

CITY OF BURNABY

BYLAW NO. 11931

A BYLAW to authorize a heritage revitalization agreement
agreement for the Joseph Clarke House

WHEREAS Council has identified the Joseph Clarke House (hereinafter referred to as the “Heritage House”) located at 5575 Jersey Avenue, having the legal description:

Parcel Identifier: 012-473-553

Lot “A”, District Lot 34, Group 1, New Westminster District, Plan 2038

(hereinafter referred to as the “Lands”)

as a heritage property and has directed that the Heritage House be entered on the community heritage register as a protected heritage resource;.

AND WHEREAS Aquila Developments Inc. is entitled to become the registered owner of the Lands and has agreed to undertake measures to conserve the Heritage House in return for variation of the Zoning Bylaw requirements to allow for the floor area of the house to be exempted from the site density calculation and setbacks reduced in the redevelopment of the site as outlined in Rezoning Reference #05-10, and the architectural plans titled “Condominium Building and Heritage House” prepared by Ron Allen Architect Inc.

NOW THEREFORE the Council of the City of Burnaby ENACTS as follows:

1. This Bylaw may be cited as **BURNABY HERITAGE REVITALIZATION BYLAW NO. 1, 2005.**
2. The City Clerk is authorized, upon Aquila Developments Inc. becoming the registered owner of the Lands, to execute on behalf of the City a heritage revitalization agreement in substantially the same form as that which is attached to and forms part of this Bylaw.

Read a first time this 30th day of May 2005

Read a second time this 11th day of July 2005

Read a third time this 29th day of August 2005

Reconsidered and adopted this 29th day of August 2005

MAYOR

CLERK

HERITAGE REVITALIZATION AGREEMENT

THIS AGREEMENT made the _____ day of _____, 2005.

BETWEEN:

AQUILA DEVELOPMENTS INC.
#213 – 3823 Henning Drive
Burnaby, B.C. V5C 6P3

(hereinafter called the "Owner")

OF THE FIRST PART

AND:

CITY OF BURNABY
4949 Canada Way
Burnaby, B.C. V5G 1M2

(hereinafter called "the City")

OF THE SECOND PART

WHEREAS:

A. The Owner is the registered owner of all and singular those certain parcels or tracts of land and premises situate in the City of Burnaby in the Province of British Columbia, legally described as:

Parcel Identifier: 012-473-553
Lot "A", District Lot 34, Group 1, New Westminster District, Plan 2038

(hereinafter referred to as the "Lands")

B. The residential building known as the Joseph and Sarah Clarke House (hereinafter the "Heritage House") situate on the Lands has, in the opinion of City Council, sufficient heritage value to justify its conservation and the Heritage House has been entered on the City of Burnaby Heritage Register as a protected heritage resource;

C. The Owner wishes to develop a new multi-family development on the Lands that will, if the Heritage House is retained, require variation of certain provisions of Burnaby Zoning Bylaw 1965;

NOW THIS AGREEMENT WITNESSETH that in consideration of Ten (\$10.00) Dollars now paid by the City to the Owner and for other good and valuable consideration (the receipt and sufficiency of which the Owner hereby acknowledges) the Owner and the City each covenant with the other pursuant to section 966 of the *Local Government Act* as follows:

1. The Owner agrees to conserve and protect the Heritage House, and undertake its upgrade as outlined and recommended in the report entitled "Heritage Assessment and Recommendations" prepared by heritage consultants, Birmingham & Wood, dated May 25th, 2005, a copy of which is filed with the Director Planning & Building.

2. The Owner agrees that no further works will be done or permitted that would alter the appearance of the interior or exterior of the Heritage House unless such works have been approved in writing by the City.
3. The City agrees to vary the provisions of Burnaby Zoning Bylaw to the following extent:
 - (a) the calculation of density on the site under the terms of Rezoning Reference #05-10 will exclude the floor area of the relocated Heritage House and the CD/RM3 zoning for the site will be varied accordingly and to allow for the Heritage House to be converted into two dwelling units (one in the new basement being an adaptable unit and one unit utilizing the main and second floor).
 - (b) the setbacks of the relocated house will be reduced to a minimum of 3.0 m (10 ft.) from the north property line and 10.9 ft. to the east property line.
4. The Owner shall pay the legal costs and expenses incurred by the City in any action to enforce this Agreement.
5. The Owner agrees to contribute \$1,000.00 towards the preparation of a Statement of Significance of the Heritage House in order that it may be entered on the Canadian Register of Historic Places.
6. The Owner agrees to pay the City's full cost of the manufacturing and installation on the Lands of a standard bronze heritage building plaque for the Heritage House.
7. The Owner shall include the Heritage House in the strata plan filed for the entire Lands including the provision of two parking spaces in the underground parking area.
8. Upon registration of a strata plan for the Lands including the Heritage House, the strata corporation shall be responsible for maintaining the exterior of the Heritage House.
9. The parties agree that notice of this Heritage Revitalization Agreement and the Heritage Designation Bylaw will be filed in the Land Title Office.
10. The Owner will post a security bond in the form of a Letter of Credit in the amount of \$250,000 to guarantee the relocation and restoration of the Heritage House in accordance with the proposed CD zoning, the heritage architectural restoration plans and the terms of this Heritage Revitalization Agreement.
11. This Agreement shall enure to the benefit of and be binding upon the Owner and their executors and trustees and this Agreement shall enure to the benefit of and be binding upon the City and its successors and assigns and this Agreement shall charge and run with the Lands and enure to the benefit of and be binding upon the owners from time to time of the Lands and all parties claiming through such owners and their respective heirs, executors, administrators, trustees and successors.
12. Wherever the singular or masculine are used in this Agreement, they shall be construed as meaning the plural or feminine or body corporate where the context or the parties hereto so require.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective duly authorized representatives as of the day and year first above written.

AQUILA DEVELOPMENTS INC.
by its authorized signatory(ies):

Authorized Signatory

Authorized Signatory

CITY OF BURNABY
by its authorized signatory:

Authorized Signatory