

SEPTEMBER 16, 1975

A Public Hearing was held in the Council Chamber, Municipal Hall, 4949 Canada Way, Burnaby, B.C. on Tuesday, September 16, 1975, at 7:30 P.M.

PRESENT: Acting-Mayor W. A. Lewarne, in the Chairman
Alderman G. D. Ast
Alderman A. H. Emmott
Alderman D. A. Lawson
Alderman G. H. F. McLean (7:35 P.M.)
Alderman J. L. Mercier
Alderman V. V. Stusiak

ABSENT: Mayor T. W. Constable
Alderman B. M. Gunn

STAFF: Mr. M. J. Shelley, Municipal Manager
Mr. A. L. Parr, Director of Planning
Mr. J. S. Bellhouse, Planning Department, Long Range Planner
Mr. C. B. Rowland, Planning Department, Current Planner
Mr. J. Hudson, Municipal Clerk
Mr. B. D. Leche, Municipal Clerk's Assistant

The Public Hearing was held to hear representations in connection with the following proposed amendments to the Burnaby Zoning By-Law:

Rezoning Reference #37/75

Big Bend Development Plan
Finalization of Phase One Area Rezoning

1. Lot 4, Blk. 2E $\frac{1}{2}$, D.L. 162, Plan 5176 (8755 Royal Oak Avenue)
FROM HEAVY INDUSTRIAL DISTRICT (M3) TO TRUCK GARDENING DISTRICT (A3)

There were no submissions received in regard to the foregoing rezoning proposal.

2. Lot "B" Except No. 139.5 feet, Blk. 3, D.L. 162, Plan 4255
(8708 Royal Oak Avenue)
FROM HEAVY INDUSTRIAL DISTRICT (M3) TO TRUCK GARDENING DISTRICT (A3)

There were no submissions received in regard to the foregoing rezoning proposal.

3. Blk. 11 N. 75 feet, D.L. 155B, Plan 1248 (7509 Meadow Avenue)
FROM HEAVY INDUSTRIAL DISTRICT (M3) TO AGRICULTURAL DISTRICT (A1)

There were no submissions received in regard to the foregoing rezoning proposal.

4. Lots 1, 2 and 3, Block 11, D.L. 155B, Plan 8390
(7529, 7549, 7569 Meadow Avenue)
FROM HEAVY INDUSTRIAL DISTRICT (M3) TO AGRICULTURAL DISTRICT (A1)

Mr. D. M. Fahey, 1683 S.W. Marine Drive, Vancouver, B.C., advised Council that he was the owner of the property under consideration addressed as 7569 Meadow Avenue and had been the owner since early 1974. Mr. Fahey noted that the present proposal is to rezone these properties to Agricultural District (A1) from its present zoning of Heavy Industrial District (M3). This matter was first mentioned in Council in 1971. The proposal was prepared in 1972 and it is now September, 1975. In the material that has been made available to him on this subject, Mr. Fahey found that the reference to the agricultural suitability of these particular lots is very limited and very sketchy. Mr. Fahey would like to have seen a report from some agricultural expert on this subject. The contention that these properties were well suited to the development of an intensive market gardening type was, in his opinion, ridiculous. Mr. Fahey took exception to the statement in the report "That market gardening

in this area will maintain its economic viability for the foreseeable future" and questioned as to whether the foreseeable future was already here in view of that fact that the report was written in 1971 and we are already well into 1975. Mr. Fahey suggested that, to a large extent, the economic viability of this type of farming has already passed. Also, the problems created by land fill operations in the area, fly ash, and chemicals would create major problems for agricultural endeavours. Mr. Fahey reiterated that opinions expressed in 1971, although viable at that time, are not necessarily viable today and he was convinced that agriculture would definitely not be a viable use of the properties in the long run. Mr. Fahey was of the opinion that the property owners, at their own expense, were being requested to maintain properties during a period when they may not be economically viable for agricultural purposes in order to maintain a free buffer zone for other development in that area of the municipality. Mr. Fahey felt strongly that the present zoning of the subject properties should not be changed. They represented an industrial tax base which the Municipality requires. Mr. Fahey noted that a \$20,000,000.00 By-Law would soon be presented to the tax payers of Burnaby and only a very small portion of that amount will be spent in the Big Bend area. He expressed doubts as to whether the citizens of Burnaby would approve such a By-Law. Mr. Fahey noted that it had taken five years to get to the point where we are at this evening and asked how long we were looking at for the implementation of this overall plan and how many dollars is it going to cost. Mr. Fahey stated that he was worried about this, both from the point of view of his own property and the overall financing in the Municipality. Mr. Fahey was of the opinion that a realistic approach here would be to make every possible use of the logical industrial zoning within the Municipality so that such areas do not infringe on residential properties and that the site under consideration was an ideal one in this respect.

In conclusion, Mr. Fahey again stressed the question of time. Five years has already passed and he asked if he was looking at another five, ten, or possibly twenty years and in the meantime are the private property owners in this area expected to sit back in a "Nothing" situation where they could neither sell or otherwise dispose of their properties.

Mr. Paul H. Weichert, 7549 Meadow Avenue, advised Council that he had lived at this address for the last 18 years and was of the opinion that the land would grow almost anything if a person was willing to work hard enough at it. Drainage was a problem in the area but he considered that could be solved. Mr. Weichert advised Council that he was in favor of the land being rezoned for agricultural or residential purposes.

No one else appeared in connection with this rezoning proposal.

5. Lots 2, 3 and 4, Blk. 13, D.L. 155A, Plan 1425
(6230, 6250, 6270 15th Avenue)
FROM HEAVY INDUSTRIAL DISTRICT (M3) TO AGRICULTURAL DISTRICT (A1)

There were no submissions received in regard to the foregoing rezoning proposal.

6. Block "B", D.L.'s 155B and 155C, Plan 18857 (7625 Meadow Avenue)
FROM HEAVY INDUSTRIAL DISTRICT (M3) TO AGRICULTURAL DISTRICT (A1)

Mr. Brian Prentice, speaking on behalf of the President, Meadowland Peat Limited noted that he was acting on behalf of a company and the owner of the company which owns approximately 32.9 acres in this area and is carrying on a business. The business is not considered to be relative to an area zoned as agricultural. However, if this zoning went through in what way and how long would it be before the present business operating in this area could carry on before the implementation of the particular plans for the use of the land so zoned.

Sept. 16/75

- 3 -

The Director of Planning advised that the longer range proposal on this property is that it is recognized that this property has been filled and peat removed and with the type of material that has been put back there it would not be appropriate for agriculture. What is being looked for at this particular time is that it is thought of as a long range industrial use based on the assumption that at some time a comprehensive plan to a higher quality of industry would take place. That could be five or ten years away and the proposed (A1) zoning is thought of as a holding category and that is the way it is sometimes used in Burnaby and other municipalities to prevent an unsuitable industrial use which would frustrate the longer range development plan from taking place. If the zoning was to change now, the current use would become non-conforming and could continue indefinitely.

Mr. Prentice then stated that the purpose of his presentation this evening was that the development of the Big Bend, which could eventually turn out to be the best development idea this Municipality has ever had could, in some way, restrict a small land holder such as Meadowland Peat Limited. Mr. Prentice stated that in view of Mr. Parr's remarks he had changed his interpretation of the reasons for the rezoning. Mr. Prentice stated that he had been somewhat confused by the report of the Municipal Manager but he could see now how it more benefits his client than he had considered originally and Mr. Prentice, on his client's behalf, was now not in disfavour of the rezoning proposal.

No one else appeared in connection with this rezoning proposal.

7. Block 21, D.L. 155B, Plan 1248 (7555 Prairie Street)
FROM HEAVY INDUSTRIAL DISTRICT (M3) TO AGRICULTURAL DISTRICT (A1)

This property is also owned by Meadowland Peat Limited and the remarks of Mr. Brian Prentice and the Director of Planning pertaining to Item 6, aforementioned, apply equally to this rezoning proposal.

No one else appeared in connection with this rezoning proposal.

8. Lot 1 Except N. 200', S.D. 2, and Lot 2 Except No. 200', Except Plan 30225, Blks. 4/7, D.L. 162, Plan 9794 (5420 and 5462 Marine Drive)
FROM HEAVY INDUSTRIAL DISTRICT (M3) TO ADMINISTRATION AND ASSEMBLY DISTRICT (P2)

Mr. Peter S. Hyndman, advised that he was speaking on behalf of Mr. and Mrs. E. C. Conboy and Conboy Machinery Limited, owners of the subject property. Following is the text of Mr. Hyndman's presentation:

"We are solicitors to Conboy Machinery Ltd. This submission is in respect of the approximately 4.3 acres owned and occupied by Conboy Machinery Ltd. at 5420 and 5462 Marine Drive, being the property referred to in Paragraph 4 of Part C (Proposed Rezoning) of Manager's Report No. 51 to the Council Meeting of August 5th, 1975.

In summary, it has been recommended to you that the Conboy Machinery property be rezoned from M3 to P2.

The following preliminary comments may be helpful to Council:

- (a) Conboy Machinery Ltd. and Mr. and Mrs. Conboy are long time Burnaby residents and taxpayers who purchased this property more than twenty-five years ago - 1948 - just after it became zoned M3. At the time, it was all bush. They have spent virtually a career in developing this parcel of property, in building and developing a most attractive and landscaped home at the front, and in building and developing a business at the rear. Their lives and their business have been substantially devoted to this property;
- (b) The nature of this property is most definitely non-agricultural. As noted in the report to you from the Planning Department, substantial industrial fill has been placed over the property to make it usable for industrial purposes. In the words of Manager's Report No. 51 to you (Page 3) the property is 'industrially treated and unsuitable for agricultural development'.

- (c) In the opinion of Conboy Machinery Ltd., meaningful negotiations have never taken place concerning the possible exchange or purchase of the subject property, by the Corporation. Manager's Report No. 51 suggests that 'exchange discussions' have been 'undertaken' and the recommendation to rezone this property is prefaced with the remark 'in that a suitable exchange agreement cannot be obtained ...'. Conboy Machinery Ltd. strongly rejects any inference that meaningful negotiations have taken place. The facts are that Conboy Machinery Ltd. submitted to the Corporation about 2½ years ago a written proposal for purchase, and separately, a written proposal for exchange. No written response has ever been received; the only response has been of a very general and verbal nature to say the Corporation was not interested; detailed discussions have never taken place. The example given in Paragraph B on Page 4 of Manager's Report No. 51 referring to 17.2 acres and 4.37 acres is, again, misleading, inasmuch as the 4.37 acres is well-developed, whereas the 17.2 acres is only about 12 acres. On June 12th this year our clients wrote to Council pointing out that they have heard nothing for almost two years since submission of their written proposals for exchange or sale; the Conboys are quite prepared to sit down in detail and discuss particulars of any proposed exchange. However it is incorrect to conclude that 'a suitable exchange agreement cannot be obtained' when there has been no negotiating response to the written offer of exchange submitted by the Conboys 2½ years ago.

Conboy Machinery Ltd. objects to the proposed disposition of its property pursuant to the suggested Stage I Area Rezoning presently before you. In the alternative, Conboy Machinery Ltd. proposes the following alternative suggestions:

- (1) A sale (or sale and lease back) of the property to the Corporation;
- (2) A suitable exchange of property with the Corporation;
- (3) The zoning of the property to be left permanently as is (M3).

In the event, however, that the rezoning proceeds on the basis proposed, with the result that the property is down-zoned from M3 to P2, Conboy Machinery Ltd. will have no choice but to take the following position:

- (a) To seek compensation from the Corporation for damages resulting from the down-zoning to P2 (it is suggested that the amount of damages can be reduced to the degree that in conjunction with the down-zoning additional services are provided to the property by the Corporation such as road access to it via Royal Oak Avenue; the provision of electrical and water services; and the provision of an additional ditch beside a new road);
- (b) In the event that adequate compensation cannot be obtained pursuant to Paragraph (a) preceding, Conboy Machinery Ltd. will be forced to consider Court action to quash the entire by-law.

It is with regret that Conboy Machinery Ltd. feels obliged to outline these alternatives. The Company would far prefer to begin meaningful and detailed negotiations with the Corporation on the proposals outlined above."

No one else appeared in connection with this rezoning proposal.

- (9) Lot 41, D.L. 155A, Plan 28537 (7647 Willard Street)
FROM HEAVY INDUSTRIAL DISTRICT (M3) TO ADMINISTRATION AND ASSEMBLY DISTRICT

There were no submissions received in regard to the foregoing rezoning proposal.

Sept. 16/75

- 5 -

10. Lot 12 Except N. 200 feet, D.L. 163, Plan 1050 (4746 Marine Drive)
FROM HEAVY INDUSTRIAL DISTRICT (M3) TO AGRICULTURAL DISTRICT (A1)

Mr. Peter S. Hyndman, advised that he was speaking on behalf of Mr. and Mrs. Henry Kuypers and Mandeville Gardens Ltd., owners of the subject property. The following is the text of Mr. Hyndman's presentation:

"We are solicitors to Mr. and Mrs. Henry Kuypers and Mandeville Gardens Ltd., being the property referred to (4746 Marine Drive) in Paragraph 6 of Section C of Manager's Report No. 51 given to the Council Meeting of August 5th, 1975 (and being recommendation 12 on Page 9).

The following preliminary comments may be of assistance:

- (a) We note that the North 200 feet would remain zoned as is, and with this our clients have no objection;
- (b) We note reference to the truncation required in connection with the Nelson Avenue extension, and our clients are agreeable to dealing with this matter separately;
- (c) Mr. and Mrs. Kuypers are long time citizens and tax-payers of Burnaby, who for more than twenty-five years have lived, built and operated a business on the subject property, and in the course of those twenty-five years have considerably developed and upgraded the property. At all times during their ownership of the property it has been zoned M3;
- (d) The Manager's Report before you appears to reflect a serious error and misunderstanding as to the physical nature of this property. The Report to you suggests it is a suitable agricultural property describing it as 'a nursery operation, which is in general conformity with the agricultural designation as outlined'.

The facts are, that this land is totally unusable for agricultural purposes. The reason is, that in the course of preparing this land for its present use, all of the top soil had to be removed; then substantial hog fuel was brought on to the property; and finally a thick layer of sand and gravel was placed on the property. In the result, the property is now covered by sand, gravel and hog fuel, and to a far greater depth and extent than other properties considered by this report (that of Conboy Machinery Ltd. and Globe Foundry Ltd.) which in the report itself are specified as being unsuitable for agricultural use. Hence, the Mandeville Gardens property should not be considered as being suitable for agricultural purposes; the Nursery operation presently on it takes place using facilities which sit upon the industrially filled land.

The position of Mandeville Gardens and Mr. and Mrs. Kuypers is as follows:

- (1) They are prepared to conduct meaningful and detailed negotiations for the sale of the subject property to the Corporation, or for a sale and lease back, or for a land exchange. Some early and very tentative discussions have been held in respect of a land exchange in connection with the Nelson Avenue interchange, but at that time suitable alternate property was not offered;
- (2) Our clients prefer that the property be left permanently in M3 zoning, as is;
- (3) If the property is down-zoned, it is respectfully suggested that down-zoning to any of the 'A' classifications is a serious factual mistake having regard to the physical nature of the land, and based upon the Manager's Report (No. 51) before you and the recommended rezoning of the Conboy Machinery and Globe Foundry property, if there is to be a down-zoning, P2 appears far more appropriate;
- (4) To the degree down-zoning does take place, our clients will seek compensation from the Corporation for the resulting damages;

Sept. 16/75

- 6 -

(5) To the degree that fair and adequate compensation cannot be obtained as a result of any down-zoning, our clients will have no alternative but to consider Court action to quash the by-law.

Our clients would far prefer a negotiated settlement with the Corporation to any items upon which there is a difference of position but at the same time feel that the nature of this public hearing requires them to give notice of the position they will have to take if rezoning proceeds without satisfactory settlement with them."

No one else appeared in connection with this rezoning proposal.

11. Lots 18, 19 and 20, D.L. 155B, Plan 1248
(7391, 7437, 7497 Prairie Street)
FROM HEAVY INDUSTRIAL DISTRICT (M3) TO AGRICULTURAL DISTRICT (A1)

There were no submissions received in regards to the foregoing rezoning proposal.

MOVED BY ALDERMAN McLEAN:

SECONDED BY ALDERMAN AST:

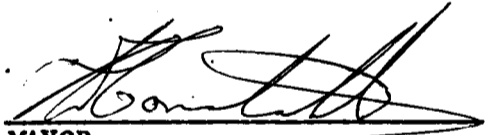
"THAT this Public Hearing be now terminated."

CARRIED UNANIMOUSLY.

The Public Hearing terminated at 8:50 P.M.

CONFIRMED:

CERTIFIED CORRECT:


MAYOR


MUNICIPAL CLERK'S ASSISTANT

BL/lc