



Corporate Report

NO: L016

COUNCIL DATE: November 17,

2003

REGULAR COUNCIL - LAND USE

TO: Mayor & Council DATE: November 13,
2003

FROM: General Manager,
Planning and FILE: 5280-01; 0550-
Development 20-10, 7901-
0307-00

SUBJECT: Delegation by Mr. Jim Crawford of 6821 - 176 Street
regarding Truck Park Facility and Property at 6739 –
176 Street

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information;
2. Instruct staff to take action in accordance with normal by-law enforcement procedures to have the owner of the property at 6739 – 176 Street remove the trailers that are parked on the portion of that site that is zoned General Agriculture (A-1);
3. Instruct staff to advise the owner of the property 6739 – 176 Street to complete the landscaping buffer requirements for the site by installing plastic strips in the chain link fence along the north side of the truck parking lot to provide additional screening for the truck parking lot in lieu of the landscaping width deficiency and further instruct staff, if this action by the owner is not completed promptly, to take such action, as necessary, to have the work completed using the security that has been posted by the owner to cover the costs incurred; and
4. Instruct the City Clerk to send a copy of this report and Council's resolution related to this report to Mr. Jim Crawford of Hillside Farms Ltd., owner of 6821 – 176 Street and Mr. Wayne Groome of Ar Way Enterprises Ltd., owner of 6739 – 176 Street.

INTENT

Mr. Jim Crawford, owner of the property at 6821 – 176 Street, appeared as a delegation at the Council-in-Committee meeting on September 15, 2003 to advise Council of a letter from the Department of Fisheries & Oceans (DFO) regarding the alteration of a watercourse on the site at 6739 – 176 Street and his concerns regarding the truck parking facility on the same property, which is located immediately to the south of a property that Mr. Crawford owns at 6821 – 176 Street. Council referred the matter to staff for a report back to Council. This report responds to Council's direction.

BACKGROUND

The property at 6739 – 176 Street is owned by Ar-Way Enterprises Ltd. The easterly part of the property is designated Industrial in the Official Community Plan (OCP) while the westerly part is designated Agriculture and is within the Agricultural Land Reserve (ALR) (See Appendix I). In November 2001, Ar-Way Enterprises Ltd. submitted a rezoning application (Application No. 7901-0307-00) to the City to rezone the easterly 1.4-hectare (3.46-

acre) portion of the property (i.e., the part of the site that is designated Industrial in the OCP) from General Agriculture Zone (A-1) to Light Impact Industrial Zone (IL) and to obtain a Development Permit to allow a truck parking facility, office and caretaker's suite on this part of the site. The related rezoning by-law received final adoption on October 7, 2002 and Development Permit No. 7901-0307-00 was issued on the same date. As a result, the property is split-zoned IL and A-1 under Zoning By-law No. 12000 (See Appendix II).

Subsequent to final adoption of the rezoning by-law, Mr. Wayne Groome, the owner of 6739 – 176 Street obtained a business license to operate a truck parking business on the site from the City's By-law and Licensing Services Division for a period of eight (8) months from November 28, 2002 to August 13, 2002, subject to a condition that, within the eight-month period, the owner obtains the required building permit to upgrade the existing building on the site for the office use and caretaker's suite. The requirement for the building upgrading was to fulfil a Zoning By-law regulation pertaining to minimum building requirements for the site.

On July 30, 2003, a building permit to convert the existing single-family dwelling on the site to an office and caretaker's suite was issued by the Building Division. The owner is currently completing the necessary construction work. A business license to allow the continued operation of a truck parking business on the property was issued by the City's By-law and Licensing Division for a period of one year starting August 14, 2003 to August 13, 2004.

DISCUSSION

As recorded in the Council-in-Committee minutes of September 15, 2003, the following is a summary of the concerns regarding the truck park facility at 6739 – 176 Street that Mr. Jim Crawford expressed during his presentation to Council-in-Committee on that date:

- *That portions of a watercourse on and about 6739, 6733, and 6697 – 176 Street have been moved, filled or otherwise altered at some time since 2001 or earlier.*
- *That the Agricultural Land Commission has no jurisdiction on fish bearing habitat and the Department of Fisheries and Oceans is concerned that historical and possible future activities on the above properties have or would adversely impact fish habitat.*
- *That there are setback concerns relative to the fish-bearing stream.*
- *That there are two trailers situated on the site and one is inhabited.*
- *That the current owner has industrial storage on site.*
- *That the setbacks to the creeks be re-established.*
- *That a landscaped buffer zone be provided between the industrial use and the adjacent residential/ALR/heritage properties.*
- *That the City request the removal of all non-ALR related material, such as the sewer pipe, sheet metal, trailers, power poles and electricity from the ALR portion of the property.*
- *That 68 Avenue, a public access road, was sold privately without proper notification.*

The remaining sections of this report address each of the above-listed concerns raised by Mr. Crawford.

Alteration of watercourse on and about 6739, 6733 and 6697 – 176 Street

The watercourse located on the properties at 6739 – 176 Street (Mr. Groome's property) and 6733 – 176 Street is a yellow-coded (Class B) watercourse. A Class B watercourse is defined as a watercourse that contributes significant food and nutrients to downstream fish-bearing watercourses but fish are not present. However, such a creek is still defined as "fish habitat" according to the definition in the *Fisheries Act* administered by the DFO. The Engineering Department has advised that the watercourse does not actually exist on the property at 6697 – 176 Street.

As referenced in the Background section of this report, rezoning application No. 7901 – 307-00 resulted in the rezoning of the easterly 104-metres (340 ft.) of the property at 6739 – 176 Street (approximately 1.4 hectares/3.46 acres) from A-1 to IL to allow for a truck parking facility to be established. The westerly 182-metres (597 ft.) of the property (approximately 2.6 hectares/6.5 acres), where the watercourse is located, was not included in the rezoning application. The westerly portion of the property remains zoned as A-1 and is within the ALR.

During the application review process, Mr. Jim Crawford contacted the Department of Fisheries and Oceans (DFO)

regarding the alteration of watercourse on this property. DFO staff inspected the site in January and March 2002 and provided their findings to Mr. Crawford and the City. Since no action was taken or recommended by DFO related to the rezoning application, City staff continued to process the rezoning application through to final adoption. Subsequent to final adoption of rezoning application, DFO forwarded a letter to the City indicating that it has come to the attention of DFO that portions of a watercourse has been moved, filled or altered at some time since 2001 or earlier. The DFO is the regulatory body that has the authority to act in cases where fish habitat has been damaged by charging the property owner with a harmful alteration, disruption, or destruction of fish habitat (HADD). DFO has chosen not to take action in this circumstance against the property owner.

The DFO and the City are also aware that the property owner at 6733 – 176 Street has filled portions of the watercourse within this property. The property at 6733 – 176 Street is split-designated Industrial to the east and Agriculture to the west in similar manner to the property at 6739 – 176 Street. However, the entire property is still zoned General Agriculture (A-1) under Zoning By-law No. 12000 and there is no development application on this property. On June 19, 2002, the City sent a registered letter to the owners of the property at 6733 – 176 Street regarding illegal soil depositing on the property. Although DFO is aware of the unauthorized alteration of the watercourse on this property, they have chosen not to charge the owner of the property at 6733 – 176 Street at this time.

The letter from DFO to the City dated February 26, 2003 after Mr. Groome's rezoning was given final adoption (included in Mr. Crawford's submission to Council and attached as Appendix D to this report) requests that prior to the City issuing any permits or approvals (such as rezoning) for these properties that due consideration be given to possible adverse impacts to fish habitat and opportunities for remedying any previous impacts on fish habitat. City staff has responded to the DFO letter by advising that any future development applications involving these properties will be forwarded to the DFO authorities for review through the standard Environmental Review Committee (ERC) process.

Setbacks relative to Fish-bearing streams

Although stream referenced in the previous section of this report is not a fish-bearing stream, it is still considered fish habitat. The Stream Protection Guidelines that are administered by the DFO stipulate different setbacks from the top of bank for Class B streams depending on the adjacent land use. Standard setbacks associated with Class B watercourses are 30 metres (98.4 ft.) from the top-of-bank for commercial/industrial/high density residential developments (greater than 6.0 units per acre) and 15 metres (49.2 ft.) from the top-of-bank for institutional (public)/commercial golf course/low density residential developments (less than or equal to 6.0 units per acre). Standard setbacks have not been defined for agricultural lands.

Should the owner of the property through which the subject stream runs propose to develop the westerly A-1 portion of the property in the future, appropriate creek setbacks will be required depending on the proposed land use.

Trailers on ALR-portion of the Property at 6739 – 176 Street

The City's By-law Enforcement staff inspected the truck parking facility on the site at 6739 – 176 Street on September 9, 2003 and October 10, 2003 respectively. It was observed that there is a 40-ft long recreational trailer parked on the A-1 zoned portion of the property. The trailer has wheels but presently is on blocks and unlicensed. The owner of the property has been living in it since August 2003. There is also a trailer on the property that is being used to store the owner's furniture.

The owner advised By-law Enforcement staff that they had sold their home in Langley and are building a new home in Cloverdale. Until their new home is completed, they plan on living in their recreational trailer on the site and to act as watchman for the site. The recreational trailer was placed on the A-1 (ALR) portion of the property mainly for privacy reasons. At present, they are also doing the renovation work to the existing dwelling on the property at 6739 – 176 Street in accordance to their building permit issued in July 2003. The owner advised that the trailer is intended to be temporary accommodation until such time as the owner moves into his new home in Cloverdale.

Under Part 4 General Provisions of Surrey Zoning By-law, where a lot lies within 2 or more Zones (i.e., is split zoned), a principal building may be placed on a portion of the lot lying in only one Zone and no further building shall be erected on those portions of the lot lying in any other Zone. Since Mr. Groome is operating the truck parking facility on the IL portion of the property with a building being renovated for a caretaker's suite and office use, the placement of a trailer on the A-1 portion of the property is not permitted. On this basis, staff should be instructed to

take by-law enforcement action following normal procedures to have the owner remove the trailers from the A-1 portion of the subject property.

The City's By-law Enforcement and Licensing Section staff advises that temporary trailer permits may be issued when they are used as temporary accommodation for business offices on commercial or industrial property during site construction. The owner may consider applying for a temporary trailer permit for the IL portion of the subject property.

Storage of Materials on ALR-portion of the Property at 6739 – 176 Street

The City's By-law Enforcement staff reported that drainage pipes are being stored on the west side of the chain link fence separating the truck parking facility and the agricultural portion of the property. The drainage pipes are stacked up in 3 levels from 1.8 metres (6 ft.) to 2.5 metres (8 ft.) high. Assuming the chain link fence has been installed along the zoning line delineating the IL and A-1 zoning, it would appear that the drainage pipes are being stored on the A-1 portion of the property. The owner informed the By-law Enforcement staff on October 20, 2003 that the drainage pipes were materials removed from the roadwork on 64 Avenue and 176 Street and were originally placed on the A-1 (ALR) portion of the property. The owner indicated that the pipes are intended for use in the future for both the industrial and agricultural land. However, no time frame was given as to how long the pipes would remain where they are. Under the IL zone, outdoor storage of any good, materials or supplies is specifically prohibited between the front of the principal building and the highway. In addition, outdoor storage of materials are required to be screened by landscaping and/or solid fencing and be piled no higher than a height of 2.5 metres (8 ft.) within 5 metres (16 ft.) of the said screen. The City's By-law Enforcement staff has reviewed the situation and recommends that action related to the pipe storage not be taken at this time since it would serve no practical purpose to require the owner to move the pipes onto the industrial portion of the property which would be closer to 176 Street thus making the pipes more visible to views from the street. The pipes are placed on the west side of and close to the existing chain link fence that acts as a screen from 176 Street. The current location of the pipes does not appear to be any nuisance to the adjacent properties. Since a legal survey has not been conducted to establish accurately whether the chain link fence aligns with the zoning boundary, it is possible that the pipes are actually being stored on the IL portion of the property.

68 Avenue Road Right-of-way

Mr. Crawford questioned why the 68 Avenue road right-of-way was sold privately. The Engineering Department advised that Mr. Groome, the owner of the property at 6739 - 176 Street made application to close the unopened 68 Avenue road right-of-way at the north limit of his property in early 2002 but did not complete the application due to complications with the title of the road. The owner then applied and obtained a Right of Way Use permit from the Engineering Department to use the 68 Avenue Right of Way to create a landscaping buffer to the north of the truck parking facility. Therefore, the 68 Avenue road right-of-way remains under City ownership and has not been sold to the owner of 6739 – 176 Street.

Landscaped Buffer

As required by the Agricultural Land Commission, the owner of the property at 6739 - 176 Street is required to install a chain link fence and provide a minimum 3.0 metre (10-ft.) wide landscape buffer between the truck parking facility and the agricultural lands to the north and west. The general plant list and specifications have been incorporated in the Development Permit drawings that were approved by Council for the site (See Appendix III). Since a portion of the landscape buffer is under the hydro right-of-way, as specified by BC Hydro, a general note was added to the Development Permit drawings that all vegetation under the Hydro right-of-way should not exceed 3 metres (10 ft.) in height at maturity.

Subsequent to the rezoning and DP approval, the owner of 6739 – 176 Street obtained a City right-of-way use permit to use the 68 Avenue unopened road allowance to create a landscaping buffer along the north side of the truck parking facility. The owner installed a 1.8-metre (6.0-ft.) high chain link fence, a cedar hedge and shrub plantings generally in accordance with the approved landscaping plans that form part of the Development Permit. The landscaping buffer is about 3.0-metre wide on the westerly part of the truck parking facility but only about 1.5-metre (5 ft.) wide on the easterly portion due to an existing sanitary sewer line that runs along the centreline of the unopened 68 Avenue right-of-way west from 176 Street. The right-of-way use permit states that any landscaping must not be placed within 3.0 metres of the sanitary sewer alignment. Therefore, the owner could not achieve the 3.0-metre wide landscaping strip, as it would contravene the distance requirement from the sanitary sewer.

Building Division staff met with Mr. Crawford on August 30, 2003 at which time Mr. Crawford expressed concerns regarding the inadequate screening along the north side of the truck parking facility and requested the landscaping buffer be increased. Due to the location of the sanitary sewer line within the easterly portion of the 68 Avenue road right-of-way the landscaping buffer cannot be widened to 3.0 metres as required by the Development Permit. To address Mr. Crawford's concerns about inadequate screening, the City Landscape Architect has recommended that plastic strips be installed in the chain link fence to provide additional screening. On this basis, it is recommended that Council instruct the owner of the property at 6739 – 176 Street to address the landscaping deficiency along the north side of the truck parking facility by installing plastic strips in the existing chain link fence that runs along the north side of the truck parking facility.

CONCLUSION

Staff has investigated concerns raised by Mr. Crawford at the Council-in-Committee meeting on September 15, 2003 related to the property at 6739 – 176 Street on which a truck parking facility is located and recommends that Council instruct staff to take normal by-law enforcement action to have the owner of the subject property remove the trailers from the A-1 portion of the property, install plastic strips in the chain link fence along the north side of the property to provide additional screening for the truck parking facility and authorize the City Clerk to forward a copy of this report to Mr. Jim Crawford, owner of the property at 6821 – 176 Street and to Mr. Wayne Groome of Ar-Way Enterprises Ltd., owner of the property at 6739 – 176 Street.

Murray Dinwoodie
General Manager
Planning and Development

GK/kms/saw

Attachments

Appendix A - OCP Designation Map

Appendix B - Existing Zoning Designation

Appendix C - Site & Landscape Plans under Development Permit No. 7901-0307-00

Appendix D - Letter from Department of Fisheries & Oceans dated February 26, 2003