



Item
Meeting2013 August 26

COUNCIL REPORT

TO: CITY MANAGER **DATE:** 2013 August 21

FROM: DIRECTOR PLANNING AND BUILDING **FILE:** 49500 20
Reference: REZ #12-47

SUBJECT: REZONING REFERENCE #12-47
#104 – 2999 UNDERHILL AVENUE
RESPONSE TO PUBLIC HEARING ISSUES

PURPOSE: To respond to issues raised at the Public Hearing for Rezoning Reference #12-47.

RECOMMENDATION:

1. **THAT** a copy of this report be sent to the applicant and to the delegation who spoke at the Public Hearing for Rezoning Reference #12-47.

REPORT

1.0 BACKGROUND

On 2013 February 26, a Public Hearing was held for Rezoning Reference #12-47. The subject rezoning application proposes a restaurant within an existing multi-tenant industrial/warehouse development in the Lake City Business Centre plan area (see *attached* Sketches #1 and #2).

At the Public Hearing, issues were raised by a delegation representing the property owner. The concerns raised by the delegation included the required site servicing as part of the subject rezoning application, as well as the proposed removal of the fence and driveway entry gate which currently encroach within a statutory right-of-way on the subject site. Council requested that a report be submitted on the issues raised at the Public Hearing. This report is in response to that request.

2.0 ISSUES RAISED

Issue #1 – Required Site Servicing

In 2011, the subject property was developed under its prevailing M3 Heavy Industrial District zoning with three new industrial/warehouse buildings under Preliminary Plan Approval #10-119. As part of this development approval process, required road dedications for the future westward extension of Eastlake Drive from Underhill Avenue to Venture Street, as well as the future provision of a separated sidewalk along the Underhill Avenue frontage were requested, but not provided by the applicant given that development was advanced under the site's prevailing zoning. However, statutory rights-of-way were registered on the property to provide the required area to support the anticipated phased development of the subject road and pedestrian improvements as part of future rezoning requirements.

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As part of the standard review process for all rezoning applications, additional services necessary to serve the development site are established. With respect to M'r' restaurant rezonings, each application is considered on a site-specific basis, and every attempt is made to minimize potential servicing requirements. As part of the subject rezoning application, it was determined that a separated sidewalk along the Underhill Avenue frontage is required (which was not provided when the site developed under Preliminary Plan Approval #10-119). Also, as anticipated at the time the property was developed under its prevailing M3 Heavy Industrial District zoning, as a requirement for a future rezoning application, the existing statutory rights-of-way registered on the property would be replaced by road dedications.

It is noted that the proposed restaurant is located in the Lake City Business Centre plan area. This older established industrial area currently lacks sidewalks along many property frontages, specifically on Underhill Avenue adjacent to the subject site. The lack of a sidewalk adjacent to the recently constructed development raises concerns due to the potential increase in pedestrians within the immediate area accessing the site in order to patronize the proposed restaurant.

With respect to the proposed replacement of the existing rights-of-way registered on the property with road dedications, the subject rezoning application is an opportunity to achieve this, thus allowing for the separated sidewalk along the Underhill Avenue frontage, and the future westward extension of East Lake Drive. While these dedications may be taken in conjunction with a future application to rezone the overall site, it is noted that such an application is likely not forthcoming in the near to medium term, in light of the development's recent construction in 2011.

Given the foregoing, staff do not view the noted servicing requirements as particularly onerous, and recommend that they be undertaken as prerequisites to the completion of the subject rezoning application. The property owner, in a letter dated 2013 July 18, has agreed to provide the required road dedication for the future westward extension of Eastlake Drive, the road dedication along the Underhill Avenue frontage, as well as to construct a separated sidewalk along the Underhill Avenue frontage.

Issue #2 – Chain Link Fence and Driveway Entry Gate Encroachments

As noted, the subject property was developed under its prevailing M3 Heavy Industrial District zoning with a new industrial/warehouse development under Preliminary Plan Approval #10-119. As part of this development approval process, a statutory right-of-way was registered on the southern portion of the property to provide the required area for the future westward extension of Eastlake Drive from Underhill Avenue to Venture Street. Subsequent to the registration of this statutory right-of-way, which is now proposed to be replaced by a road dedication, a chain link fence and a driveway entrance gate were constructed on the subject site. Currently, the chain link fence and a portion of the driveway entry gate (when in the open position) encroach into the road dedication area.

Upon receipt of the subject rezoning application, the applicant was informed that the noted encroachments must be removed. The Engineering Department has since advised that the fence may be permitted on an interim basis through an Encroachment Agreement, with the understanding that in the future, should construction of the westward extension of East Lake Drive be undertaken, the fence would be removed as part of the related works. With respect to the driveway entry gate, it is

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noted that, while a portion of it (when in the open position) would encroach into the proposed road dedication area, the majority of it, as well as its supporting base structure, would remain on private property. As such, the City would not have the ability to remove the driveway entry gate encroachment should construction of the westward extension of East Lake Drive be pursued. In this regard, the Engineering Department has advised that the gate, and/or its support structure, must be modified in order to address this encroachment. Bonding to ensure the required work is completed will be taken in conjunction with the subject rezoning application, with deposit being required in advance of Final Adoption.

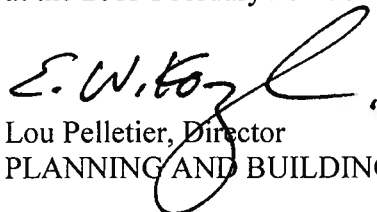
The property owner, in a letter dated 2013 July 18, has agreed to undertake modifications to the driveway entry gate to ensure that it would not encroach into the proposed road dedication area when in the open position.

3.0 CONCLUSION

At the Public Hearing held for Rezoning Reference #12-47, issues were raised regarding the required site servicing as part of the rezoning application, which would include replacement of the existing rights-of-way registered on the property by road dedications, construction of a separated sidewalk along the property frontage on Underhill Avenue, and the proposed removal of the site's fence and driveway entry gate which currently encroach within a statutory right-of-way on the subject site. As requested by Council at the Public Hearing, this report provides the staff response to these matters.

Staff would note that the proposed servicing requirements for the subject rezoning application are consistent with standard practice, are not viewed as particularly onerous, and maintain that they are necessary for the application to advance. As noted, the Engineering Department has reviewed the fence and driveway entry gate encroachments into the proposed road dedication area. The fence encroachment would be permitted on an interim basis through an Encroachment Agreement, while the driveway entry gate would need to be modified to ensure that it would not encroach into the proposed road dedication area when in the open position. The property owner, in a letter dated 2013 July 18, has agreed to provide the required road dedications, as well as undertake modifications to the driveway entry gate to ensure that it would not encroach into the proposed road dedication area.

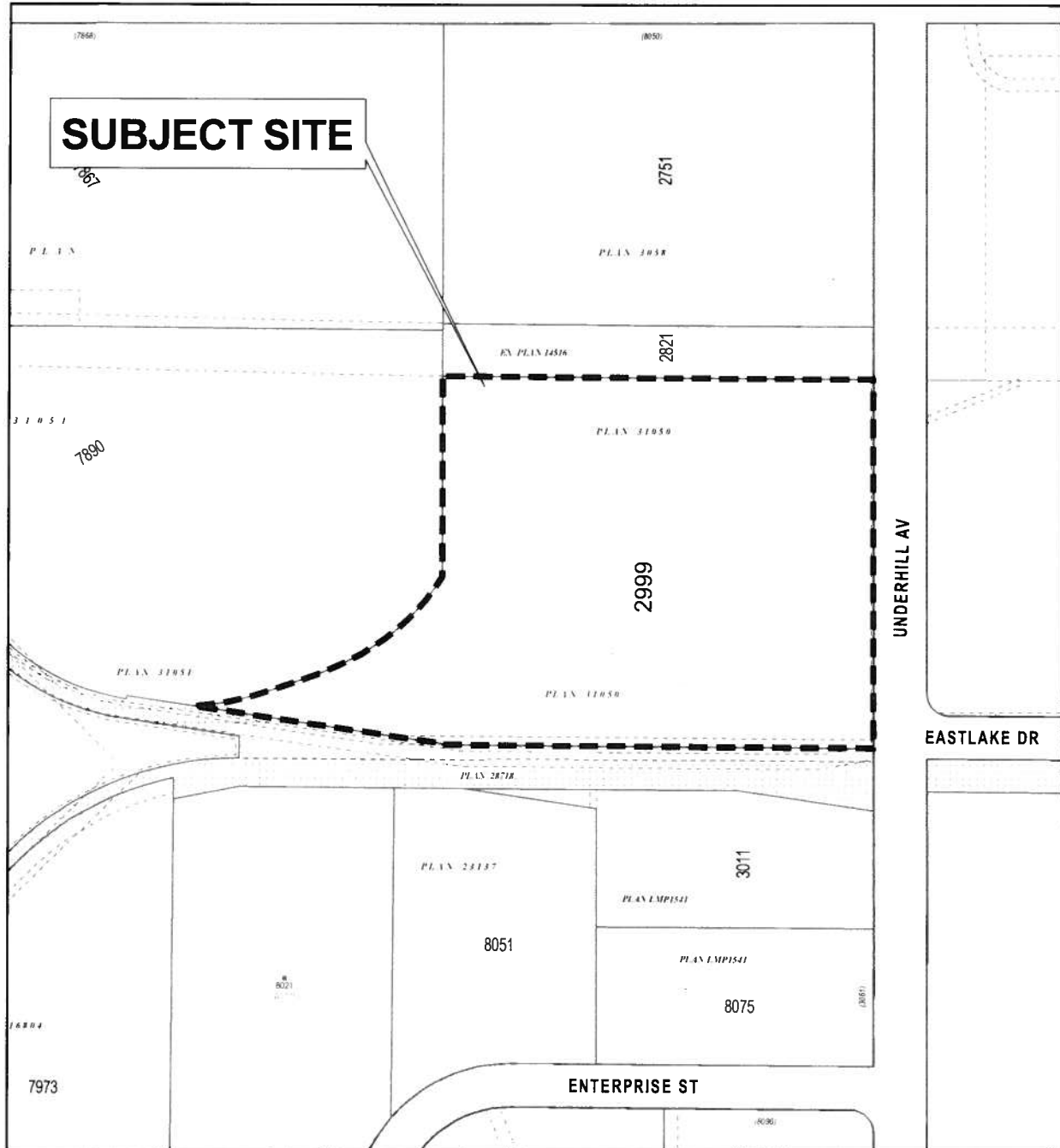
It is recommended that a copy of this report be sent to the applicant and to the delegation who spoke at the 2013 February 26 Public Hearing for Rezoning Reference #12-47.


Lou Pelletier, Director
PLANNING AND BUILDING

SMN:spf/tn

Attachments

cc: Director Engineering
Acting City Clerk



SUBJECT SITE



PLANNING & BUILDING DEPARTMENT




DATE:
AUG 20 2013

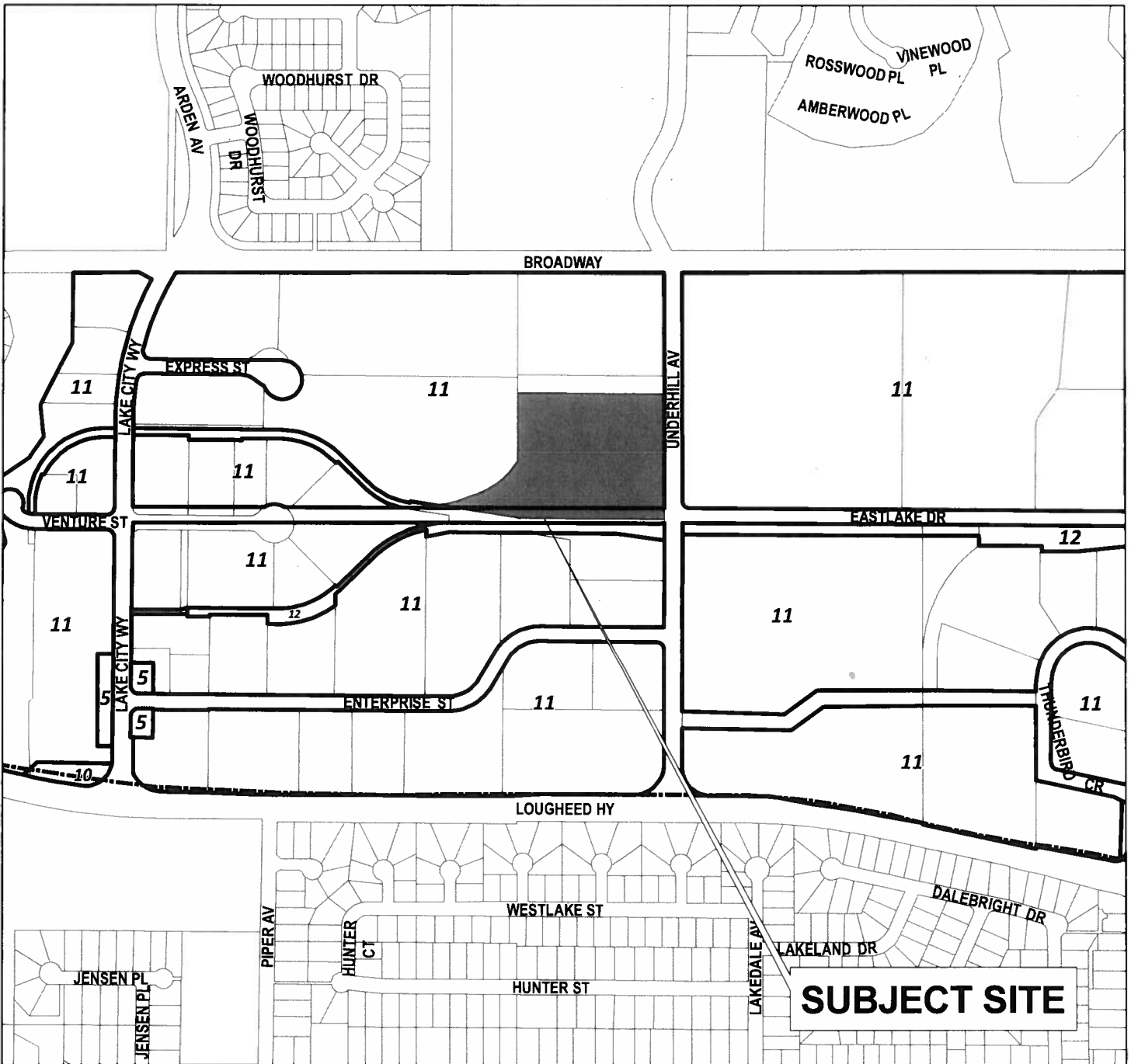
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REZONING REFERENCE #12 -- 47
#104 - 2999 UNDERHILL AVENUE

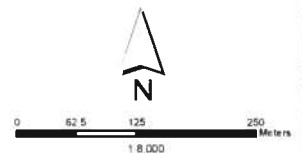
 Subject Site

Sketch #1



Land Use Designations

- 5 Commercial
- 10 Institutional
- 11 Business Centre District
- 12 Park and Public Use



Lake City Business Centre

PLANNING & BUILDING DEPARTMENT