

JANUARY 18, 1977

A Public Hearing was held in the Council Chamber, Municipal Hall  
4949 Canada Way, Burnaby, B.C. on Tuesday, January 18, 1977 at  
7:30 P.M.

PRESENT:

Acting Mayor D.P. Drummond in the Chair  
Alderman G.D. Ast  
Alderman A.H. Emmott  
Alderman W.A. Lewarne  
Alderman F.G. Randall  
Alderman R.D. Stewart  
Alderman V.V. Stusiak

ABSENT:

Mayor T.W. Constable  
Alderman D.A. Lawson

STAFF:

Mr. A.L. Parr, Director of Planning  
Mr. R.W. Watson, Deputy Municipal Clerk  
Mr. B.D. Leche, Municipal Clerk's Assistant

I. FROM GASOLINE SERVICE STATION DISTRICT (C6) TO GASOLINE SERVICE  
STATION SELF SERVE (C6a)

Reference RZ #48/76

a) Plan 28422, D.L. 217

6511 Hastings Street - The subject site is located on the corner  
of Kensington Avenue and Hastings Street.

b) Lot 24, Blk. 1, D.L. 78, Plan 26566

6751 Loughheed Highway - The subject site is located on the corner  
of Sperling Avenue and the Loughheed Highway.

c) Lot 33, Blk. 7, D.L. 70, Plan 38032

4505 Canada Way - The subject site is located on the corner of  
Willingdon Avenue and Canada Way.

d) Lot 59, Blk. 3, D.L. 28, Plan 29776

7890 Canada Way - The subject site is located on the corner of  
10th Avenue and Canada Way.

The applicant requires the rezoning in order to bring the four locations  
into conformity with the text amendments to "Burnaby Zoning By-law 1965".

Mr. S.T. Dawes, Senior Marketing Representative, Real Estate and  
Development, Shell Canada Ltd., submitted a letter expressing concern  
that the subject locations should not be classified as a non-conforming  
use because of a technicality which may occur in the processing of the  
rezoning applications. The following is the text of Mr. Dawes' letter:

"We were surprised to note that of the over ninety service stations in  
Burnaby that only four properties were to be affected by rezoning as a  
result of the very heavy input generated by your self serve gasoline study.

While the proposed rezonings of our above noted properties will not affect  
our operating latitude in the short term, we may be affected by changes in  
operating methods that may be required in the future. As an example, if

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due to market circumstances in the future, we wish to convert these locations back to full service operations then we would be required to go through a long rezoning process to effect the change at the gasoline pump level that could be accomplished by very minor electrical changes, coupled with the provision of gasoline attendants. It seems unfair to us that we should be singled out for such a rezoning task, when the conversion to full service can be so simply accomplished. It appears however that council are determined to single out the self serve phenomenon in our industry as a special case when the self serve evolution is growing in so many other retail merchandising fields.

The evolutionary demands of the market place will dictate the success or failure of a particular self serve location, and it is doubtful in the long term whether planning guidelines as proposed for the screening of potential self serve sites can control consumers buying habits, which may be influenced by market changes in adjacent communities. Our industry is going through economic changes, the full impact of which, has yet to be fully felt in Canada, and it is our responsibility to meet these challenges, yet still provide the consumer with the best value for his purchasing power. Self serve has been accepted by the public as an alternate method to meet this demand.

We would appreciate you keeping us informed, as we are concerned that these locations should not be classified as a non-conforming use because of a technicality which may occur in the processing of the rezoning applications."

Mr. Fred G. Moore, Head Property Representative, Chevron Canada Ltd. submitted a letter outlining Chevron Canada's comments on the subject proposed rezonings. The following is the text of Mr. Moore's letter:

"1. General

We wish to reiterate our objections to the proposed text amendments to the Zoning By-law designed specifically for the purpose of controlling a method or means of merchandising a commodity. We refer to the proposed C6a designation respecting retail self serve gasoline stations. As stated to Council on previous occasions, we are opposed to any further legislation which is particularly designed to impose additional regulations or constraints on the retail market. We believe it is imperative that the flexibility we now have under existing regulations in respect to the retail marketing of motor gasoline should be preserved in order that we may be in a position to meet shifts in customer demands and ever-continuing changes in the market. The market place has always been, and will continue to be, an efficient, equalizing arena. This is only true however, if the mechanism is left alone and not encumbered with governmental, bureaucratic regulations establishing artificial criteria under which the market must operate. In other words, if a certain style or strategy of marketing becomes uneconomic then a marketer should be free to respond provided his actions in respect to the use of his land are consistent with the legal prerequisites of other similar uses of land within a like category in the municipality concerned. It is difficult to appreciate for example that special zoning categories would be established for "self serve" auto wrecking and junk yards versus "full service" yards if a shift in demand occurred in that segment of the retail market.

2. Rezoning Reference No. 48/76

We appreciate, in the case of the subject reference, the proposed zoning change from C6 to C6a zoning classification merely substitutes one single use category for another. However, should we wish in the future to discontinue the self serve characteristic of this particular station, we would be obliged to apply for rezoning back to a C6 classification. To control a method of merchandising through the use of the proposed zoning regulations, the intent of which we believe in the original instance was to control the use of land, is in our opinion improper. Any subsequent change in the method of operation of the station would necessitate our seeking a further amendment

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to the zoning bylaw. The whole process as prescribed under the Municipal Act to secure such a change is very time consuming and too slow. It does not provide an appropriate means for marketers to respond and react quickly to changes in the market place.

3. Proposed Zoning By-law Amendments  
Designation of Districts

Under the proposed amendments any self serve stations in C1, C2, C3 and C4 Commercial Districts, which were in operation prior to January 1, 1977, will be considered as a conforming use. However, any self serve developments in these districts subsequent to the January 1, 1977 date will be classified as C6a and will require an amendment to the Zoning By-law. As a consequence, a confusing mix of zoning districts in respect to self serve stations will develop in the future. Furthermore, a loss in property value will be suffered in the rezoning of such multi-use commercial sites to the proposed special single use C6a category. We have nine such locations in Burnaby and in our opinion such a penalty or premium for permission to change a method of merchandising, i.e. from a conventional to a self serve station, is unfair and inequitable.

4. Proposed Guidelines for Evaluating Self-Serve  
Service Station Rezoning

In our opinion the proposed guidelines are not consistent or relevant to questions set out in Section 702 of the Municipal Act. It appears the guidelines are subjective rather than being objective. We would be interested in learning the rationale that formed the basis for the guidelines. For example, it is suggested a service station is a major traffic generator. We would be interested in learning the comparator in this instance. A service station marketing, say, one million gallons of gasoline per year requires an average of one and a half visits by a motorist per week. We would suggest this traffic volume is significantly less than say, traffic generated by a drive-in fast food outlet.

In respect to the proposed guideline pertaining to the service function of a station, we would suggest this is directly related to a marketing strategy and, if in fact, there is sufficient demand for this service, entrepreneurs in the community will develop the necessary facilities. There is already evidence of this in Burnaby in the opening of new automotive service facilities at 6854 Russell Avenue, Willingdon & Dawson and Imperial & McPherson.

Summary

In our opinion, any further governmental regulations in respect to the retailing of gasoline are not required at this time. Moreover, to attempt to control the subject by means of special zoning categories is unfair, not consistent with the intent of land use legislation for municipalities and is, in fact, discriminatory by nature.

If special legislative control is required in the marketing of gasoline at the retail level, then perhaps it would be prudent for Council to consider extraordinary measures in the cases of automotive specialty shops, over and above the normal land use conditions now set out in the Burnaby Zoning By-law, to ensure there are sufficient bays etc., at each respective location.

If Council feels it must exercise some control over the development of self serve stations, surely this could be accomplished by either licence or as a conditional use in the applicable zone. This would remove the necessity and complexities of creating a new zoning designation in such cases."

Mr. G.M. Horton, Store Manager, Brentwood Store, The T. Eaton Co. Limited then addressed the Public Hearing on the subject of the proposed guidelines for the evaluation of self-serve service station rezonings. The following is the text of Mr. Horton's submission:

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"We would like to open our remarks by commenting on the proposed guidelines setting out the factors which council should consider in approving or rejecting self-serve applications.

#### Proposed Guidelines

Guideline #1 deals with a situation where 3 quadrants of a street intersection are already occupied by self-serve outlets. We believe this guideline to be aimed directly and specifically at our application. We know of no other intersection where this situation exists.

If you deny one individual or company the right to compete on equal terms you would be practicing discrimination by legislation.

Guidelines #2 & #3 refers to 'traffic generating' characteristics of service stations. Only when a particular service station offers something not available elsewhere would it generate traffic (i.e. self-serve at lower prices). We submit that the prime function of a gas station is to service traffic which is already there. From your own personal experience I ask you to determine if you get in your car and make a special trip to buy gasoline or if you gas up on a trip that was generated by some other need or want.

If you do not restrict the number or location of self-serve stations it must be apparent that such stations will be built or converted, only in high traffic locations. The investment required is well in excess of \$100,000. Do you have any applications for self-serve stations in low traffic neighbourhood locations?

#### General

As long as the public will support a neighbourhood gas station offering full service, it will be there. If the public will not support that business it will fail. We do not believe that you can change marketing laws with municipal legislation but you can drive business out of the municipality or into bankruptcy. If your concern is for the public we believe it is misplaced. There is already overwhelming evidence that the public want the lower prices brought about by self-serve. As long as a sufficient number of people will pay for the cost of service, we believe the market will provide it.

If your concern is for the small business man at the corner gas station I share it with you. New marketing strategies have always spelled failure for some and success for others. However, gasoline represents only part of his income. Do you plan to control the specialty repair shops which are proliferating in this municipality? They are taking a bite out of that small business man's income too.

#### Conclusion

In conclusion we urge you to vote against the proposed Zoning By-law amendments for two main reasons.

1. We believe them to be discriminatory in that they will affect future applications only and may prevent normal competitive response from those who have suffered a loss of market share;
2. We do not believe that they will protect either the consumer or the small operator and may only succeed in driving business out of the municipality and increased inconvenience to the great majority of Burnaby residents."

Mr. Horton, in reply to a question by Alderman Emmott, advised that Eaton's facility at this location in addition to the retail sale of gasoline included an auto accessory store and a 16 bay service garage. These latter facilities will remain in operation following the conversion of the gasoline sales function to a self-serve facility. The existing full-service service station function would be converted completely to a self-serve facility. Mr. Horton further advised that he was studying a method whereby a customer who wished full-service at the self-serve facility could be accommodated but had not reached a conclusion in this regard as yet.

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MOVED BY ALDERMAN STUSIAK:  
SECONDED BY ALDERMAN RANDALL:

"THAT this Public Hearing be now terminated."

CARRIED UNANIMOUSLY

The Public Hearing terminated at 8:05 P.M.

Confirmed;

Certified Correct;

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Acting Mayor

  
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Municipal Clerk's Assistant