



Corporate *NO: R060*

Report *COUNCIL DATE: March 26, 2001*



REGULAR COUNCIL			
TO:	Mayor & Council	DATE:	March 19, 2001
FROM:	General Manager, Planning & Development	FILE:	7999-0065-00
SUBJECT:	Provisions regarding Railway Lands Proposed Amendments to Zoning By-law No. 12000		

RECOMMENDATION

The Planning & Development Department recommends that Council:

1. Approve the proposed amendments, as outlined in Appendix I, to provisions related to railway lands in the Zoning By-law No. 12000; and
2. Instruct the City Clerk to prepare and introduce an amending by-law incorporating the proposed amendments, and set a date for Public Hearing.

INTENT

The intent of this Report is to seek Council's approval to amend provisions in the Zoning By-law No. 12000 related to railway lands to clarify their applicability.

BACKGROUND

In 1999 amendments were made to Part 1 Definitions and Part 4 General Provisions of the Zoning By-law No. 12000 to include regulations regarding subdivision and building setback on railway lands. Final adoption of the

Amendment By-law No. 13862 was given on November 15, 1999 (Appendix II).

Since then, staff received feedback from B.C. Hydro raising some concerns about the application of these zoning regulations on existing and future industrial and commercial developments, including spur or lead tracks to warehouses or manufacturing plants, and building siting on industrial and commercial lands served by these spurs and lead tracks. Staff reviewed the concerns with the Assistant City Solicitor who advised that further amendments to the Zoning By-law are appropriate to address the concerns.

DISCUSSION

Proposed Amendments to the Zoning By-Law

The intent of the zoning provisions regarding railways is to protect railway lands from intrusion of urban development and to address potential land use conflict and public safety issues. The restrictions introduced under the Amendment By-law No. 13862 apply to "railway land" only. They are not intended to restrict development on commercial or industrial lands. To provide clarification on the applicability of the zoning provisions to existing buildings and future developments on commercial or industrial lands, the following further amendments are proposed:

1. Definition of "Railway" is amended to exclude spurs and tracks that are located within a commercial or industrial zone and serve exclusively a commercial or industrial operation. As such, the zoning provisions regulating railway lands do not apply to these spurs and tracks.
2. Definition of "Railway Land" is amended to exclude land outside a railway right-of-way, easement or charge registered on the property where the railway is specifically confined within a right-of-way, an easement or other charge on the property. In these instances, the excluded area is not subject to the zoning restrictions related to railway lands.
3. The zoning provisions regulating the subdivision of railway land are specified for residential zones only. Therefore, these provisions will not apply to railway land zoned for industrial or commercial purposes.
4. The provision relating to location of buildings and structures on railway lands is further clarified that the minimum 57.5 metre (189 ft.) building setback is for buildings and structures within the railway land as defined, and not on other lands such as an industrial or commercial site, and that buildings and structures for or accessory to the railway operations are not subject to this provision.

Consultation with Railway Companies and Owners

The proposed amendments were circulated to the railway companies and owners, namely, Canadian National Railway Properties Inc. (CN), B.C. Rail Properties Ltd., Southern Railway of B.C., Burlington Northern Sta. Fe., and B.C. Hydro and Power Authority for comment on January 5, 2001.

CN is the only company that responded and has the following comments (Appendix III):

1. Amendments to the Zoning By-law should not impair CN's ability to provide rail service to their Surrey customers nor restrict them in constructing appropriate facilities required to accommodate rail service. As a federal undertaking, CN's operations are immune from local government laws.
2. The proximity of residential development to rail operations is a major concern. CN has developed guidelines in this respect.

In response, staff confirmed with CN that the proposed amendments are not intended to restrict railway operations and services. Staff advised that the City is also concerned about the proximity of residential development to railways and, therefore, introduced regulations in the Zoning By-law to address the concerns. Staff further advised that the Zoning By-law provisions regarding minimum building setback of 57.5 metres (189 ft.) and minimum subdivision distance of 50 metres (164 ft.) from the rail lines were based on research which included CN's Policy for the Protection of New Development Adjoining Railways, and are generally consistent with their guidelines (Appendix IV).

Legal Services have reviewed the proposed amendments.

CONCLUSION

Since the final adoption of Amendment By-law No. 13862 regarding zoning provisions related to railway lands in 1999, feedback has been received from railway owners, particularly with respect to the applicability of the railway provisions to existing and future industrial and commercial developments. Further amendments to the Zoning By-law are considered appropriate to address the issues raised and to clarify the intent and applicability of the provisions related to railway lands. The proposed amendments as contained in Appendix I are submitted for Council's consideration and approval.

Murray D. Dinwoodie
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Appendix I Proposed Amendments to the Provisions related to Railway Lands in Surrey Zoning By-law No. 12000

Appendix II Surrey Zoning By-Law Amendment By-law No. 13862

Appendix III E-mail from CN dated February 16, 2001 Providing Comments on the Proposed Amendments

Appendix IV Response to CN dated February 23, 2001

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