



Corporate Report

NO: R123

COUNCIL DATE: May 18, 2005

REGULAR COUNCIL

TO: Mayor & Council DATE: May 12, 2005
FROM: General Manager, Planning and Development FILE: 6520-20
(South Westminster)
SUBJECT: OCP Amendment By-law No. 15663 and Rezoning By-law Nos. 15664 and 15665
Related to Properties in South Westminster – Resolution of Concerns Raised at Public
Hearing

RECOMMENDATION

It is recommended that Council:

1. Receive this report as information;
2. Rescind Resolution No. R05-645 granting Third Reading to Surrey Zoning By law, 1993, No. 12000, Amendment By-law, 2005, No. 15665;
3. Approve amendments to Surrey Zoning By-law, 1993, No. 12000, Amendment By-law, 2005, No. 15665, by removing the following four properties from the schedule to the By-law, as documented in Appendix I:
 - (a) 10917 Timberland Road;
 - (b) 12618 King George Highway;
 - (c) 10274 - 120 Street; and
 - (d) 12111 - 102 Avenue;
4. Grant Third Reading to the amended Surrey Zoning By-law, 1993, No. 12000, Amendment By-law, 2005, No. 15665;
5. Finally adopt of the following By-laws:
 - (a) Surrey Official Community Plan By-law, 1996, No. 12900, Text No. 51 Amendment By-law, 2005, No. 15663;
 - (b) Surrey Zoning By-law, 1993, No. 12000, Amendment By-law No. 15664; and
 - (c) Surrey Zoning By-law, 1993, No. 12000, Amendment By-law No. 15665; and
6. Instruct staff to report back on the four properties referenced in recommendation 3 after further consultation with the owners of these properties and resolution of the outstanding matters with respect to each of these properties as discussed in this report.

INTENT

The purpose of this report is:

1. To advise Council of the results of meetings staff has held with property owners who expressed concerns at the March 7, 2005 Public Hearing for By-law Nos. 15663, 15664 and 15665. These By-laws relate to a

rezoning of properties in South Westminster focused on implementing the Council-approved South Westminster Neighbourhood Concept Plan ("NCP"); and

2. To seek Council approval to proceed with the completion of the rezoning process for most of the properties affected by the By-laws while deferring the implementation of the rezoning for four properties to allow time for further consideration of options for these properties in consultation with the owners of these properties.

BACKGROUND

On March 7, 2005, Council held a Public Hearing with regard to OCP Amendment By law No. 15663 and Zoning Amendment By-law Nos. 15664 and 15665. If adopted by Council, these by-laws will create a new "Light Impact Industrial 1 Zone (IL-1)", eliminate the existing "Salvage Industrial Zone (IS)" and rezone numerous industrial properties in the South Westminster area, as shown in the map in Appendix II, in a manner that advances the implementation of the Council-approved South Westminster NCP.

At the Public Hearing, the owners of several properties affected by the proposed amendment by-laws expressed concerns with the potential impact of the zoning changes on their existing businesses or future proposed businesses. Following the Public Hearing, Council granted Third Reading to the subject By-laws and adopted the following resolution:

"That Council direct staff to review the concerns raised at the Public Hearing on By-laws 15663, 15664 and 15665 with a view of identifying possible remedies prior to final adoption".

Council also requested information as to whether the subject by-laws could be amended, prior to adoption, by eliminating some properties from the schedule of properties to be rezoned under By-law No. 15665, without the need to hold another Public Hearing.

Council also requested advice as to whether a business license can be transferred to a new owner when a company and its assets, but not the name, are sold and what is the status of legal non-conformity in this circumstance. The City Solicitor will be submitting a separate Corporate Report on this matter.

DISCUSSION

The map, attached to this report as Appendix III, illustrates the properties whose owners raised concerns by letter or in person at the Public Hearing on March 7, 2005. Staff has reviewed these concerns and met or spoken with the owners of each of these properties.

The majority of the properties, about which concerns were express at the Public Hearing, are located in the South Westminster area, to the west of Scott Road, as illustrated in Appendix III. The businesses currently operating on these properties comprise a combination of automotive repair uses, auto body shops, auto wrecking and salvage and recycling of automotive parts. One of the properties contains an ICBC-licensed auto dealership business.

Except for the auto repair business on the property shown as property #1 on the map, all of these businesses have business licenses from the City under the current IS or IL zoning of the properties. If Council adopts the subject Rezoning By-laws, these properties will be zoned IL-1. The IL-1 Zone would not allow the establishment of new businesses supporting automotive uses. The existing businesses that have a valid business license could continue to operate as legal non-conforming businesses. However, under the "legal non-conforming" provisions of legislation they would not be allowed to expand operations.

Some of these owners, with current business licenses, have expressed concern about not being able to expand their business after rezoning or to start a new business. Another concern that was expressed related to the potential shortage of buildings and properties for automotive-related businesses could drive up rents and land values in the area. It is noted, however, that these types of land uses are not in keeping with the vision for the South Westminster area, as adopted by Council in the approval of the South Westminster NCP. The South Westminster NCP focuses on capitalizing on the area's assets, including the river-front location, central GVRD location and excellent accessibility by major transportation corridors and the Sky Train.

The following provides information about each of the properties about which concerns were expressed at the Public Hearing, as referenced previously in this report. The location of each property is illustrated in Appendix III:

Property #1 (10805 Scott Road)

The City has issued a business license for an automobile repair business at this property, located at 10805 Scott Road. Rezoning By-law No. 15665, if adopted, will act to rezone this property from Light Impact Industry (IL) to Light Impact Industry - 1 (IL-1). Such a rezoning will cause the current business on the property to become "legal non conforming". The ramifications of taking on the status of a "legal non-conforming" business are described later in this report. The owner has expressed a concern that the proposed rezoning is failing the residents of the area who are operating legitimate businesses while living in the area. He also expressed a concern about the future of his property.

Property #2 (10886 Timberland Road)

Property #2, at 10886 Timberland Road, is used for automotive parts salvaging and recycling and has a valid business license. The property is proposed for rezoning from Salvage Industry (IS) Zone to Light Impact Industrial (IL) Zone. The owner expressed a concern that the proposed rezoning will jeopardize the long-term continuity of his legitimate business.

The Surrey Zoning By-law, 1993, No. 12000 was amended in July, 2000 to eliminate "salvage industry" as a permitted use in the IS Zone. As such, the subject business which includes automotive salvage uses is currently operating as a legal non-conforming business. The proposed rezoning of the property from IS to IL will not change the legal non-conforming status of the existing business on this property.

Property #3 (10671 Timberland Road)

The owner of this property at 10671 Timberland Road is operating a towing and truck repair business under a valid business license. The property is proposed for rezoning from IL to IL-1 under By-law No. 15665. The IL-1 Zone does not include automotive service uses as a permitted use. As such, if the rezoning proceeds, the current business would take on the status of a legal non-conforming business. The owner expressed a concern about the status of her business as a legal non-conforming business. The ramifications of a business having the status of a "legal non-conforming" business are discussed later in this report.

Property #4 (11927 Tannery Road)

The property at 11927 Tannery Road is used for automobile and truck repairs and automotive salvage and has a valid business license. This property is to be rezoned from IS to IL-1 under By-law No. 15665. As indicated above, the IS Zone was amended in July, 2000 to eliminate "automotive salvage uses" as a permitted use in the IS Zone. As such, the automotive salvage component of the existing business is currently "legal non conforming". At the Public Hearing, the owner stated that he purchased the property in 2000, planning to expand the business to include automotive recycling, an automobile dealership and a body shop. Also, he is concerned that his current tenant will not be able to expand his truck repair business.

Synopsis for Properties #1, #2 #3 and #4

The businesses on the properties numbered #2, #3, #4 and #5, do not align with the proposed land use and vision for this area of South Westminster as expressed in the South Westminster NCP. Allowing such land uses to expand by not rezoning these properties will have the effect of undermining the intention of the NCP, which is focused on improving the image of South Westminster at the King George Highway entrance to Surrey and enhancing the potential of investment in higher order businesses in the area. For example, the Wesik Group have purchased the United Auto Lands in South Westminster and are relying on the NCP vision, in part, to justify pursuing business park development and IL-1 development on these lands.

It is recommended that the rezoning of these four properties, as proposed, be completed. The existing businesses can continue to operate as legal non-conforming businesses.

Ramifications of "legal non-conforming" status

Legal non-conforming businesses can only be expanded in the building within which they are located at the time that they take on the status of a "legal non-conforming" business and cannot be reinstated in the event that the building that houses the business is destroyed to 75% or more of its value, for example by a fire, or if the business is discontinued for a period of at least six months.

Property #5 (10917 Timberland Road)

The owner of this lot at 10917 Timberland Road has been operating an automotive business without a business license. Staff understands that the current owner has owned the property for two and half years. The property is now used as a watchman's residence and as a workshop for the building of custom hot rods. A business license application was received by the City for this address on March 8, 2005, the day after the Public Hearing. The inspection undertaken as a result of the business license application, revealed that parts of the workshop building were re-constructed without a building permit and it was noted that there could be structural deficiencies with the work. The construction work needs to be regularized through a building permit and inspection process, including inspections by a Professional Engineer. A business license cannot be issued until the building has been confirmed to conform to the requirements of the Building By-law and BC Building Code. The owner has been advised of this situation and instructed to make application for a building permit and to retain the services of a Professional Engineer to certify that the building complies with the requirements of the BC Building Code.

It is recommended that this property at 10917 Timberland Road be removed from the schedule of properties to which By-law No. 15665 applies and that the owner of this property be given a maximum of one year to finalize the necessary building permit requirements and obtain a business license under the current zoning. If the owner has not taken action within that timeframe, it is recommended that Council direct staff to bring forward for Council's consideration, a Rezoning By-law that will act to rezone the subject property from IL to IL-1.

Property #6 (12618 King George Highway)

Property #6 at 12618 King George Highway is split-zoned with the front part of the property zoned Highway Commercial Industrial (CHI) and the rear part of the property zoned Light Impact Industrial (IL). The owner also owns the adjacent property to the west, at 11180 Scott Road, which is similarly split-zoned CHI and IL and on which he operates an auto sales and service business for which he has a business licence. The property at 12618 King George Highway was acquired through a land exchange with the Ministry of Transportation to facilitate major road improvements in the area and remains as a separate parcel. This lot is proposed under the current rezoning initiative to be rezoned to IL-1 under By-law No. 15665. The owner advises that this rezoning would jeopardize a recent business transaction because of restrictions on outdoor storage in the IL-1 Zone. There is no building on the property and it is not paved. It is used for the storage of scrap material and parts. The current IL and CHI zoning do not permit any storage use on this site without a building on the property.

Staff will need to hold further discussions with the owner of this property before a recommendation can be made about the rezoning due to the complexities and history of this site. On this basis, it is recommended that the property at 12618 King George Highway be removed from the schedule of properties affected by By-law No. 15665. Staff will review the history of this property and meet again with the owner to attempt to find a suitable resolution to the issue of the split zoning on this property and bring this matter back to Council for consideration in due course.

Property #7 (10274 – 120 Street)

This property, located at 10274 - 120 Street, is currently occupied by a vacant single family dwelling and is zoned Light Impact Industrial (IL) Zone. In September 2004, the owner applied for a development permit to construct a truck repair shop on the site, which is permitted under the IL Zone. The application is in process and a staff report on the Development Permit for the truck repair shop is being drafted. If By-law No. 15665 is adopted, as proposed, the property will be rezoned to Business Park (IB-2) Zone, which does not allow truck repairs as a permitted use. Inadvertently the owner was not made aware of the proposed zoning changes prior to the notice of the Public Hearing.

The owner has been cooperative and has worked with staff to make some changes to the building and landscaping designs that would be in keeping with the qualities expected for an IB-2 project. The owner has also indicated that he

would not object to the IB-2 zoning of his property if he is permitted to build the truck repair shop under the current IL Zone. The owner realizes that this would make the truck repair a legally non-conforming use, which he would not be able to expand nor reinstate if it is discontinued for six months. Under the circumstances, it would be appropriate to allow the Development Permit and Building Permit to be issued, and defer the rezoning of this property from IL to IB-2 until after the building is completed and a business license is issued for the truck repair shop.

On this basis, it is recommended that the property at 10274 - 120 Street be removed from the schedule of properties affected by By-law No. 15665 and, following the approval a Development Permit for the lot, the issuance of a building permit, final inspection of the building and issuance of a business license, that staff bring forward a Rezoning By-law to rezone this property from the IL Zone to IB-2 Zone.

Property #8 (12111 – 102 Avenue)

This property, located at 12111 - 102 Avenue, is vacant and currently zoned Light Impact Industrial (IL) Zone. If By-law No. 15665 is adopted, it will be rezoned from IL to IB-2. The owner, Bel-Par Industries, owns four other nearby properties, which are proposed for rezoning from IL to IL-1. Two of these properties are located at 12120 and 12160 - 103A Avenue to the north and east of subject property. The other two properties are located north of 103A Avenue at 12137 and 12147 - 103A Avenue. They have owned all of these properties for the last three years. Bel-Par Industries manufactures furniture and wood components. Their wood shop is located on the land to the north of 103A Avenue and is in need of updating and expansion. Bel-Par Industries has plans to modernize it, relocate it to the subject property in a new building and consolidate all three parcels of land on the south side of 103A Avenue. Their plans have been somewhat delayed because of the need to remediate the subject property. Their concern now is that the proposed rezoning of this property from IL to IB-2 will not allow them to consolidate it with the other two parcels, which will be rezoned to IL-1. This will jeopardize their plans to modernize and consolidate their facilities in a single parcel of land.

In view of this information, it is recommended that this property be removed from the schedule of properties affected by By-law No. 15665. Staff will forward a separate report to Council on an appropriate zoning solution for this property after further consultation with Bel-Par Industries.

Removing properties from By-law No. 15665

Legal Services has advised that the removal of properties from the Zoning Amendment By-law No. 15665, as recommended in this report, can be undertaken, without the need to hold another Public Hearing for the By-law, subject to Council rescinding third reading of By-law No. 15665, deleting the four properties identified in Appendix III as properties #5, #6, #7 and #8 from the schedule to the By-law and granting third reading to the amended By-law.

The owners of these four properties have no objection to the approach recommended in this report.

CONCLUSION

Based on the above discussion, it is recommended that Council:

1. Rescind Resolution No. R05-645 giving Third Reading to Surrey Zoning By-law, 1993, No. 12000, Amendment By-law, 2005, No. 15665;
2. Approve amendments to Surrey Zoning By-law, 1993, No. 12000, Amendment By-law, 2005, No. 15665, by removing the following four properties from the schedule to the By-law as documented in Appendix I:
 - (a) 10917 Timberland Road;
 - (b) 12618 King George Highway;

- (c) 10274 - 120 Street; and
 - (d) 12111 - 102 Avenue;
3. Grant Third Reading to the amended Surrey Zoning By-law, 1993, No. 12000, Amendment By-law, 2005, No. 15665;
 4. Finally adopt the following By-laws:
 - (a) Surrey Official Community Plan By-law, 1996, No. 12900, Text No. 51 Amendment By-law, 2005, No. 15663;
 - (b) Surrey Zoning By-law, 1993, No. 12000, Amendment By-law No. 15664; and
 - (c) Surrey Zoning By-law, 1993, No. 12000, Amendment By-law No. 15665; and
 5. Instruct staff to report back on the four properties referenced in recommendation 3 after further consultation with the owners of these properties and resolution of the outstanding matters with respect to each of these properties as discussed in this report.

Murray Dinwoodie
General Manager
Planning and Development

BP:saw
Attachments:

- Appendix I Proposed Zoning Changes in South Westminster – By-law 15665
- Appendix II Proposed changes to By-law No. 15665
- Appendix III Proposed Amendments to By-law No. 15665

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Appendix I

Proposed Changes to Surrey Zoning By-law, 1993, No. 12000,
Amendment By-law, 2005, No. 15665

Amend Surrey Zoning By-law, 1993, No. 12000, Amendment By-law, 2005, No. 15665, by deleting the following properties from the schedule of the by-law:

1. 10917 Timberland Road, which is proposed from Light Impact Industrial Zone IL to Light Impact Industrial 1 Zone IL-1 under By-law No. 15665;
2. 12618 King George Highway, which is proposed from Light Impact Industrial Zone IL to Light Impact Industrial 1 Zone IL-1 under By-law No. 15665;

3. 10274 - 120 Street, which is proposed from Light Impact Industrial Zone IL to Business Park 2 Zone IB-2 under By-law No. 15665; and
4. 12111 - 102 Avenue, which is proposed from Light Impact Industrial Zone IL to Business Park 2 Zone IB-2 under By-law No. 15665.

Appendix II

Proposed Zoning Changes in South Westminster – By-law 15665

Appendix III

Locations of Properties and Proposed Status Regarding Rezoning



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