

OCTOBER 5, 1976

A Public Hearing was held in the Council Chamber, Municipal Hall on Tuesday, October 5, 1976 at 7:30 P.M.

PRESENT:

Acting Mayor F.G. Randall, in the Chair
Alderman G.D. Ast
Alderman D.P. Drummond
Alderman A.H. Emmott
Alderman D.A. Lawson
Alderman G.H.F. McLean

ABSENT:

Mayor T.W. Constable
Alderman B.M. Gunn
Alderman V.V. Stusiak

STAFF:

Mr. M.J. Shelley, Municipal Manager
Mr. A.L. Parr, Director of Planning
Mr. J. Hudson, Municipal Clerk
Mr. B.D. Leche, Municipal Clerk's Assistant

PROPOSED REZONING - TEXT AMENDMENTS

1. CONVENTIONAL, COMBINED CONVENTIONAL/SELF SERVE, AND SELF SERVE GASOLINE SERVICE STATIONS

The Council has approved for further consideration Text Amendments to the "Burnaby Zoning By-law 1965" to differentiate between "Gasoline Service Station, Conventional" and "Gasoline Service Station, Self Serve" and to provide a special category (C6a) for the accommodation of "Gasoline Service Station, Self Serve". The proposed Text Amendments are as follows:

(1) Definitions (Section 3)

The deletion of the present definition of "Gasoline Service Station" and its replacement by:

- a) "Gasoline Service Station, Conventional" means any building or land used or intended to be used for the retail sale of motor fuels and lubricants that are dispensed by an attendant for the customer, and which may include the servicing and minor repairing of motor vehicles and the sale of automobile accessories. A self-serve facility for the dispensing of motor fuels and lubricants by the customer may also be provided as an accessory use on the site.
- b) "Gasoline Service Station, Self-Serve" means any building or land used or intended to be used for the retail sale of motor fuels and lubricants that are dispensed only by the customer, and which may include the servicing and minor repairing of motor vehicles and the sale of automobile accessories.

(2) Designation of Districts (Section 5.1)

The addition of the C6a designation to the C6 (Gasoline Service Station) District category in Schedule III.

- (3) The replacement of "Gasoline Service Stations" by "Conventional Gasoline Service Stations" in the "Uses Permitted" sections of the following zoning categories: C1 (Neighbourhood), C2 (Community), C3 (General) and C4 (Service) Commercial Districts.**

- (4) The deletion of Section 306.1 - Uses Permitted in the C6 (Gasoline Service Station) District and the inclusion of the following:**

306.1 Uses Permitted:

- 1) Conventional gasoline service stations.
- 2) Self-serve gasoline service stations on properties having a C6a designation.
- 3) Accessory buildings and uses.

Mr. Jack Duns, District Manager, Shell Canada Ltd. then addressed Council on the subject of the proposed Text Amendments to the Burnaby Zoning By-law. The following is the text of Mr. Duns' address:

"I can't help wondering when I come to a meeting such as this what the reaction of the people at the meeting and the citizens of the Municipality might be if this was a Public Hearing tonight to hear a zoning By-law that was going to affect their properties and devalue them by 10%. You would have a riot on your hands, I would suspect. I am a riot of one.

I am concerned about the effect this By-law will have on the value of the land which we own in the Municipality of Burnaby. Firstly, we view a separate zoning By-law for one type of business as being a very onerous one. It seems that we in the oil industry are always being singled out as that type of industry that special regulations will apply to. I can't understand why drug stores, super markets, fast food outlets have not been segregated out. Why have the new self-serve banks not been separated out? Why are the laundromats which are self-serve and coin operated not been segregated out? It seems to be that the service stations must bear the brunt of it. Now, we understand that the last major rezoning change that came into Burnaby was a little over ten years ago. It was done, as I understand it at least, that emphasis be placed on zoning any given piece of property as to how it fitted into the character of the neighbourhood it was in. On looking at the zoning of our service stations in this municipality, one has to believe that such was the case. It wasn't the intent of that plan, as I understand it, to come up with single use zoning or to come up with spot zoning but rather, to look at the character of the overall neighbourhood. When I look at the ten properties owned by Shell in Burnaby; the operating properties Shell owns in Burnaby; six of these have different zoning designations. It was recognized some years ago that all of these outlets could not fit into one zoning category. Now here we are tonight saying that here is a segment of the economy that should all be fitted into one zoning category. You further suggest that the method of pumping gasoline really has nothing to do with land use. Is this the correct way to look at regulating something?

If you have a fast food outlet which serves food over the counter and you pick it up, or whether it is served to you at a table, do you differentiate between these two types of operations by land use? I suggest to you that you don't. It doesn't seem to me to be the correct method of regulating something that you are trying to regulate. For what reason, I am not sure. Let's think for a minute what such a rezoning will do. What will it do for everybody? Do you think it will stop the further development of self serves? Yes, it might, and very likely could. Speaking for Shell, and based on the plans we have made and where we stand in the market today in terms of Burnaby, we have gone about as far as we are going to go on self serves. Right now we plan nothing new in self serves in the Municipality of Burnaby. We think it has reached, from our point of view, its desirable limits. Looking around at the activity of self serves in the Municipality I think there has been very little of late in the Municipality which suggests to me that probably, although I can't speak for them, our competitors have come to the same conclusion. The limit has been reached so why are we rezoning what may be past us.

One other question that has come up that they say has an effect on self serves. They say that the zoning change to C6a; that is, self serve only, might prevent the closure of service stations. I suggest that this is not the case. A By-law such as this will not prevent the closure of service stations. I think I would have to admit that there was a tendency, at one time, to overbuild. We were probably all guilty back in 1957 to 1961 of overbuilding

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in the market. I think the recent Energy Commission Report shows that there should be less. Yet there seems to be a movement which I heard at this meeting the last time I was here that we should not be closing any. However, a By-law such as this is not going to prevent the closing of service stations. I might say that we do not plan to close any more service stations in the Municipality. We have only closed, to my knowledge, three, and two of those were about six years ago and one two years ago. They were not an effect of what we are looking at tonight. We feel that if all self serve stations are rezoned to C6a it will create another set of problems. It is quite possible, and one might laugh at it, but it is quite possible that self serve stations could be converted back to full service stations. There are examples of this happening in British Columbia today. If this were to happen, one has to come back before Council and one has to go to a Public Hearing. There is probably an eight to ten month delay to convert it back to full service, yet there will be no physical change to the facility in doing it. I suggest to you that that is a bit idiotic.

Such a rezoning will create some non-conforming uses and I think for the moment of carwashes. We have a carwash on a site at Loughheed and North Road. The site is zoned C4 which is a much higher and better use than C6 or C6a. The carwash is on it and it has to be zoned C4 to have a carwash on it. It is a self serve and you rezone the site to C6a and you make the carwash non-conforming and I might add, there are six of these in the Municipality that to my knowledge carry C4 zoning. There is a substantial investment in carwashes. Feature for a moment that the sump in that carwash cracks or breaks and must be replaced. To do this one requires a building permit. To get a building permit, one finds they can't do it, so one either comes back to Council or goes to the Board of Variance, again adding to the bureaucracy of the situation. It seems somewhat ridiculous to me but there are six like this in the Municipality at the moment. What happens to them?

Consider for a moment if you will, the effect of this on the Sign By-law. The Sign By-law, right now I think, ties in quite nicely with the various zoning categories. Now C4, and I might say we have quite a few C4 zoned service stations in the Municipality, allows a sign of a hundred square feet. In the C6 zone, and I presume C6a would be the same, it allows only 35 square feet. All of our present signs would become non-conforming.

However, our major concern is the effect on values. It must be recognized that a single use zoning carries a much lower value per property than a multi use. Take a C4 use, and I am thinking of our property at Loughheed Highway and North Road. We had an appraiser look at this property on our behalf and asked what it was worth as a C4 property as compared to a C6a property. The difference in the value of that property under the two classifications was \$69,000.00. We have one self serve facility in the Middlegate Shopping Centre which is zoned C3 in conformity with the whole of the Shopping Centre. We lease that from the owner and I don't think it is a subdivided portion of the overall. How do you rezone it and what is the owner of the property going to say about having a portion of his property downgraded. I am not sure that he has been notified.

All in all, if one looks at the number of units we have and we have ten as I indicated, in the self serve category, at the moment we have one that is zoned C2, one that is zoned C3, two that are zoned C4, two that are zoned C6 and one, believe it or not, P6. Of the full service outlets that we own, one is zoned C1, one is C4 and one is C6. All of these facilities are zoned so as to fit into those designations that fit into the character of the neighbourhoods they were in when they were developed. Now the seven we have as self serve. Three of these have bays. You take those three with bays, the three that are full service and the independent dealer locations and we have more locations with bays than we have self serve gas bars. What are we trying to regulate? I suggest to you that the zoning as it applies to the self serves as they are now, reflects the character of the site in relation to the area which it is in. If you

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arbitrarily make it a single use zone C6a, it is not really what zoning is meant to be. We suggest to you that the proposed zoning changes are going to create more problems than they are intended to resolve.

Frankly, if you must control, and I don't think control is necessary, we suggest to you that zoning is not the best method of doing it."

Mr. Dan Sharp, representing Gulf Oil Canada Ltd. then addressed Council on the matter of the proposed Text Amendments to the Burnaby Zoning By-law. The following is the text of Mr. Sharp's submission:

"Your Worship and Members of Council, Gulf Oil Canada Limited would like to thank you for this opportunity to present our views on the proposed Rezoning Text Amendments.

As you are no doubt aware, the question of self serves in Burnaby has been debated on many previous occasions. Most recently, the Burnaby Self Serve Service Station Committee conducted a thorough study into self serve gasoline marketing.

We believe that the proposal before you today is not only unnecessary, but restrictive in nature and fails to take into consideration the comments and recommendations of your Committee.

Gulf Oil Canada Limited is opposed to the proposed rezonings text amendments which redefine service stations within the District of Burnaby. We believe that the proposed changes are not only deficient in terms of recommendations of the Self Serve Committee, but are unnecessary in view of the current market conditions and consumer demands.

While Gulf Canada believes that the Burnaby Council has the right and the responsibility to control land use within the District, the investor has the responsibility to react to the ever changing market demands. A zoning By-law identifies the essential or general use of property. There is authority to the effect that where an area or piece of property is zoned for a general use, such as the operation of a service station which includes the ability to dispense gasoline products, it is hairsplitting to further restrict the zoning between that of a service station where it is intended that the gasoline dispensed is to be done by an attendant and that of a service station where the gasoline is dispensed by the customer. The operating style of a service station does not, we believe, fall within the jurisdiction of land use and zoning.

The need for rezoning to permit the development of a self serve gas bar will place unnecessary restrictions on the market. As you are aware, the normal delays associated with rezonings will naturally increase the development costs of expensive capital projects. The associated uncertainties with rezonings may, in fact, reduce the attractiveness of development within the District and encourage the retention of many unsightly service stations.

The District of Burnaby currently has one of the most competitive gasoline markets in Greater Vancouver. The possible restriction on entry into this market may have a detrimental effect in the long term.

The Self Serve Committee conducted a rather thorough investigation into self serve gasoline retailing. Their first recommendation was that Council take no action at this time to limit the number of self serve service stations. They concluded that self serve service stations have a place in the market and the current regulations are adequate regarding public safety and community value and appearance.

The Committee expressed unanimous agreement "that the most desirable facility would be a split service facility. That is, a service outlet

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that would provide part as a self serve gas bar and another part with service bays to provide service and repairs for those who need or desire this type of business". The Text Amendment 1(a) defining a "Gasoline Service Station, Conventional" does not identify the previously described facility, but rather, a split attended/self serve outlet.

Section C of the Planning Report of July 28, 1976, contradicts the conclusions reached by the Committee. The Planning Department advised Council that there was one service station in Burnaby offering both attended and self serve facilities, and this type of outlet would become more common in the future. For this reason, self serve was added as an accessory use on a conventional service station site. Apart from not corresponding to the Committee's conclusions and recommendations, this type of outlet cannot be operated in an efficient economic manner and there is a distinct possibility that they could operate at a less than satisfactory safety level.

The Provincial Fire Marshal Act requires a self serve console operator remain at the console location at all times while the self serve equipment is in operation. This is naturally not a problem at an outlet utilizing only the self serve mode of retailing. Problems may arise at split attended/self serve operations for economic reasons. Because of high labour costs and low gasoline margins a station operator may be encouraged to allow the console attendant to act as the full service attendant rather than utilizing a dedicated employee for each operation, thereby reducing the level of safety. For your information, the operator of the one split attended/self serve outlet stated at the April 13, 1976 Public Hearing that he would prefer to have his operation completely self serve.

In summary, we believe that the passing of the proposed Rezoning Text Amendments is unnecessary. The flexibility that currently exists under the present zoning By-laws has provided Burnaby with one of the most competitive gasoline markets in Greater Vancouver. Retention of the current By-laws and definitions will encourage not only continued competition in the gasoline market but the efficient use of land within the District. Gulf Oil Canada Limited is sincerely interested in providing outlets that will meet the consumer demands now and in the future. We respectfully request that proposed Rezoning Text Amendments not be approved."

Mr. S.A. Ruocco, Senior Accounts Executive, Imperial Oil Limited submitted a letter on the subject of the proposed Text Amendments to the Burnaby Zoning By-law. The following is the text of that letter:

"We do not wish to oppose the proposed amendments to By-law 1965 where it applies to C6 zoning. We are opposed, however, to changes in zoning from C4 to C6a and specific reference is made to our two sites located at:

- a. Kingsway & Willingdon, C4 zoning
(self serve and served gasoline plus multiple service bays and a car wash);
- b. North Road & Austin, C4 zoning (self serve with multiple service bays and possible addition of a future car wash).

In the case of Kingsway & Willingdon, this site is located in the centre core of Burnaby plan for Metro Town Centre status and as such we would like this site to remain C4 in consideration of the fact that there are self serve pump islands plus served pump islands. We believe a change in zoning will severely affect the value of our site and impose additional signing restrictions.

In the case of North Road and Austin, this site is proposed for high density commercial and as such we would like this site to remain C4 for the same reasons as Kingsway and Willingdon.

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In our opinion, Burnaby Planning and Council are in effect attempting to restrict the Self Serve Concept at a time when most petroleum marketing companies have responded to the changing market environment and have completed the marketing changes that had to be made.

Nothing can stand still in the market place. As an example, we converted our site at the S.W. quadrant of Lougheed Highway and North Road to Self Serve some time ago and only recently closed this unit out completely. This site is now up for development and will be compatible with the desires of your own Planning Department as to the type of development that is best suited for this location.

In conclusion, we respectfully suggest that Burnaby Council consider our industry as a part of the economic fabric of the Municipality and who wishes to respond with sound changes as they are required in the market place. Building, sign and overall Development By-laws are logical restrictions, but to impose restrictions solely to limit or curtail marketing strategy is not in the best interests of the majority of people your Council serves."

Mr. W.J. Walmesley, Manager, Retail Sales, Chevron Canada Ltd. submitted a letter in connection with the proposed Text Amendments to the Burnaby Zoning By-law. The following is the text of that letter:

"We refer to the notice of Public Hearing prior to the decision being made to establish zoning specifically for self serve gasoline stations within the Municipality.

We continue to stand opposed to this action or any action that simply further controls retail marketing in any sense.

The success of any and all retail businesses is determined by the natural process of supply and demand. History has proven that retail services find their own level without the necessity of municipal government control. Additional constraints are retrogressive at a time when unnecessary work and consequent costs should be eliminated if the desired direction is to be achieved.

Upon re-examination of this situation we are sure you will agree that few have complained compared with the large numbers of citizens who have benefitted. These same citizens will continue to receive automotive repairs as required in continuing service bays and the additional new specialty service buildings.

We submit that special zoning for retail self serve gasoline stations is not required and request that you reject further control of this industry.

If you are bound to control self serve gasoline stations we respectfully suggest that you do so under your Licence By-law and thereby avoid the various anomalies that will follow the proposed Zoning By-law Amendments."

Mr. Fred Moore, Chevron Canada Ltd. then addressed Council on the subject of the proposed Text Amendments to the Burnaby Zoning By-law. Mr. Moore noted that Chevron Canada Ltd. had already submitted a letter to Council on the subject of the proposed Text Amendments and that he wished to provide a few additional comments on this subject.

- 1) The question was asked about the transfer of locations from self serve back to full service facilities. Mr. Moore noted that Chevron had had occasion in Vancouver to do just that. The station at 25th Avenue and Fraser Street in Vancouver was licenced under the Vancouver Licencing By-law as a self serve unit. Through Chevron's experience in the market place it had been found it wasn't particularly successful. The proposal to revert this facility back to a full service facility was approved by Vancouver City Council and is now a successful operation again.

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- 2) Mr. Moore noted that Chevron Canada Ltd. had a self serve station on the northeast corner of Willingdon Avenue and Hastings Street. This property is zoned C4. Chevron Canada Ltd. would be extremely disturbed if that was a vacant piece of property zoned C4 and Chevron was planning to develop a brand new station on it, a self serve station, and it was zoned C6a. Chevron Canada Ltd. would feel that such a situation was compatible with the surrounding commercial district and that they shouldn't be singled out and discriminated against in such an instance.

Mr. Moor noted that in the District of Surrey, approximately a year ago now, a special zone was instituted for religious institutions and they did not zone any property in the municipality for such a use. One religious institution took the Municipality to Court and subsequently the Judge overthrew the By-law, quashed the By-law and granted a permit to the religious institution for the development of their particular use on the land. Mr. Moor stated that he could not see how the Municipality of Burnaby could classify or establish a classification as C6a for self serves and then turn around and disregard those facilities that are already located in other commercial districts. Mr. Moore was of the opinion that if a C6a zone is established for self serve stations, then there is no option but to follow through and classify all self serves in the Municipality for that use.

MOVED BY ALDERMAN McLEAN:

SECONDED BY ALDERMAN AST:

"THAT this Public Hearing be now terminated."

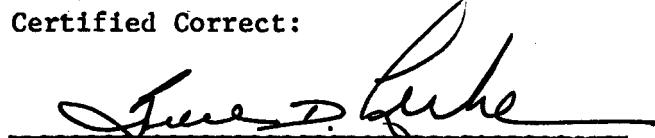
CARRIED UNANIMOUSLY

The Public Hearing terminated at 8:10 P.M.

Confirmed:


Acting Mayor

Certified Correct:


Municipal Clerk's Assistant