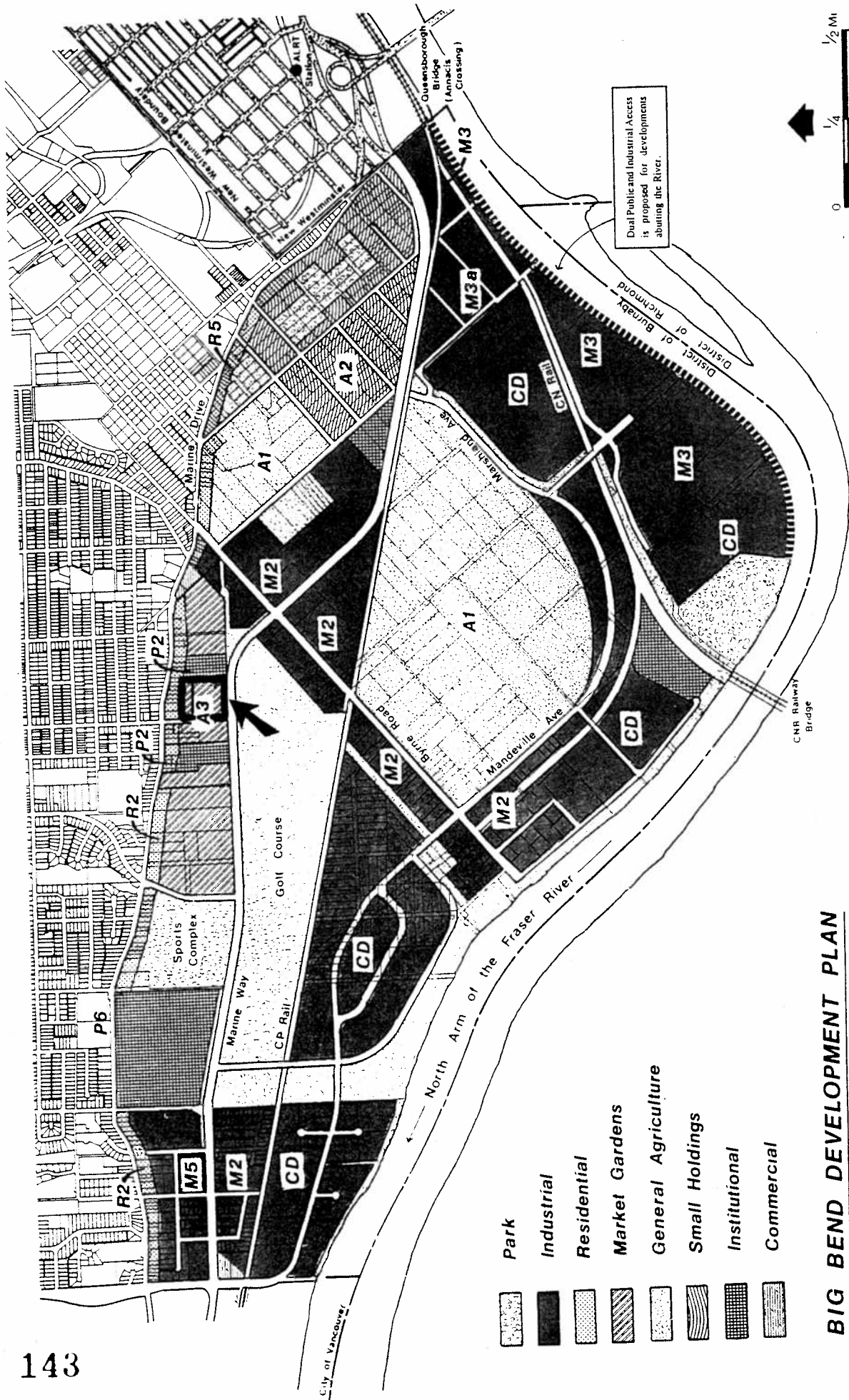
D.G. Stenson, Director  
PLANNING & BUILDING

PB/jp

Attachments (2)

cc: Director Engineering  
Chief Public Health Officer  
Director Finance  
City Solicitor





# **BIG BEND DEVELOPMENT PLAN**

Revised to 1994 July

8678 # 8708 Royal Oak Avenue

**Figure 2**  
95 NOV. 30