

14. Re: Rezoning Reference #53/70
Totem Motel

Council on July 9, 1973, following a submission by Mr. A.F.C. Hean, resolved to abandon the amendment to the Zoning Bylaw that would have rezoned the subject property to the R1 category. Council during consideration of the matter expressed concern about Mr. Hean's allegations that certain employees of the Planning Department had verbally stated that the proposal to rezone the property to R1 would be withdrawn, and that these statements were never confirmed in writing. Following is a report from the Assistant Director of Planning regarding this matter:

"During the course of the Council meeting of 9 July, a number of statements were made by Mr. Arnold F. C. Hean concerning alleged information and assurances given by staff of this Department to his client and other individuals involved in a recent real estate transaction involving the Totem Motel property.

I have now been able to investigate the allegations with our staff and to provide you with the facts as they are known to us.

A thorough search of our files reveals absolutely no record of a request from the previous owner of the property, or from any other person, that the rezoning application be withdrawn, other than the requests by Mr. Hean himself made subsequent to his being engaged, and a note made subsequent to the October meeting with Mr. LaMarsh to the effect that a check with the Clerk's office verified that the Bylaw had indeed not been abandoned. A check of our staff who handled this application, including one individual no longer with the Department, has turned up no recollection whatever of any such instructions.

With regard to the statements made regarding inquiries as to the "current" zoning of the property and uses permitted under that zoning at the time of asking, it is apparent that factual answers were given to those questions; that is, the zoning was and is Tourist Commercial District C5. What is significant is that on at least one of the occasions mentioned, Mr. Hean's source fails to mention the further information that was given on the same occasion concerning the rezoning application that was in effect and the Department's position with respect to C5 redevelopment.

We would point out that it is our policy to expect written instructions in matters such as withdrawal of rezoning applications, rather than casual, oral advice, and to confirm the same in writing to the applicant or to his authorized agent. In any event, upon abandonment the Clerk advises the applicant as a matter of course. It is of course neither customary nor practically possible to confirm every item of information transmitted during the day in writing, but certainly instructions or items of information as significant as those being discussed would be formalized in a letter or at least a record memorandum.

In summary, we are unable to corroborate the allegations made by Mr. Hean relating to instructions to withdraw the application and later assurance that it had been withdrawn. To the best of our information no such action took place. However, the statements concerning inquiries as to current zoning inquiries are undoubtedly true, but not necessarily complete. As we can only assume that the statements that have been made reflect the truth as the other individuals know it, we must conclude that there was a misunderstanding at some point in the process. We have no reason to believe our staff acted less than properly in their duties in this matter."

RECOMMENDATION:

THAT a copy of this report be sent to Mr. A.F.C. Hean.