

CITY OF BURNABY

HOUSING COMMITTEE

C

*HIS WORSHIP, THE MAYOR
AND COUNCILLORS*

**RE: PROVISION OF AREA PLAN INFORMATION TO PURCHASERS
X-REF: REZONING REFERENCE #02-03**

RECOMMENDATION:

1. **THAT** Council approve the approach for requiring developers to provide prospective purchasers of residential units the relevant community or development plan information as outlined in this report.

REPORT

The Housing Committee, at its Open meeting held on 2003 February 18, received and adopted the *attached* report regarding advisability and feasibility of requiring developers to provide prospective purchasers with relevant Area Plan information. The Committee noted two ways in which this could be accomplished. The two approaches proposed include prerequisite conditions to rezoning applications involving inclusion of area plan information in disclosure statements and signage at developers' sales offices and development sites.

Respectfully submitted,

Councillor C. Redman
Chair

Councillor D. Johnston
Vice Chair

Councillor C. Jordan
Member

COPY - CITY MANAGER
- DIRECTOR PLANNING & BUILDING
- DIRECTOR ENGINEERING
- CHIEF BUILDING INSPECTOR
- CITY SOLICITOR

TO: CHAIR AND MEMBERS
HOUSING COMMITTEE

2003 February 13

FROM: DIRECTOR PLANNING AND BUILDING

Our File: RZ-#02-03

SUBJECT: PROVISION OF AREA PLAN INFORMATION TO PURCHASERS
X-REF: REZONING REFERENCE #02-03

PURPOSE: To respond to the Committee's request for information pertaining to the advisability and feasibility of requiring developers to provide prospective purchasers with relevant Area Plan information.

RECOMMENDATION:

1. **THAT** the Committee recommend to Council the approach for requiring developers to provide prospective purchasers of residential units the relevant community or development plan information as outlined in this report.

REPORT

1.0 BACKGROUND

At the 2003 January 28 Housing Committee meeting, a request was made under new business for a staff report on the advisability and feasibility of establishing rezoning prerequisites which require developers to: include area plan context statements detailing land uses, densities and building heights, in addition to City Hall contact information, in their disclosure statements for prospective purchasers; and, maintain signage graphically illustrating the same information at the subject development's sales office and development site for a period of one year, or until such time that all units are sold. This report is in response to that request.

It is noted that the impetus for the Committee's request arises, in part, from comments received at the Public Hearing for Rezoning Reference #02-03 (2002 December 17) – which proposes two high-rise multiple family towers with street fronting townhouses on a development site to the south of the Lougheed Highway, between Madison and Rosser Avenues – at which residents from the recently-developed residential high-rises across Lougheed to the north alleged they were misled by sales agents as to the nature of potential development on the subject site. It is also noted that a separate staff report, appearing on the Council agenda for 2003 February 17, responds to this issue and a variety of other concerns raised at the 2002 December 17 Public Hearing for Rezoning Reference #02-03.

2.0 NOTIFICATION BY DEVELOPERS OF AREA PLANS

It is acknowledged that representations made by developers or their sales staff of area plans or redevelopment potential of surrounding sites is not presently governed by the City, and therefore it is difficult for the City to address allegations of misrepresentation. Some suggestions have been made that could compel developers and their sales staff to provide contextual information to prospective purchasers through various mechanisms associated with the rezoning process. The following discussion outlines three such mechanisms.

2.1 Restrictive Covenants

In reviewing this issue, staff contacted a number of Lower Mainland municipalities. Of the thirteen municipalities surveyed, only two (Surrey and Richmond) require some form of notification to prospective purchasers of multi-family residential units. In both cases, restrictive covenants under Section 219 of the *Land Titles Act* are used to alert prospective purchasers of potential land use conflicts (i.e., in cases where apartments are developed next to either industrial or agricultural uses). However, it is noted that such “notification covenants” are also tied to some condition of development, such as noise attenuation measures. Thus, while they do serve a purpose in notifying prospective purchasers of the potential for nuisance (e.g., noise) on adjacent or nearby sites, their primary role is to ensure that such nuisance remains mitigated by certain physical improvements.

Because Section 219 of the *Land Title Act* explicitly requires restrictive covenants to be specifically related to the use and development of land and/or subdivision, their use solely as a notification instrument is not possible under the Act. Therefore, it is not recommended that restrictive covenants be used to alert prospective purchasers of multi-family residential units of the development potential for surrounding properties.

2.2 Disclosure Statements

The *Real Estate Act* requires that developers or agents acting on their behalf include a disclosure statement as a part of their prospectus, which must be read and acknowledged by the purchaser (by signature) in order for the sale to close. While the *Real Estate Act* does not require acknowledgment of the surrounding properties’ redevelopment potential in the disclosure statement, it is noted that such a requirement could be made a prerequisite condition to a rezoning proposal as a matter of city-wide policy. For example, applicants making a rezoning application in community plan areas could be required to submit a letter of undertaking to include a context statement which acknowledges potential surrounding land uses, densities and building forms, as prescribed by the applicable community and/or

development plan, within the vendor's disclosure statement as a prerequisite condition to the rezoning application.

It is noted, however, that any information related to community or development plans contained in a disclosure statement would be based on the best available information at the time it is written, acknowledging that such plans, from time to time, undergo minor adjustments. It is also noted that the foregoing approach would only apply to new developments requiring a rezoning application, and that there may be some limited instances where this approach could not apply (e.g., redevelopment under prevailing zoning).

Despite the noted concerns, requiring developers and their sales staff to include area plan context statements in their disclosure statements, as a prerequisite condition to their rezoning application, appears to be a viable way to ensure prospective purchasers are made aware of surrounding area's development potential. Developers will be required to have their area plan context statements prepared to the satisfaction of City staff. It is emphasized, however, that this approach ought to be undertaken only in relation to multiple-family developments in areas which have adopted community and/or development plans; and, that this approach is not intended to supplant the due diligence expected of prospective purchasers of any real estate in Burnaby.

2.3 Signage

As with contextual information provided in disclosure statements, it is also within Council's purview to require signage showing area plan information at a developer's sales office and development site, as a prerequisite condition of rezoning. For example, as a prerequisite condition to a rezoning application, the applicant/developer could be required to submit a letter of undertaking that would require them to post a sign showing the subject property within the area plan's context, along with information pertaining to potential surrounding land uses, densities and building forms, in addition to City Hall contact information, at the developer's sales office and development site. To ensure uniformity, the following standards for these signs are proposed.

- Size: 24" (2 ft.) by 36" (3 ft.)
- Information to be included:
 - name of applicable community and/or development plan
 - map showing the subject property in the context of the applicable area plan
 - potential surrounding land uses, densities and general building forms (e.g., townhouses, low-rises, high-rises)
 - Planning Department phone number as a source for more detailed information

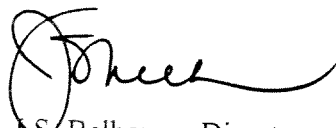
A reduced mock-up of the above sign standards is *attached* for the Committee's information. It should be noted that the foregoing signage is to be produced by City Staff (to ensure accuracy of information) for purchase by the developer at-cost, and situated within the developer's sales office and on the development site in a prominent and visible location. Finally, it would be required that the signage remain posted until such time that all units are sold. Consideration of sign post and backing hardware will be determined for signs required to be posted at development sites once construction is complete.

2.4 Public Displays

As appropriate, City staff could also hold informal displays within shopping malls in areas undergoing considerable high-density redevelopment, such as in town centres. Furthermore, dissemination of development plans could also be pursued from time to time in these areas to provide the general community with information relating to their area.

3.0 CONCLUSION

The preceding discussion suggests two ways in which a developer could be compelled to provide prospective purchasers with contextual area plan information. It was noted that use of restrictive covenants for the sole purpose of notification is problematic, and thus such an approach is not recommended. The two approaches proposed include prerequisite conditions to rezoning applications involving inclusion of area plan information in disclosure statements and signage at developers' sales offices and development sites. It is recommended that these two approaches be required concurrently under a single prerequisite requirement to a rezoning application as a matter of city-wide policy applying to multiple family residential rezoning applications in Council-adopted community and/or development plan areas. It is also recommended that the signs are required to be posted until all units are sold. It is acknowledged that a rezoning application will have received Final Adoption by the time the developers' sales staff are required to undertake the above area plan notification requirements.

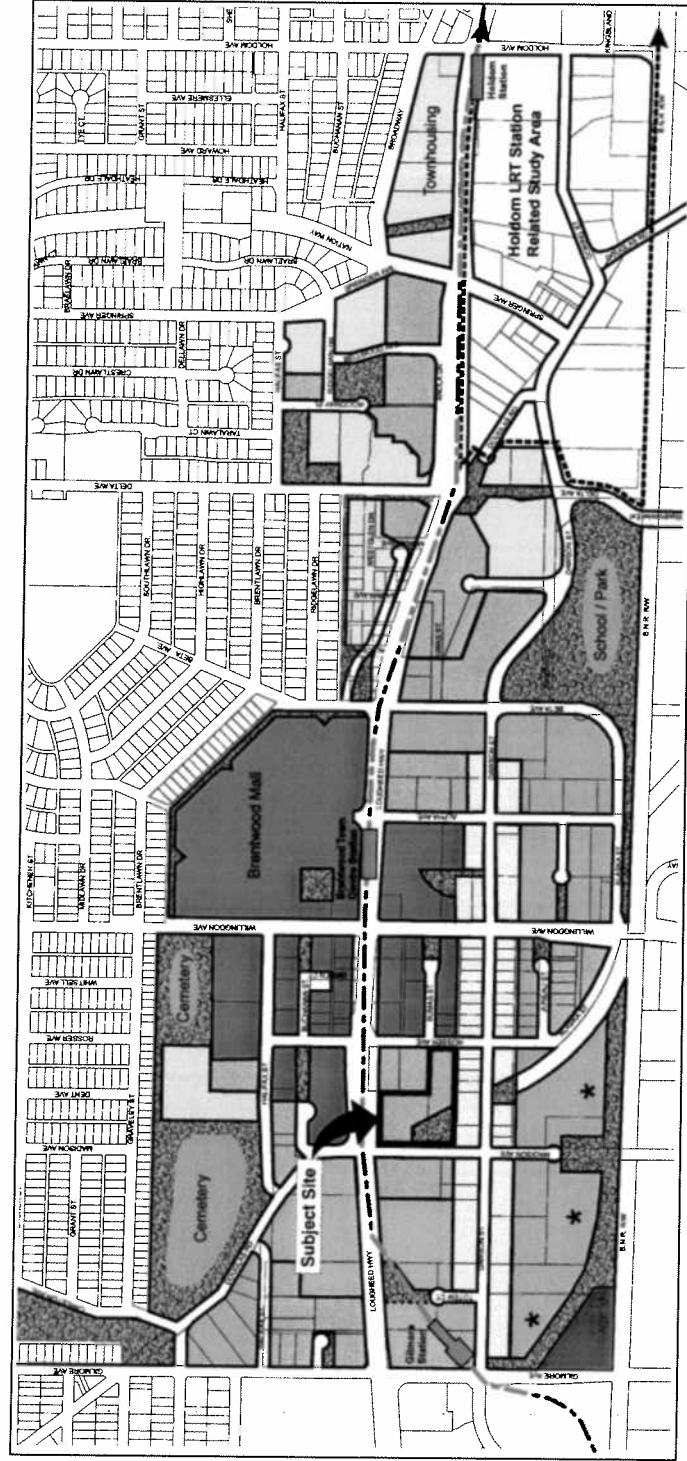


J.S. Belhouse, Director
PLANNING AND BUILDING

EK:sa
Attachment

cc: City Manager
Chief Building Inspector
City Solicitor
Director Engineering

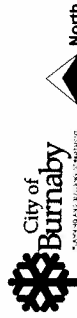
Notification of Area Plan



- Core Development**
 (Commercial/Residential High Rise)
 - Village Street**
 (Commercial/Residential Low Rise Apartments)
 - Residential (High Density)**
 (Residential High Rise)
 - Residential (Medium Density)**
 (Residential Low Rise)
 - Succession (Industrial to Residential)**
 (Residential Low Rise with mixed levels possible in indicated areas)
 - Secondary Commercial**
 (Commercial High Rise)
 - Industrial**
 (Low Rise)
 - Public Open Space**
 (Park/Public Open Space)
- ★ > Site may include Tower Forms

Brentwood Town Centre Development Plan

Land Use Concept



February 26, 2003



North

THIS INFORMATION IS DIAGRAMMATIC AND IS SUBJECT TO CHANGE. FOR SPECIFIC INFORMATION CONTACT THE BURRABY PLANNING DEPARTMENT.

For more detailed information, contact the City of Burnaby Planning Department at: 604-294-7400.

