

AFFORDABLE HOUSING THROUGH AFFIRMATIVE ZONING

by

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ABSTRACT

The delivery of social housing is consistently plagued with problems ranging from reduced budget allocation, scarcity of adequately zoned lands and neighborhood opposition. Though limited, provincial funding is still available in BC. However, land acquisition remains a problem. Municipal governments are recognized to have the influence to increase the amount of land for affordable housing projects through the use of zoning by-laws. This thesis argues that the exclusionary character of the municipal zoning by-law does not encourage the creation of affordable housing units. Amendments to the *Municipal Act* under Bill 57 which allow BC municipalities to negotiate with developers to set aside some units as affordable through density bonusing and inclusionary zoning do not also guarantee that units can be created. Both strategies are dependent on the performance of the market place.

This thesis explores an alternative form of affirmative zoning as a possible municipal initiative that can facilitate the creation of affordable housing units by reviewing governments' activities in affordable housing provision and by looking at Surrey as an illustrative case. The alternative form calls for the amendment of the zoning by-law to include a specific zone for affordable housing and pre-zoning of vacant municipal-owned lands for affordable housing. By adopting this strategy, a municipal government departs from its traditional reactor role.

Surrey has demonstrated that in order to adopt affirmative zoning, a municipality has to be governed by a socially-committed council who should bring affordable housing provision as a visible component in the municipal agenda. The case also shows that the process has inherent constraints. The provincial government may prohibit councils from identifying affordable

housing as a distinct zone while neighbourhoods can still mount strong opposition against the process.

Senior governments may start to “dump” social housing projects in municipalities that have adopted this mechanism. With this mechanism in place, a municipal government may expect to accommodate additional population and consequently, an additional demand on municipal resources and services. However, the adoption of the strategy can provide municipal governments with an alternative option, enhance the planning process, foster public acceptance of affordable housing projects, and shorten the approval process.

Two lessons are drawn from this thesis:

- municipal resources can be re-directed to facilitate the process of creating affordable housing units and
- planners and decision-makers should assume a progressive philosophy, leadership and social commitment to ensure that the strategy works.

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I. INTRODUCTION

1.1 Purpose

This study explores an **alternative** form of affirmative zoning which involves the inclusion of affordable housing as a distinct zone within a zoning by-law and using the same by-law to pre-zone eligible municipal-owned lands as affordable housing zones. The study's purpose is to present and analyze inputs (challenges and opportunities) and outputs (advantages and disadvantages) of affirmative zoning as put forward in this thesis. The study will provide responses to the following questions:

- What are the opportunities as well as stumbling blocks (inputs) that could facilitate or inhibit the implementation of affirmative zoning?
- What are the advantages and disadvantages (outputs) of affirmative zoning?

Theoretical responses to these questions are derived from a survey of relevant literature on federal, provincial and municipal housing initiatives in Canada. First, the zoning by-law is analyzed to establish its inherent shortcoming in the creation of affordable housing. Secondly, current affirmative zoning initiatives are presented to demonstrate the municipal governments' attempts to participate in the process of creating affordable housing units. Finally, the City of Surrey is analyzed as a specific illustrative case where factors that inhibit or encourage affirmative zoning have emerged.

1.2 Organization of the Thesis

This thesis consists of five chapters. Chapter 2 begins with a definition of affordable housing. The definition delimits the targets of affirmative zoning as discussed in this study. The chapter presents a context to the affirmative zoning concept and affordable housing issue by

reviewing the activities and strategies that have been undertaken by various levels of government in Canada. This portion of the thesis outlines the challenges that confront senior governments in the delivery of social housing.

Presentation of municipal role begins with a discussion on three functional models that a municipal government may assume in the process of creating affordable housing. The model defines how a municipal government acts out its role within the framework of its bureaucracy. Zoning, as a tool for land development is presented and analyzed in this section to establish its inherent shortcoming from an affordable housing perspective. Current affirmative zoning initiatives as practised in selected Canadian and US jurisdictions are also presented to elaborate on the growing acceptance of the process.

Chapter 3 deals with the City of Surrey as a putative case for which the issues on affordable housing provision can be analyzed within the context of current planning and policy decisions, resources, and existing municipal regulations, including the zoning by-law.

Chapter 4 presents an analysis of opportunities and constraints (inputs) to implementing the affirmative zoning as well as its advantages and disadvantages (outputs) assuming that it can be implemented.

Chapter 5 reflects on the Surrey case and assesses its general relevance. It identifies some qualities and skills that decision makers and planners should possess to overcome the problems that may surface when they adopt affirmative zoning as a tool in the process of creating affordable housing.

1.3 Definitions of Critical Terms

The thesis adopts the City of Surrey's definition of affordable housing. The definition indicates that affordable housing units are those that are created through government subsidies and are targeted toward those persons paying more than 30% of their income on rent and are within the lower quartile of income ranges in the City.¹ Units that have been created under social housing programs form part of the existing affordable housing stock in Canada. The terms **social housing** and **affordable housing** are used interchangeably in this report.

The definition of affirmative zoning is borrowed from housing experts who include Hulchanski, Drdla, Carter, McAfee, and Stone. Their definitions share a common thread: it is a municipal zoning initiative that facilitates the creation of affordable housing units. In this thesis, affirmative zoning means the inclusion of affordable housing as a distinct zone within a zoning by-law and using the same by-law to pre-zone eligible municipal-owned lands as affordable housing zones.

¹ District of Surrey, "Social Strategy: Surrey City Centre." (Surrey, B.C.: District of Surrey Planning & Development Department, June 1993), 48.

II. GOVERNMENTS' ROLE IN AFFORDABLE HOUSING PROVISION

2.1 Introduction

This chapter will present the various activities that the three levels of governments pursue in the provision of social housing and examine the roles that affect housing provision for Canada's poor. The discussion on federal-provincial activities falls under a single heading as almost all programs are cost-shared by the federal and provincial governments.

2.2 Affordable Housing Defined

Recent literature on housing offers a wide range of definition of affordable housing. The simplest definition suggests that it is an acceptable housing unit that is within the financial reach of individuals and families. This simple definition suggests that affordable housing has two basic characteristics. First, it should be adequate and suitable which means that it is "warm and dry, in basic repair and has necessary sanitary and cooking facilities."² Adequate and suitable housing is considered a necessary condition for a healthy life which Macpherson believes is a "fundamental public health principle."³ In the same vein, adequate housing is viewed as a fundamental right that has found a place in the Universal Declaration of Human Rights:

Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing, medical care, and necessary social services.⁴

Secondly, it should be affordable which indicates that it should be acquired without sacrificing other basic needs. Stone contends that there exist varying degrees of housing

² Veronica Doyle, "Housing and Children in Canada." (Ottawa: CEJY, 1992), 53.

³ A. S. Macpherson, "Housing and Health: Public Health Implications of the Affordable Housing Crisis." (Toronto: City of Toronto Department of Public Health, 1984), 8, quoted in Doyle, "Housing and Children.," 59.

⁴ Quoted in J. David Hulchanski, "The Human Right to Housing." *Canadian Housing* 6 (1), (1989).

affordability problems. He suggests that families and individuals may be any of the following who may experience different manifestations of housing affordability problems:⁵

- those without shelter or homeless and end up living on the streets;
- those who are staying in rented accommodation but may not be able to pay for other basic needs such as food and clothing;
- those who are renting too small or unsafe accommodation but are forced to stay because it is the cheaper alternative; or
- those who are renting an adequate place but cannot afford to own one.

Stone argues that this “long ladder of affordability problems” has driven men and women to search for jobs that will provide income to avoid homelessness; for married women to enter the labour force to augment family income in order to acquire an adequate place and for many family men and women to hold two jobs in order to move to better places or save and scrimp for a down payment.⁶ Drawing from Stone’s typology, it can be deduced that affordable housing is most needed by the homeless, those who rent but cannot acquire other basic needs such as adequate food and clothing and those who rent unsafe accommodation. While Fallis’ analysis of government’s role in housing denies housing assistance, he confirms that:

there is one situation where the need for housing assistance seems compelling: for those individuals needing some privacy, dignity and stability in their lives as a pre-condition to self reliance. For many of these people, income assistance would be of little help. Assisted housing would help.⁷

⁵Michael Stone, Shelter Poverty: New Ideas on Housing Affordability. (Philadelphia: Temple University Press, 1993), 14.

⁶Ibid.

⁷George Fallis, Government’s Role in Housing. (Kingston, Ontario: Queen’s University, 1993), 43.

Following Fallis' assumption, housing assistance should then be targeted to the following:

- people with physical and mental disabilities who cannot compete in the labour market;
- elderly persons who, because of age and attendant health problems are dependent on meager income;
- single parents who cannot work because they do not have access to adequate day care facilities; and
- individuals who are victims of domestic violence.

In all likelihood, they compose the "core need group."

The concepts of assisted housing and "core need" form part of the City of Surrey's definition of affordable housing:

Assisted Affordable Housing are units that are provided through a subsidy from either a developer, Surrey or the Province and including subsidized social and co-op housing. It is targeted toward "core need" households, defined as those who are paying over 30% of their income on rent and are within the lower quartile of income ranges in Surrey. This only includes rental.⁸

This thesis adopts the City of Surrey's definition of affordable housing.

⁸This definition puts emphasis on assisted or subsidized rental units. Surrey also considers housing that may be accessed by those in "moderate need" as market affordable housing.

2.3 The Role of Governments in Affordable Housing Provision

2.3.1 Federal and Provincial Governments

The *British North America Act* (BNA) of 1867 was established at the period of Canadian history when social programs were not part of the government agenda. Bacher and Hulchanski assert that despite well documented research on the state of destitution, poverty and homelessness during the first six decades of the 20th century, the federal government failed to respond to these issues.⁹ Instead, the federal government's response to these problems relied on the benevolence of the private sector. The values of individualism and free enterprise ruled.¹⁰ The provision of social welfare was left largely to philanthropic groups and church organizations. Government involvement was sought after only when all other avenues had failed. For instance, poor housing conditions were evident in Canada's major cities such as Montreal and Toronto at the turn of the century. The government's response was to call on the philanthropic spirit of the business community which willingly provided what was popularly known then as "limited dividend housing", a scheme that was purely financed by private capital.¹¹

The same philosophy governed the thrust of Canada's housing policy between 1919 and 1949. In this period, the federal government's activities on housing centred on encouraging the private market to build homes. Home mortgage was only available from the federal government. The Wartime Housing Limited was organized in 1941 to build homes in

⁹ John C. Bacher and J. David Hulchanski, "Keeping Warm and Dry: The Policy Response to the Struggle for Shelter Among Canada's Homeless, 1900-1960." in *Urban History Review* Vol. XVI No. 2, (Winnipeg: Institute of Urban Studies, University of Winnipeg, 1987), 147.

¹⁰ *Ibid.*, 148.

¹¹ Gerald Hodge, *Planning Canadian Communities: An Introduction to the Principles, Practice and Participants*. (Nelson Canada, 2nd Edition, 1989), 88.

urban centres where wartime industries were located. In that same period, social housing was limited to the establishment of "emergency shelters," a form of housing accommodation that fell below Canada Mortgage Housing Corporation's (CMHC) own standards at that time. This effort hardly constituted a meaningful social housing program. At that time, the CMHC president felt that the "design of an emergency shelter was not to provide all the comforts of a community home and that to do so would encourage tenants to settle in and to cease searching for private market housing."¹²

The passage of the *National Housing Act* of 1944 further established the federal government's commitment to focus its assistance to would-be homeowners, a scheme that further excluded the poor due to equity requirement. Low interest loans at 3% were granted under the *Act*. Rose asserts that "the Act made the general taxpayer subsidize several hundreds of thousands of privileged families ..."¹³

Bacher notes that "reliance on the private sector and political and ideological resistance to extensive government role in subsidizing non-market housing for low income people was so great that a national public housing program was not implemented until 1949."¹⁴ From this year until 1992, the federal government introduced and implemented five major programs as follows:

- Public Housing Program
- Non-Profit and Cooperative

¹² David Mansur, "Memo for C.D. Howe re Emergency Shelter," PAC, RG19, Vol. 728, File 203 (CMHC: 1947), quoted in Bacher and Hulchanski, "Keeping Warm and Dry," 158.

¹³ Albert Rose, "Essential Elements of a Canadian Housing Policy," in *The Right to Housing*, ed. Michael Wheeler, (Montreal: Harvest House, 1969), 67.

¹⁴ John C. Bacher, "W.C. Clark and the Politics of Canadian Housing," in *Urban History Review Vol. XVII, No. 1*, (Winnipeg: Institute of Urban Studies, University of Winnipeg, 1988), 5-15.

- Rent Supplement
- Special Needs Housing
- Urban Native Housing

Except with Native Housing, these ventures were mostly cost-shared between the federal and provincial governments and in some cases, with municipal governments.

Under the **Public Housing Program**, CMHC provided long term loans to provinces or municipalities for the acquisition, development and construction of a public housing project. Seniors, families and people with disabilities who were considered poor at that time were the direct beneficiaries of this Program. Fallis notes that “only a small fraction of eligible households were able to live in these projects, and there was always a waiting list.”¹⁵ Rents charged to the occupants were based on the federal or provincial rent-geared-to-income scale and generally 25% or less of the household income.

The program was subsequently scrapped in 1964 as negative sentiments within the federal bureaucracy began to surface. For instance, the Federal Minister responsible for housing in 1956 stated that “we would be justified in using public funds for housing only where private enterprise fails to meet the need”¹⁶ while a member of the CMHC Board of Directors concluded that “public housing should be based on economic and urban development considerations primarily and ... the needs of individual tenants should be secondary.”¹⁷

¹⁵ Fallis, Government's Role, 24.

¹⁶ Michael Dennis and Susan Fish, Programs in Search of a Policy: Low Income Housing in Canada. (Toronto: Hakkert, 1972), 173.

¹⁷ Ibid., 174.

Hulchanski further notes that public housing program was phased out due to "dissatisfaction with large scale public housing projects for the poor."¹⁸ Guest writes further, indicating that:

As with all programs aimed exclusively at the poor, the residents of those public housing projects felt stigmatized, not only because their place of residence clearly identifies them as both poor and dependent, but because living in public housing underlines their own failure to own their home...¹⁹

Policy makers suggested that large projects and homogeneity of beneficiaries contributed to the bad image of public housing program. Succeeding projects under the new **Non-profit and Cooperative Housing** saw "a shift to smaller projects and targeting a mix of low and moderate income levels to integrate assisted housing into neighbourhoods."²⁰ New set of rules were also drawn: beneficiaries were income tested and deep subsidies were provided only to low-income tenants or to those genuinely in need.

The federal government provided different levels of financial assistance to projects based on the so-called global funding agreements between the provincial and the federal governments. Its financial assistance took the forms of subsidizing operating costs, including mortgage costs, of existing projects and providing a subsidy fund that may be used by a project in future years to offset project deficits (in the case of public and private non-profit projects) or as financial assistance to income-tested households (in the case of cooperatives).²¹ The task force which undertook the 1986 CMHC program review noted that "the cost of income mixing was high." The task force report also agreed that the scheme had "social benefits and lessen

¹⁸ J. David Hulchanski, Canada's Housing and Housing Policy: An Introduction. UBC Planning Papers, Discussion Paper #27, (Vancouver, B.C.: UBC School of Community and Regional Planning, 1988), 20.

¹⁹ Dennis Guest, The Emergence of Social Security in Canada. 2nd ed., rev. (Vancouver: University of British Columbia Press, 1990), 164.

²⁰ Doyle, "Housing and Children," 61.

²¹ Ministry of Supply Services, Housing Programs in Search of Balance. (Ottawa: Canadian Government Publishing Centre, 1986), 41-43.

community resistance to social housing projects.”²² Both non-profit and cooperative housing programs continue to operate along this scheme. However, the federal government no longer provides funding for new projects under these programs. Beginning 1993, Non-Profit Program has become a wholly provincial funded program in British Columbia.

The **Rent Supplement Program** provides subsidy assistance to tenants living in units owned and operated by private landlords. It was viewed as an alternative to public housing program which was strongly resisted by neighborhoods owing to large concentration of poor residents in one location. Rents charged to tenants under this program was based on rent-to-income scale. Participating provinces stipulated that no more than 25% of the units in any designated project will receive this type of assistance in order to guarantee the integration of low-income households in both the project and the neighborhood. The provincial governments have also fully taken over this program.

The **Special Purpose Housing Program** aims to provide appropriate accommodation to low- and moderate-income households with special care needs. Housing units that specifically catered to the needs of persons with disabilities, victims of family violence and senior citizens who need special care are built under this program, although non-profit and cooperative housing have provided units for the same target group. Doyle noted that with the shift to targeting core housing need in the '80s, CMHC was able to develop programs for very low income people with special needs such as single parents and victims of family violence.²³ Unlike in regular subsidized housing under public, non-profit and cooperative housing where subsidies were based on tenants' income, the transient nature of beneficiaries

²² Ibid., 45.

²³ Doyle, "Housing and Children," 62.

under special purpose housing program required full subsidy. This program is now exclusively being implemented by the provinces.

The **Urban Native Housing Program** was aimed to provide decent and affordable housing for Native Canadians who are living off reserves and near or in urban centers. Special emphasis is given to Native organizations in developing and administering this type of project. Federal assistance takes the form of providing cost subsidy and rent supplements to allow all tenants to pay no more than 25% of their income for rent. The task force report indicated that this is one program where provincial participation is most likely not to occur as provinces are reluctant to give priority to Native groups.²⁴ CMHC reported that although the program stays, no new projects were to be funded.

Prior to 1964, provincial housing corporations were non-existent. The 1964 amendments to the *National Housing Act* paved the way for the federal-provincial partnership in the delivery of housing programs. Rose notes that previously, provincial governments' reluctance to exercise a role in housing provision was due to lack of interest, motivation or financial resources.²⁵ The emergence of provincial housing corporations was viewed as a reflection of the growing strength of provincial governments and their willingness to assume a part, if not all of the tasks of program delivery. The sudden interests in sharing housing responsibilities was also a result of the federal government's willingness to provide funds. The partnership, though, is plagued with issues that ultimately affect the delivery of social housing.

²⁴ Minister of Supply and Services Canada, *Housing Programs*, 69.

²⁵ Albert Rose, "Canadian Housing Policies." in *The Right to Housing*, 94.

For instance, the delivery of social housing in Canada was criticized for being a partial and an exclusive system.²⁶ This may be attributed to the way government itself is organized. Banting notes that the *BNA Act* of 1867 created a federal system of government which has influenced "the size of the stock of social housing, its internal configuration, its redistributive consequences, and its responsiveness to changing economic and political circumstances..."²⁷ CMHC, the federal government's chief agency that is involved in policy and program delivery confirms Banting's theory. The Corporation defines the extent of federal involvement in social housing by determining specific social housing targets, the provincial distribution of these targets, and the consequent financial allocation for each province. It also decides when the programs end.

Federal-provincial struggle in social welfare, including social housing delivery has also been characterized by changing political attitudes in both levels of government. To illustrate, when the local and private nature of social welfare proved inadequate at the turn of the century, the provinces assumed the responsibility only to appeal to federal government for assistance as the problems of lack of accommodation and unemployment emerged after the first World War. The federal government took over in the 1920s and 1930s; as the economy improved, the provinces demanded their share in federal funding allocation, asserting once again their supremacy in program delivery.

This was reflected in the early challenge against federal supremacy in social housing that was staged by the provincial government of Ontario in 1964. The province refused to

²⁶ Hulchanski, *Canada's Housing*, 37.

²⁷ Keith G. Banting, "Social Housing in a Divided State," in *Housing the Homeless and the Poor: New Partnerships among the Private, Public and Third Sectors*, eds. George Fallis and Alex Murray, (Toronto: University of Toronto Press, 1990), 115.

allow its municipalities to take advantage of the amendment to the *National Housing Act* where municipalities were afforded financing choices and were expected to take an active role. The provincial government of the day asserted that "if advantage is to be taken of the new provisions of the *National Housing Act*, this will be on a direct federal-provincial basis."²⁸ The province further responded by establishing the Ontario Housing Corporation which "rapidly expanded into a powerful agency that competed on an equal basis with the expertise and administrative capacity of CMHC."²⁹ Soon other provinces followed in terms of establishing their own housing corporations or agencies. What transpired was a complete replication of CMHC programs and activities at the provincial level with provincial housing agencies standing firmly between the federal and municipal governments.

Since then, policies and programs on social welfare, including social housing, bounced between the federal and provincial agenda. The prevailing political climates on both sides of the federal/provincial bargaining tables also determined the odds that social welfare, especially social housing, could either be a federal or a provincial responsibility.

Changing priorities at the federal level have also affected the delivery of social housing. Recent budgetary announcements affect social welfare delivery, including social housing. The level of new unit commitments by the federal government nose-dived from a high of 20,000 in 1982 and 1983 to as low as 14,000 in 1991. No new units were committed after 1992.

In BC, a shift in the focus of assistance from purely social housing to a combination of social and market rental housing that started in 1990 is a reflection of the BC government's determined effort to encourage private investment in market rental development. The level of

²⁸Dennis and Fish, *Programs in Search of a Policy*, 146.

²⁹Banting, "Social Housing in a Divided State," 125.

unit commitment for social housing was 72% less than what was committed under market rental supply program. To illustrate, while there were 4,608 units committed under the rental supply program in 1991, only a total of 2,681 units were committed for social housing in the same year.³⁰

Changing attitudes in governing has also contributed to the continuing devolution of social housing responsibility from the federal to provincial governments, and lately, the on-going down loading of housing responsibilities to the municipal level. The passage of Bill 57 in British Columbia is a clear example of this phenomenon. Aimed at providing municipal governments with new powers to increase the supply of affordable housing,³¹ the Bill has effectively transferred the responsibility from the provincial to the municipal level.

Bacher also notes that due to the strength of trade union movement in many Scandinavian countries, a more comprehensive housing policy exists in these countries. He contends that the union movement is not as strong in Canada which results to a weak housing policy.³² Instead, Canada took after the United States in housing policy and program delivery. The trend has always been ad hoc and wary of disturbing the private market. The traditional emphasis has been less government intervention and less expenditure on social housing: the first being favoured by the private sector and the second a result of continuing fiscal restraint.³³

³⁰Figures were derived from BCHMC's annual reports.

³¹British Columbia Ministry of Municipal Affairs, Recreation and Housing, "Section Notes for Housing Affordability Legislation: Bill 57, Municipal Affairs, Recreation and Housing Statutes Amendment Act 1993." (Victoria: MMARH, 1993), 19

³²John Bacher, Keeping to the Market Place: The Evolution of Canadian Housing Policy. (Montreal and Kingston: McGill-Queen's University Press, 1993), 6-7.

³³Hulchanski, Canada's Housing., 46.

2.3.2 The Municipal Government

As the federal and provincial governments started to withdraw from social housing responsibilities, municipal governments became more involved, albeit in a cautious way. While policy and program delivery on affordable housing remain as a cost-shared or a unilateral program from either the federal or provincial government, the cities of Toronto, Vancouver and Ottawa have shown "that the weakest level of government could go it alone to achieve social housing objectives."³⁴ These cities established municipal housing corporations, an indication that the respective governments were prepared to tackle housing problems. Carter and McAfee also note that municipal government's involvement in the provision of affordable housing has been limited in scope and scale and is mostly pursued by major affluent cities where the need is more pronounced.³⁵ In a larger social planning context, this trend has emerged as part of the "ongoing pressure to accept a realignment of service delivery, responsibility and funding."³⁶

Municipalities indeed react to the issue of lack of social housing in different ways. Carter and McAfee contend that the municipal response to this issue is largely a function of "the city's affluence, degree of development patterns, levels of need, and political climates."³⁷ As such, municipal governments' response to the problem of lack of affordable housing may be what Carter and McAfee call the reactor, facilitator or comprehensive developer models.³⁸

³⁴J. Bacher, Keeping to the Market Place, 13.

³⁵Tom Carter and Ann McAfee, "The Municipal Role in Housing the Homeless and Poor." in Housing the Homeless and the Poor, 233.

³⁶Greg Halsey-Brandt, "Differences and Commonalities in Social Planning" in GVRD Proceedings : Greater Vancouver Social Futures Conference, (Vancouver: GVRD Development Services Department, 1991), 40, quoted in Felicity Adams, The Evolution of Municipal Social Planning, a thesis submitted to the University of British Columbia, (Vancouver: University of British Columbia, 1993), 16.

³⁷Carter and McAfee, "The Municipal Role.," 233.

³⁸Ibid.

In the reactor model, the municipality assumes a passive role where it confines its involvement in land use adjudication and inspection to ensure that the proposal is consistent with the overall local area plan and that it conforms with the prevailing regulations and standards. In the words of Carter and McAfee, such municipalities are “unable, unwilling and have concluded that it is unnecessary to assume an active role in the provision of affordable housing.”³⁹ Most municipalities in British Columbia fall under this model.

The municipality assumes a more active role in the facilitator model when it adopts a clear affordable housing policy, supports rezoning applications to affordable housing, expedites processing of applications, and provides land or other forms of subsidies. In this case, strong non-profit housing societies operate in the municipalities and an effective working relationship exists between the municipal government and the non-profit group. As a further indication of the facilitating function, some municipalities provide mandates to existing municipal department to assume specific social housing responsibilities.⁴⁰ The City of Vancouver is an example where a separate department has been created to directly deal with housing issues. The City has also initiated large projects in the 1970's such as the False Creek and Champlain Heights neighbourhoods which have a strong social housing component.

In the comprehensive developer model the municipality may create a separate housing department, source funds for projects, as well as design, implement and manage project portfolios. Unlike municipalities working under the reactor and facilitator models where responses are largely dependent on initiatives from senior governments, under the comprehensive developer model municipal involvement is more direct and each municipality is

³⁹Ibid.

⁴⁰Ibid.

willing to take on higher financial risk in the process.⁴¹ The City of Toronto is a prototype of this model. It is considered the most progressive in undertaking social housing initiatives as indicated by its pioneering efforts dating back from the early 1900s⁴² as well as its recent attempts to create affordable units through a mandatory inclusionary program.⁴³ As early as 1976, Toronto has been involved in research, land acquisition, construction, purchase and renovation, property management and coordination, and program and policy coordination,⁴⁴ all of which are focused on the mandate to acquire and provide affordable housing.

What has evolved though, within the past four decades is a strong municipal dependence on provincial governments in terms of program delivery. Municipalities still have to depend on senior governments in terms of social housing provision with each one's role limited to approving sites for future location of affordable housing projects. This trend is reminiscent of the philosophy that was exemplified in the 1928 Master Plan for Vancouver. In this Plan, Bartholomew maintained that housing was not within the scope of town planning and that such was an economic issue that required separate study:

Evidently, zoning, as well as other phases of a town plan, touch closely on the matter of housing. The housing problem, however, can be solved when the city or state is in the position to guarantee to every individual householder a wage sufficient for the payment of reasonable rent. While town planning can go far to create and maintain desirable housing conditions, it is beyond its scope, as outlined by the Provincial Acts, to concern itself with the very important economic problem involved in

⁴¹Ibid, 234.

⁴²Shirley Spragge, "A Confluence of Interests: Housing Reform in Toronto, 1900-1920," in The Usable Urban Past: Planning and Politics in the Modern Canadian City, eds., A. Artibise and G. Stelter, (Toronto: Macmillan of Canada, 1979), 247-263.

⁴³ City of Toronto, "Consultants' Report on Inclusionary Housing." (Toronto: Planning & Development Department, 1993).

⁴⁴ City of Toronto, Housing Policy Review 1976. (Toronto: City Housing Department, 1976), quoted in Carter and McAfee, "The Municipal Role.," 234.

such an understanding, a problem which demands separate study and treatment.⁴⁵

Two factors contribute to a strong provincial role in the development of local government in Canada and the subsequent weakness in municipal governments' role in areas such as affordable housing provision. Firstly, the tradition of strong provincial government originated from the country's colonial past where, for more than a century, a central government ruled from abroad. The dominance of central government is still evident in various functions such as audits and mandatory approvals, both of which are exercised by provincial governments in diverse areas as public education, health and environment. Such dominance by provincial governments may have restricted municipal governments from asserting their roles in social housing provision.

Secondly, the existence of municipalities is not guaranteed by the present Canadian Constitution. Instead, municipalities are considered statutory creatures of the provincial legislature.⁴⁶ Therefore, municipal governments can only exercise powers that are directly delegated to them by the provinces since "local self-governments cannot be described as autonomous of the provincial legislature that created them."⁴⁷ In BC, the limited statutory powers of municipal governments is considered a major stumbling block in asserting an active

⁴⁵Bartholomew, Harland and Associates, A Plan for the City of Vancouver, British Columbia. (Vancouver, 1928), 234, quoted in Laurie McKay, The Municipal Role in Housing: A Case Study of Burnaby, British Columbia. A thesis submitted to the University of British Columbia, (Vancouver, B.C., UBC, 1989), 8.

⁴⁶G. Hodge, Planning Canadian Communities, 116; William Lane, "A Frame of Reference - After Entrenchment: The Consequences for Local Government." in Meech Lake: From Centre to Periphery, eds., H. Symonds and H. Peter Oberlander, (Vancouver: University of British Columbia, 1988), 29 and Carter and McAfee, "The Municipal Role.," 228.

⁴⁷Ian MacKay Rogers, The Law of Canadian Municipal Corporations. 2nd Ed., (Toronto: The Carswell Company Ltd. 1986,) 1.

role in the provision of affordable housing. This led to the Provincial Commission on Housing Options' (COHO) strong recommendation to amend the *Municipal Act*.⁴⁸

In addition, "when municipalities take the initiative, it is often regarded with concern, if not hostility, by the provinces; and they face the problem of obtaining an adequate amount and continuity of funding from senior governments."⁴⁹ It is evident that to assert the role, municipal governments have to rely on senior governments for funding. This is based on the second problem that most municipalities face when they assume a direct role in affordable housing provision. Municipalities have limited tax base from which to generate adequate revenues for social-oriented projects.⁵⁰ This is best articulated by a former federal Minister of State for Urban Affairs in his May 1977 speech:

Property tax can be a serious constraint on municipal governments ... If a municipality levies a residential property tax at above average rates, the cost of shelter services will be higher in the community relative to the price in other communities. If a community levies a higher than average non-residential property tax, investments in factory buildings and other assets subject to property tax will be less than profitable than elsewhere.⁵¹

While existing statutory and fiscal constraints may appear to deter municipalities from pursuing affordable housing initiatives, municipal governments have assumed certain delegated

⁴⁸Elain Duvall and Michael Audain, The Report of Provincial Commission on Housing Options: New Directions in Housing Affordability. (British Columbia: Ministry of Municipal Affairs, Recreation and Housing, 1992), 122-123.

⁴⁹Carter and McAfee, "The Municipal Role,," 238.

⁵⁰Ibid and J. David Hulchanski, Margaret Eberle, Michael Lytton and Kris Olds, The Municipal Role in the Supply and Maintenance of Low Cost Housing: A Review of Canadian Initiatives. (Vancouver, B.C.: University of British Columbia), 8.

⁵¹Andre Ouellet, "Remarks by the Minister of State for Urban Affairs to the Annual Meeting of the Federation of Canadian Municipalities." Toronto, May 1977, quoted in Carter and McAfee, "Municipal Role,," 239.

powers that affect land development. Included in this pool of delegated powers are the following:⁵²

- formulation of community plans - a general statement of municipal goals and policies to guide future development;
- adoption of subdivision controls - the regulation of lot size, servicing and road patterns and development fees;
- adoption of zoning and land use controls - the regulation of the use, height, density and the minimum standards (or maximum limits) with respect to built form;
- implementation of building approval process - the review process which ensures that plans for proposed buildings comply with building regulations;
- implementation of land development approval process - the process and speed at which the municipality assesses and decides on proposed development applications; and
- adoption of minimum standards regulations - the regulations on standards of maintenance.

Obviously, the creation of affordable housing units does not explicitly form part of any of these planning and regulatory functions as exercised by Canadian municipalities. In contrast, the American Bar Association's ad hoc Advisory Commission has confirmed that a municipal government in the United States has the capability to be directly involved in affordable housing provision within the context of its planning function:

...every municipal comprehensive plan have a housing plan; ... that municipalities should have an affirmative legal duty to plan for housing in a regional context, to eliminate low-and moderate-income housing barriers and offer incentives to private developers for such housing; that there should be a statutory declaration of state and regional housing needs geared to local municipal capacities; and that local

⁵²Hulchanski, et al., The Municipal Role, 10.

municipalities should retain major control over housing subject to such guidelines.⁵³

The State of California's housing element law exemplifies the Commission's findings. It "requires local governments to include in their comprehensive plans a housing element containing provisions for making housing available for people of all income levels, including housing for families of very low, low, and moderate income."⁵⁴

In Canada, it is recognized that, barring steep ideological differences among local politicians who shape local policies, municipal governments can pursue social housing commitments within the framework of these defined functions. For instance, municipalities in BC were required very recently to adopt an affordable housing policy under Bill 20 within the context of the Official Community Plan.⁵⁵ As a component of the OCP, this policy gives municipalities the legal "blessing" to pursue the creation of affordable housing within their respective jurisdictions. However, Bill 20 is short on providing the municipalities with direct legal mechanism through which actual units may be created.

In practice, a number of BC municipalities have engaged in various innovative strategies to create affordable housing within the context of a municipality's planning and regulatory functions.⁵⁶ These initiatives have taken various forms such as adoption of

⁵³C. McKim Norton, "Housing For All Under Law: New Directions in Housing." in Land Use and Planning Law. eds., Richard Fishman, (Cambridge: Ballinger Publishing Company, 1978).

⁵⁴Edward Weil and Stephen Ross, "Exclusionary Zoning in California: A Statutory Mechanism for Judicial Nondefense." California Law Review 67, (September 1979), 1167.

⁵⁵Municipal Councils of New Westminster, Burnaby, Coquitlam, Port Coquitlam, Surrey, Langley and Delta are among those who have responded to Bill 20.

⁵⁶Hulchanski, et al., The Municipal Role., 37-107.

demolition controls,⁵⁷ legalizing secondary suites in selected areas,⁵⁸ permitting duplex conversion,⁵⁹ implementation of Employee Housing Service Charge,⁶⁰ and generating funds through direct “gifts” or developer’s contributions for affordable housing.⁶¹ Municipalities recognize that the implementation of these measures are not without problems. For instance, landlords of buildings that are covered by demolition controls may just refuse to upgrade and maintain these buildings that could result to dilapidation and inadequate living conditions; secondary suites are still created outside of areas where they are permitted, thus, their adequacy for occupancy remains suspect; and Victoria residents are faced with high cost of conversion to legal duplex which may result in the proliferation of illegal conversion. As well, in the absence of any provision in the *Municipal Act* that allow municipalities to require developers to contribute money, such practice has no legal basis and can be subject to legal actions.

2.4 Problems Inherent in the Delivery of Social Housing Assistance

2.4.1 Reduced Funding

The previous sections have demonstrated that the delivery of social housing is largely dependent on the availability of financial assistance from senior governments. It is unlikely that affordable housing projects will be established in the absence of financial commitments from either the federal and/or provincial governments. At the time when federal commitment was available, the number of units that were committed by the federal government were matched

⁵⁷It is usually aimed at older buildings in inner cities such as Vancouver, Toronto and Montreal primarily to maintain low-cost rental housing.

⁵⁸The City of Surrey has adopted a policy where secondary suites can be legalized in specific neighbourhoods via Council-initiated rezoning.

⁵⁹The City of Victoria's zoning by-law permits conversion of large homes into duplex units in single family zoned areas

⁶⁰Proposed by the Resort Municipality of Whistler which requires new development projects to contribute to the stock of affordable housing.

⁶¹This is currently implemented by both the Township of Richmond and the City of Surrey.

with corresponding financial support and were allocated to various provinces. In turn, provincial governments provided a counterpart to federal funding by committing additional funding support. As federal commitments began to diminish and finally abolished, provincial governments had to assume the full responsibilities. Housing societies are now confronted with limited funding resource at a period when the need for affordable housing units has become more critical.

2.4.2 Scarcity of Adequately Zoned Lands

Lands that are required for proposed affordable housing projects are becoming scarce as increasing demands for residential development and other uses emerge. Duvall and Audain consider this as the most significant factor affecting the creation and the price of housing in British Columbia.⁶² The problem is compounded for affordable housing projects which, in almost all cases, require lands that are zoned multi-family. The difficulty in acquiring the appropriate zone and how the zoning by-law discourages the creation of affordable housing units are discussed under a different heading in this thesis.

2.4.3 Public Opposition

Property owners oppose the concentration of poor individual and families within their neighbourhood and assume that the project will decrease the value of their single family homes, a sentiment that Dear believes fuelled public opposition in the early decades.⁶³ The City of Surrey, for instance, has witnessed projects being abandoned as a result of strong public opposition. At least two most recent applications in the City were abandoned and a new site

⁶² Elaine Duvall and M. Audain, The Report of Provincial Commission on Housing Options: An Executive Summary. (British Columbia: Ministry of Municipal Affairs, Recreation and Housing, 1992), 5.

⁶³ Michael Dear, "Understanding and Overcoming the NIMBY Syndrome." Journal of the American Planning Association, Vol. 58, No. 3, (Chicago: American Planning Association, Summer 1992), 290.

had to be identified as a result of strong public opposition. The British Columbia Housing Management Commission (BCHMC) has also confirmed that proposed affordable housing projects in Matsqui and New Westminster were recently abandoned for the same reason.⁶⁴ A similar project failed to get council approval in the City of Vancouver due to strong opposition by the neighbourhoods.⁶⁵ Carter and McAfee further confirm this phenomenon indicating that:

Nearly every major city in Canada can document several incidents where projects have been stopped or placed in less than adequate surroundings because of the reaction of resident groups.⁶⁶

2.5 Limitations and Challenges of Zoning As A Municipal Tool

While almost every proposed affordable housing site requires a rezoning, municipal governments have not actually devised a zoning by-law that allows affordable housing as a specific use. Housing experts agree that the exclusionary character of the by-law does not encourage the creation of affordable housing units. The following discussion presents an analysis of the inherent weaknesses of this municipal tool.

2.5.1 A Short History of the Zoning By-law

The law of nuisance is considered the basis of land use control in Canada.⁶⁷ It is rooted in the English common law which, among other things, deals with property rights and the limits by which an owner may use his or her property in relation to the adjoining property owners.⁶⁸ These prescriptions conform to the basic nature of land ownership in Canada, i.e.: the

⁶⁴ As confirmed by BCHMC staff, proposed projects in these municipalities were abandoned by proponents despite BCHMC's provision of a conditional unit allocation.

⁶⁵ The Vancouver Sun, *Council rejects 64-unit rental project in Kerrisdale*. April 6, 1990.

⁶⁶ Carter and McAfee, "The Municipal Role," 243.

⁶⁷ J. B. Milner, ed., *Community Planning, A Casebook on Law and Administration*. (Toronto: University of Toronto Press, 1963), 3.

⁶⁸ G. Hodge, *Planning Canadian Communities*, 110.

Sovereign is the ultimate owner; private persons are "very privileged tenants."⁶⁹ The dissimilarities in zoning practices between the US and Canada go back to the basic differences in defining property rights. The American Constitution spells out property rights; the Canadian Charter of Rights does not.⁷⁰ Thus, while judicial review of zoning practices in the United States is pre-occupied in determining whether a specific ordinance constitutes a "taking" or a violation of one's property rights, in Canada, the emphasis is whether the by-law is discriminatory in pursuing the public interest.⁷¹

The Canadian version of a zoning by-law appeared in 1904 when the provincial government of Ontario authorized the municipalities to pass and enforce by-laws "to prevent, regulate and control the location, erection and use of buildings for laundries, butcher shops, stores and manufactories."⁷² This districting method was adopted by the City of Toronto. The by-law defined frontage, building height and setbacks thus, ensuring that structures were built based on the limits set under the zoning by-law.

The province of Ontario was also a pioneer in supporting comprehensive zoning in Canada. Kitchener adopted the first comprehensive zoning by-law in 1924. By the end of 1920s, various Canadian municipalities followed the "districting" scheme that was pioneered by the City of New York in 1916, including the municipality of Point Grey, British Columbia in 1927 which was later extended to Vancouver when both cities were merged.⁷³ Toronto, on

⁶⁹W. T. Lane, "The Common Law as a Planning Instrument." Community Planning Review 1. (May 1951), 68-69.

⁷⁰G. Hodge, Planning Canadian Communities., 223.

⁷¹Ibid.

⁷²Ian MacF. Rogers, Canadian Law of Planning and Zoning, (Toronto: Carswell, 1973), 120.

⁷³Michael Goldberg and Peter Horwood, Zoning: Its Costs and Relevance for the 1980s. (Vancouver: The Fraser Institute, 1980), 14.

the other hand, waited until 1954 before its City Council enacted its first comprehensive zoning by-law.⁷⁴

Hodge notes that as the practice became prevalent in Canada, the “districting” method had to “meet the test of court challenges, especially with regard to the principle that it must apply universally and uniformly to all properties within their respective zones.”⁷⁵ This observation stemmed from the growing tendencies to create exclusive zoning districts, a practice that was argued in favour of “protecting property values from dramatic shifts due to the mixing of incompatible land uses.”⁷⁶ Van Nus described the trend as “elastic zoning” which he contends was aimed not to maximize efficiency but to protect land values.⁷⁷ This practice was consistent with the overriding objective of the market place: protection of private investment.

2.5.2 Zoning for the Development Industry

The early forms of land use regulations were largely piece-meal in approach and scope. They were hardly premised on a municipal-based community plan. Various planning and zoning literature indicate that early comprehensive zoning ordinances that were applied in various North American communities, including Canadian cities and municipalities did not have any direct link with any corresponding municipal plan.⁷⁸ A zoning ordinance and a municipal plan were viewed as separate elements. While planners in early 1920s recognized the link between the two, the town’s key players including property owners, politicians, developers,

⁷⁴Peter Moore, “Zoning and Planning: The Toronto Experience.” in The Usable Urban Past., 320.

⁷⁵G. Hodge, Planning Canadian Communities., 222.

⁷⁶Ibid, 223.

⁷⁷Walter Van Nus, “Towards The City Efficient: The Theory and Practice of Zoning.” in The Usable Urban Past., 226.

⁷⁸P. Moore, “Zoning and Planning.” in The Usable Urban Past., 316.

and real estate agents considered the use of zoning as a tool for the creation and maintenance of property values. Any link with city planning was coincidental.⁷⁹ As an example, Vancouver's first zoning ordinance of 1927 was adopted without the benefit of a municipal plan. It was only in 1929 that a combination of a plan and a zoning by-law for the city took effect.⁸⁰ Hodge further observes that a General Plan for Ottawa and Hull describing various land uses, population projections and street layouts, among other things, was established not as a basis for effecting land use regulations, but rather, to rationalize and provide support to the already existing land use regulations.⁸¹ Hulchanski further concurs that "prior to 1970s, there was no planning and zoning was designed and controlled by the real estate, mortgage lending and development industries."⁸²

This practice has consistently guided land use development elsewhere in Canada. The zoning by-laws allow a concentration of high density residential and commercial uses in central locations (downtown and town centre) where land values automatically increase as higher density development takes place. The concentration of higher density development in these locations responds to the real property owners desire to optimize the use of lands in an expensive location and thus, maximize profits. Evidently, the zoning by-law caters to the development industry, confirming Hulchanski's contention.

⁷⁹Ibid, 319.

⁸⁰G. Hodge, Planning Canadian Communities, 128.

⁸¹Ibid, 127.

⁸²David Hulchanski and Richard Drdla, "And Housing For All: Opening the Doors to Inclusive Community Planning." Plan Canada, (Ottawa: Canadian Institute of Planners, 1993), 20.

2.5.3 The Exclusionary Character of Zoning

A zoning by-law or ordinance determines specific ordering of land uses based on density, height and setback restrictions, among others. By pre-determining the type of land use as well as the siting, height and mass of a structure, a municipality is committing itself to excluding other unwanted land uses within its boundaries. The exclusionary character is pursued in several ways: use of density controls; minimum floor area requirements; required improvements; exactions of fees and bonds; and strict adherence to building and housing codes.⁸³ In British Columbia, the exclusionary character of zoning by-laws has been recognized even by developers. For instance, the Urban Development Institute suggests that density be measured in terms of floor space ratio (fsr) rather than by lot/unit per acre (upa), enabling the creation of more units or lots per acre, thus reducing the subsequent acquisition cost by future home owners.⁸⁴ To date, majority of municipalities still use the unit per acre method in determining density requirements. As a consequence, development sites yield bigger housing units but with lesser number of units. To illustrate, a 2.5-acre development site in Surrey has a potential to create as many as 54 units with a floor area of 1,200 square feet each.⁸⁵ However, since the by-law requires that density be determined by the number of units as well, the site is restricted to just 38 units. UDI believes that this system drives up the cost of housing.

⁸³Richard Babcock and Fred Bosselman, Exclusionary Zoning: Land Use Regulation and Housing in the 1970s. (New York: Praeger Publishers, 1973), 9-14.

⁸⁴Urban Development Institute, "Pacific Region on Homeownership Affordability: A Discussion Paper." (Vancouver, May 1990), 10.

⁸⁵Based on RM 15 Zone of Surrey Zoning By-law No. 12000 where FSR stands at .60 and UPA at 15 units.

Exclusionary zoning practices are rooted in the common law of nuisance which upholds the individual's unhampered use of property for as long as the use does not impose hardships on his or her neighbours. Literature on American regulatory reforms that address housing issues confirms that zoning and subdivision requirements can so drive up the cost of housing that they effectively exclude from a community all but the wealthy.⁸⁶ In response, various legal cases in the United States have been brought to courts, but decisions in favour of upholding exclusionary practices are not uncommon. When land use conflicts between single family and multi-family residential arise, property-rights oriented courts have been quick to declare that indeed, "apartments can be parasites in single-family residential neighbourhoods."⁸⁷ This is consistent with Hodge's observation that zoning has been used in Canadian municipalities to exclude two- and three-family dwellings from single family zones because renters of these multi-family dwellings are considered less stable than home owners.⁸⁸ Two leading legal experts in the US further confirmed in their research that the zoning ordinance's exclusionary character is evident in the outright prohibition of multi-family residential uses, or if allowed at all, only in designated areas.⁸⁹ The existence of a hierarchy of residential zones from single family to multi-family and by limiting multi-family designations only in specific locations support this contention.

⁸⁶Carolyn Burton, "California Legislature Prohibits Exclusionary Zoning, Mandates Fair Share: Inclusionary Housing Programs a Likely Response." San Fernando Valley Law Review 9, (1981), 19.

⁸⁷James Blumstein, "A Prolegomenon to Growth Management and Exclusionary Zoning Issues." Law and Contemporary Problems 43, (Spring 1979), 10.

⁸⁸G. Hodge, Planning Canadian Communities., 131.

⁸⁹R. Babcock and F. Bosselman, Exclusionary Zoning: Land Use Regulation and Housing in the 1970s. (New York: Praeger Publishers, 1973), 7.

This observation also confirms Goldberg's and Mark's position that "zoning by-laws are negative and limiting controls ... they do not produce a supply of new housing."⁹⁰ Hulchanski goes farther by suggesting that "zoning, as a whole, continues to be used to keep ethnic minorities, lower income households, renters and additional populations of any kind out of the neighbourhood."⁹¹ This conclusion is further found in Fallis' statement declaring that:

Zoning can be used, not just to regulate externalities, but to exclude certain types of people from a community or neighbourhood ... zoning can be used to keep out low income households and racial minorities if they have low incomes.⁹²

The zoning by-law's exclusionary character is further confirmed by the fact that while a number of zoning by-laws allow senior citizens' housing as a specific use and a care facility as a distinct zone, the prevailing zoning by-laws in Canada have consistently overlooked the need to allow affordable housing as a distinct use under multi-family zones, much less provide a specific zone for the same purpose. Some may argue that existing multi-family zones can already accommodate this particular use. However, current practices consistently suggest that a multi-family zone does not automatically create affordable housing. This is compounded by the fact that multiple-residential designated lands that accommodate multi-family zones are only a fraction of a municipality's buildable area,⁹³ thus, further limiting the amount of land for affordable housing. This study argues that current zoning practices do not encourage the creation of affordable housing.

⁹⁰ Michael A. Goldberg and Jonathan Mark, "The Roles of Government in Housing Policy: A Canadian Perspective and Overview," Journal of the American Planning Association 51, No. 1, (Chicago: American Planning Association, Winter 1985), 39.

⁹¹ D. Hulchanski and Drdla, "And Housing For All.," 20.

⁹² Fallis, Government's Role., 17.

⁹³ Anthony Downs, "Growth Management: Satan or Savior? Regulatory Barriers to Affordable Housing," Journal of American Planning Association Vol. 58, No. 4. (Chicago: American Planning Association, Autumn 1992), 420.

2.6 Affirmative Zoning

This section of the chapter outlines current affirmative zoning initiatives that are being undertaken in various jurisdictions in both the US and Canada primarily to demonstrate the availability of such initiatives.

2.6.1 Affirmative Zoning Defined

Affirmative zoning is a municipal-based strategy that operates within the framework of a municipal zoning by-law primarily to ensure the creation of affordable housing units. Four examples are put forward by Drdla as follows:⁹⁴

- **inclusionary zoning** which requires or encourages all or certain prescribed market housing developments to contain some proportion of affordable housing;
- **linkage programs** which require non-residential developments, often major office projects that have been granted the requested zone, to support affordable housing, usually through contributions of fees;
- **incentive or bonus zoning** which induces the provision of affordable housing, or other public benefits, in exchange for office density bonuses; and
- **transfer of density rights** which preserves and rehabilitates existing low income units by allowing their undeveloped “air rights” to be added to office developments on other sites.

Both inclusionary and bonus zoning have the potentials to directly create affordable housing units. Drdla writes that municipal governments’ preferred option is the construction of

⁹⁴ Hulchanski and Drdla, “And Housing for All.,” 24.

new housing units,⁹⁵ an option that supports supply side formation in light of increasing demand. Carter and McAfee see affirmative zoning as “the use of zoning to include rather than exclude the poor”⁹⁶ while Stone considers it as “an affirmative obligation to encourage production of low-income housing.”⁹⁷ Burton defines affirmative zoning as “... required in order to provide housing for low and moderate income households.”⁹⁸ These definitions indicate consistency in addressing targets of affordable housing.

2.6.2 Affirmative Zoning Initiatives

Affirmative zoning is an American phenomenon and is just beginning to be adopted in Canada. The concept evolved in the United States in the '70s and '80s when economic disparities were increasing between American central cities and the suburbs.⁹⁹ The states of New York, New Jersey and Pennsylvania are considered pioneers in developing affirmative zoning initiatives after exclusionary zoning ordinances were struck down as unconstitutional.¹⁰⁰ The trend is a result of New Jersey's *Mount Laurel* cases of 1975 and 1983, in which the state supreme court obliged municipalities to provide for their “fair share” of the low- and moderate-income housing needed for their region.¹⁰¹

Examples of actual affirmative housing initiatives in US jurisdictions include current practices in two California cities of Irvine and Chula Vista. Residential development projects in

⁹⁵ Ibid.

⁹⁶ Carter and McAfee, “The Municipal Role,” 252.

⁹⁷ M. Stone, *Shelter Poverty*, 253.

⁹⁸ C. Burton, *California Legislature*, 28.

⁹⁹ A. Mallach, *Inclusionary Housing Programs: Policies and Programs*. Centre for Urban Policy Research, (Rutgers: New Jersey, 1984), 5.

¹⁰⁰ Ibid., 19.

¹⁰¹ Richard Judd and David Paul Rosen, *What the Law Says* in “California Sweet-talks Its Way into Affordable Housing.” by Morris Newman, *Planning Vol. 57, No. 1*, (Chicago: American Planning Association, February 1993), 19.

Irvine are required to set aside up to 25% of units for affordable housing while projects with 50 or more units are expected to set aside 10% of these units for same purpose in Chula Vista in San Diego.¹⁰² The strategy is called inclusionary zoning. Municipal governments are not bound to compensate developers for the costs of setting aside a certain percentage of units as affordable. Density bonusing, on the other hand, suggests that in exchange for a higher density that is otherwise not permitted under the existing zoning by-law, the developer is required to set aside a specific number of units as affordable. This is also practised in Chula Vista.¹⁰³

Density bonusing appears acceptable to both the Canadian municipal governments and the development industry. The strategy is in effect in Ontario municipalities where Bonus By-laws have been adopted primarily to exact affordable housing units out of proposed developments.¹⁰⁴ Ontario's Ministry of Municipal Affairs sees it as "intended to provide incentives to encourage private sector involvement in the achievement of stated public objectives, such as the provision of special or assisted housing..."¹⁰⁵ Ontario's strategy calls for a direct partnership between the developer and the municipality. The commitment is eventually embodied in an agreement.¹⁰⁶

In 1989, the Urban Development Institute (UDI) in British Columbia recommended that municipalities should provide density bonus when developers are willing to finance and/or develop affordable rental housing.¹⁰⁷ UDI believes that bonusing should be carried out only

¹⁰²Morris Newman, "California Sweet-talks Its Way into Affordable Housing." *Planning*, 17-19.

¹⁰³Ibid.

¹⁰⁴Province of Ontario, "Increasing Housing Choices: Implementing Guidelines for the Land Use Planning for Housing Policy Statement." (Ontario: Ministries of Municipal Affairs and Housing, 1989).

¹⁰⁵Province of Ontario, "Increased Height and Density (Bonus) Provisions - Section 37," Guideline #8., (Ontario: Ministry of Municipal Affairs, 1983).

¹⁰⁶Ibid.

¹⁰⁷Urban Development Institute, *The Provision of Affordable Rental Housing*. Submission to the Minister of Social Services and Housing, (Vancouver, B.C. January 1990), 17.

when this strategy and its implementing mechanisms form part of the OCP.¹⁰⁸ Even before this strategy was articulated by the development industry, developers who operate in the City of Vancouver have already been accorded additional density or density bonus when they provide social housing,¹⁰⁹ among other things while the City of North Vancouver allows an increase of 10% additional floor area above the allowable density level if the applicant sets aside units as non-market.¹¹⁰ Vancouver's initiatives are embodied in the Coal Harbour Official Development Plan which indicates that:

... as an incentive for the construction of market rental units not exceeding a net unit size of 70 square metres, a further allowance of these kinds of units, totalling up to 0.5 net floor space ratio, may be permitted...

Twenty percent of the total number of the basic residential allowance of dwelling units shall be made available to core-need households.¹¹¹

However, inclusionary zoning and density bonusing depend, to a great extent, on how well the housing market operates. Units are created only through the benevolence of the private sector. Developers will respond to density bonusing to the extent that the increase in density (bonus) compensates for the number of units that will be set aside as affordable. As further experienced in Surrey, developers would rather contribute to the Affordable Housing Fund rather than set aside units as affordable. Development projects in Surrey have not created a single affordable housing unit under this scheme.

¹⁰⁸Ibid.

¹⁰⁹City of Vancouver, "Policy Report to City Council." (City of Vancouver, B.C.: Vancouver Housing and Properties Department, February 1994), 2.

¹¹⁰District of North Vancouver, "Affordable Housing Policy." (District of North Vancouver, B.C.: District of North Vancouver Planning Department, 1992).

¹¹¹City of Vancouver, Coal Harbour Official Development Plan. (Vancouver, B.C.: Vancouver Planning Department, 1990), 12.

On this basis, the thesis argues that both density bonusing and inclusionary zoning are inadequate in terms of directly creating affordable housing units. Instead, it contends that the inclusion of affordable housing as a distinct zone within a municipal zoning by-law serves as the ultimate form of affirmative zoning.

The use of zoning by-laws as a mechanism by which affordable housing is defined as a distinct use is not uncommon. Zoning by-laws that explicitly create special housing as a specific zone have been in place in some BC municipalities. As of 1991, the City of Port Coquitlam was considering the creation of a distinct and separate zone for Group Home Use as part of its social housing policy.¹¹² The City of New Westminster allows group homes provided they are located in specific areas of similar densities, in sites that have been zoned for institutional use and in buffer or transition zones.¹¹³ This strategy has been in place in Surrey from as early as 1978. Zoning by-law No. 5942 permitted care facilities under the PP-1 and PP-2 zones. This use was further incorporated in the new zoning by-law, confirming further the acceptability of special zones for special purposes. As well, both by-laws recognize seniors' housing as a permitted use, thus according the use a legitimate place in the zoning by-law.

2.6.3 Bill 57: Provincial Confirmation of Affirmative Zoning in British Columbia

As discussed earlier, municipal governments in British Columbia have been undertaking a variety of affordable housing initiatives without the benefit of provincial legislation. The Ministry of Municipal Affairs, Recreation and Housing recognizes that "density bonusing is a

¹¹²City of Port Coquitlam, "A Social Housing Policy for the City of Port Coquitlam." (Port Coquitlam, B.C.: Coquitlam Planning Department, August 1991), 16.

¹¹³City of New Westminster, "Locational Guidelines for Group Homes." (New Westminster, B.C.: New Westminster Planning Department, 1990).

common practice by local government in spite of a lack of explicit authority.”¹¹⁴ Duvall and Audain identify this shortcoming and articulate the following recommendations in the Commission’s report:¹¹⁵

Recommendation #53

The *Municipal Act* should be amended to provide municipalities with the authority to establish inclusionary zoning by-laws as means to produce additional affordable housing.

Recommendation #54

The *Municipal Act* should be amended to provide municipalities with the authority to use bonus density and the transfer of density rights as a means to produce additional affordable housing.

In response to these recommendations, the provincial legislature adopted Bill 57 in 1993 which “gives local governments new powers to increase the supply of affordable housing in British Columbia.”¹¹⁶ The Bill specifically repealed the community planning provisions of the *Municipal Act* and the *Vancouver Charter* and now permit municipalities to:¹¹⁷

- create comprehensive development zoning;
- implement density bonusing in exchange for amenities;
- designate land within a zone for affordable or special needs housing with the consent of the owner; and
- enter into housing agreements with developers.

¹¹⁴British Columbia Municipal Affairs, Recreation and Housing, “Section Notes for Housing Affordability.” 16.

¹¹⁵Duvall and Audain, *Report of the Provincial Commission*., 123.

¹¹⁶British Columbia Ministry of Municipal Affairs, Recreation and Housing, *Section Notes for Housing Affordability*., 19.

¹¹⁷*Ibid*, 16-18.

Specifically, Section 963.1(1) of the *Municipal Act* enables local governments to vary densities within a zone. Given this provision, a municipal zoning by-law may be adopted to allow higher densities in a specific area if the developer meet certain conditions.¹¹⁸ Further, the new legislation gives municipal governments the authority to adopt a zoning by-law that “may designate an area within a zone for affordable housing or special needs housing...” under Section 963.1(3). This piece of legislation is the first of its kind in British Columbia and is considered a major landmark in the field of affordable housing provision. It further validates and legalizes the affirmative zoning initiatives that have been undertaken by a number of jurisdictions in British Columbia.

¹¹⁸ As an example, a townhouse project in Surrey can only be granted a maximum density of 15 units per acre, assuming further that the site is at least one hectare in size. Under the zoning by-law, a two-acre site can only have 34 units while a full hectare can have 37 units. Theoretically, under the new legislation, a site with less than one hectare may be allowed to accommodate 37 units when the site provides affordable housing.

III. THE CITY OF SURREY: A CASE FOR AFFIRMATIVE ZONING

3.1 Introduction

This chapter of the thesis presents City of Surrey as a putative case for which the issues on affordable housing provision can be analyzed within the following context:

- the City's current planning practices and policies;
- the role of zoning and why, together with the Official Community Plan, it currently hinders the creation of affordable housing;
- the City's targets for affordable housing;
- its past and current role in the process of creating affordable housing; and
- the opportunities for affirmative zoning.

This thesis argues that the City's capability to generate more affordable housing units is hampered by the limitations of its zoning by-law. In the words of Stanbury and Todd:

The chief villain (in the shortage of affordable housing) is a web of local zoning and land use regulations which codify communities' determination not to have it. Originally intended to impose sensible order on growth, many ordinances now serve as barriers to all but the costliest new housing.¹¹⁹

The City's past and current zoning by-laws do not explicitly permit affordable housing as a specific use within a zone, much less provide a distinct zone for the same use. Instead, the use is accommodated under the existing multi-family zones. The practice, however, subjects proponents of affordable housing projects in Surrey to an expensive and acrimonious process. Existing multi-family lands designated by the 1983 OCP are found in more expensive locations

¹¹⁹ W.T. Stanbury and J.D. Todd, The Housing Crisis: The Effects of Local Government Regulation. (Vancouver, B.C.: The Laurier Institute, 1990), 4.

such as the town centres and the City Centre. These lands constitute a mere 2% of the City's total land area.¹²⁰ When proponents go beyond these areas in search of less expensive sites, they end up identifying a particular parcel that is almost always adjacent to a single family neighbourhood. In all cases, the parcel's current zone allows only single family use. Prior to granting development and building permits, the municipality requires the site to acquire the proper zoning in order to achieve a higher density that is required. The process involves internal and external review of the proposal, by-law introduction and public hearing, among other things (see Figure 1). The process could take as long as two years. As experienced in Surrey, the extended process is almost always due to the public opposition that the proposal generates. In some instances, the *not-in-my-backyard* (NIMBY) forces could prevail to the detriment of the project. To the neighbourhood, it is irrelevant that the proposed higher density use is permitted under the OCP. To each single family homeowner, the project when eventually built and occupied, will expose the entire neighbourhood to the perceived ills that are associated with affordable housing.

¹²⁰ City of Surrey, "The State of the City." in Official Community Plan Background Report No. 1. (Surrey, B.C.: City of Surrey Planning & Development Department, 1994), 7.

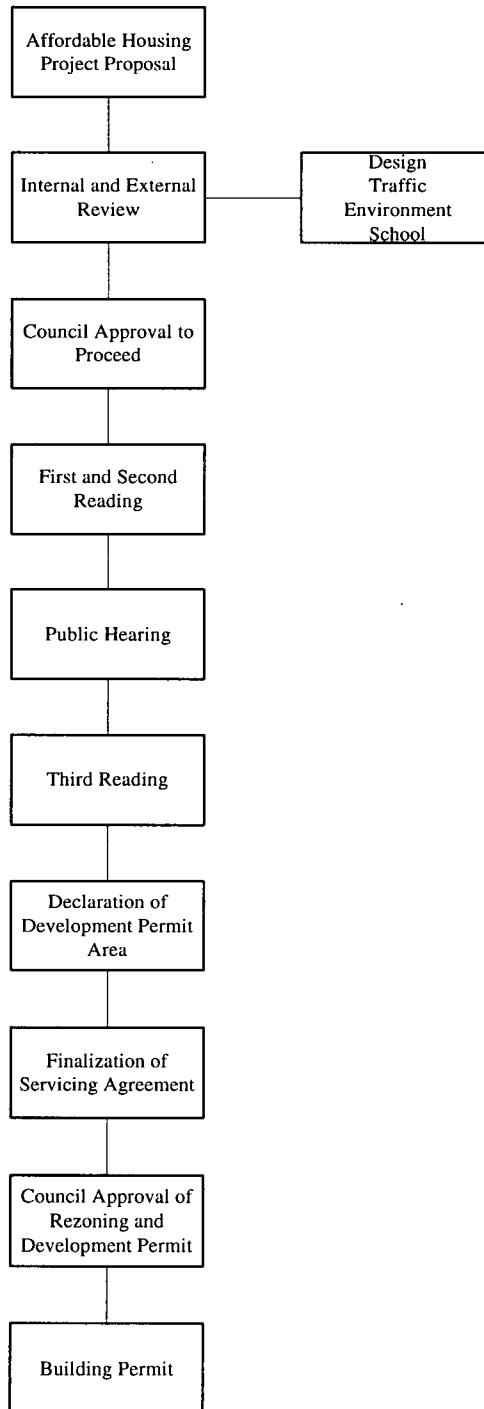


Figure 1. Standard Municipal Approval Process

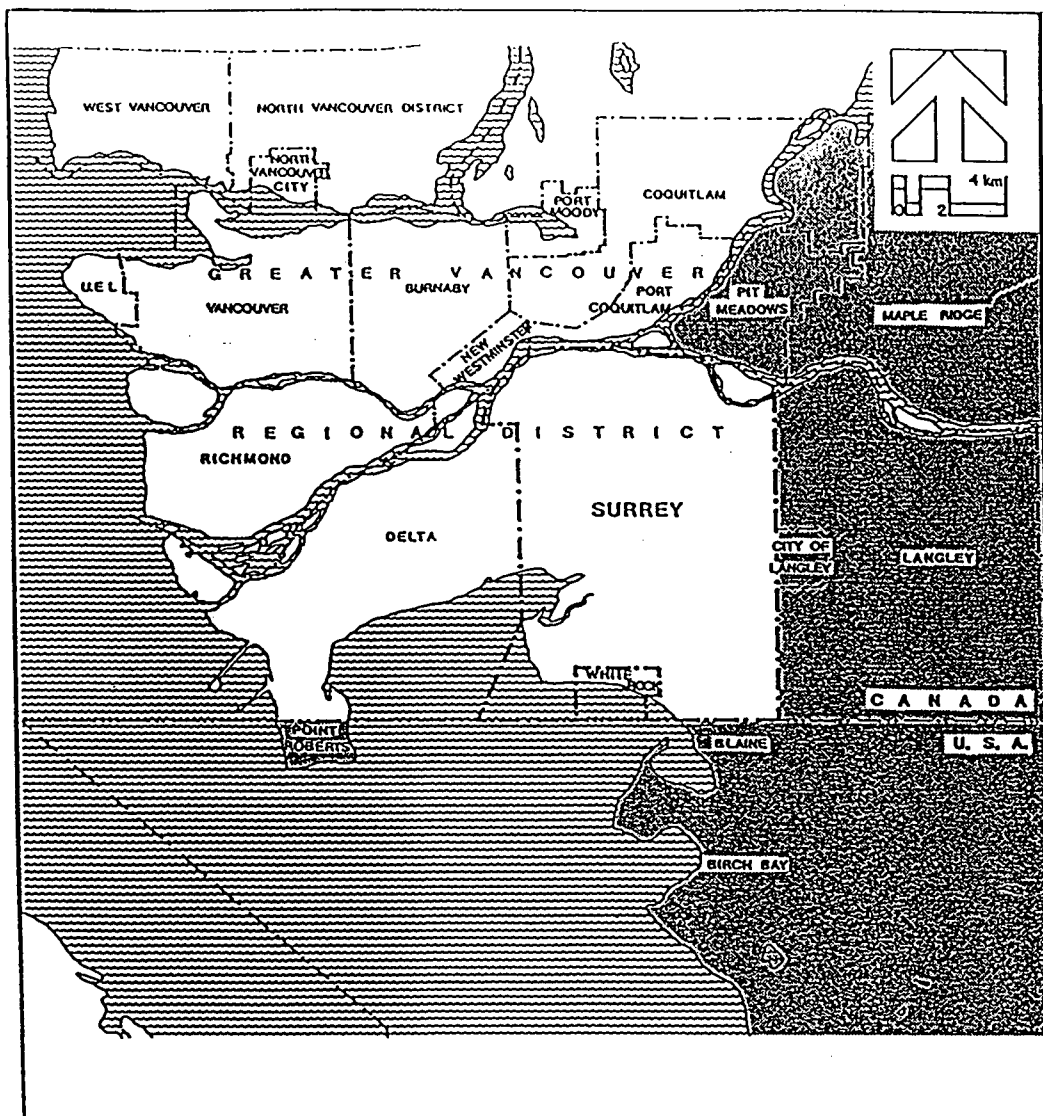
3.2 Planning Practice

Prior to OCP adoption in 1983, Surrey's land use development was guided by the zoning by-law that was in effect at that time. It was complemented by municipal by-laws that governed, among other things, subdivision, locations of municipal facilities and road construction. A municipal-wide plan that could have defined development objectives, future trends and implementation strategies was not available. Instead, a limited local area plan was drawn only for specific towns such as Whalley, Guildford and Cloverdale.¹²¹ These plans indicated the specific town's proposed land uses. Without the benefit of a municipal-wide area plan, Surrey was a classic example of a Canadian municipality that used the zoning by-law mainly to confirm existing development trends.¹²² The municipality's early zoning by-laws defined the boundaries of allowable uses based on what was existing at that time. There was no attempt to draw up a comprehensive municipal plan and establish the link with the then prevailing zoning by-law.

With the adoption of the OCP in 1983, land use development started to be guided by this statutory plan. To further articulate the policies that are embodied in the OCP, Local Area Plans for all the towns were formulated. The Local Area Plans provide a more detailed description of future land uses and were drawn either by planning committees, the Planning Department or in some cases, by local citizens' groups. These plans were eventually reviewed and approved by Council in principle, subject to modifications as needed in order to make them

¹²¹Surrey, a district municipality until September 1993, is now a city. It forms part of the Greater Vancouver Regional District (see Figure 2.) Figure 3 shows local area boundaries of towns such as Whalley, Guildford, Fleetwood, Newton, Cloverdale, and Semiahmoo. Figure 4 indicates location of town centres.

¹²²Van Nus, "Towards the City Efficient." in The Urban Usable Past, 236.



Surrey is part of the Greater Vancouver Regional District and is situated at the south shore of the Fraser River. Its southern boundary is the U.S.-Canada border.

Figure 2. Surrey in the Region

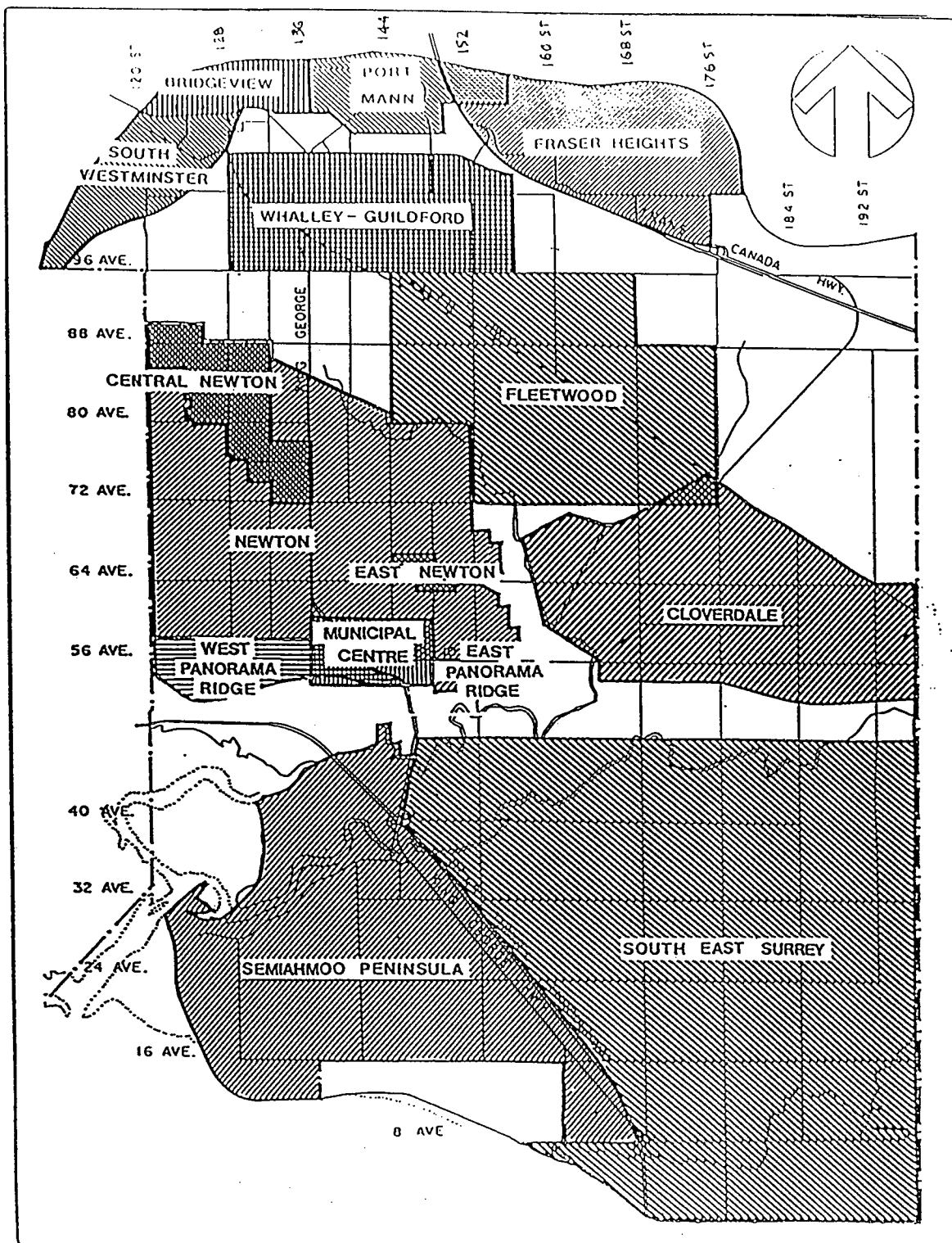


Figure 3. Local Area Boundaries

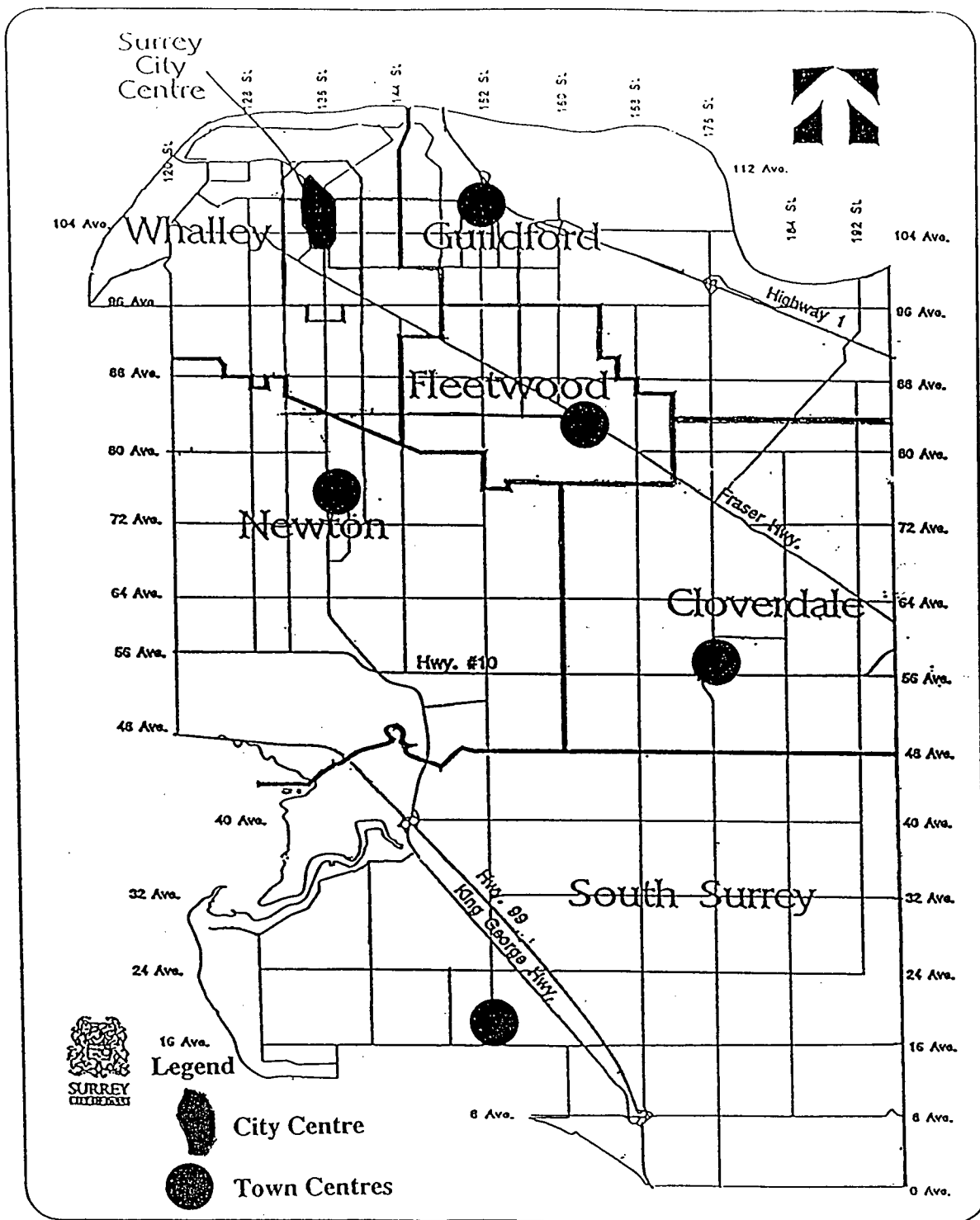


Figure 4. Location of City Centre and Town Centres

more compatible with the OCP. The Plans do not have a legal status and are used mainly for reference.¹²³ They do not include affordable housing as a potential land use.

The Neighbourhood Concept Planning (NCP) process emerged as a result of the 1990 Suburban Lands Review that eventually paved the way for the opening of major suburban areas for urban, multi-family and industrial development. The strategy was introduced to establish a process that will require developers and land owners, who will benefit from the proposed development in newly opened suburban lands, to contribute to the costs of providing community services and facilities such as sewers, roads, school, parks, library and police and fire protection. The policy of instituting neighbourhood concept planning was finally adopted by Council authorizing the Planning and Development Department to establish terms of reference for the formulation of Neighbourhood Concept Plan for specific areas.¹²⁴ The final terms of reference indicates that the strategy is a vital element in the planning process to ensure that "development pays."¹²⁵ While specific sites for parks and school were identified in the terms of reference as part of the amenity package that will be negotiated during the process, the same document does not include affordable housing as a negotiable amenity. In short, affordable housing does not form part of the NCP agenda. Beginning 1994, at least 12 areas or neighbourhoods are undertaking the NCP process in the City.

3.3 Planning Policies

Robert Waste suggests that local government policies are "actions, commitments and decisions taken by persons in authority in local government, and involving the allocation of

¹²³District of Surrey, Surrey Official Community Plan, By-law No. 7600. (Surrey, B.C.: District of Surrey, 1983), 377.

¹²⁴District of Surrey, "Minutes of Council Meeting." June 28, 1993.

¹²⁵City of Surrey, "Terms of Reference: Neighbourhood Concept Planning." (Surrey, B.C.: City of Surrey Planning & Development Department, 1993).

symbolic and/or substantive resources of government.”¹²⁶ Surrey’s decision makers develop policies in the course of governing the constituents. The current OCP expresses a wide range of policies that serve as general development guidelines. Specific policy decisions are defined in relation to these guidelines. In case of residential development, the OCP offers the following housing policy statements:¹²⁷

- **Policy 17: Residential Growth**

“That residential growth be monitored and a balance in quantity and type of housing accommodation be ensured.”

- **Policy 18: Housing Quality**

“That the quality of all major housing proposals be scrutinized early in the development process and that good design be emphasized over expensive construction materials or large sized units.”

- **Policy 19: Views and Waterfront**

“That waterfront and view properties suitable for residential development be given special consideration and development options be considered which benefit the greatest number of people, while maintaining a balance between density and environmental value.”

- **Policy 21: Cluster Housing**

“That housing developments in unique locations be encouraged to “cluster” on the site in order to preserve the natural landscape and topography.”

To a certain extent, the process of residential development in Surrey adheres to these policy statements. Enabling regulations such as the zoning by-law and more specific policies

¹²⁶ Robert J. Wast, The Ecology of City Policymaking. (New York: Oxford University Press, 1989), 10.

¹²⁷ District of Surrey, Official Community Plan. 160-168.

are in place that translate the above-mentioned policy statements in operational terms. For example, subdivisions to single family are required to conform to the Model Design Guidelines¹²⁸ to ensure good housing quality and large scale, commercial, industrial and multi-family projects are evaluated by the Advisory Design Panel (Policy 18). Special covenants between the City and property owners which may define building heights, setbacks and orientation are established to ensure protection of waterfront and view corridors (Policy 19). On the other hand, the zoning by-law provides a specific zone that allows cluster housing (Policy 21). The emergence of these guidelines and regulations supporting the above-noted OCP policy statements confirms the City's commitment to achieve certain defined objectives. In this case, it is "to provide for a variety of housing of good quality to satisfy the needs of all population groups."¹²⁹

It can also be argued that as the City's growth operates with the framework of the larger capitalist economy, its residential development process follows the same profit-motivated philosophy. For instance, the continuing demand for more land for urban development triggered the two-year 1990 Suburban Lands Review that eventually paved the way for major OCP amendments of suburban-designated landholdings in South Surrey, Cloverdale and Newton. The OCP amendments were initiated by the City in light of decreasing supply of urban lands in these areas.¹³⁰ Should the City decide to permanently lock in the suburban-designated lands in these areas under the same designation or refuse OCP

¹²⁸To further ensure compliance to the Design Guidelines, property owners are required to register the document under Section 215 against title of the parcel with Land Title Office.

¹²⁹District of Surrey, Official Community Plan. 160.

¹³⁰City of Surrey, "Manager's Report: Local Area Plans for East Newton, West Cloverdale and North Cloverdale." (Surrey, B.C.: City of Surrey Planning & Development Department, 1993), 9.

amendment, a shortage of supply of land could occur.¹³¹ Surrey staff confirmed that “to ensure a smooth housing market operation without constraints to housing production, the three communities warrant consideration for immediate opening.”¹³² With the subsequent approval of OCP amendment proposals in these areas, previously suburban-designated lands that could only be developed at a maximum density of two residential units per acre are now eligible for higher residential density development, sometimes up to 45 units per acre, under the new urban or multiple residential designation. Certainly, a developer or property owner can realize a higher profit margin when higher density development is permitted. The development industry (developers, agents, builders, and mortgage lenders) is expected to take this change in policy direction (from suburban to urban designation) in a positive way.¹³³

The 1994 OCP amendment to urban and multiple residential designations of more than 400 acres of suburban-designated lands in Rosemary Heights in South Surrey further confirms the determination of City policy makers to respond to market demands. More than 300 acres of these lands are currently part of the NCP process.

It should as well be noted that while social planning has been an integral part of the municipal development agenda for the majority of Lower Mainland's municipalities, Surrey embraced a social planning policy only in late 1989 following community advocacy for municipal involvement in addressing community issues such as seniors housing and lack of community facilities. A social planner was finally hired in the same year. This rather late

¹³¹Ibid.

¹³²Ibid.

¹³³Surrey/North Delta Leader, *Building boom continues in Surrey*. September 18, 1994 and *The Now, Surrey still booming*. October 5, 1994.

response to social planning issues is also a contributing factor to the inability of previous decision makers to elevate affordable housing as part of the larger social debate.

3.4 The City's Targets of Affordable Housing

This section of the thesis provides a background on the extent of affordable housing needs in the City of Surrey and the City's corresponding response to the issue of affordable housing provision. The extent of affordable housing needs can be measured in terms of extent of poverty and the status (quality and quantity) of housing accommodation that is available for those in need of affordable units. At present, there is no comprehensive account on the extent of affordable housing needs in Surrey. This section of the chapter relies on scattered statistics to draw some conclusions about the need for affordable housing.

As Vancouver started to become more crowded and expensive, people flocked to the suburbs. Clark describes this as a natural recourse for a segment of population in search of space. While Clark's theory was based on the experience of Toronto's suburbs, it can be surmised that the theory applies in Vancouver as well.

The suburbs attracted more than just those people who desired to live in them. People were forced into the suburbs in search of living space.¹³⁴

However, while affluent individuals and families may opt to move from Vancouver to the suburbs such as Richmond and Burnaby in search of green space, the trek of poor individuals and households to places across the Fraser River has been due to their search for affordable rental accommodation, an option that is becoming almost non-existent in Vancouver as a result of high immigration and increasing housing prices.¹³⁵ For instance, a two-bedroom

¹³⁴S.D. Clark, *The Suburban Society*. (Toronto: University of Toronto Press, 1966), 80.

¹³⁵The Weekend Sun, *Children of Poverty Special Report*. May 7, 1994.

suite rented for \$650.00 in Vancouver in 1988. The same type of accommodation in Whalley and Guildford were generally being rented out for \$450.00. Low rental rates became attractive to families and as a consequence, Surrey has served as a destination for many of these poor families. The opening of SkyTrain's Scott Road station in 1992 further contributed to the desirability of Surrey as a cheaper alternative to Vancouver. This has been further strengthened by the subsequent extension of SkyTrain's service to three separate stations along King George Highway in 1994.

The influx of poor families to Surrey is demonstrated by a further increase in welfare family caseloads. Between 1988 to 1993, people on income assistance in Surrey have grown by almost 69% from a total of 10,519.¹³⁶ By comparison, combined figures for City of Vancouver, Richmond and Delta registered an increase of 46% over the same period.¹³⁷ This suggests that Surrey is absorbing a higher share of families and individuals who are on income assistance. Also in 1993, an estimated 23% of Surrey's households were earning below \$19,900.¹³⁸ This represents at least 23,000 households. As of latest count, at least 8,000 lone parents in Surrey, most of whom are women, are considered poor while senior citizens also represent a sizeable number of people who are living in poverty. To date, more than 5,500 seniors live beneath the poverty line.¹³⁹ An annual income of \$16,186 is considered the poverty line for a one-person household. Surrey's poor seniors have an estimated annual

¹³⁶ As estimated by B.C. Ministry of Social Services.

¹³⁷ The Ministry provided a combined estimate for Vancouver, Richmond and Delta.

¹³⁸ Compiled by Planning & Development Department. Basic source of data was Revenue Canada

¹³⁹ Surrey/North Delta Leader, *Generation "S": The babies of the '20s and '30s - today's seniors- are silent victims of 1990s poverty*. August 14, 1994.

income of roughly \$9,600, at least \$6,000 of which is spent on housing which represents more than 60% of the annual income.¹⁴⁰

People on income assistance are almost always renters. In general, there are four sources of rental accommodation.¹⁴¹ These include the following:

- public housing, non-profit and co-operative housing units,
- secondary suites;
- rental apartment units; and
- condominiums and detached houses.

Out of these options, there are only two possible choices left to the poor citizens in Surrey:

- existing public housing, non-profit and co-operative housing projects which registered more than 3,300 units¹⁴² in 1992 and
- secondary suites.

The Semiahmoo Affordable Housing Society maintains a waiting list of those in need of affordable rental units in the Semiahmoo area which shows that families in need of non-market rental housing has grown from 175 to at least 250 families between 1989 to 1993.¹⁴³ These figures attest to the shortage of affordable housing units in Surrey. While market rental housing may be available, the problem of access to this type of accommodation is demonstrated by increasing rental rates in this sector.¹⁴⁴ Table 1 shows the comparative rates

¹⁴⁰ Ibid.

¹⁴¹ Greater Vancouver Regional District, "Affordable Rental Housing: Recommendations for an Affordable Rental Housing Strategy." in Choosing our Future. (GVRD: Development Services Department, 1990), 8-9.

¹⁴² As compiled by City of Surrey Planning & Development Department

¹⁴³ Based on interview with Society's staff.

¹⁴⁴ City of Surrey, "Surrey: The State of the City", Official Community Plan Background Report No. 2. (Surrey, B.C.: City of Surrey Planning & Development Department, 1994), 17.

among four selected municipalities for a two-bedroom and a three-bedroom townhouse and apartment units. While still lower when compared with other major cities such as Vancouver and Richmond, the rate in Surrey is still above GVRD's estimated affordable market rent of \$610.00.¹⁴⁵ Apart from being unaffordable, a recent research on market rental housing suggests that this form of housing accommodation is considered the least desirable due to insecurity of tenure which, in the long run, also affects children's welfare and well-being.¹⁴⁶ Instead, cooperative and non-profit housing are considered more conducive to child rearing.¹⁴⁷

Table 1. Average Rental Rates in Selected Cities: Apartments and Townhouses (\$/Month)

City	Apartment			Townhouse		
	1991	1992	1993	1991	1992	1993
Surrey	663	668	680	862	844	850
Richmond	754	746	769	930	944	984
Burnaby	728	735	748	957	943	932
Vancouver	830	872	909	1149	1269	1336

Source: CMHC Rental Market Report, October 1993

On the other hand, secondary suites offer another housing option for some. The emergence of the secondary suite as a distinct type of rental accommodation is considered a direct response to low vacancy rates brought by increasing population in the Lower Mainland and the continuing shift from rental construction to condominium development. GVRD considers secondary suite as a non-conventional source of rental housing.¹⁴⁸ The City of Surrey's Planning and Development Department estimates that there were at least 20,000 secondary suite units that provide rental accommodation in Surrey in 1993. While most of

¹⁴⁵Based on GVRD's estimates of cost of living for April 1994.

¹⁴⁶Doyle, "Housing and Children.," 57.

¹⁴⁷Ibid.

¹⁴⁸Greater Vancouver Regional District, "Affordable Rental.," 8.

these units are considered illegal,¹⁴⁹ secondary suites do provide affordable rental accommodation.¹⁵⁰ However, secondary suites have drawbacks as an affordable housing option. Interviews with secondary suite renters revealed common problems such as the following:¹⁵¹

- when ownership changes, the renter is not entirely assured that the suite will still be available for rental;
- new owners may have their own set of relatives or friends whom they prefer over the present renters;
- as most suites were built after the house had approval for occupancy, the units are most likely not up to plumbing and electrical standards;
- living arrangements between the main floor and the suites do not provide a sense of privacy on the part of suite occupants.

Safety concerns have likewise surfaced recently in the wake of increasing crimes that involved victims who were secondary suite renters.¹⁵² As well, a review of 2-bedroom suites that were advertised for rent between May to August 1993 indicates that on the average, suite owners are charging a monthly rate of at least \$550.00.¹⁵³ This is hardly considered affordable among Surrey's poor. However, although this type of housing accommodation does not provide an affordable, long term source of housing option for those who are in need of affordable housing units, secondary suites do provide an alternative source of market-oriented rental accommodation on a temporary basis. The secondary suites, while a source of

¹⁴⁹The City has approved very few rezoning applications under the Zoning By-law No. 12000 that allows secondary suite under Single Family Residential - Secondary Suite Zone.

¹⁵⁰Bruce Levens and Michael Goldberg, "Housing Needs in the District of North Vancouver." (Vancouver: SPARC, 1989), 22.

¹⁵¹A limited interview of about 30 suite renters in Surrey was conducted by the researcher during the month of May in 1993 to gather feedback on the adequacy of secondary suite as an affordable housing alternative.

¹⁵²Surrey/North Delta NOW, *Landlords scrutinized for security of suites*. April 9, 1994.

¹⁵³The review was confined to the advertising section of Surrey/North Delta NOW, a community paper that operates in Surrey and North Delta areas.

neighbourhood enmities and bureaucratic nightmares, fill the gap in a housing construction environment that is retreating from development of rental accommodation

3.5 The City's Zoning By-law

3.5.1 Early Versions

The original zoning by-law has gone through a series of revisions with the seventh version, By-law No. 12000, having been adopted by Council on September 13, 1993. A closer look on the evolution of the residential section in all versions of the by-law shows that this section has grown from two categories (One and Two Family Dwelling and Multiple Family Dwelling) to as many as 19 categories that range from Acreage Residential to Multi-Family Residential 135. Prior to 1965, Surrey's zoning by-law was reflective of the municipality's rural character. Commercial development was confined within Whalley and Cloverdale, the latter being the municipality's town centre then and where the earliest settlement occurred. Housing units that were built on smaller lot size (sometimes less than 450 square metres) were also concentrated in these areas.¹⁵⁴ The municipality was further characterized by strip residential development along municipal roads on acreage parcels.

The original zoning by-law of 1950 and as amended in 1953 contained two residential districts: the One and Two Family Dwelling District and the Multiple Family Dwelling District. The permitted uses within the Multiple Family Dwelling District included uses that were allowed in the One and Two Family Dwelling District as well as apartment buildings, group homes, boarding houses, parish halls, bath houses, and hospitals. The cumulative use was

¹⁵⁴ Other early settlements include Douglas and Crescent Beach communities in the Semiahmoo (South Surrey area).

typical of the zoning by-laws that were being adopted in this period. The residential density was measured in terms of the number of persons or families that occupy a housing unit.

In contrast, the amended by-laws (1965, 1978 and 1980) promoted a wider range of residential choices that permitted developers to build housing projects at varying densities that ranged from one to 70 units per acre, although under the more exclusive residential categories. Residential developments under these by-laws were based on exclusive zones where, for instance, the RT-1 zone (it permitted townhouse development with a maximum density of 15 units per acre) did not allow any higher density use within the zone.

3.5.2 Surrey's Zoning By-law: Its Link to the OCP

While changes in the City's land uses in the past were generally regulated by the zoning by-law, current land use development has been guided by both the OCP and the zoning by-law. The link between the OCP and the zoning by-law was firmly established when the concept of density gradient was subsequently incorporated in the OCP. The concept divided Surrey into several land designations. A maximum density for residential development is prescribed under each designation as indicated in the following table.¹⁵⁵

Table 2. OCP Designation and Permitted Maximum Residential Density

OCP Designation	OCP Code	Maximum Density (UPA)
Suburban	SUB	2
Urban	URB	15
Multiple Residential	RM	45
Town Centre	TCR	45
Downtown	DTN	135

¹⁵⁵ As summarized from the Official Community Plan. This table includes only those designations that permit residential uses.

Corresponding maps (Figures 5-9) illustrate approximate location of areas under these designations. The OCP defines specific residential zones that are permitted under a particular designation. For instance, the OCP declares that the highest density that may be permitted in the Suburban-designated area is two units per acre (upa).¹⁵⁶ Zoning By-law No. 12000 accommodates this policy under the Half-Acre Residential Zone. As well, the OCP mandates that higher density residential development (to a maximum of 45 upa) can only be accommodated under Multiple Residential designation¹⁵⁷ which are subsequently permitted within the RM-2 zone (1980 by-law) and RM 45 zone (1993 by-law).

The density limitations set by the OCP and the zoning by-law's strict adherence to these limitations confirm the confluence of regulations that has created exclusive residential subdivisions in Surrey and subsequently, an inherent difficulty in locating affordable housing projects. Table 3 shows a summary of permitted uses under the OCP designation based on the 1980 and 1993 zoning by-laws.

¹⁵⁶ District of Surrey, Official Community Plan. 341.

¹⁵⁷ Ibid, 339.

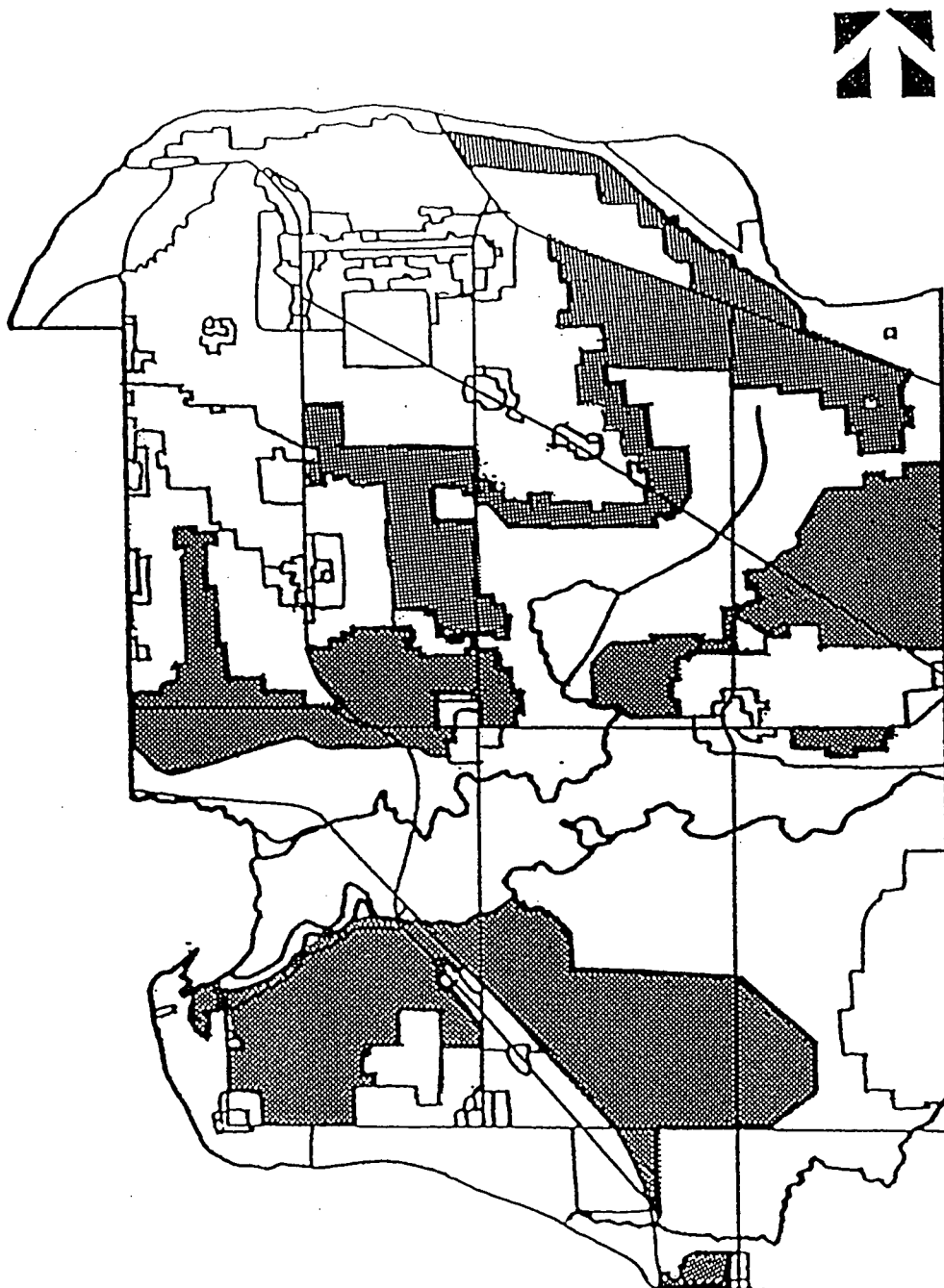



Figure 5. Suburban Designation Map: 1983

Legend:  Suburban Designated Areas

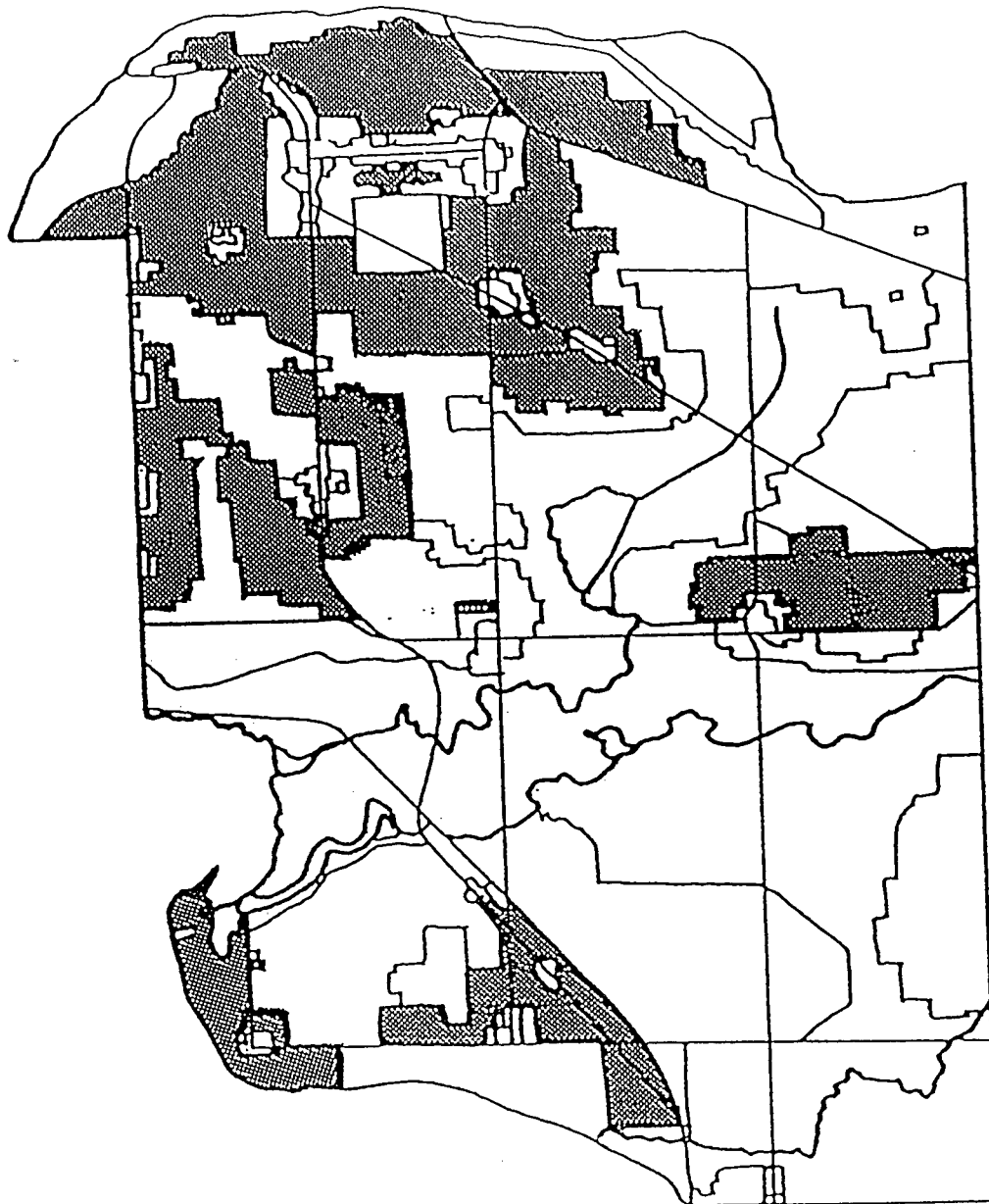


Figure 6. Urban Designation Map: 1983

Legend:  Urban Designated Areas

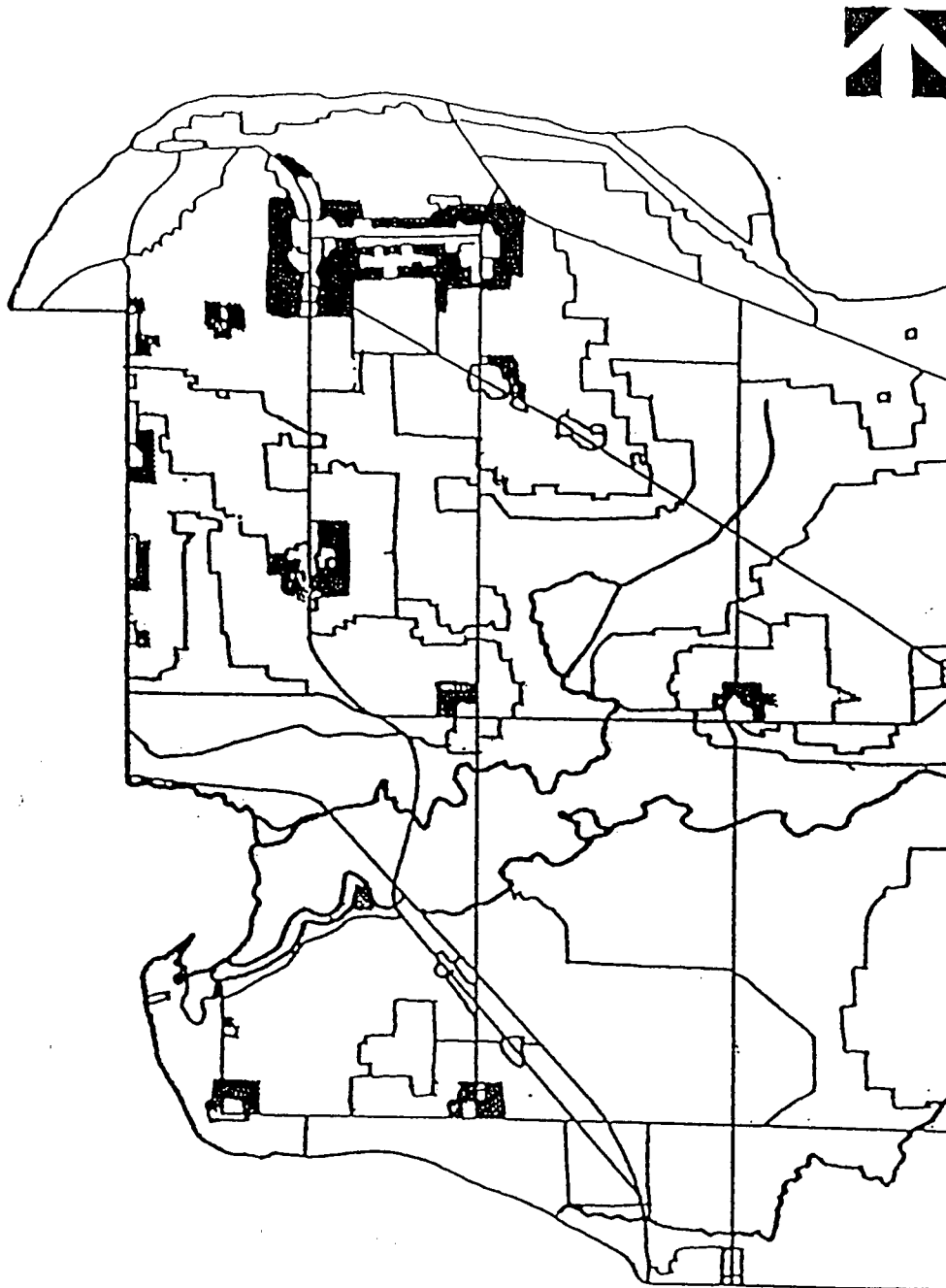


Figure 7. Multiple Residential Designation Map: 1983

Legend:  RM Designated Areas

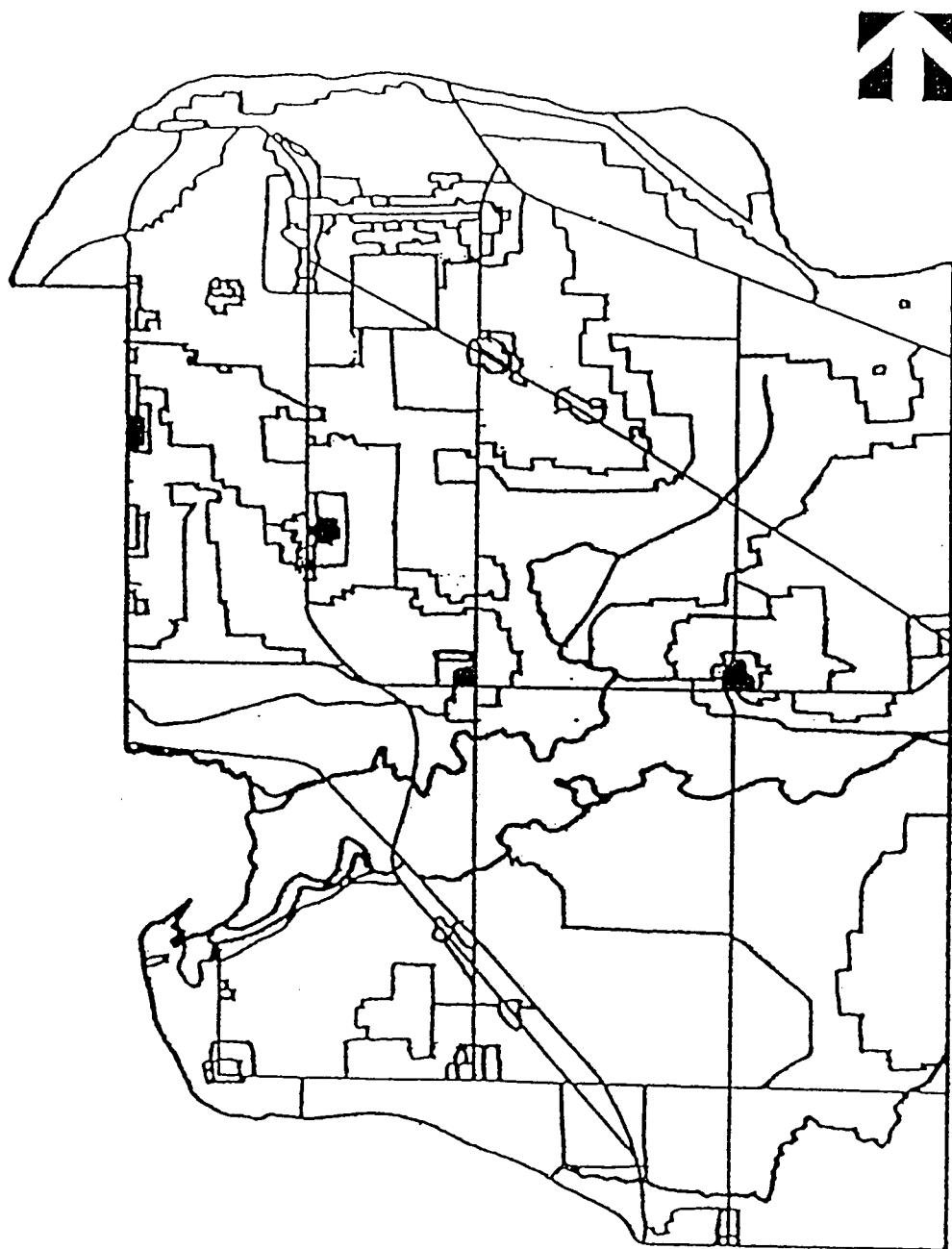



Figure 8. Town Centre Designation Map: 1983

Legend:  TCR Designated Areas

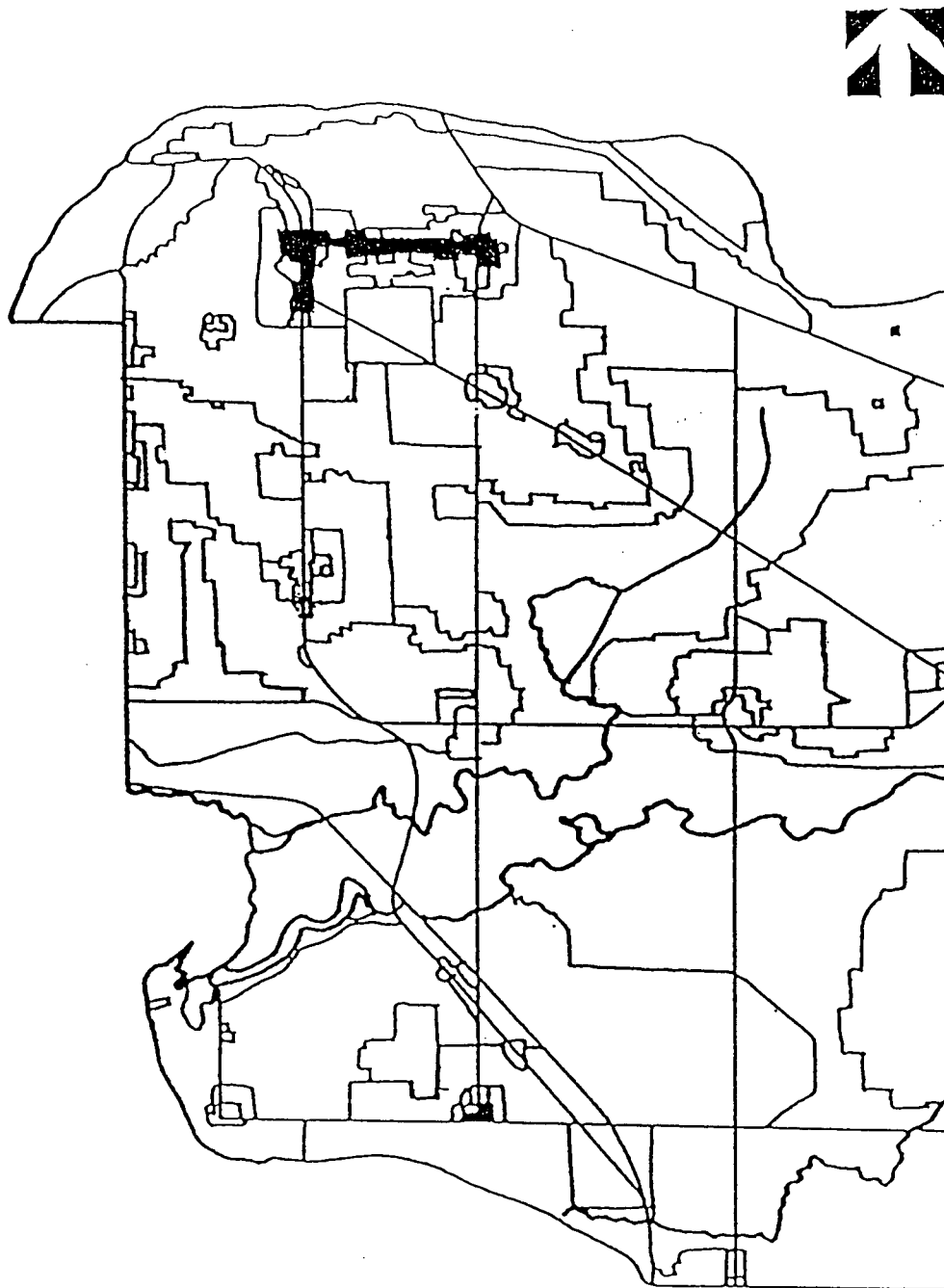


Figure 9. Downtown Designation Map: 1983

Legend: ■ DTN Designated Areas

Table 3. Summary of Permitted Residential Zones Based on 1983 OCP Designations and 1980 and 1993 Zoning By-laws¹⁵⁸

OCP Designation	Zoning Code 1980 By-law	Permitted Residential Zones 1980 By-law	Zoning Code 1993 By-law	Permitted Residential Zones 1993 By-law
SUB	R-1	Suburban Residential	RA	Acreage Residential
	R-A(G)	Acreage Residential - Gross Density	RA-G	Acreage Residential - Gross Density
	RS	Half Acre Residential	RH	Half Acre Residential
	R-H(G)	Half Acre Residential - Gross Density	RH-G	Half Acre Residential - Gross Density
URB	R-F	Single Family Residential	RF	Single Family Residential
	R-F(R)	Restricted Single Family	RF-SS	Single Family Residential - Secondary Suite
	R-F(D)	Duplex Residential	RM-D	Family Residential - Duplex
	R-F(F)	Floodplain Residential	RF-F	Floodplain Residential
	R-F(C)	Compact Family Residential	RF-G	Single Family Residential-Gross Density
	R-F(M)	Mobile Home Residential	RM-M	Mobile Home Residential
	RT-1	Townhouse Residential	RM 10 RM 15	Multiple Residential 10 Multiple Residential 15
RM and TCR	RM-1	Multiple Family Residential Zone 1	RM 30	Multiple Residential 30
	RM-2	Multiple Family Residential Zone 2	RM 45	Multiple Residential 45
DTN	RM-3	Multiple Family Residential Zone 3	RM 70	Multiple Residential 70
	RM-4	Multiple Family Residential Zone 4	RM 135	Multiple Residential 135

The 1993 zoning by-law further reinforces the municipality's basic policy of maintaining a rural character while allowing higher density development only within or in proximity of designate downtown or town centres. This policy follows the concept of nodal development as articulated in the OCP:

¹⁵⁸ Summarized from the City of Surrey's 1983 OCP and 1980 and 1993 Zoning By-laws.

It is another premise of this Plan that the metropolitan region of Surrey would be improved if it was not permitted to develop at a continuous urban density throughout, but if those uses which are dense enough to be urban were collected to produce towns, and those uses which are exurban or of a low density would form a truly suburban landscape between the towns.¹⁵⁹

This vision of a combination of urban-suburban landscape has set Surrey apart from the cities of Vancouver, Burnaby and New Westminster. Except for marginal lands that have been designated as Agricultural Land Reserve in some parts of Burnaby that may remind one of the city's rural past, these cities have emerged as highly urbanized. Both Burnaby and New Westminster consistently serve as satellite suburbs, absorbing growth over-spills from Vancouver. In contrast, Surrey is geographically separated from these cities by the Fraser River. This physical separation may have initially slowed down the growth of Surrey and contributed to its ability to partly retain its rural character.

Density bonusing was introduced in 1978 under Zoning By-law No. 5942 and was further incorporated in the 1993 Zoning By-law No. 12000. In both zoning by-laws, the gross density zones (one acre, half-acre and urban single family) allow the highest permitted density provided that the proposed site has special or environmental features.¹⁶⁰ These provisions in both by-laws are consistent with the OCP policy that calls for density bonusing when the proposals offer amenities in the form of accessibility to natural features and open spaces.¹⁶¹ In the case of multi-family development, density bonusing is allowed only when the developer

¹⁵⁹District of Surrey, Official Community Plan. 19

¹⁶⁰District of Surrey, Zoning By-law No. 5942. (Surrey, B.C.: District of Surrey Planning & Development Services Department, 1980), and City of Surrey, Zoning By-law No. 12000. (Surrey, B.C.: City of Surrey Planning & Development Department, 1993).

¹⁶¹District of Surrey, Official Community Plan. 169.

provides underground parking. Table 4 illustrates the permitted variance resulting from density bonusing under the old and the new zoning by-laws within the Single Family Residential Zone.

Table 4. Comparative Illustration of Density Bonusing

1980 Zoning By-law	Lot Size (sq.m.)	1993 Zoning By-law	Lot Size (sq. m.)
R-F(C) Zone	320	RF(G) Zone	370
Standard R-F Zone	660	Standard RF Zone	560

It should be noted that these provisions are not intended to create affordable housing units and therefore, do not constitute affirmative zoning.

3.5.3 Inadequacies of Zoning By-law No. 12000 as a Tool to Create Affordable Housing

As stated earlier, affordable housing projects are proposed and built in multi-family zoned sites in order to take advantage of the cost savings of higher density that multiple residential zones offer. Market rental units that provide possible accommodation to those in need of affordable housing, albeit at an unaffordable rate, are also built in multiple residential zones. In Surrey, such projects are allowed only in RM, TCR and DTN designated areas which are confined in the City's downtown (Surrey City Centre) and the town centres of Guildford, Newton, Cloverdale, Fleetwood, and Semiahmoo in South Surrey. As expected, land values in these areas are much above the average land values in the City. Between 1988-1990, land values in these areas increased by 120% while land values in the rest of the municipality's residential districts increased between 35 and 48% over the same period. It can be deduced that the designations (RM, TCR and DTN) and the corresponding permitted uses

(commercial and multi-family residential) contribute to the increases in land values. Two trends have emerged as a result:

- Affordable housing projects are most likely to be proposed outside of these designations, thus triggering processes that may require OCP amendments or at least, a rezoning and
- developers have retreated from market rental development, favoring condominium development instead.

Proposed affordable housing projects in Surrey fall under the first trend while recent statistics (Table 5) have shown that the contribution of multi-family rental units, the traditional source of market rental accommodation, has been declining in the past years from 69% in 1986 to less than 62% in 1992. Instead, non-conventional forms of rental housing (secondary suites and mobile homes) have emerged.

Table 5. Total Rental Stocks: 1986-1992

Year	Single Family (SF)	Multi- Family (MF)	Others ¹⁶²	Total	% Share of MF to Total
1986	6,002	13,894	145	20,041	69.3
1987	6,372	14,129	423	20,924	67.5
1988	6,711	14,507	677	21,895	66.2
1989	7,096	14,933	965	22,994	64.9
1990	7,490	15,285	1,255	24,030	63.6
1991	7,774	15,544	1,465	24,783	62.7
1992	8,110	15,992	1,720	25,822	61.9

Source: City of Surrey Planning & Development Department

¹⁶²Include secondary suites and mobile units.

The Greater Vancouver Regional District has noted an on-going shift from rental to condominium development, the latter as owner-occupied accommodation. Developers have cited that the high costs of acquiring lands within the multi-family designated areas for rental housing is considered as one primary factor for their reluctance to engage in construction of units for rental purposes.¹⁶³ The same high density sites are instead perceived by developers as areas where they can attain a much greater profit from the booming condominium market.¹⁶⁴ This trend is evident in Surrey where the City's Planning & Development Department has not processed any application for market rental development beginning 1993.¹⁶⁵ The zoning by-law is thus an inadequate instrument for encouraging construction of market or non-market affordable housing units.

The absence of explicit policy statements on affordable housing within the OCP and the 1993 Zoning By-law No. 12000 also allows market forces to ignore the need for affordable housing. This situation is best illustrated by the recent experience of the Semiahmoo Peninsula Affordable Housing Society, a non-profit community based organization that went through two unsuccessful attempts (in 1989 and 1993) to rezone a piece of land located at west of King George Highway in the Semiahmoo for a non-profit rental project. The site was zoned Single Family Residential (RF) at a density of 6 units to the acre and therefore, the proposed use required a rezoning of the site. The project's proposed density was 15 units to the acre with a total of 36 units to be built on site. The project size conformed with BCHMC's requirement of

¹⁶³ Greater Vancouver Regional District, "Affordable Rental.," 11.

¹⁶⁴ Ibid.

¹⁶⁵ Proposed multi-family development projects (townhouses and apartments) that are being processed from 1993 and onwards are essentially owner-occupied. As such, units that may eventually be available for rent out of these proposed developments do not offer security of rental tenure which market rental units could otherwise provide.

developing smaller projects to avoid a concentration of large projects in one location.

BCHMC committed to provide funding for the proposed project.

The first application in 1989 sought rezoning from RF to RT-1 (under the 1980 Zoning By-law No. 5942) in order to permit construction of 36 non-profit rental units in townhouse form. The townhouse building form was permitted under the RT-1 zone. The project went through the conventional approval process.

The 1989 application was denied at First and Second Reading. A majority of Council members sided with the adjacent property owners who launched a vigorous opposition against the proposal. The neighbours opposed the rezoning primarily because the site was adjacent to single family neighbourhoods although the same type of building form has started to emerge across King George Highway. They contended that the site was not appropriate for the proposed use as it was not close to community amenities such as school, park, bus route, and shopping centre. Municipal staff, however, supported the project on the basis, among other things, that it was close to such amenities.

Six months after denial at First and Second Reading, a motion by one Council member was put forward to revive the application.¹⁶⁶ However, subsequent community meetings between the proponents and the neighbourhood still failed to make the proposal acceptable to the neighbourhood. Eventually, the file was closed in Spring of 1993.

The proponent again tried to revive the application at the end of Summer of the same year when a new application for the same site was made to the Planning & Development Department. The proponent was constrained from identifying a different site since BCHMC's

¹⁶⁶ This procedure has been authorized by a previous Municipal Council and forms part of the City's Procedural Policies.

previous policy indicated that approved unit allocation was non-transferrable.¹⁶⁷ There was also the pressure on the part of the proponent to achieve final rezoning within a specific time frame. BCHMC's policy requires proponents to acquire the necessary municipal approvals within a certain schedule. The proponent loses the approved unit allocation when the set deadline is not met. It was becoming clear that the target date was difficult to achieve.

Cognizant of unrelenting opposition to the project, the proponent decided to abandon this application. Instead, the developer who initiated the rezoning applications submitted a straightforward subdivision application for the same site. Meanwhile, the Housing Society had to look elsewhere for a more acceptable site. Through representations with BCHMC, the deadline was extended, and a new site was considered. The Society submitted a new application for a rezoning in early 1994 which had final approval by Council in three months. Actual site development and unit construction have not commenced as of April 1995.

The resulting community response, extended staff work and the frustration that was experienced by the Society in attempting to get approval on the original site could have been avoided had the municipality created the necessary tool in the form of a zoning by-law that allows affordable housing. As it was, Zoning By-law Nos. 5942 and 12000 did not provide for such. In the absence of enabling provisions in these by-laws, both the municipal government and the proponents had no legal remedy to turn to. The experience also demonstrated that even with an affordable housing policy in place, Council was reluctant in supporting the project. This suggests the need for a more concrete mechanism.

¹⁶⁷ A new policy is now in effect at BCHMC where approved units may be carried over to a different site should the previous site proves difficult to acquire.

3.6 The City's Role in Affordable Housing Provision

Prior to Council's adoption of the first affordable housing policy in the Fall of 1989, the City of Surrey has consistently assumed the reactor model in the area of affordable housing provision. From as early as the 1960s, public housing, non-profit and co-operative housing projects were located in Surrey through the initiatives of the provincial government and the Greater Vancouver Housing Corporation. Implementation of several projects were coursed through various community-based organizations. Early projects were sited on GVHC-owned properties, while other projects took advantage of the abundant land supply in the District. At that time, the District's role was confined to accepting and processing applications for affordable housing. Rezoning proposals involving this type of project were treated in the same way as any other development applications. Proposed affordable housing projects were evaluated using the same parameters applied to market-oriented development proposals and were subject to the same approval process.

Council's direct support of affordable housing was initiated in the Fall of 1989 when members supported and approved the Municipal Incentives Grant for Rental Housing. Council declared that:

Multi-development projects that are geared for rental housing shall be fast-tracked wherever possible, to obtain final approval of either rezoning or building permit within four months of rezoning or building permit applications.¹⁶⁸

Fast-tracking rezoning or building permit applications for affordable housing was further supported by Council when it adopted a separate policy that gives priority to

¹⁶⁸District of Surrey, "Minutes of the Regular Council Meeting." October 23, 1989.

applications that have received conditional or full approval for unit allocation from senior governments.¹⁶⁹

The adoption of these policies has not exactly achieved the impetus that is needed to create affordable housing projects at a pace that responds effectively to the growing waiting lists. Cognizant of this reality, Council adopted an affordable housing strategy in the summer of 1991, declaring among other things, that 25% of shelter units in Surrey should be affordable to the lowest quartile of the range of household incomes in Surrey; clusters of affordable housing should be distributed in each of Surrey's communities; larger developments should contribute to affordable housing; and the Municipality should make direct contributions only to the areas of greatest need, i.e., addressing the need for rental and *not* home ownership.¹⁷⁰ The policy has clearly defined the area and extent of municipal intervention. While the previous policies were directed to expedite the approval process, the 1991 policy was more focused on defining the targets (those in greatest need) and the means to create affordable housing (through developer contributions in large projects).

Realizing that the creation of affordable housing units requires substantial funding, Council, on October 5, 1992, adopted By-law No. 11511 authorizing the Municipality to establish the Affordable Housing Statutory Fund under the provisions of Section 378 of the *Municipal Act*.¹⁷¹ It should be noted, however, that Section 378 does not include the creation of affordable housing in its definition of where the proceeds of the Fund may be ultimately used. Instead, Section 378 stipulates that a reserve fund may be established for expenditures

¹⁶⁹District of Surrey, "Minutes of the Regular Council Meeting." January 22, 1990.

¹⁷⁰District of Surrey, "Minutes of the Regular Council Meeting." August 12, 1991.

¹⁷¹District of Surrey, "By-law No. 11511, A By-law to establish an Affordable Housing Statutory Reserve Fund." (Surrey, B.C.: District of Surrey, October 1992).

for capital projects and land, machinery or equipment. A solution was found by Council's approval of Resolution No. 93-191, authorizing that "the fund may be used for land banking, asset acquisition/improvement, joint venture development and affordable housing innovations, and 'purchase' of municipal sites allocated for affordable housing."¹⁷² In this same forum, Council approved under Resolution 93-188 the procedures for developer contributions to the Fund.¹⁷³ By approving the resolutions, Council added a critical dimension to its affordable housing policy. The strategy is a further manifestation of the City's assumption of a more proactive role in the process of creating affordable housing units.

Further refinements to the City's Affordable Housing Implementation Strategy were introduced through a staff report dated March 11, 1994 which offered a proposal that development applications should make "contribution towards affordable housing by either providing 20% of the total units as affordable or a cash contribution to the Affordable Housing Statutory Reserve Fund, at a rate of \$750.00 per lot or unit by all rezoning applications for single family or multi-family development."¹⁷⁴ Exempted from this policy are applications that will build affordable units such as projects that are initiated by housing societies and funded by the federal or provincial governments. The report further recommended that the application of this policy be deferred for proposed commercial and industrial rezoning applications as the policy may have subsequent negative impact on job creation and potential taxes that may be generated from commercial and industrial projects. This approach is consistent with the observation made by the then Federal Minister Ouellet who contended that any additional levy

¹⁷²District of Surrey, "Minutes of Regular Council Meeting," January 11, 1993.

¹⁷³Ibid.

¹⁷⁴City of Surrey, "Corporate Report No. C109." (Surrey, B.C.: City of Surrey Planning & Development Department, March 1994).

from developers may drive investments out of a municipality. By exempting commercial and industrial development proposals, Surrey is ensuring that employment opportunities are not negatively impacted by its support for affordable housing.

Council adopted these proposed revisions in its March 21, 1994 meeting, indicating that the policy applies only to applications that were submitted after March 21, 1994 and to those that are on stream as of January 11, 1994 but have had no Third Reading as of that date.¹⁷⁵

3.7 Available Municipal Resources

3.7.1 Financing

Resources that are required for the development and construction of an affordable housing project include financial subsidies from a funding agency as well as land that has the right zoning for the proposed project. Interim financing and subsequent financial subsidies come from the provincial government and are granted under the current Non-Profit Housing Program. These subsidies are made available to an eligible project and are used to “make up the difference between the break even rent for the project and rents paid by tenants.”¹⁷⁶ The major financing requirement that is needed to complete the project is provided by the private lender as stipulated in BCHMC’s development guidelines.¹⁷⁷

There is no evidence yet indicating that the City of Surrey has attained financial capability to complement or replicate the kind of financial assistance that the provincial

¹⁷⁵City of Surrey, “Minutes of the Regular Council Meeting.” March 21, 1994.

¹⁷⁶ British Columbia Housing Management Commission, Annual Reports for the Years 1990 and 1991. (BCHMC: 1992).

¹⁷⁷ British Columbia Housing Management Commission, 1993 Non-Profit Housing Program Development Guidelines. (BCHMC, 1993), 10.

government is currently providing. However, the money that is being generated by the Statutory Affordable Housing Fund is being earmarked for future purchases of real properties, specifically targeted for affordable housing projects.¹⁷⁸ The Statutory Affordable Housing Fund has the capacity to earn as much as \$1.5 million a year based on a modest assumption that the City can create as many as 2,000 units or lots for the same period. Historically, the City has the capability to generate between 1,800 to 2,400 units/lots year. The growth of the Fund is, however, dependent on the strength of the economy and consequently, on the activities of the development industry.

3.7.2 Municipal Lands

A proponent of an affordable housing project who seeks funding approval from the provincial government is required to provide an adequate site with the right zoning. BCHMC suggests that the site be acquired through any of the following options:¹⁷⁹

- leases with public bodies other than the province;
- sponsored-owned sites or
- leases with the Provincial Rental Housing Corporation.

The first option indicates that the City can already enter into partnership with non-profit organizations with the City providing lands for affordable housing projects. However, Council has not demonstrated a consistent commitment to pursue this initiative. Council's positive response to the Semiahmoo Affordable Housing Society's call for direct support came almost four years after the latter made its first application. Historically, Council relied on the

¹⁷⁸ The City has granted its most recent assistance to the Semiahmoo Peninsula Affordable Housing Society in the form of a lease wherein the Society paid 75% of the market value of a newly municipal-purchased site. The difference was absorbed by the City.

¹⁷⁹ BCHMC, "1993 Non-Profit Housing," 4.

regular approval process where proponents were left on their own in seeking appropriate sites. This approach demonstrates the City's previous reactor role which subsequently affected the manner and speed by which social housing is delivered in the City. It is in this context that the City's current landholdings could serve as a substantial resource that may be tapped to speed up the process of creating affordable housing units.

To date, the City has acquired municipal lands in excess of 500 acres through an active land purchase arrangement under Section 529 of the *Municipal Act*. The majority of these were purchased through the years mainly for holding purposes which suggests that lands were acquired with no specific use in the minds of Council members.¹⁸⁰ As provided in the *Municipal Act*, these lands can be used for public purposes which could be interpreted to include housing. Indeed, Section 530 indicates that Council may develop a municipal-owned property for residential, commercial or industrial purposes, subject to enactment of a specific by-law. Section 533 further allows Council of a municipality to **dedicate** land for a public purpose. By the same token, municipal-owned properties can be **leased** for 99 years (Section 542) and that Council may lease real property for the purpose of providing land for housing (Section 543). Figure 10 shows representative examples of lands that are owned by the City.

¹⁸⁰ Based on interviews with City staff.

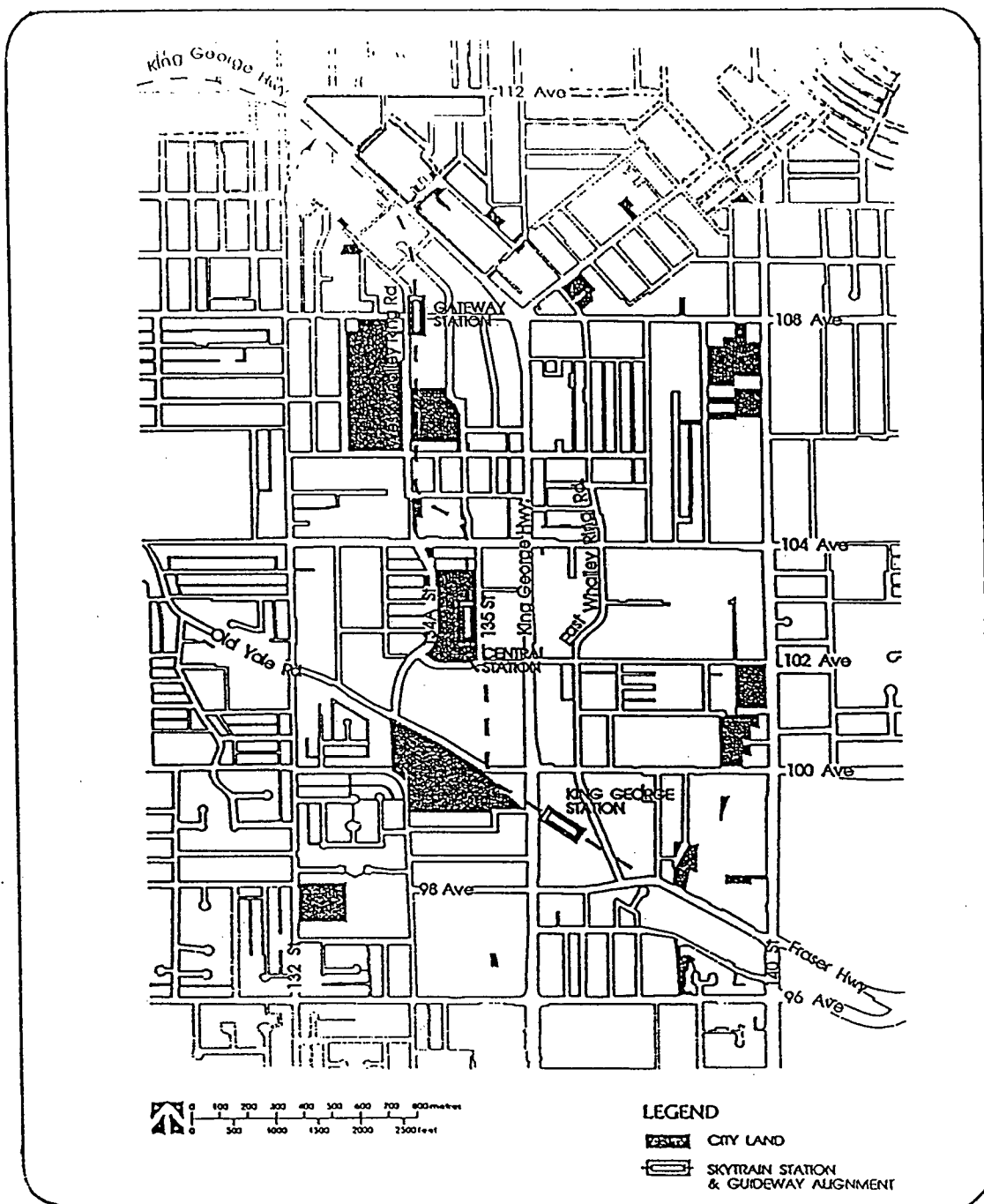


Figure 10. Location of Selected Municipal Lands

3.8 Opportunities for Affirmative Zoning in Surrey

As discussed earlier, the City's Official Community Plan does not articulate a policy on affordable housing provision. Its zoning by-law responds to the needs of the market place. The zoning by-law's density bonusing clause does not address the creation of affordable housing. The City's rental housing sector is not adequate to meet the demands of renters, many of whom are living below the poverty line. However, there are some steps that Council has undertaken lately: an affordable housing policy is in place; there is a mechanism to exact money from developers for affordable housing in case the latter cannot set aside affordable units on the development site; and it has also accumulated substantial landholdings that are not yet earmarked for any specific use. In reality though, unless legal mechanism through affirmative zoning is in place, the problem of site acquisition will remain.

Two ways in which the City could assist in the process of facilitating site acquisition and eventually, in the process of creating affordable housing are:

- by amending Zoning By-law No. 12000 to include *affordable housing as a distinct zone* and
- by using the same amended by-law to *pre-zone eligible municipal-owned parcels* (i.e., prior to development applications) that can accommodate affordable housing projects. This measure serves as the ultimate step in the process of affirmative zoning.

One may argue that given the current affordable housing policies that are already in place in the City, additional initiatives may no longer be necessary. By elaborating on Jones prescription who contends that the business of policy and decision making at the local level can

only be effective when certain ingredients are in place, including cooperation, goal, money and implementing group,¹⁸¹ this study further argues that a policy statement supporting affordable housing is ineffective without the following elements:

- setting up of a mechanism that will guide **how** a statement of support can be implemented (in this case, through an amended by-law) and
- committing **what** resources in support of the policy (in terms of pre-zoned, municipal owned lands.)

In Surrey, these two elements can only be assured when its political leadership commits to undertake amendments to the zoning by-law and directs part of the City's valuable resources towards the creation of affordable housing.

3.8.1 Proposed Zoning By-law Amendment

The argument here to amend the existing zoning by-law in order to include a distinct zone for affordable housing under the Urban designation (URB) in the OCP is premised on the following opportunities:

- it expands the intent of Bill 57. Bill 57 will only go as far as designating land within a zone for affordable or special needs housing with the *consent of the owner* under the so called comprehensive development zoning.¹⁸² Bill 57's mandate is viable only if there exists a huge development project. The City will have to "beg" for this type of housing accommodation as a component of the bigger project.

¹⁸¹ Bryan Jones, *Governing Urban America: A Policy Focus*. (Boston: Little, Brown, 1983), 17.

¹⁸² British Columbia Ministry of Municipal Affairs, Recreation and Housing, "Section Notes for Housing Affordability.," 19.

- Zoning By-law 12000 already allows senior citizens' housing development under selected multi-family zones,¹⁸³ therefore, a precedent for a similar initiative has already been established.
- it will pave the way for subsequent pre-zoning.

It is proposed that a specific zone for affordable housing be identified as RM-AH (Multiple Residential - Affordable Housing). The provisions governing density, setbacks, building height, and amenity requirements will be based on the provisions under RM 15 of the City of Surrey's Zoning By-law No. 12000 as shown in Appendix 1.

3.8.2 Pre-Zoning of Municipal- Owned Lands

The strategy to pre-zone available municipal lands for affordable housing is pursued on the following basis:

- the *Municipal Act* allows designation of municipal-owned lands for housing; this designation may also include pre-zoning. The Provincial Commission on Housing Option also recommends that local governments should pre-zone land for all types of residential development.¹⁸⁴ This recommendation extends to affordable housing.
- the precedent of Council-initiated rezoning is in place and is being used extensively in the City.¹⁸⁵

¹⁸³ Zoning By-law No. 12000 defines senior citizens' housing development as any building designed, used or occupied exclusively by senior citizens and which has been approved by and is supported in whole or in part by financial assistance from the Municipal, Provincial, or Federal Government or agencies.

¹⁸⁴ E. Duvall and M. Audain, *The Report of Provincial Commission*, 5.

¹⁸⁵ Under certain circumstances, Council may initiate rezoning of a specific site for a project not necessarily proposed by a developer.

Pre-zoning, as proposed in Surrey, will be governed by the following guidelines:

- In recognition of the City's huge inventory of landholdings, pre-zoning will be limited to vacant, municipal-owned lands. The scheme should allay any anxiety and fear that private landowners may have who may perceive that privately-owned lands will also be subject to pre-zoning for affordable housing. By limiting pre-zoning to public lands, the strategy can also reduce the potential of a massive public opposition.
- Surrey is still a growing city where new neighbourhoods are just beginning to emerge. A number of areas still remain undeveloped. By limiting pre-zoning to parcels that are outside of established communities, Surrey can effectively defuse the negative perception on social housing projects which usually come from long time residents of older neighbourhoods.
- Pre-zoning parcels that are not more than 2 acres and within Urban designation will automatically cap density to 15 units to the acre. This will ensure that the built project will be small and consistent with BCHMC's guideline on project size.
- Pre-zoning should be limited to parcels that can be easily serviced or are close to municipal services to reduce the cost of servicing and relieve the City of any potential cost burden;
- Pre-zoning should be limited to parcels that are close or within walking distance to community facilities such as schools, parks, and neighbourhood stores to ensure that future resident will have better access to these facilities. It will also relieve the

City of the obligation to provide these facilities in case these are inaccessible to future residents.

- Pre-zoned sites should be fairly distributed within the City to avoid concentration of social housing projects in one location.. This will allow better integration within the communities and defuse any negative perception on social housing.
- Pre-zoning should be limited to sites that are not committed to any other municipal purpose to ensure that equally important amenities and facilities are built when needed.
- Pre-zoning should include sites that are presently used by existing affordable housing projects to ensure that the use will be in place indefinitely and the sites will not be subject to future market speculations. This strategy responds to current fears that GVHC is looking into privatizing its social housing projects.¹⁸⁶ It will also ensure that aging sites will be available for the same use when they undergo redevelopment in the future.

3.9 Summary and Conclusion

This chapter confirms the following points:

- Surrey has an established planning and land development mechanism;
- its zoning by-law is not effective in creating affordable housing;
- the City's current efforts are not sufficient to create actual units;
- there is a need to step up Surrey's current affordable housing initiatives; and
- the City has the resources to accomplish this.

¹⁸⁶ Surrey/North Delta NOW, *Renters fear privatization of GVHC housing*. April 23, 1994.

The Surrey case suggests that affirmative zoning can also work elsewhere in British Columbia where there is an equal need for affordable housing and where resources may be also available.

IV. AFFIRMATIVE ZONING: AN ANALYSIS OF INPUTS AND OUTPUTS

4.1 Introduction

The process of adopting and implementing affirmative zoning depends on the availability of appropriate inputs that can provide opportunities to decision makers to pursue affirmative zoning. On the other hand, inputs in the form of different challenges could hinder the process. As well, the process can generate either a positive or a negative result. This chapter presents and analyzes the theoretical responses to the questions posed earlier in Chapter 1 by looking back at Surrey's experience.

4.2 Inputs: Challenges and Opportunities

The following opportunities that impetus to affirmative zoning in Surrey may also work for other BC municipalities:

- **Assumption of social commitment by decision makers**

Surrey has shown that municipal councils are expected to assume a social commitment to affordable housing provision. This commitment should be demonstrated by municipal governments through the assumption of social housing responsibilities. Municipal governments can no longer maintain a hands-off policy on this issue and pass on the full responsibility to senior governments. Social commitment is demonstrated by adopting a clear mandate that can facilitate the creation of affordable housing

- **Availability of a meaningful planning mechanism**

On the basis of provincial authority, local governments have organized their respective planning systems to allow municipal authorities to "regulate the supply of land for residential use, enforce development standards and establish land development and building approval

processes.”¹⁸⁷ From an affordable housing perspective, an effective planning system will provide the mechanism by which an affordable housing policy, affordable housing targets and strategies for creating affordable units are established and enshrined in the Official Community Plan, the Local Area Plans and the zoning by-law. A planning system that consistently ignores the need of the less fortunate segment of the community is flawed. The failure to define an affordable housing policy may be considered a manifestation of a flawed planning system. It is unlikely that any meaningful strategy can be crafted and implemented in the absence of such a policy. As Surrey has demonstrated, a cumulative policy making process may evolve and pave the way for the adoption and implementation of more meaningful and concrete strategies such as affirmative zoning.

- **Commitment to re-direct available resources**

Affirmative zoning will work when a municipal government is prepared to commit its resources in the process. Policies do not create affordable units. They simply manifest municipal governments’ intention. The real test is when municipal governments commit resources such as municipal-owned lands.

On the other hand, a number of stumbling blocks serve as drawbacks in the process of implementing affirmative zoning. These include the following:

¹⁸⁷ Hulchanski, et. al., The Municipal Role., 8.

- **Potential lack of provincial authorization**

The provincial government may rule that municipal zoning by-laws cannot be amended in order to accommodate affordable housing as a distinct zone. Should the province rule that affirmative zoning is beyond municipal power, the province is just exercising its jurisdiction over municipal governments. This stance will also confirm the traditional role of the provincial government of British Columbia in the field of affordable housing provision which, in the past, failed to match the pioneering efforts of the Ontario government. For instance, while Ontario was involved in social housing provision from mid-1960s, it took the BC government almost three decades before it passed an enabling legislation that allows a simple, but meaningful task of policy making.

On the other hand, the province may turn around and confirm that indeed, affirmative zoning is an initiative that should be pursued by municipal governments. Pre-zoning as a strategy that ensures a degree of certainty to the building industry is being practiced in BC.¹⁸⁸ Therefore, it is not an entirely novel idea. The province can rule that the strategy complements Bill 57. It should recognize that with the federal government's abolition of its programs, an additional innovative strategy such as affirmative zoning should be encouraged in municipal jurisdictions where the extent of affordable housing needs and resources are parallel to Surrey. Municipal governments should not be deterred from experimenting on innovations that address affordable housing provision. As Surrey has shown, innovations such as requiring cash

¹⁸⁸ British Columbia Ministry of Municipal Affairs, Recreation and Housing, "Affordable Housing Builds Strong Communities." (Victoria, B.C.: MMARH, 1993), 40.

contribution from developers enables a municipal government to build up resources that could be channeled to a specific affordable housing project.¹⁸⁹

- **Possible shift in municipal priorities**

Just as senior governments change priorities, so do municipal governments. The decision to abandon public housing and subsequently, non-profit and cooperative housing programs was reflective of changing priorities at the federal level: from social assistance to deficit reduction. Adams partly attributes this to the election of a philosophically conservative government in the mid-1980s.¹⁹⁰ The trend is hardly changed with the advent of a liberal-oriented government in 1993. The most recent budget cuts are a continuing reflection of this trend. Social housing programs will remain casualties of this change in federal priorities.

A similar trend can be expected at the provincial level. In BC, the change in leadership may have accounted for the recent amendments in the *Municipal Act* and the focus on affordable housing provisions. The previous government's failure to empower municipal governments so that they become key players in this field attests to the rather low priority accorded to social housing. Its shift from purely social housing to a combination of social housing assistance and market rental development confirms this trend.

Municipal priorities are also contingent on philosophical orientation of the majority of its council. As demonstrated in Surrey, the assumption of affordable housing policies can be driven by the dominance of socially-oriented council members. In the same manner, the failure

¹⁸⁹ In early 1994, the City acquired lands for an affordable housing project in South Surrey by using the proceeds of the Fund.

¹⁹⁰ Adams, *The Evolution of Municipal*, 12.

of an affordable housing project to get council approval can be attributed to the dominance of a political orientation that does not consider affordable housing as a priority concern.

Therefore, as councils change memberships, and subsequently, political orientation, proponents of affirmative zoning may also find themselves in the middle of shifting municipal priorities that could lead to its demise. Should this occur, then politicians confirm Hulchanski's theory that governments extend assistance only when political expediency demanded action.¹⁹¹

- **Potential public opposition**

Politicians are suspected of being likely to abandon affirmative zoning at the first sign of a strong community opposition. This potential reaction by politicians is indeed consistent with experts' observations that politicians will offer programs to maximize their options of getting re-elected and that bureaucrats' concern rests on spending their budgets wisely.¹⁹² Downs further asserts that since politicians will not bite the hands that elect them, they will most likely side with homeowners who compose the NIMBY forces.¹⁹³

In fact, there is an added element to the process which neighbourhoods will capitalize on. NIMBY forces will look at pre-zoning municipal lands for affordable housing as a form of direct municipal subsidy, and therefore, local taxpayers' subsidy. Their point is valid since pre-zoning is directed to municipal-owned lands - lands that were acquired through municipal revenues that are generated through municipal taxation. One serious concern about federal subsidies on social housing was the tremendous drain on the budget.¹⁹⁴ Federal subsidies grew

¹⁹¹ Bacher and Hulchanski, "Keeping Warm and Dry," 160.

¹⁹² Fallis, *Government's Role*, 23.

¹⁹³ Anthony Downs, "Growth Management," 422.

¹⁹⁴ J. David Hulchanski, "Tax Cost of Housing," in *Policy Options*. (June 1985), 4.

from \$11 million in 1966 to as much as \$1.962 billion in 1991.¹⁹⁵ The same concern could surface at the municipal level.

On the other hand, recent researches have invalidated residents' unfounded perception that affordable housing projects reduce the value of adjacent properties. For instance, a 1989 study which was commissioned by Toronto's Housing Advocacy Task Force shows that non-profit projects have no over-all negative impact on property values.¹⁹⁶ A similar conclusion was arrived at in a separate study of the three municipalities within the Region of Peel - Mississauga, Brampton and Caledon.¹⁹⁷ Dear further confirms that any change on the property value of adjacent lands is attributable to broader market movements, such as interest rates. He claimed in the studies he did earlier that property values have actually increased because the facility was so well maintained.¹⁹⁸ Even special needs housing projects do not adversely affect the property values and marketability of surrounding neighbourhoods.¹⁹⁹

4.3 Outputs: Advantages and Disadvantages

With the process in place, municipal governments should be prepared to confront and resolve a number of disadvantages.

- **Potential "dumping" of affordable housing projects**

Municipalities which adopt affirmative zoning face the prospect of being pressured by senior governments, non-profit organizations and prospective beneficiaries to accommodate

¹⁹⁵ Based on figures derived from Canadian Housing Statistics.

¹⁹⁶ Ekos Research Associates Ltd., "Summary Report for the Evaluation of Property Value Impacts: Non-Profit Housing." (Toronto, Ontario: Housing Advocacy Task Force, 1989), 12.

¹⁹⁷ Smith, Larry & Associates, "A Property Values Case Study: An analysis of the Effect of Non-Profit Housing on Neighboring Residential Property Values." (Toronto, Ontario: Peel Housing Opportunity Centre, 1992.)

¹⁹⁸ M. Dear, "Understanding and Overcoming NIMBY.," 290.

¹⁹⁹ Tom Goodale and Sherry Wickware, "Group Homes and Property Values in Residential Areas." Plan Canada, Vol. 19, No. 2, (Ottawa: Canadian Institute of Planners, June 1979), 154.

more affordable housing projects. “Dumping” may result in the process. It will not come as a surprise if the public and politicians alike join forces to abandon affirmative zoning and instead adopt the traditional rezoning practice. To Hulchanski, this reaction constitutes “constructive discrimination.” He argues that while there may be no intent to discriminate, a seemingly neutral policy such as “limiting” the number of affordable housing projects “constructively” discriminates against those dependent upon it.²⁰⁰

- **Additional demand on municipal resources**

Many of the arguments against affirmative zoning are rooted on the fear that the strategy can exact additional financial burden on the municipality, a fear that can also be traced on the fact that municipal governments’ income depend on a rather limited tax base. With additional population, the municipality will face additional demands for more services without the benefit of building the corresponding tax base to support additional requirements. Municipalities rely heavily on local taxation and fees that largely finance the construction of community facilities and services. Landowners and business community comprise the municipal tax base while development projects contribute to municipal “kitty” which provides financing of new and maintenance of existing facilities. Therefore, a huge share of non-taxpayers who choose to reside in affordable housing projects in a municipality could impact on the local government’s capability to build new and maintain existing services and facilities.

These sentiments, however, are reminiscent of the traditional perceptions that the poor are a burden, just as they were perceived in the 1920s when “emergency shelters” were sprouting in major Canadian cities. When municipalities choose to ignore adopting a strategy

²⁰⁰ Hulchanski and Drdla, “And Housing for All.,” 22.

for reasons of possible negative impact on municipal services, thus, on the budget, then the municipalities' delivery of social obligations have not really changed from the traditions of the 1900s.

A solution to the potential problem of additional demand on resources is found in the proposal to limit pre-zoning to new neighbourhoods. However, by doing this, the municipality is validating Hulchanski's argument that current planning practices are building exclusive communities.²⁰¹ By limiting the initiative to new neighbourhoods, the municipality is confirming the exclusive character of certain communities and acquiescing to the NIMBY forces' demands that their neighbourhoods should be protected from the perceived intrusion of land uses such as affordable housing. By doing so, the municipality is compromising the needs of the target clients.

However, with an affirmative zoning in place, five key areas are enhanced: the planning process, approval process, community acceptance, political leadership and municipal options. As reflected in Table 6, the planning process is enhanced when resources and targets are defined and matched, when future servicing and community needs are defined; and idle lands are put to use. With pre-zoned lands in place as a result of affirmative zoning initiative, the process is certainly reduced (Figure 11) while public acceptance is ensured when the issue of affordable housing forms part of the planning process and hence, the public debate.

²⁰¹ Ibid, 20.

Table 6. Advantages of Affirmative Zoning

Planning Process	<p>The availability of pre-zoned lands provides certainty in terms of matching the resource with senior government funding.</p> <p>Pre-zoned, but unoccupied lands can provide a basis for setting realistic targets of affordable housing units and subsequent commitments</p> <p>By setting beneficiary/unit targets on the basis of available pre-zoned parcels, the City will be able to plan corresponding servicing and community facilities requirements.</p> <p>Pre-zoning vacant, municipal-owned parcels that have the potential to accommodate social housing projects speeds up subsequent land development of an otherwise unproductive, idle piece of land.</p> <p>The City will have greater control to retain the affordable housing use or zone over older, aging social housing sites when these sites become due for redevelopment in the future.</p>
Approval Process	<p>The availability of pre-zoned lands shorten the approval process both at the municipal and funding agency levels.</p> <p>The availability of pre-zoned lands for affordable housing will eliminate the rezoning process at specific development application stage and subsequent site acquisition will no longer be subject to bitter community debates.</p>
Political Leadership	<p>Affirmative zoning can strengthen the position of the municipal government as a key player in the process of affordable housing provision.</p>
Public Acceptance	<p>Affirmative zoning will introduce affordable housing issue as a visible component in the planning process which can lead to a better understanding of the issue by the community.</p>
Alternative Option	<p>It serves as a low cost and timely solution when other strategies fail.</p> <p>It provides an alternative or support to Bill 57.</p>

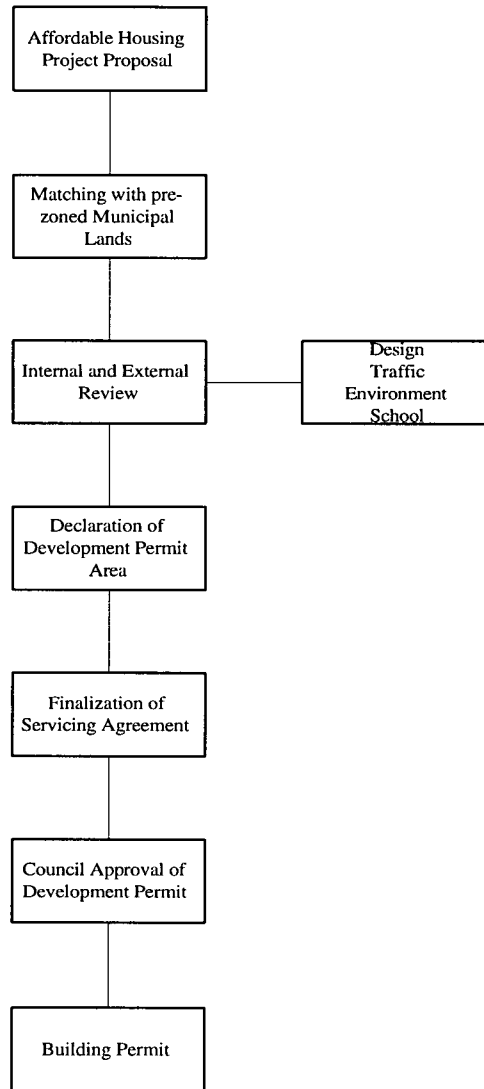


Figure 11. Reduced Municipal Approval Process

4.4 Summary and Conclusion

The preceding chapter has confirmed that the version of affirmative zoning that is put forward in this thesis has inherent strengths and weaknesses. Decision makers are further warned that in the absence of direct funding support from senior governments, a pre-zoned parcel does not automatically create affordable housing units. The same contention exists even if municipal governments adopt the provisions of Bill 57. On the other hand, this thesis demonstrates that the proposed process can enhance the capability of municipal governments to facilitate the creation of affordable housing units without the traditional dependence on the private sector.

V. CONCLUSION

5.1 Introduction

This chapter provides a conclusion to the thesis by reflecting on the Surrey case and assessing its general relevance. It will also offer some skills and qualities that decision makers and planners should possess in order to overcome the challenges that they face when they adopt the alternative form of affirmative zoning as put forward in this thesis.

5.2 The Case of Surrey: Its General Relevance

The case of Surrey has demonstrated the inherent strengths and weaknesses of local governments in British Columbia as they confront problems that relate to affordable housing provision. The case confirms Hulchanski's contention that "municipalities across Canada have few direct powers over the provision of affordable housing,"²⁰² a weakness which many planning and housing experts such as Lane, Hodge, Carter and McAfee believe have originated from the fact that municipal governments are mere creation of the province. One may deduce that municipal governments may have previously hammered on this deficiency as their reason for playing out the reactor role. However, Surrey has demonstrated that as it cannot ignore the impact of increasing number of individuals and families in need of affordable housing, it has to adopt alternative options that will make use of its resources, instead of depending heavily on the benevolence of the private sector. Similarly situated municipal jurisdictions in BC should then confront the issues on affordable housing provision in the same fashion.

Surrey's case has therefore shown that municipal governments have, within their power, the capabilities to redirect their efforts and resources towards affordable housing

²⁰² Hulchanski, et. al., The Municipal Role, 8.

provision by adopting a specific strategy that will make use of such resources. By doing this, municipal governments become in “control”, affording them the opportunity to act out their role responsibly.

The case of Surrey is relevant in light of the critical need to develop innovative solutions that will directly create affordable housing. It provides a timely response to current housing debate that is characterized by a down loading of social welfare responsibilities and budgetary restraints. The case is also relevant as it was able to define the opportunities and challenges facing any municipal government which chooses to adopt the alternative form of affirmative zoning that this thesis has put forward.

5.3 Attributes Needed for An Effective Affirmative Zoning: A Lesson to Planners and Decision Makers

How can planners and decision makers overcome the problems that may surface in the course of implementing affirmative zoning? Practitioners and students will be interested in knowing what attributes planners and decision makers should possess to make affirmative zoning work. The thesis further explores these three attributes.

5.3.1 Adoption of a Progressive Philosophy

What guides a planner and a decision maker (politician) in the process of performing an assigned role? Within what philosophical framework do they operate? Friedmann has developed a model of a progressive planner: a believer of inclusive democracy, giving voice to the disempowered, and privileging qualitative over quantitative growth, among other things.²⁰³ He suspects that this model of a progressive planner is well to the left of centre.²⁰⁴ One can

²⁰³ John Friedmann, “Toward a Non-Euclidean Mode of Planning,” *Journal of American Planning Association*, Vol. 60, No. 3, (Chicago: American Planning Association, Summer 1994), 483.

²⁰⁴ Ibid.

argue if such a model can operate within the intricacies of a municipal bureaucracy where the hierarchy may not (most likely will not) accommodate change as drastic as opening municipal lands for the poor. It is acknowledged here that affirmative zoning will not prosper in a municipal bureaucracy that is not open to innovative solutions. In reality though, it is the decision maker, more than the planners, who will provide guidance to the process. In the real world, planners are subordinate to decision makers. Therefore, their course of action is dependent on decisions made through the local parliamentary process. The examination of one's philosophical orientation then begins from the decision maker. Friedmann's model is extended to the realm of the decision maker. For a start, Makuch suggests that decision makers will have to re-evaluate their traditional view of the way the system works today as local governments cannot remain isolated from urban policy formation process.²⁰⁵ This suggestion is rooted on the municipal government's traditionally distant relationship with federal and even provincial government institutions. The parochial interests that local governments used to spouse may no longer be valid when devolution and down loading of senior governments' responsibilities are becoming a reality. An assumption of these responsibilities begins with an examination of one's philosophical orientation, and possibly, a re-orientation of the same in order to cope with the demands of emerging challenges.

5.3.2 Assumption of Political Leadership

Leadership flows from an informed planner and decision maker. It was a political leader himself who articulated the following observation:

²⁰⁵ S. M. Makuch, "Urban Law and Policy Development in Canada: The Myth and the Reality." Labour Law and Urban Law in Canada, (Canada: Minister of Supply and Services Canada, 1986), 167., quoted in Hulchanski, et al., The Municipal Role., 9.

Municipal leaders can demonstrate leadership in housing by taking advantage of the intimate knowledge of their communities and their direct involvement with citizens to plan and develop housing policy...²⁰⁶

The process of developing and implementing a novel solution such as adopting a tool that can have an impact on the built environment is a political one. Change can generate opposition not only from constituents but from other levels of government. Leadership is best tested when planners and decision makers confront problems with appropriate solutions and take the risks that go with the chosen solution. If it fails, the decision maker and the planner take the full responsibility. Friedmann believes that it takes a confident leadership to admit mistakes.²⁰⁷ It is the ability of both planners and decision makers to learn from those mistakes that will eventually guide them in the process. After all, planning and implementation are not linear processes.

5.3.3 Assumption of Political Commitment

What level of commitment can be expected from the planner and decision maker to make affirmative zoning work? The perceived problems of lack of funds and shifting priorities are actually not valid in an environment where political leaders are committed to the process. Carter and McAfee believe that “political commitment is one ingredient that is required to make any role successful”²⁰⁸ while the BC government recognizes that local housing initiatives require a locally supportive political climate.²⁰⁹ Hulchanski sees leadership and political commitment as significant requirements that can foster experimentation on innovative

²⁰⁶ John Savage, “Educating the Public.” in Canadian Housing Magazine, Spring 1990.

²⁰⁷ J. Friedmann, “Toward a Non-Euclidean.,” 484.

²⁰⁸ Carter and McAfee, “The Municipal Role.,” 260.

²⁰⁹ British Columbia Ministry of Municipal Affairs, “Affordable Housing.,” 51.

municipal initiatives.²¹⁰ One should realize also that commitment is best achieved when planners and decision makers have direct control in the development and implementation processes. For example, as density bonusing is dependent on the workings of the larger economy, therefore, the influence and the role of the planner and the decision maker in this field is heavily constrained.

5.4 Conclusion

This thesis was done to inform planners and decision makers of the possibility of adopting an alternative form of affirmative zoning from an affordable housing perspective. It has demonstrated that by adopting the prescribed strategy, planners and decision makers face several challenges and opportunities. It is up to the planner and the decision maker to determine how they will proceed given these issues. They may decide not to disturb the status quo. Or they may decide to be the progressive planner that Friedmann hopes students and practising planners should be.

²¹⁰ Hulchanski, et. al., The Municipal Role, 31.

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Appendix 1

Multiple Residential - Affordable Housing Zone (RM-AH)

A. Intent

This Zone is intended to accommodate and regulate the development of low density, ground-oriented multiple unit residential buildings and related amenity spaces for affordable housing, as defined in this by-law, which are to be developed in accordance with a comprehensive design.

B. Permitted Uses

Land and structures shall be used for the following uses only, or for a combination of such uses, provided such combined uses are part of a comprehensive design:

1. Family-or non-family oriented housing development.
2. Senior citizens' housing development.
3. Special needs housing.
4. Child care centres, provided that such centres:
 - (a) Do not constitute a singular use on the lot; and
 - (b) Do not exceed a total area of 3.0 square metres (32 sq. ft.) per dwelling unit.

C. Density

For the purpose of building construction, the maximum density shall be calculated as follows:

Lot Area		Maximum Density	
Hectares	(Acres)	FAR*	U.P. Ha.
≥ 1.00	(≥ 2.47)	.60	37 (15 upa)
< 0.99	(< 2.46)	$\{0.40 + (\text{lot area} [\text{Ha.}] \times 0.2)\}$	$\{21 + (\text{lot area} [\text{Ha.}] \times 16.6)\}$

Where FAR is floor area ratio and U.P.Ha. is units per hectare.

- * For the purpose of this Section, all covered areas used for parking shall be included in the calculation of FAR.
- 2. Indoor Amenity Space: The space required for indoor amenity space is excluded from the calculation of the floor area ratio (FAR).

D. Lot Coverage

The maximum lot coverage shall be as follows:

Lot Area		Maximum Lot Coverage
Hectares	(Acres)	
≥ 1.00	(≥ 2.47)	45%
< 0.99	(< 2.46)	$\{33\% + (\text{lot area}\{\text{Ha.}\} \times 12.5)\}$

E. Yards and Setbacks

Buildings and structures shall be sited not less than 7.5 metres (25 ft.) from all lot lines.

F. Height of Buildings

- 1. Principal buildings: The height shall not exceed 11 metres (36 ft.).
- 2. Accessory buildings: The height shall not exceed 4.5 metres (15 ft.).

G. Off-Street Parking

- 1. Family- or non-family oriented residential development:
 - (a) Resident Parking: A ratio of 1.5 parking spaces for every dwelling unit where 50% shall be provided underground or within the building envelope.
 - (b) Visitor Parking: In addition, 0.2 off-street parking space per dwelling unit shall be provided and retained for visitor parking which shall be prohibited within the required setback and permitted at finished grade.
- 2. Senior Citizens' Housing Development:

- (a) Resident Parking: A ratio of 0.5 parking space for every dwelling unit where 50% shall be provided underground or within the building envelope.
 - (b) Visitor Parking: In addition, 0.25 off-street parking space per dwelling unit shall be provided and retained for visitor parking which shall be prohibited within the required setback and permitted at finished grade.
3. Special Needs Housing and Child Care Centres:

No parking for special needs housing and child care centres shall be permitted within any required setbacks.

H. Landscaping

- 1. All developed portions of the lot not covered by buildings, structures or paved areas shall be landscaped with provisions for the retention of mature trees. This landscaping shall be maintained.
- 2. The boulevard areas of highways abutting a lot shall be seeded or sodded with grass on the side of the highway abutting the lot, except driveways.
- 3. Garbage containers and passive recycling containers shall be screened to a height of at least 2.5 metres (8 ft.) by buildings, a landscaping screen, a solid decorative fence, or a combination thereof.

I. Special Regulations

- 1. Amenity space shall be provided on the lot as follows:
 - (a) Outdoor amenity space, in the amount of 3.0 square metres (32 sq.ft.) per dwelling unit and shall not be located within the required setbacks; and
 - (b) Indoor amenity space, in the amount of 3.0 square metres (32 sq.ft.) per dwelling unit of which a maximum of 1.5 square metres (16 sq.ft.) per dwelling unit may be devoted to a child care centre.
- 2. Child care centres shall be located on the lot such that these centres:
 - (a) Are accessed from a highway, independent from the access to the residential uses permitted in Section B of this Zone and
 - (b) Have direct access to an open space and play area within the lot.

J. Subdivision

Lots created through subdivision in this Zone shall conform to the following minimum standards:

Lot Size	Lot Width	Lot Depth
2,000 sq. m. (0.5 acre)	30 metres (100 feet)	30 metres (100 feet)

K. Other Regulations

In addition, land use regulations including the following are applicable:

1. Prior to any use, lands must be serviced in accordance with the municipality's subdivision and development by-law.
2. Buildings permits shall be subject to the municipality's Building by-law and Development Cost Charge By-law.
3. Development permits may be required in accordance with the Official Community Plan.
4. Child Care Centres are subject to Provincial licensing under the Community Care Facility Act.

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