

COMMITTEE REPORT

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT COMMITTEE

DATE: 2021 March 24

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 49500 20
Reference: Big Bend

SUBJECT: 3822 AND 3842 MARINE WAY
BIG BEND COMMUNITY PLAN AREA

PURPOSE: To respond to a delegation and provide information to Committee on the subject properties.

RECOMMENDATIONS:

1. **THAT** this report be received for information.
2. **THAT** a copy of this report be forwarded to Mr. Harjinder Bansal, 3822 Marine Way, Burnaby, BC V5J 3H4.

REPORT**1.0 INTRODUCTION**

On 2019 November 19, Mr. Harjinder Bansal appeared as a delegation at the Planning and Development Committee (PDC) regarding outstanding bylaw enforcement issues that pertain to Bansal and Sons Diesel Automotive, which has operated at 3822 and 3842 Marine Way since 1991. Mr. Bansal requested the Committee's assistance in addressing several concerns which he indicated that, if unresolved, may result in the dissolution of the business. Concerns raised included: the desire to retain unauthorized construction that covers a waste oil tank and compressor; the desire to lease or buy the unopened lane right-of-way between the two properties; and the desire to link the two sites with the existing business licence on 3822 Marine Way. This report discusses outstanding enforcement issues in relation to the above concerns.

2.0 PROPERTY INFORMATION AND DISCUSSION

The subject properties, separated by an unopened lane right-of-way and zoned M2 General Industrial District, are located within the Big Bend Community Plan area (see Sketches #1 and #2 *attached*). The subject properties, as well as those to the west, south, and east, are designated for Business Centre use, as part of a larger consolidated site. The City owns a number of properties in the area, as indicated on Sketch #1, and seeks to acquire additional properties from time to time, as they become available.

The subject properties are subject to an extensive list of outstanding enforcement actions related to Zoning Bylaw violations, unauthorized construction, unsightly premises, Licence Bylaw offences, and trespass on City property (Bylaw Reference #18-1603 and Bylaw Reference #18-1566). Most of the above offences remain outstanding and are discussed below.

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Unauthorized Construction

On site visits conducted in 2018 by staff, unauthorized construction was discovered on both properties. A large unauthorized structure at 3842 Marine Way was confirmed to have been removed at the last site inspection for Bylaw Reference #18-1604, for which the file is now closed. However, an unauthorized structure at 3822 Marine Way that encroaches onto the unopened lane right-of-way remains and is required to be removed.

With respect to Mr. Bansal's concerns regarding potential environmental issues if the unauthorized structure, which covers a waste oil tank and compressor, is removed, the owner is advised to discuss possible solutions with the Climate Action and Energy Division of the Corporate Service Department, and apply for any required permits.

Encroachment on City Property

As indicated above, the two subject properties are separated by an unopened lane right-of-way (City property). Site visits have indicated that unpermitted structures, fencing, and unauthorized outdoor storage have encroached, or continue to encroach, onto the City property. Such encroachments pose numerous concerns, including those related to appropriate use of City property, environmental contamination, and legal liability. At the 2019 November 19 PDC meeting, Mr. Bansal enquired into the feasibility of either purchasing or leasing the City property for his business' use.

The closure and sale of the unopened lane for the subject business is not supported as it would be contrary to the area's designation in the Big Bend Plan, and would not contribute to the realization of the Plan for higher employment light industrial / office development. Furthermore, lane closure would necessitate consolidation of the resultant net site, including completion of all necessary road dedications and confirmation that the current use and development is in full conformance with all applicable City bylaws and regulations.

Lease of the unopened lane right-of-way to Mr. Bansal is also not supported, as any use of the area, which is not a titled parcel, would be contrary to the Zoning Bylaw. Furthermore, as indicated at the meeting, leasing the City right-of-way would set a precedent for other situations where a particular private use has outgrown its lot size. If the closure and lease of this portion of unopened lane were to be pursued, potential contamination and liability would remain a significant concern for the City. As such, neither the sale nor the lease of City property is considered supportable, and removal of all encroachments on City property is required.

Unlicensed Business and Unauthorized Outdoor Storage Use at 3842 Marine Way

It is noted that 3822 Marine Way has a valid business licence (Business Licence #91-00028) for an auto repair shop. 3842 Marine Way does not have a business licence and is not tied to the licence for 3822 Marine Way. The City has no record of any previous or current business licence attached to the property at 3842 Marine Way. Therefore any use of 3842 Marine Way, including existing outdoor storage, is not permitted and must cease.

Mr. Bansal is requesting to link the licence at 3822 Marine Way to 3842 Marine Way. This is not supported because the two properties are physically separated by a lane. A separate business licence for 3842 Marine Way is not currently supported because the Zoning Bylaw requires that all uses and

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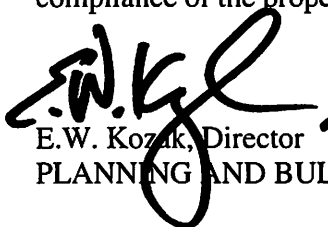
undertakings in the M2 District be conducted within an enclosed building, with the exception of parking and loading space and public works yards. Outdoor storage in the M2 District is only permitted for trade contractors, or for new materials and equipment where there is an enclosed building on site. Mr. Bansal's use of 3842 Marine Way does not meet these conditions and is not permitted to continue.

As indicated by staff at the PDC meeting, a business licence could be obtained by Mr. Bansal for 3842 Marine Way if an approved structure were erected on the site that served as a primary use, and potentially allowing accessory outdoor storage use if it is permitted by the Zoning Bylaw. For example, if Mr. Bansal were to obtain a licence to use 3842 Marine Way for an auto repair shop, subject to meeting all Zoning Bylaw requirements, the auto repair use would only be permitted within a building; the use of the parking area would only be permitted for vehicles of customers, employees, or persons who make use of the principal business for which the parking area is provided; and the outdoor storage of items such as automobile parts or dismantled vehicles would not be permitted. As an alternative option, Mr. Bansal could acquire or lease the adjacent property to the south at 8744 Joffre Avenue, which has an existing structure to support the proposed automotive repair use.

3.0 CONCLUSION

The properties at 3822 and 3842 Marine Way are subject to continued outstanding enforcement actions. The above report, provided for information purposes, outlines the outstanding issues that apply to the two subject properties and notes the Planning Department's position on those issues. Due to subject site's Business Centre designation under the Council adopted Big Bend Plan's, which encourages high employment, light industrial / office uses, coupled with the potential for site contamination due to the storage of automotive chemicals, the sale or lease of the City-owned lane right-of-way is not considered supportable.

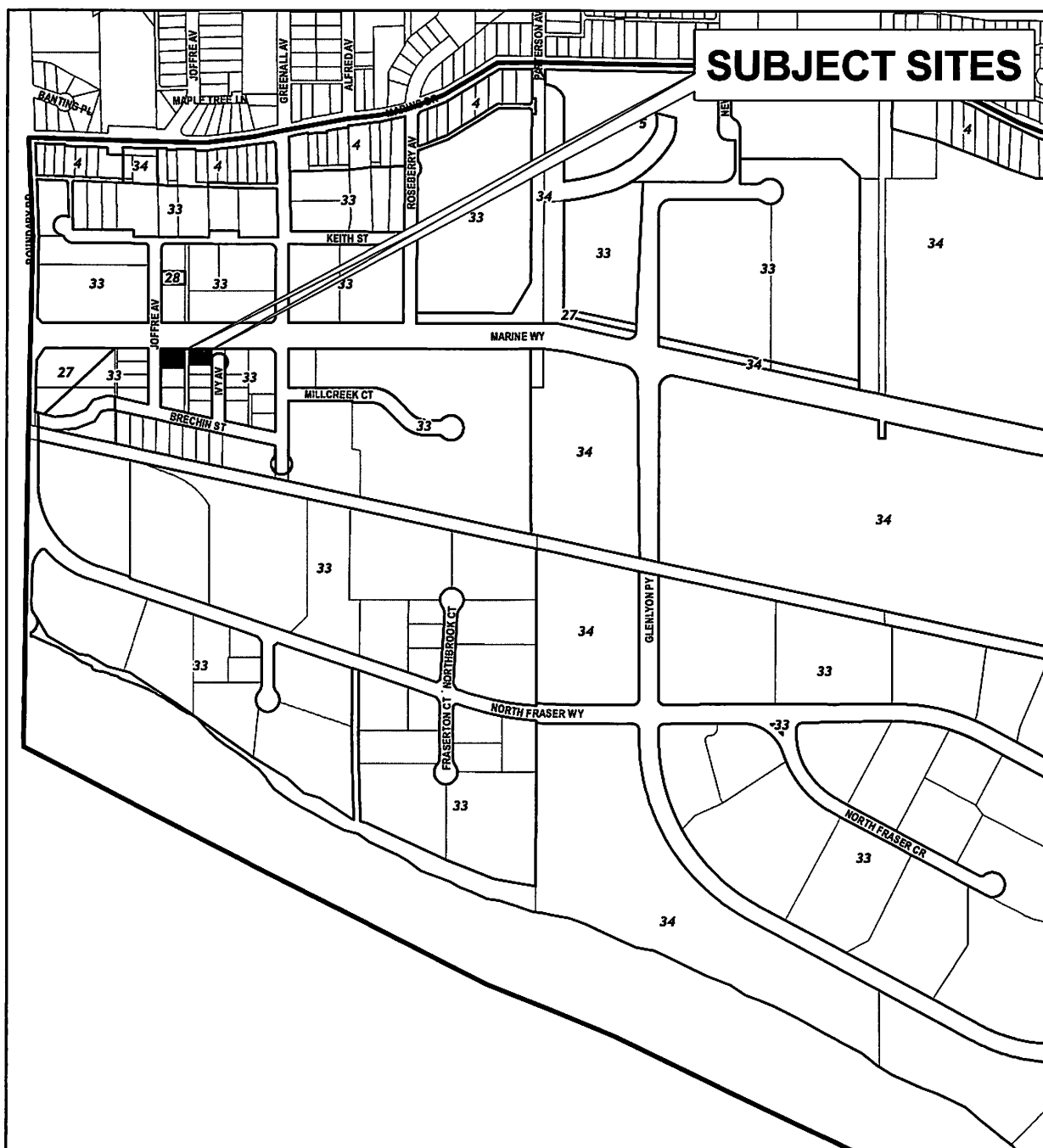
Unless otherwise directed, Licence Office and Bylaw enforcement staff will continue to pursue compliance of the properties in line with existing City bylaws and regulations.


E.W. Kozak, Director
PLANNING AND BUILDING

LS:tn

Attachments

cc: Acting City Manager
Director Corporate Services
Director Engineering
Director Public Safety and Community Services
Chief Building Inspector
Chief Licence Inspector
City Solicitor

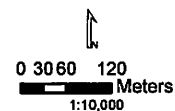


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| 1 Agricultural (A1) | 28 Institutional |
| 2 Small Holdings | 30 Public School (P3) |
| 4 Single and Two Family Residential | 31 Industrial |
| 5 Low Density Multiple Family Residential | 33 Industrial and Business Centre Mixed Use |
| 27 Commercial | 34 Park and Public Use (P3) |



Planning and Building Dept

Big Bend Community Plan



Printed on March 9, 2021

Sketch #2